

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**FERNANDO GO,  
*Petitioner,***

***-versus-***

**G.R. No. 158922  
May 28, 2004**

**COURT OF APPEALS and MOLDEX  
PRODUCTS, INC.,**

***Respondents.***

X-----X

**DECISION**

**YNARES-SANTIAGO, J.:**

This is a Petition for Review under Rule 45 of the Rules of Court seeking the reversal of the Decision<sup>[1]</sup> of the Court of Appeals dated June 30, 2003, in CA-G.R. SP No. 73349, which set aside the twin Resolutions<sup>[2]</sup> of the National Labor Relations Commission (NLRC). The antecedent facts are as follows:

On April 26, 1986, petitioner Moldex Products, Inc. hired private respondent, Fernando Go as a salesman with a monthly salary of One Thousand Six Hundred Ninety One Pesos (P1,691.00) and an allowance of Five Hundred Ten Pesos (P510.00).<sup>[3]</sup> Over the years, private respondent worked himself within petitioner's corporate structure until he eventually attained the rank of Senior Sales

Manager with a monthly compensation of Fifty Thousand Pesos (P50,000.00) and an average sales commission of Fifteen Thousand Pesos (P15,000.00) per month.<sup>[4]</sup>

As the Senior Sales Manager of private respondent, petitioner was responsible for overseeing and managing the sales force of the company such as dealing with clients, getting orders, entering into agreement with clients, subject to the approval of higher management.<sup>[5]</sup>

Sometime in the middle of 1998, petitioner's attention was called by Antonio Roman, the Executive Vice-President and Chief Operating Officer of respondent corporation, regarding the discovery of alleged anomalies purportedly committed by the sales people under the Commercial and Industrial Division of the respondent's Marketing Department. The anomalies stemmed from the disbursement of funds by the respondent to government officials for the purpose of getting big supply contracts from the government.<sup>[6]</sup>

It appears that sometime in 1998, the accounts handled by the petitioner and his staff experienced collection problems. This difficulty in collection necessitated the conduct of an investigation by the respondent,<sup>[7]</sup> which led to the discovery of anomalies. Among the sales personnel investigated was a member of petitioner's division. Consequently, respondent corporation dismissed a number of its personnel.<sup>[8]</sup>

For its part, respondent claimed that it also questioned petitioner and that "obviously feeling guilty for not exercising effective supervision over his subordinates, (petitioner) submitted a letter of resignation<sup>[9]</sup> dated October 12, 1998 but effective on November 16, 1998."<sup>[10]</sup> Respondent added that petitioner went on leave from October 12, 1998 to November 16, 1998. While on leave, petitioner worked for the release of his clearance and the payment of 13<sup>th</sup> month pay and leave pay benefits.

On the other hand, petitioner averred that he was not investigated. During his talk with the higher management of the respondent corporation, petitioner contended that the sales people who were found to be involved in the anomalies were directly getting

instructions, relative to the disbursement of funds to government officials, from respondent's personnel who were occupying management positions higher than that of the petitioner.<sup>[11]</sup>

Petitioner further alleged that after the investigation, he was surprised to receive an advice from the respondent that his services were being terminated by the latter on account of command responsibility. But since the petitioner was not involved in the anomalies, he was promised payment of separation pay, commission and other benefits due him on account of his long and dedicated employment with the respondent. In addition, the respondent also granted to petitioner a distributorship agreement for the right to be a distributor of its products. In exchange, petitioner was asked to submit a courtesy resignation to the respondent.<sup>[12]</sup> Thereafter, petitioner's responsibility as the senior sales manager of the respondent was eventually stripped from him.

On March 21, 2000, petitioner filed with the NLRC a complaint<sup>[13]</sup> for constructive dismissal, separation pay, service incentive leave including damages and attorney's fees against the respondent.<sup>[14]</sup> The case was docketed as NLRC NCR Case No. 00-03-01684-2000 and it was raffled to the office of Labor Arbiter Ermita T. Abrasaldo-Cuyuca.

On April 30, 2001, Labor Arbiter Abrasaldo-Cuyuca rendered a Decision<sup>[15]</sup> the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered in favor of the complainant and against the respondent.

1. Declaring the dismissal of complainant to be illegal;
2. Ordering respondent to pay complainant his backwages in the amount of P1,597,916.67;
3. To pay complainant his separation pay in the amount of P375,000.00

Ten Percent of the total award as attorney's fees.

Respondent appealed<sup>[16]</sup> the aforesaid decision to the NLRC. On May 31, 2002, the Third Division of the NLRC promulgated a Resolution<sup>[17]</sup> which affirmed with modification the Labor Arbiter's decision. As modified, the NLRC deleted the award of attorney's fees for lack of factual basis but it affirmed the rest of the Labor Arbiter's award in favor of herein petitioner. The dispositive portion of the decision reads:

WHEREFORE, the appealed decision is hereby AFFIRMED, with modification deleting the award of attorney's fees.

SO ORDERED.

Respondent sought a reconsideration of the NLRC decision which was denied in a Resolution<sup>[18]</sup> dated July 31, 2002. Respondent filed a petition for certiorari with the Court of Appeals.<sup>[19]</sup>

As stated earlier, the Court of Appeals annulled and set aside the twin resolutions of the NLRC. In arriving at its decision, the Court of Appeals relied heavily on the annexes<sup>[20]</sup> attached to the affidavit<sup>[21]</sup> of Antonio Roman, the Senior Executive Vice and Chief Operating Officer of the respondent. The said annexes purportedly showed that, contrary to the allegations of the petitioner that he was stripped of his responsibility as a sales manager, he was actively performing his normal duties and functions between the periods of July and September 1998, the months immediately prior to his resignation on October 12, 1998.

Hence, this petition for review, raising the following arguments:

The Court of Appeals committed reversible error considering that:

1. It weighed at face value the sworn statement of Antonio Roman and its annexes, which were both presented for the first time on appeal;

2. It ruled that herein petitioner was not constructively dismissed rather he voluntarily resigned from the respondent;
3. It held that the petitioner's witnesses are biased and therefore tainted with prejudice against the private respondent;
4. It ruled that the resignation of the petitioner was not a result of the manipulation and deception of the private respondent; and;
5. It held that the NLRC committed grave abuse of discretion when it misappreciated the facts and rendered judgment contrary to established evidence.  
[22]

The petition lacks merit.

It is a well-established rule that the jurisdiction of the Supreme Court in cases brought before it from the Court of Appeals via Rule 45 of the 1997 Rules of Civil Procedure, as amended, is limited to reviewing errors of law. (*Rizal Commercial Banking Corporation vs. Alfa RTW Manufacturing Corporation, et al.*, G.R. No. 133877, 14 November 2001)<sup>[23]</sup> This Court is not a trier of facts. In the exercise of its power of review, the findings of fact of the Court of Appeals are conclusive and binding and consequently, it is not our function to analyze or weigh evidence all over again. (*Alejandro Gabriel, et al. vs. Spouses Mabanta, et al.*, G.R. No. 142403, 26 March 2003).<sup>[24]</sup>

The above rule, however, is not iron-clad. In *Siguan vs. Lim*, [G.R. No. 134685, 19 November 1999, 318 SCRA 725; citing *Sta. Maria vs. Court of Appeals*, 285 SCRA 351 (1998)].<sup>[25]</sup> we enumerated the instances when the factual findings of the Court of Appeals are not deemed conclusive, to wit: (1) when the conclusion is a finding grounded entirely on speculations, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when the Court of Appeals, in making its findings

went beyond the issues of the case and the same is contrary to the admission of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply brief are not disputed by the respondent; and when (10) the findings of fact are premised on the supposed evidence and contradicted by the evidence on record.

In the instant case, the issue is shrouded by a conflict of factual perception. We are constrained to review the factual findings of the Court of Appeals, because the conflict falls within the ambit of one of the recognized exceptions to the conclusiveness of its findings, i.e., when its findings of facts contradict those of the lower court, in this case that of the Labor Arbiter and the agency which exercised adjudicative functions over him, the NLRC.

The principal issue to be resolved in this case is whether or not the petitioner was constructively dismissed. Petitioner claims that his separation from employment with the respondent was a case of constructive dismissal, an allegation which the respondent refutes with its own set of evidence pointing to the petitioner's voluntary resignation.

After a careful review of the records of this case, we find sufficient reasons to uphold respondent's contention.

Constructive dismissal exists where there is a cessation of work because continued employment is rendered impossible, unreasonable or unlikely. (*Globe Telecoms, Inc., et al. vs. Florendo-Flores*, G.R. No. 150092, 27 September 2002, 390 SCRA 201).<sup>[26]</sup> It is present when an employee's functions, which were originally supervisory in nature, were reduced, and such reduction is not grounded on valid grounds such as genuine business necessity. (*Globe Telecoms, Inc., et al. vs. Florendo-Flores*, G.R. No. 150092, 27 September 2002, 390 SCRA 201).<sup>[27]</sup>

Petitioner contends that he felt compelled to tender his resignation on October 12, 1998 because after the discovery of anomalies perpetrated by sales people under him, he started getting shabby treatment from

the company, and that slowly, he was divested of his duties and responsibilities as the Senior Sales and Marketing Manager of the respondent. He, however, maintains that his resignation was involuntary.

In support of his contention, the petitioner submitted the respective affidavits of Mario Carangan III<sup>[28]</sup> and Floriza Tuazon,<sup>[29]</sup> his former co-employees, who both alleged that petitioner was one of the officers of respondent who was stripped of responsibilities and duties while the investigation of the anomalies was going on.

By way of rebuttal, the respondent challenged the contents of the sworn statements for being purely hearsay. With respect to the sworn statement of Ms. Floriza G. Tuazon, respondent argues that Ms. Tuazon resigned even before the petitioner. Thus, she could not be privy to the events involving petitioner which transpired after her resignation. More specifically, the cause of petitioner's resignation on October 12, 1998 was no longer within the competence of Ms. Tuazon.<sup>[30]</sup> The sworn statement of Mr. Mario Carangan III also suffers from the same infirmity.

As correctly observed by the Court of Appeals:

It should be remembered that the petitioner has submitted a letter of resignation. It is thus incumbent upon him to substantiate his claim that his resignation was not voluntary but in truth was actually a constructive dismissal.<sup>[31]</sup>

The failure of the petitioner to fully substantiate his claim that the respondent stripped him of his duties and functions is fatal to his present petition. Except for the sworn statements previously discussed, which we have found to be lacking in probative value, petitioner did not present any other proof of the alleged stripping of his functions by the respondent. Petitioner's bare allegations of constructive dismissal, when uncorroborated by the evidence on record, cannot be given credence.

Further, respondent presented copies of its confidential sales evaluation form<sup>[32]</sup> which prove that, contrary to the allegations

of the petitioner, he was still performing his duties and responsibilities one month prior to his resignation. This clearly negates his allegations that he was stripped of his duties.

Apparently, petitioner fully exercised the prerogatives and the responsibilities of his office as the Senior Sales Manager of the respondent during the time that the said functions were supposedly removed from him. Therefore, there can be no constructive dismissal to speak of. He who asserts must prove. (2 Jones on Evidence, 2nd Ed. Section 491).<sup>[33]</sup>

Moreover, after petitioner resigned, he went on leave from October 12, 1998 to November 16, 1998, the date of the effectivity of his resignation. While on leave, he worked for the release of his clearance and the payment of his 13th month pay and leave pay benefits. In doing so, he in fact performed all that an employee normally does after he resigns. Petitioner has taken his theory of coerced or manipulated resignation out of the equation. If indeed the petitioner was forced into resigning from the respondent, he would not have sought to be cleared by the respondent and to be paid the monies due him. Resignation is the formal pronouncement or relinquishment of an office. (Section II, Rule XIV, Book V of the Revised Rules Implementing the Labor Code).<sup>[34]</sup> The voluntary nature of petitioner's acts has manifested itself clearly and belie his claim of constructive dismissal.

The totality of the evidence indubitably shows that petitioner resigned from employment without any coercion or compulsion from respondent. His resignation was voluntary. As such, he shall only be entitled to his 13th month pay and leave pay benefits. These, however, have already been paid to him by respondent.<sup>[35]</sup>

**WHEREFORE**, the petition is **DENIED** and the Decision of the Court Appeal dated June 30, 2003 is **AFFIRMED**. The complaint for constructive dismissal filed by respondent Fernando Go against petitioner is ordered **DISMISSED**.

**SO ORDERED.**

**Panganiban, Carpio, and Azcuna, JJ., concur.  
Davide, Jr., C.J., on official leave.**

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- [1] Penned by Justice Romeo A. Brawner and concurred in by Justices Eliezer R. de los Santos and Regalado E. Maambong.
- [2] NLRC Resolution dated May 31, 2002 and July 31, 2002; Original Records, pp. 35-43.
- [3] Rollo, p. 8.
- [4] Original Records, p. 121.
- [5] Rollo, p. 23.
- [6] *Id.*, p. 9.
- [7] Original Records, p. 122.
- [8] *Id.*, p. 121.
- [9] Rollo, p. 69.
- [10] *Id.*, p. 5.
- [11] Original Records, p. 51.
- [12] *Id.*, p. 52.
- [13] *Id.*, pp. 46-47.
- [14] *Id.*, p. 122.
- [15] *Id.*, pp. 120-127.
- [16] *Id.*, pp. 128-146. The appeal was docketed as CA No. 028714-02.
- [17] *Id.*, pp. 35-43, penned by Commissioner Ireneo B. Bernardo; concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Tito F. Genilo.
- [18] *Id.*, pp. 44-45.
- [19] *Id.*, pp. 2-32.
- [20] *Id.*, pp. 174-183.
- [21] *Id.*, pp. 172-173.
- [22] Rollo, pp. 27-28.
- [23] (Rizal Commercial Banking Corporation vs. Alfa RTW Manufacturing Corporation, et al., G.R. No. 133877, 14 November 2001)
- [24] (Alejandro Gabriel, et al. vs. Spouses Mabanta, et al., G.R. No. 142403, 26 March 2003).
- [25] Siguan vs. Lim, [G.R. No. 134685, 19 November 1999, 318 SCRA 725; citing Sta. Maria vs. Court of Appeals, 285 SCRA 351 (1998)].
- [26] (Globe Telecoms, Inc., et al. vs. Florendo-Flores, G.R. No. 150092, 27 September 2002, 390 SCRA 201).
- [27] (Globe Telecoms, Inc., et al. vs. Florendo-Flores, G.R. No. 150092, 27 September 2002, 390 SCRA 201).
- [28] Original Records, p. 82.
- [29] *Id.*, p. 80.
- [30] *Id.*, p. 99.
- [31] Rollo, p. 11.

[32] Original Records, pp. 174-183.

[33] (2 Jones on Evidence, 2nd Ed. Section 491).

[34] (Section II, Rule XIV, Book V of the Revised Rules Implementing the Labor Code).

[35] Original Records, p. 72.

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