SUPREME COURT
THIRD DIVISION

ALFREDO L. OANIA, AURELIO S. CALUZA AND SANTIAGO B. BIAY,
***Petitioners*,**

-versus-

G.R. Nos. 97162-64
June 1, 1995

NATIONAL LABOR RELATIONS COMMISSION and PHILEX MINING CORPORATION,
***Respondents*.**
x----------x

D E C I S I O N

ROMERO, *J.*:

This is a Petition for *Certiorari* questioning the legality of the dismissal from employment of petitioners for allegedly mauling a fellow employee within the private respondent company's premises in violation of a company rule.

Petitioners Alfredo L. Oania, a welder, and Aurelio B. Caluza and Santiago B. Biay, miners, were employed by respondent Philex Mining Corporation in Pacdal, Tuba, Benguet. They were accused of mauling their co-worker, Felipe P. Malong, at the gasoline area within the company compound at about 9:00 o'clock in the evening of May

21, 1986. Malong's injuries almost proved fatal were it not for the immediate medical attendance given him, both at the company clinic and at the Dr. Efraim Montemayor Medical Center in Baguio City.

Private respondent conducted an investigation regarding the incident. On September 20, 1986, it placed petitioners under preventive suspension. After a formal hearing wherein petitioners were duly notified and accorded the opportunity to be heard, the company arrived at the decision to terminate their employment on the ground that petitioners violated Article I, paragraph 1 of the company rules and regulations which states:

> "Inflicting or attempting to inflict bodily injury on the job-site on company time or property for any reason, or attempting to inflict or inflicting bodily injury anywhere at anytime, in any dispute involving one's employment."[1]

On October 11, 1986, copies of the decision were served upon petitioners but they refused to receive them.

Thereupon, Malong instituted a criminal complaint against petitioners before the provincial fiscal of Benguet. In due time, petitioners were charged with frustrated homicide before the Regional Trial Court of Baguio City in Criminal Case No. 3681-R but later, Malong desisted from pursuing the criminal case.

Armed with Malong's affidavit of desistance, petitioners sought reconsideration of their dismissal from employment, alleging that when the incident occurred, they were asleep. Because private respondent refused to take back, petitioners filed separate complaints for illegal dismissal before the labor arbiter in Baguio City. Their complaints were thereafter consolidated.[2]

On August 31, 1988, Labor Arbiter Amado T. Adquilen rendered a decision holding that petitioners had been illegally dismissed from employment and directing private respondent to reinstate them to their former positions or substantially equivalent positions and to pay each of them one year's backwages. The Labor Arbiter's conclusion that the termination of employment of petitioners was not justified was based on his finding that there was no proof that the mauling of

Malong was "caused by a dispute involving their employment" with private respondent which, the Labor Arbiter believed, was the only dispute clearly prohibited by the company rule. He considered as mitigating the circumstances that petitioners were "either on leave, enjoying his rest day, or simply off-duty."

Private respondent appealed to the National Labor Relations Commission (NLRC). On October 31, 1989, the NLRC rendered a Decision[3] finding that "there is prima facie evidence that the complainants injured physically a co- employee under circumstance(s) which constitute an infraction of specific company rules; and that the respondent had valid cause to terminate their employment."

The NLRC thus dismissed the cases for lack of merit, thereby reversing the decision appealed from.

Petitioners filed a Motion for Reconsideration of the decision but on November 27, 1990, the NLRC issued a Resolution[4] denying the said motion for lack of merit. The NLRC ruled that since several witnesses saw the petitioners inflict serious physical injuries upon Malong, their misconduct was "serious enough to warrant dismissal." It stressed that its interpretation of the company rules and regulation was correct and "to follow the argument of complainants will result in absurdity and will render such rules nugatory."[5]

Hence, the instant petition charging the public respondent with grave abuse of discretion in interpreting the company rule too harshly, unconscionably and contrary to the spirit of the Labor Code and the Constitution, and in holding that the dismissal of petitioners was for a just cause.

A preliminary matter in the resolution of this case is the interpretation of Art. I, paragraph 1 of the company rules and regulations aforequoted which, petitioners admit, is a product of a collective bargaining agreement.[6] The Labor Arbiter is convinced that the acts prohibited therein, i.e., inflicting or attempting to inflict bodily injury, should be applied only in instances where there have been "disputes involving their employment."[7] On the other hand, the NLRC held that the same company rule applies even if the mauling

was not caused by " disputes involving their employment" because it was committed within company promises.

There is apparent conflict between the interpretation of the labor Arbiter and the NLRC of the provision of the collective bargaining agreement in question.

A close study of the provision involved reveals, however, the absurdity of the Labor Arbiter's interpretation that the concluding phrase "any dispute involving one's employment" is a continuation of the phrase "for any reason" in the first clause of the sentence. Such interpretation explains his position that all physical injuries inflicted by a worker must be the result of a "dispute involving one's employment."

The provision in question obviously covers situations where any company employee inflicts or attempts to inflict physical harm or injury upon any person. There are two separate instances contemplated here. The first part of the sentence conceives of a situation wherein such injury was done "on the job site on company time or property," regardless of the reason. What is material is the venue. The second half of the sentence deals with a situation where an employee attempts to inflict or actually inflicts bodily injury upon another "anywhere at anytime," regardless of the venue, as long as it arose in connection with a dispute "involving one's employment." The site matters not; what is crucial in the subject matter, i.e. it should have something to do with the employee's job. Clearly, the commas in the sentence may be dispensed with without sacrificing the intent behind the provision.

Considering the foregoing, may the petitioners be deemed legally dismissed for violation of the company rule against infliction of bodily harm?

The issue may only be resolved upon an examination of the facts supporting the dismissal of petitioners from employment. In this regard, the NLRC's findings are binding upon this Court if supported by substantial evidence.[8] On the other hand, the findings of facts of the Labor Arbiter are accorded great respect,[9] particularly if the

NLRC simply makes a general statement of the dismissed employee's "guilt," as in this case.

Unfortunately, both the Labor Arbiter and the NLRC did not make definitive findings on whether or not the incident in question was in fact authored by petitioners. However, we proceed on the assumption that the incident did transpire, for petitioners could not have been dismissed from employment after due investigation if it were not so. On the issue of the legality of the dismissal, two requisites must concur to constitute a valid dismissal: (a) the dismissal must be for any of the causes expressed in Art. 282 of the Labor Code, and (2) the employee must be accorded due process, basic of which are the opportunity to be heard and to defend himself.

As regards the first requisite, Art. 282 of the Labor Code provides:

> "ART. 2182. Termination by employer. — An employer may terminate an employment for any of the following causes:
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> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
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> (b) Gross and habitual neglect by the employee of his duties;
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> (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
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> (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
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> (e) Other causes analogous to the foregoing." (Emphasis supplied)

Violation of a company rule prohibiting the infliction of harm or physical injury against any person under the particular circumstances

provided for in the same rule may be deemed analogous to "serious misconduct" stated in Art. 282 (a) above. To repeat, however, there is no substantial evidence definitely pointing to petitioners as the perpetrators of the mauling of Malong. What is an established fact is that, after investigation, private respondent dismissed them and, thereafter, a criminal complaint was filed against petitioners. Likewise, it is of record that Malong desisted from suing the perpetrators before the regular courts. Therein, Malong stated that he was bothered by his conscience in implicating Santiago Biay, Ver Oania and Aurelio Caluza as the persons who mauled him, the truth being that they were not the real perpetrators of the said mauling but other persons whom he could not identify. In criminal cases, an affidavit of desistance may create serious doubts as to be the liability of the accused. At the very least, such affidavit calls for a second hard look at the records of the case and the basis for the judgment of conviction. Thus, jurisprudence on the effect of desistance notwithstanding, the affidavit should not be peremptorily dismissed as a useless scrap of paper.[10]

In labor cases where technical rules of procedure are not to be strictly applied if the result would be detrimental to the working man,[11] an affidavit of desistance gains added importance in the absence of any evidence on record explicitly showing that the dismissed employees committed the act which caused their dismissal. The inevitable conclusion, therefore, is that petitioners' mauling of Malong was not proved by substantial evidence and is, therefore, open to question.

In Foodmine, Incorporated (Kentucky Fried Chicken) vs NLRC[12] which similarly involves fighting between employees, the Court stated:

> "There is no dispute that fighting on company premises may be considered as a valid ground for dismissal of an employee but in the case at bar, the facts do not warrant the application of the same. Firstly, because petitioner has miserably failed to substantiate its allegations of serious misconduct. Secondly, granting that the allegations of the petitioner are true, the penalty of dismissal is not commensurate with the misconduct allegedly committed. Private respondent had been a regular

> employee of petitioner for six (6) years and apparently, the alleged incident is his first."

The same consideration may be extended to this case where the petitioners do not appear to have a previous record of the same or any misconduct. They, too, have served the private respondent for a considerable length of time, thus: Biay, 16 years; 15 years and Caluya, 7 years.

As regards the second requisite for dismissal, i.e., that the employee must be given the opportunity to be heard and to defend himself, petitioners' allegation that they were not furnished by private respondent with a copy of its decision to terminate them, in violation of Sec. 4, Rule XIV of the Implementing Rules and Regulations of Batas Pambansa Blg. No. 130 is not supported by the records. After private respondent initiated an investigation on the mauling incident and petitioners were suspended thereafter, the matter was referred to the grievance machinery outlined in the collective bargaining agreement.[13] Having notified the petitioners and given them an opportunity to be heard and to terminate their employment. On October 11, 1986, copies of the decision were served upon them but they refused to received the same.

While there is no proof that private respondent was moved by ill motive or bad faith in dismissing the petitioners, equity and the spirit of the Labor Code dictate that the petitioners be reinstated to their respective former positions without loss of seniority rights and paid their backwages. Considering, however, that Republic Act. No. 6715 entitling unjustly dismissed employees to "his full backwages inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement" which took effect on March 21, 1989, has no retroactive application,[14] the backwages to be awarded to petitioners should be only for three years computed from the date of their termination.[15]

WHEREFORE, the questioned Decision of the NLRC is hereby REVERSED and SET ASIDE. private respondent is hereby ordered to REINSTATE petitioners to their respective former positions or substantially equivalent positions without loss of seniority rights and

with backwages equivalent to three years computed from the time of their dismissal. No costs.

SO ORDERED.

Feliciano, Melo, Vitug and Francisco, *JJ.*, concur.

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[1] Rollo, pp. 24-25.
[2] NLRC Cases Nos. RAB-I-0336 to 0338-86.
[3] Penned by Commissioner Mirasol Viniegra-Corleto and concurred in by Presiding Commissioner Ceferino E. Dulay and Commissioner Roberto Pa. Tolentino.
[4] Penned by Commissioner Irineo B. Bernardo and Concurred in by Presiding Commissioner Lourdes C. Javier and commissioner Rogelio I. Rayala.
[5] Rollo, pp. 34-35.
[6] Petition, p. 6; Rollo, p. 12.
[7] Decision, p. 4; Rollo, p. 25.
[8] Union of Filipino Employees vs NLRC, G.R. No. 91025, December 19, 1990, 192 SCRA 414; Tropical Hut Employees Union CGW vs Tropical Hut Food Market, Inc., G.R. Nos. L-43495-99, January 20, 1990, 181 SCRA 173.
[9] Metropolitan Bank & Trust Company vs NLRC, G.R. No. 109667, Augusto 16, 1994, 235 SCRA 400; San Miguel Corporation vs NLRC, G.R. No. 72572, December 19, 1989, 180 SCRA 281.
[10] People vs Lim, G.R. No. 86454, October 18, 1990, 190 SCRA 706 citing Gomez vs IAC, G.R. No. 63203, April 9, 1985, 135 SCRA 620, 630.
[11] Zurbano, Sr. vs NLRC, G.R. No. 103679, December 17, 1993, 228 SCRA 556; Kunting vs NLRC, G.R. No. 101427, November 8, 1993, 227 SCRA 571.
[12] G.R. No. 84688, August 20, 1990, 188 SCRA 748, 750.
[13] Petition, p. 3; Rollo, p. 9.
[14] Lantion vs NLRC, G.R. No. 82028, January 29, 1990, 181 SCRA 513.
[15] Llosa-Tan vs Silahis International Hotel, G.R. No. 77457, February 5, 1990, 181 SCRA 738.
