

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**LIMKETKAI SONS MILLING, INC.
and/or ALFONSO U. LIM, ALBINO U.
LIMKETKAI and ENGR. LORENZO U.
LIMKETKAI,**

Petitioners,

-versus-

**G.R. No. 152514
July 12, 2005**

**EDITHA C. LLAMERA,
*Respondent.***

X-----X

DECISION

QUISUMBING, J.:

On Petition for Review is the Decision,^[1] dated May 23, 2001, of the Court of Appeals and its Resolution,^[2] dated February 5, 2002, in CA-G.R. SP No. 50327. The appellate court had affirmed with modification the Resolutions,^[3] dated February 25, 1997, and March 25, 1997, of the National Labor Relations Commission in NLRC CA No. M-003295-97, which reversed the Labor Arbiter's Decision,^[4] dated December 16, 1996, in NLRC Case No. RAB-10-01-00067-95. The facts, borne by the records, are as follows:

Petitioner Limketkai Sons Milling, Inc. (LSMI) with principal office in Cagayan de Oro City is engaged in the manufacture and processing of corn oil and coconut oil. Petitioners Alfonso U. Lim, Albino U. Limketkai, and Engr. Lorenzo U. Limketkai, are the authorized representatives of LSMI. On June 16, 1982, LSMI hired respondent Editha Llamera as a laboratory analyst, assigned at the quality control department.

Sometime in March 1994, LSMI received reports that some of its oil products, particularly Marca Leon Cooking Oil and Corn Oil had visible impurities and rancid taste. Hence, it directed some of its employees, including respondent, to explain the reported adulteration.

The concerned employees, except respondent who was then on maternity leave, submitted their respective written explanations. In the meanwhile, they were all placed under preventive suspension.

Forthwith, LSMI immediately conducted a formal investigation. During the investigation, respondent, who was back from maternity leave, denied having anything to do with the adulteration of LSMI's oil products.

On June 6, 1994, LSMI terminated the services of the suspended employees. Respondent challenged her dismissal and filed against LSMI, a complaint for unfair labor practice, illegal suspension and illegal dismissal, and demanded payment of backwages, separation pay, maternity benefits, service incentive leave pay, moral and exemplary damages and attorney's fees.

Labor Arbiter Conchita J. Martinez ruled in favor of respondent, in a Decision dated December 16, 1996, thus:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Finding respondents guilty of unfair labor practice;
2. Declaring the dismissal of complainant illegal and ordering respondents jointly and severally to pay to complainant the following:

a. Separation pay	-	P 79,500.00
b. Backwages	-	160,916.71
c. SILP	-	2,577.40
d. 13th Month Pay	-	15,679.17
e. Maternity Benefit	-	7,950.00
f. Moral Damages	-	5,000.00
g. Exemplary Damages	-	5,000.00

	TOTAL	P 276,623.28
		=====

3. Ordering respondents to pay 10% of the total monetary award as attorney's fees.

SO ORDERED.^[5]

On appeal, the National Labor Relations Commission (NLRC) reversed the above Decision, disposing that:

WHEREFORE, the decision appealed from is Reversed and Set Aside with respect to the findings that complainant was illegally dismissed and that respondents committed acts of unfair labor practice for lack of factual and legal bases. The award for backwages is therefore deleted for lack of basis while the award for separation pay is modified and fixed in accordance with the terms of the Collective Bargaining Agreement entered into between the respondent company and the local union (LKKSI-Technical and Supervisory Union-WATU) concluded on May 6, 1994. The awards for moral and exemplary damages are likewise deleted for lack of factual and legal bases. The rest of the monetary awards are sustained, subject to the above modification and recomputation thereof by the Arbitration Branch of origin preparatory to the execution stage.

SO ORDERED.^[6]

Not satisfied with the ruling, respondent filed a motion for reconsideration with the NLRC. It was denied for lack of merit.

Thus, respondent filed a special civil action for certiorari with the Court of Appeals. The appellate court found respondent's petition partly meritorious. The decretal part of its Decision, impugned in this petition, reads:

WHEREFORE, in view of all the foregoing, the decision of public respondent NLRC is hereby AFFIRMED with MODIFICATION that petitioner's dismissal was illegal. Accordingly, private respondents are jointly and severally liable to pay petitioner the following:

- a) Separation pay computed in accordance with the existing Collective Bargaining Agreement;
- b) Full backwages inclusive of allowances and other benefits allowed by law computed from the time the compensation was withheld up to the finality of this judgment; and
- c) Attorney's fees equivalent to 10% of the total monetary award.

SO ORDERED.^[7]

Aggrieved by the CA Decision, LSMI filed a motion for reconsideration, which the Court of Appeals, in its assailed Resolution, denied for lack of merit.

Hence, the instant petition anchored on the following assignments of error:

I

THAT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THE DECISION OF THE NLRC IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

II

THAT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THE QUALITY CONTROL DEPARTMENT WHERE RESPONDENT WORKED WAS SINGLED OUT.

III

THAT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THERE WAS NO JUST AND/OR AUTHORIZED CAUSE TO TERMINATE RESPONDENT.

IV

THAT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN DENYING THE MOTION FOR RECONSIDERATION.^[8]

Petitioners contend that the Court of Appeals erred in not according the NLRC's evaluation of evidence due respect and finality. Petitioners also allege that respondent was not singled out since all the laboratory analysts were invited to the hearing conducted by LSMI.

Petitioners further point out that respondent's position as laboratory analyst is imbued with trust and confidence, which was breached when the oil products under her control were returned due to its rancid taste and visible impurities. Thus, petitioners argue, respondent's termination for loss of trust and confidence was legal.

For her part, respondent counters that the petition should be denied outright, because it raises questions of fact. However, granting arguendo that the petition may be given due course, respondent also asserts that the Court of Appeals made a correct determination of the facts and correctly applied the law in this case. She insists that the inferior quality of LSMI's oil products was not attributable to her, but was due to the low standards set by the new management of LSMI.

Maintaining that there was no valid cause for her termination, she insists that she was illegally dismissed.

At the outset, we must stress that indeed petitioners have raised a factual issue, which is not proper in a petition for review. In an appeal via certiorari, only questions of law may be reviewed.^[9] The matter of whether the quality control department where respondent worked was singled out is a factual issue, which had been exhaustively discussed and ruled upon by the Court of Appeals.

Secondly, the general rule is that the findings of fact by the NLRC are deemed binding and conclusive. However, where, as in the instant case, the findings of fact by the NLRC contradict those of the Labor Arbiter, a departure from the general rule is warranted. In *St. Martin Funeral Home vs. NLRC*,^[10] we said that the Court of Appeals can review the factual findings of the NLRC in a special civil action for certiorari.^[11]

Having settled these peripheral matters, the only remaining issue for our resolution is whether the Court of Appeals committed grave abuse of discretion and gravely erred in finding that respondent was illegally dismissed.

In its ruling on the issue of illegal dismissal, the Court of Appeals accorded more weight to respondent's detailed and technical discussion of the cause of the reported adulteration. The CA found unsubstantiated the petitioners' sweeping statement that respondent "conspired" in the sabotage of petitioners' oil products. In the mind of the appellate court, petitioners simply failed to prove that respondent's dismissal was for a valid cause.

We sustain the Decision of the Court of Appeals on this point.

Article 277 (b) of the Labor Code provides:

ART. 277. Miscellaneous provisions. x x x (b) The burden of proving that the termination was for a valid or authorized cause shall rest on the employer.

Where there is no showing of a just or authorized cause for termination of employment, the law considers the case a matter of illegal dismissal. The burden is on the employer to prove that the termination of employment was for a just or authorized cause.^[12]

In the case at hand, we find untenable petitioners' claim of breach of trust and confidence committed by the employee. Article 282 of the Labor Code states:

ART. 282. Termination by employer. – An employer may terminate an employment for any of the following causes:

(c) x x x willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

The willful breach by the employee of the trust reposed in him by his employer must be founded on facts established by the employer. The latter must clearly and convincingly prove by substantial evidence the facts and incidents upon which loss of confidence in the employee may fairly be made to rest.^[13]

In this case, petitioners simply allege that respondent's failure to report to the quality control head the batch that did not meet the minimum standard showed connivance to sabotage petitioners' business. Not only is petitioners' logic flawed, it is an instance of arguing non sequitur. Said allegation alone, without proven facts to back it up, could not and did not suffice as a basis for a finding of willful breach of trust.

We are thus constrained to hold that petitioners failed to prove the existence of a valid cause for the dismissal of respondent. Therefore, the dismissal must be deemed contrary to the provisions of the Labor Code, hence illegal.

An employee who has been illegally dismissed is entitled to reinstatement and full back wages, that is, without deducting earnings earned elsewhere during the period of his illegal dismissal.^[14] However, where, as in this case, reinstatement is no

longer feasible due to strained relations between the parties, separation pay shall be granted in lieu of reinstatement. In addition to separation pay and full back wages, respondent is also entitled to attorney's fees equivalent to ten percent of the total monetary award.^[15]

WHEREFORE, the petition is **DENIED**. The assailed Decision, dated May 23, 2001, of the Court of Appeals and its Resolution, dated February 5, 2002, in CA-G.R. SP No. 50327, are **AFFIRMED**. Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 93-108. Penned by Associate Justice Alicia L. Santos, with Associate Justices Ramon A. Barcelona, and Rodrigo V. Cosico concurring.

[2] Id. at 118-119.

[3] Id. at 349-369, 370-374.

[4] Id. at 339-348.

[5] Id. at 347-348.

[6] Id. at 368-369.

[7] Id. at 108.

[8] Id. at 47-48.

[9] *Bangko Sentral ng Pilipinas vs. Santamaria*, G.R. No. 139885, 13 January 2003, 395 SCRA 84, 92.

[10] G.R. No. 130866, 16 September 1998, 295 SCRA 494.

[11] *Agustilo vs. Court of Appeals*, G.R. No. 142875, 7 September 2001, 364 SCRA 740, 747.

[12] *Sevillana vs. I.T. (International) Corp.*, G.R. No. 99047, 16 April 2001, 356 SCRA 451, 467.

[13] *Philippine Aeolus Automotive United Corporation vs. NLRC*, G.R. No. 124617, 28 April 2000, 331 SCRA 237, 247.

[14] *Bustamante vs. National Labor Relations Commission*, G.R. No. 111651, 28 November 1996, 265 SCRA 61, 69-71, cited in *Buenviaje vs. Court of Appeals*, G.R. No. 147806, 12 November 2002, 391 SCRA 440, 446.

[15] Labor Code, ART. 111. Attorney's fees.—(a) In cases of unlawful withholding of wages the culpable party may be assessed attorney's fees equivalent to ten percent of the amount of wages recovered.

(b) It shall be unlawful for any person to demand or accept, in any judicial or administrative proceedings for the recovery of the wages,

attorney's fees, which exceed ten percent of the amount of wages recovered. See also *Rutaquio vs. National Labor Relations Commission*, G.R. Nos. 97652-53, 19 October 1999, 317 SCRA 1, 12-13.

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