



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JOEL N. MONTALLANA,
Petitioner,

G.R. No. 208890

Present:

- versus -

SERENO, C.J., Chairperson,
CARPIO,**
LEONARDO-DE CASTRO,
REYES,*** and
PERLAS-BERNABE, JJ.

LA CONSOLACION
COLLEGE MANILA, SR.
IMELDA A. MORA, and
ALBERT D. MANALILI,*
Respondents.

Promulgated:

DEC 08 2014

X-----X

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated May 31, 2013 and the Resolution³ dated August 30, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 127988 which reversed and set aside the Decision⁴ dated July 31, 2012 and the Resolution⁵ dated October 16, 2012 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 02-000556-12, finding petitioner Joel N. Montallana (Montallana) to have been terminated from employment by respondent La Consolacion College Manila (La Consolacion) for a just and legal cause.

* "Alberto Manalili" in some parts of the records.

** Designated Acting Member per Special Order No. 1899 dated December 3, 2014.

*** Designated Acting Member per Special Order No. 1892 dated November 28, 2014.

¹ *Rollo*, pp. 10-27.

² Id. at 286-295. Penned by Associate Justice Socorro B. Inting with Associate Justices Jose C. Reyes, Jr. and Mario V. Lopez, concurring.

³ Id. at 308-309.

⁴ Id. at 57-64. Penned by Commissioner Isabel G. Panganiban-Ortiguerra with Presiding Commissioner Joseph Gerard E. Mabilog and Commissioner Nieves E. Vivar-De Castro, concurring.

⁵ Id. at 52-55.

The Facts

Montallana was a faculty member of La Consolacion's College of Arts and Sciences.⁶

On January 16, 2009, Mrs. Nerissa D. Del Fierro-Juan (Juan), the Assistant Dean of the College of Arts and Sciences and the immediate superior of Montallana, filed a formal administrative complaint⁷ with La Consolacion⁸ against Montallana, charging him of: (a) oral defamation (or slander); (b) disorderly conduct in the school premises; and (c) discourteous/indecent behavior or using profane or obscene language in addressing co-employees, superiors, or anybody within the school premises.⁹

The said complaint arose from an incident that occurred in the faculty room on January 12, 2009 while Dean's Secretary Ann Ruiz (Ruiz) and student assistant Kathlyn Saez (Saez) were numbering the lockers, pursuant to a policy implemented by Juan.¹⁰ At that time, Montallana was conversing with a co-faculty member, Dr. Beatriz V. Pabito (Pabito), when the latter asked Ruiz and Saez what they were doing.¹¹ Upon learning of the re-assignment of lockers of faculty members through drawing of lots, Pabito commented, saying "*para naman tayong bata nyan*,"¹² to which Montallana followed suit and, in a loud voice, remarked "*oo nga naman para tayong mga grade one nyan, anong kabubuhan ng grade one yan*."¹³ Juan heard Montallana's remark and confronted him, resulting in a heated altercation that ended with the latter walking out of the room while Juan was still talking to him.¹⁴

After due investigation, La Consolacion's fact-finding committee found Montallana guilty of serious misconduct in making derogatory and insulting remarks about his superior, aggravated by the fact that he made such remarks in a loud voice so that Juan would hear them.¹⁵ While noting that the foregoing may be considered as a just cause for Montallana's termination, the committee observed that it was his first offense and stressed on the reformatory and redemptive facets of the case.¹⁶ In fine, Montallana was only meted the penalty of suspension without pay for a period of two (2) months and directed him to submit a written public apology to Juan in a

⁶ "School of Arts and Sciences" in some parts of the records. Id. at 57 and 287.

⁷ Id. at 78-79.

⁸ The formal administrative complaint was filed with Dr. Lina V. Diaz-De Rivera (Dr. De Rivera), VPAA/ Dean of College of Arts and Sciences, and was endorsed by Dr. De Rivera to respondent Sr. Imelda A. Mora, President of La Consolacion, who, in turn, created a fact-finding committee to investigate the case. Id. at 80 and 85.

⁹ Id. at 57-58 and 79.

¹⁰ Id. at 78 and 287.

¹¹ Id. at 82 and 143.

¹² See Affidavit of Pabito dated February 17, 2009; id. at 105.

¹³ See Montallana's Reply to the formal administrative complaint dated January 24, 2009; id. at 82.

¹⁴ Id. at 123.

¹⁵ See Report of Fact-Finding Committee dated April 4, 2009; id. at 110.

¹⁶ See id. at 111.

tenor satisfactory to her and La Consolacion's Human Resource Department (HRD).¹⁷

In a letter¹⁸ dated April 22, 2009, Montallana sought reconsideration of his suspension and explained that a written public apology was inappropriate at that time in view of the pendency of a criminal complaint¹⁹ for grave oral defamation filed by Juan against him before the City Prosecutor's Office. He mentioned that his issuance of a written public apology while the criminal case was being heard might incriminate himself, adding too that it was his lawyer who advised him to invoke his right against self-incrimination.²⁰

The request having been denied by La Consolacion's President, respondent Sr. Imelda A. Mora (Mora), in her letter²¹ dated May 12, 2009, Montallana filed a complaint for illegal suspension and unfair labor practice, with prayer for payment of salaries during the period of suspension, and moral and exemplary damages against respondents La Consolacion and Mora before the NLRC, docketed as NLRC NCR Case No. 05-07667-09 (illegal suspension case).²²

In a Decision²³ dated April 15, 2010, the Labor Arbiter (LA) ruled in favor of Montallana, holding that his actions did not constitute serious misconduct.²⁴ Hence, Montallana's suspension from employment was declared illegal and respondents La Consolacion and Mora were ordered to pay Montallana the amount of ₱48,000.00 as his salary during the period of suspension.²⁵

On appeal,²⁶ however, the NLRC disagreed²⁷ with the findings of the LA and found Montallana's acts to be constitutive of serious misconduct and against the rule of honor and decency expected of any teacher.²⁸ While it found sufficient basis to impose the penalty of termination, the NLRC nonetheless sustained the two (2)-month suspension in deference to the school's prerogative to discipline its employees.²⁹ Montallana moved for

¹⁷ See letter dated April 7, 2009; *id.* at 112.

¹⁸ *Id.* at 113-115.

¹⁹ Docketed as I.S. No. XV-07-INV-09C-01841. (See *id.* at 262)

²⁰ *Id.* at 115.

²¹ *Id.* at 116.

²² See *id.* at 119.

²³ *Id.* at 119-126. Penned by Labor Arbiter Romelita N. Rioflorido.

²⁴ *Id.* at 125.

²⁵ *Id.*

²⁶ Docketed as NLRC LAC Case No. 05-001078-10.

²⁷ See Resolution dated September 30, 2010 penned by Commissioner Numeriano D. Villena with Presiding Commissioner Herminio V. Suelo and Commissioner Angelo Ang Palan concurring; *id.* at 141-149.

²⁸ *Id.* at 148.

²⁹ *Id.*

reconsideration³⁰ but was denied by the NLRC in a Decision³¹ dated February 7, 2011. Montallana no longer elevated the matter to the CA and the NLRC's decision became final and executory on February 28, 2011.³²

Thereafter, on June 1, 2011, La Consolacion, through its HRD Director, respondent Albert D. Manalili (Manalili), directed Montallana to explain in writing why he should not be dismissed for failure to submit his written public apology which formed part of the disciplinary sanction that was sustained with finality by the NLRC.³³

In a letter³⁴ dated June 9, 2011, Montallana begged for La Consolacion's indulgence, explaining that he had no intention of defying the directive to submit a written public apology and that his inability to comply therewith was, to reiterate, only in view of the pendency of the criminal case against him. He, nonetheless, expressed his willingness to comply with the directive once the said case was resolved with finality. Finding Montallana's written explanation unsatisfactory, Manalili terminated him from work on June 13, 2011.³⁵

Asserting that his dismissal for failure to submit a written public apology was unjustified and was, in fact, connected to his position as an officer of La Consolacion's newly formed and recognized Union, Montallana filed a complaint³⁶ for illegal dismissal with money claims against respondents La Consolacion, Mora, and Manalili (respondents), docketed as NLRC NCR Case No. 06-09263-11.

In respondents' defense,³⁷ they contended that since the directive to apologize was part of the penalty imposed on Montallana, his refusal and/or failure to comply merited further sanctions.³⁸ They denied having dismissed Montallana for his union activities, pointing out that even the Union President agreed to his suspension for his misbehavior.³⁹

The LA Ruling

In a Decision⁴⁰ dated November 14, 2011, the LA dismissed Montallana's complaint, holding that his refusal to apologize – in light of his chosen profession as a teacher and La Consolacion's right to maintain a

³⁰ See Motion for Reconsideration dated October 28, 2010; id. at 151-156.

³¹ Id. at 162-164.

³² See Entry of Judgment dated March 14, 2011; id. at 165.

³³ See Letter dated June 1, 2011; id. at 166.

³⁴ Id. at 167.

³⁵ See letter dated June 13, 2011; id. at 168.

³⁶ See Montallana's Position Paper dated August 24, 2011; id. at 169.

³⁷ See Respondents' Reply dated September 22, 2011; id. at 195-198.

³⁸ Id. at 195-196.

³⁹ Id. at 197-198.

⁴⁰ Id. at 209-222. Penned by Labor Arbiter Pablo A. Gajardo, Jr.

certain standard of behavior among its faculty, who serve as models for its students – was tantamount to serious misconduct and, hence, warranted his termination.⁴¹ In this relation, the LA found Montallana's reason for refusing to apologize as invalid, observing that no evidence was adduced to establish the existence of the criminal case mentioned in his letters of explanation, and that even if there was one, the case was strictly between Montallana and Juan and not the concern of the respondents.⁴²

Aggrieved, Montallana filed an appeal⁴³ before the NLRC.

The NLRC Ruling

In a Decision⁴⁴ dated July 31, 2012, the NLRC reversed and set aside the LA's verdict, and thus, ordered respondents to reinstate Montallana and to pay him backwages from the time he was illegally dismissed up to his reinstatement.

It ruled that Montallana's failure to submit a written public apology was not an open defiance of respondents' order since he even begged for the latter's indulgence, believing that the issuance of a letter of apology would incriminate him in the on-going criminal case filed by Juan.⁴⁵ To this, the NLRC added that Montallana did not question his superiors' orders as he, in fact, expressed his willingness to abide by the same, but only at a later appropriate time.⁴⁶ Further, the NLRC observed that since Montallana had already been suspended from work without pay, respondents should have accorded him more consideration and compassion to his plight.⁴⁷ Thus, it ruled Montallana's dismissal to be too severe a penalty and ordered respondents to reinstate him to his former position without loss of seniority and to pay him backwages from the time he was illegally dismissed up to his reinstatement.⁴⁸

Respondents moved for reconsideration,⁴⁹ asserting that the failure to comply with their directive to apologize constituted insubordination which is subject to disciplinary sanction under the school's Administrative Affairs Manual.⁵⁰ They further manifested that the criminal case filed against Montallana had already been dismissed in a Resolution⁵¹ dated March 5, 2010 and dropped from the prosecutor's list of cases on July 2, 2010,⁵² or

⁴¹ Id. at 217-221.

⁴² Id. at 221.

⁴³ Docketed as NLRC LAC No. 02-000556-12. Id. at 57.

⁴⁴ Id. at 57-64.

⁴⁵ Id. at 61-62.

⁴⁶ Id. at 62.

⁴⁷ Id. at 62-63.

⁴⁸ Id. at 63-64.

⁴⁹ See Motion for Reconsideration dated August 28, 2012. Id. at 251-257.

⁵⁰ Id. at 255. See also Administrative Affairs Manual; id. at 260.

⁵¹ Id. at 261-263. Penned by Assistant City Prosecutor Mary Dale Duron-Darantinao.

⁵² Id. at 255.

way before La Consolacion sent the June 1, 2011 directive to explain why he failed to comply with the required written public apology. Consequently, it was pointed out that Montallana was lying not only to respondents but also to the NLRC.⁵³

Montallana, in response, claimed to have acquired a copy of the prosecutor's March 5, 2010 Resolution only on September 11, 2012 and, in this regard, submitted his letter of apology to the NLRC.⁵⁴

In a Resolution⁵⁵ dated October 16, 2012, the NLRC found that Montallana belatedly received the prosecutor's March 5, 2010 Resolution only on September 11, 2012 and, hence, denied respondents' motion.⁵⁶ This prompted the filing of a petition for *certiorari*⁵⁷ before the CA.

The CA Ruling

In a Decision⁵⁸ dated May 31, 2013, the CA gave due course to respondents' petition and eventually reversed and set aside the NLRC's Decision.

It found that Montallana deliberately refused to obey the directive of the respondents to apologize and that the pendency of the criminal case against him was not sufficient justification to excuse him from compliance. It observed that the said directive was an integral part of his punishment for serious misconduct, which had already been sustained with finality by the NLRC in the illegal suspension case.⁵⁹ Further, the CA agreed with the LA that La Consolacion, as an educational institution, has the right to maintain and expect a certain standard of behavior from its faculty, as they serve as role models for its students.⁶⁰ All told, the CA was satisfied that Montallana's employment was terminated for a just and legal cause.⁶¹

Dissatisfied, Montallana moved for reconsideration⁶² which was denied in a Resolution⁶³ dated August 30, 2013, hence, this petition.

⁵³ Id. at 255-256.

⁵⁴ Id. at 54.

⁵⁵ Id. at 52-55.

⁵⁶ Id. at 54.

⁵⁷ Id. at 28-46.

⁵⁸ Id. at 286-295.

⁵⁹ Id. at 292.

⁶⁰ Id. at 293.

⁶¹ Id. at 294.

⁶² See Motion for Reconsideration filed on June 19, 2013; id. at 296-301.

⁶³ Id. at 308-309.

The Issue Before the Court

The primordial issue for the Court's resolution is whether or not Montallana's termination from work was lawful and justified.

The Court's Ruling

The petition is meritorious.

"Willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work" is one of the just causes to terminate an employee under Article 296 (a) (formerly Article 282 [a]) of the Labor Code.⁶⁴ In order for this ground to be properly invoked as a just cause for dismissal, **the conduct must be willful or intentional, willfulness being characterized by a wrongful and perverse mental attitude.**⁶⁵ In *Dongon v. Rapid Movers and Forwarders Co., Inc.*,⁶⁶ "willfulness" was described as "attended by a wrongful and perverse mental attitude rendering the employee's act inconsistent with proper subordination."⁶⁷

It is well to stress that it is the employer who bears the burden of proving, through **substantial evidence**, that the aforesaid just cause – or any other authorized cause for that matter – forms the basis of the employee's dismissal from work.⁶⁸ Failing in which, the dismissal should be adjudged as illegal.

In the case at bar, respondents failed to prove, by substantial evidence, that Montallana's non-compliance with respondents' directive to apologize was "willful or intentional." The Court finds itself in complete agreement with the NLRC that the disobedience attributed to Montallana could not be justly characterized as "willful" within the contemplation of Article 296 of the Labor Code, in the sense above-described.

As culled from the records, aside from the administrative complaint filed by Juan against Montallana for his serious misconduct, the former also filed a criminal complaint for grave oral defamation for the utterances he made arising from the same incident before the Manila City Prosecutor's

⁶⁴ Renumbered pursuant to Republic Act No. 10151 entitled "AN ACT ALLOWING THE EMPLOYMENT OF NIGHT WORKERS, THEREBY REPEALING ARTICLES 130 AND 131 OF PRESIDENTIAL DECREE NUMBER FOUR HUNDRED FORTY-TWO, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES."

⁶⁵ *Nissan Motors Phils., Inc. v. Angelo*, G.R. No. 164181, September 14, 2011, 657 SCRA 520, 529-530.

⁶⁶ G.R. No. 163431, August 28, 2013, 704 SCRA 56.

⁶⁷ Id. at 67-68.

⁶⁸ *PNOC-Energy Development Corporation v. Estrella*, G.R. No. 197789, July 8, 2013, 700 SCRA 767, 775; citation omitted.

Office. In the honest belief that issuing a letter of apology would incriminate him in the said criminal case – and upon the advice of his own lawyer at that – Montallana wrote to respondents and voluntarily communicated that he was willing to issue the required apology, but only had to defer the same in view of his legal predicament. As the Court sees it, the tenor of his letters, and the circumstances under which they were taken, at the very least, exhibited Montallana's good faith in dealing with respondents. This, therefore, negates the theory that his failure to abide by respondents' directive to apologize was attended by a "wrong and perverse mental attitude rendering the employee's act inconsistent with proper subordination," which would warrant his termination from employment.

It beckons clarification that respondents' submission of the prosecutor's March 5, 2010 Resolution to show that Juan's criminal complaint against Montallana was dismissed way earlier than their June 1, 2011 directive to explain is not enough to show that the latter took a willfully defiant attitude against a lawful order, considering that no other evidence was presented to prove that the said Resolution had already attained finality. In fact, as pointed out by the NLRC, it was only on September 11, 2012 that Montallana was able to obtain a copy of the prosecutor's March 5, 2010 Resolution, or long after he had already submitted his letter of explanation on June 9, 2011.⁶⁹ Therefore, respondents' assertion that Montallana had lied to them cannot be given any credence.

Besides, even on the assumption that there was willful disobedience, still, the Court finds the penalty of dismissal too harsh. It bears to stress that not every case of insubordination or willful disobedience by an employee reasonably deserves the penalty of dismissal.⁷⁰ The penalty to be imposed on an erring employee must be commensurate with the gravity of his offense.⁷¹ To the Court's mind, the case of an employee who is compelled to apologize for a previous infraction but fails to do so is not one which would properly warrant his termination, absent any proof that the refusal was made in brazen disrespect of his employer. While there is no question that teachers are held to a peculiar standard of behavior in view of their significant role in the rearing of our youth, educational institutions are, in the meantime, held against a legal standard imposed against all employers, among which, is the reservation of the ultimate penalty of dismissal for serious infractions enumerated as just causes under Article 296 of the Labor Code. Unfortunately, respondents herein failed to prove the seriousness of Montallana's omission by the evidentiary benchmark of substantial evidence. And to add, on a related note, while La Consolacion's Administrative Affairs Manual⁷² discloses that acts of insubordination (particularly, that of refusing or neglecting to obey the school's lawful directive) are dismissible violations, they are only so if imposed as a third

⁶⁹ *Rollo*, p. 54.

⁷⁰ *Procter and Gamble Philippines v. Bondesto*, 468 Phil. 932, 942 (2004).

⁷¹ *NLRC v. Salgarino*, 529 Phil. 355, 371 (2006).


⁷² *Rollo*, p. 260.

sanction. In the same vein, records are bereft of any showing that Montallana's failure to apologize was being punished as such.

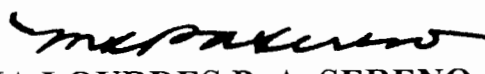
In fine, since respondents failed to prove, by substantial evidence, that Montallana's dismissal was based on a just or authorized cause under the Labor Code or was clearly warranted under La Consolacion's Administrative Affairs Manual, the Court rules that the dismissal was illegal. Consequently, the NLRC's identical ruling, which was erroneously reversed by the CA on *certiorari*, must be reinstated with the modification, however, in that the order for respondents Mora and Manalili to pay Montallana backwages⁷³ should be deleted. It is a rule that personal liability of corporate directors, trustees or officers attaches only when: (a) they assent to a patently unlawful act of the corporation, or when they are guilty of bad faith or gross negligence in directing its affairs, or when there is a conflict of interest resulting in damages to the corporation, its stockholders or other persons; (b) they consent to the issuance of watered down stocks or when, having knowledge of such issuance, do not forthwith file with the corporate secretary their written objection; (c) they agree to hold themselves personally and solidarily liable with the corporation; or (d) they are made by specific provision of law personally answerable for their corporate action.⁷⁴ None of these circumstances, in so far as Mora and Manalili are concerned, were shown to be present in this case; hence, there is no reason for them to be held liable for Montallana's backwages.

WHEREFORE, the petition is **GRANTED**. The Decision dated May 31, 2013 and the Resolution dated August 30, 2013 of the Court of Appeals in CA-G.R. SP No. 127988 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Decision dated July 31, 2012 and the Resolution dated October 16, 2012 of the National Labor Relations Commission in NLRC LAC No. 02-000556-12, declaring petitioner Joel N. Montallana (Montallana) to have been illegally dismissed, are **REINSTATED** with the **MODIFICATION** deleting the order for respondents Sr. Imelda A. Mora and Albert D. Manalili to pay Montallana his backwages.

SO ORDERED.

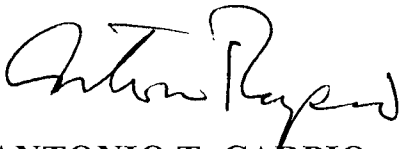

ESTELA M. PERLAS-BERNABE
Associate Justice

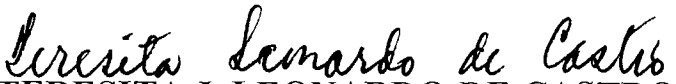
WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

⁷³ Id. at 64.

⁷⁴ *Carag v. NLRC*, 548 Phil. 581, 605 (2007), citing *McLeod v. NLRC*, 541 Phil. 214, 242 (2007).


ANTONIO T. CARPIO
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice