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SUPREME COURT
THIRD DIVISION

ROLIA VILLANUEVA,
***Petitioner*,**

-versus-

G.R. No. 129413
July 27, 1998

NATIONAL LABOR RELATIONS COMMISSION (Third Division) ATLAS LITHOGRAPHIC SERVICES, INC., ALEJANDRO A. MARAMAG, TERESA ALVINA and FELIX DE JESUS,
***Respondent*.**
x---x

D E C I S I O N

ROMERO, *J*.:

Petitioner Rolia Villanueva assails the Resolution of the National Labor Relations Commission (NLRC) dated January 17, 1997[1] declaring her validly dismissed from her employment as well as its accompanying Resolution dated February 7, 1997 denying her Motion for Reconsideration.[2]

In 1970, petitioner was hired as clerk by the private respondent Atlas Lithographic Services. Subsequently, on September 1, 1978, she was promoted to her present position as Accounting Manager.

On July 10, 1995, petitioner received a show cause letter[3] from the private respondent asking her to submit her written explanation regarding a letter complaint filed by a certain Adelina Oguis.[4] In her complaint, Oguis alleged that petitioner would demand two thousand pesos for every work order she would obtain from private respondent for her. Private respondent viewed this act by the petitioner as an act of dishonesty prejudicial to its interest.

In denying any wrong-doing, petitioner sent a letter claiming that the money she received from Oguis was in consideration of past favors or services she rendered to the latter. In other words, the money was given on a purely voluntary basis as an expression of gratitude.[5] Apparently, private respondent was not impressed with petitioner's written explanation, hence, on July 14, 1995 an investigation was conducted wherein petitioner, Oguis and a representative of the private respondent were present.[6]

However, despite the investigation private respondent did not find any merit in petitioner's contention, resulting in the termination of the latter's employment effective August 2, 1995.[7]

Petitioner then filed a complaint for illegal dismissal and damages before the arbitration branch of the NLRC. After due proceedings, Labor Arbiter Potenciano S. Canizares, Jr. on May 13, 1996 ruled in favor of the petitioner holding that her dismissal was illegal for failure by the private respondent to prove its allegation, viz.:[8]

> "Here the respondents failed to prove that Oguis expression of gratitude to the complainant, for the aforecited help extended to Oguis so ruined the company that it had to protect its interest by dismissing the complainant. There was no evidence of damage in any form or manner presented by the respondents.
>
> x x x
>
> WHEREFORE, the respondents are hereby ordered to reinstate the complainant with full backwages from the time her salaries were withheld from her until her actual reinstatement."

Unfazed by the setback, private respondent appealed the Labor Arbiter's decision to the NLRC. To the dismay of the petitioner, the NLRC reversed the Decision of the Labor Arbiter[9] and declared that she was validly dismissed from her employment taking into account the following points:

> "Admittedly, complainant, an accounting manager, was a managerial employee who should have the complete trust and confidence of respondent. Complainant's admitted acceptance of certain amounts from respondent's contractor Ms. Oguis for alleged services rendered was improper and anomalous.
>
> x x x
>
> PREMISES CONSIDERED, the Decision of May 13, 1996 is hereby VACATED and a new one is adjudged DISMISSING instant complaint for lack of merit."

Petitioner moved for reconsideration but was unsuccessful.[10]

Hence this petition for review on *certiorari* wherein the sole issue to be resolved is whether the petitioner was validly dismissed by the private respondent.

To begin with, there is no denying that loss of trust and confidence is a valid ground for termination of employment.[11] Thus, the basic requisite for dismissal on the ground of loss of confidence is that the employee concerned holds a position of trust and confidence[12] or is routinely charged with the care and custody of the employer's money or property.[13] Moreover, the breach must be related to the performance of the employee's function.[14] Also, it must be shown that the employee is a managerial employee, since the term "trust and confidence" is restricted to said class of employees.[15] In reviewing this petition, we have fully taken into account the foregoing considerations.

There is no dispute that petitioner was a managerial employee; as such any transgression on her part gives the employer a wider latitude of discretion in terminating her services.[16] Likewise, it is without doubt that petitioner accepted money on at least four

different instances from Oguis, one of private respondent's contractors. However, she attempts to legitimize the propriety of her acceptance by claiming that the money was given to her as an expression of gratitude by Oguis.

Be that as it may, we cannot condone petitioner's conduct. Her dismissal must be upheld.

Petitioner, as account manager, had the duty to deal with all of the private respondents contractors. Consequently, the marketability goodwill and sustainability of private respondent's service or products would greatly depend on the objectiveness and unbiased demeanor of the petitioner. Any deviation from these standards would inevitably affect the private respondent's business and reputation among its other contractors.

As aptly observed by the Solicitor General:

> "Natural human desire to continue such an advantageous arrangement could not, but have undermined petitioner's ability to make recommendations and decisions concerning said account on the sole basis of what should have been good for the company. And, having shown such weakness in one account, petitioner was obviously not invulnerable to similar temptations regarding other accounts. In other words, private respondents could no longer safely assume that petitioner was looking after the company's welfare only whenever she would recommend a particular account for payment, or a particular contract for approval, or whenever she would act in any other way on any other matter concerning a company account or contract."[17]

It must be emphasized that private respondent's reliance on petitioner's evaluation and assessment concerning its respective contractors was based primarily on trust and confidence. Thus, when petitioner accepted considerable amounts of money from one of the private respondent's contractors, the trust and confidence reposed on her have been seriously shaken.

In fine, whether petitioner demanded the money from Oguis or it was voluntarily given is immaterial. The fact that she accepted money

from one of the private respondent's contractors has cast doubt on her integrity. After all, we cannot discount the possibility that as a quid pro quo to her acceptance, some future favors might be asked by Oguis, which may somehow be detrimental to private respondent's business interests. The fact that private respondent did not suffer losses from the dishonesty of the petitioner because of their timely discovery does not excuse the latter from any culpability. Indeed, the law, in protecting the rights of workers, authorizes neither oppression nor self-destruction of the employer.[18] In this regard, a company has the right to dismiss its employees as a measure of self-protection.[19]

Petitioner likewise contends that assuming she was at fault, being a first-time offender and considering her twenty-five (25) years of employment with the private respondent, the penalty of dismissal is too harsh.[20] In support of her contention, petitioner cites the following cases, to wit: PAL vs. PALEA,[21] Gelmart Industries Phil. vs. NLRC,[22] Mary Johnston vs. NLRC,[23] Manila Electric Company vs. NLRC,[24] and Dolores vs. NLRC.[25]

We are not unmindful of the foregoing doctrine, but after a careful scrutiny of the above cases, we are not convinced of its application to the instant petition.

First, in all of the cases cited, it should be borne in mind that the employees involved were all rank-and-file or ordinary workers. However, as earlier pointed out, petitioner was not included in such category but was the account manager of private respondent, clearly, a managerial position. Metro Drug Corporation vs. NLRC,[26] states:

> "Managerial personnel and other employees occupying positions of trust and confidence are entitled to security of tenure, fair standards of employment, and the protection of labor laws. However, the rules on termination of employment, penalties for infractions, and resort to concerted action are not necessarily the same as those for ordinary employees."

Moreover, it pointed out the differences in the imposition of sanctions concerning erring employees, thus:

> "When an employee accepts a promotion to a managerial position or to an office requiring full trust and confidence, she gives up some of the rigid guaranties available to ordinary workers. Infractions which if committed by others would be overlooked or condoned or penalties mitigated may be visited with more severe disciplinary action. A company's resort to acts of self-defense would be more easily justified."

In addition, in the above-cited cases, the employees' transgressions could not be considered as inimical to the interest of their respective employers. In fact, in the PAL case, it only involved a theft of a lead pipe while the Gelmart case was concerned with the pilfering of one (1) used oil plastic container. The Mary Johnston case relates to a heated argument between two co-employees. The Dolores case pertains to an employee who failed to obtain prior leave before pursuing her studies abroad. While the MERALCO case involved an employee facilitating an illegal installation of power line, which is clearly prejudicial to the economic activity of his employer (MERALCO), there was a finding that these losses were not due to the fault of the employee but to the Power Sales Division of MERALCO.[27]

Finally, there is another aspect which strongly militates against petitioner's plea. Certainly, this was not the petitioner's first infraction. She admitted that she received money from Oguis on four (4) different occasions, a fact shown in the cash deposit slips.[28] To our mind, each incident constitutes a separate offense. The fact that this was the first time that her misdeeds were discovered does not diminish her accountability in whatever way.

In the final analysis, petitioner, as a managerial employee, is expected to conduct her duties above reproach and to avoid, not only impropriety but likewise, the appearance of impropriety. Unfortunately, her propensity of accepting money from Oguis, one of her employer's contractors, has severely compromised her impartiality. Her excuse that the money was given voluntarily in recognition of past favors does not convince. In fact, it is deplorable to note that she did not have the courage to say "no" when these amounts were first offered to her, considering that it was coming from one of her employer's business contractors. Ordinary reason and

prudence should have prompted the petitioner to desist from accepting the money, however, well-meaning the offer. Oguis, being one of her employer's contractors and her being the account manager of the latter should have cautioned petitioner to act in a more circumspect manner.

In sum, we hold that the dismissal of the petitioner as account manager was for a just and valid cause and that private respondent faithfully observed procedural due process in effecting her dismissal.

WHEREFORE, in view of the foregoing, the Petition is hereby DISMISSED. The questioned Resolution dated January 17, 1997 and its accompanying Resolution dated February 7, 1997 of the National Labor Relations Commission are accordingly **AFFIRMED.**

SO ORDERED.

Narvasa, *C.J.*, Kapunan and Purisima, *JJ.*, concur.

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[1] Rollo, pp. 40-47.
[2] Ibid., p. 49.
[3] Id., pp. 55-56
[4] Id., p. 136.
[5] Id., pp. 57-58.
[6] Id., pp. 60-69.
[7] Id., pp. 70-71.
[8] Id., pp. 50-54.
[9] Id., pp. 40-47.
[10] Id., p. 49.
[11] Madlos vs. NLRC, 254 SCRA 248 (1996); Zamboanga City Electric Cooperative vs. Buat, 243 SCRA 47 (1997).
[12] NASUREFCO vs. NLRC, G.R. No. 122277, February 24, 1998.
[13] Mabeza vs. NLRC, 271 SCRA 670 (1997).
[14] Quezon Electric Cooperative vs. NLRC, 172 SCRA 94 (1989).
[15] De la Cruz vs. NLRC, 268 SCRA 458 (1997).
[16] San Antonio vs. NLRC, 250 SCRA 359 (1995).
[17] Solicitor General's Comment, Rollo, p. 195.
[18] Atlas Fertilizer Corp. vs. NLRC, 271 SCRA 549 (1997).
[19] MGG Marine Services, Inc. vs. NLRC, 259 SCRA 664 (1996).
[20] Rollo, pp. 233-234.
[21] 57 SCRA 489 (1974).
[22] 176 SCRA 295 (1989).

[23] 163 SCRA 110 (1988).
[24] 175 SCRA 277 (1989).
[25] 205 SCRA 348 (1992).
[26] 143 SCRA 132 (1986).
[27] Manila Electric Company vs. NLRC, 175 SCRA 277 (1989), at p. 282.
[28] Rollo, pp. 138-139.

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