



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

EVELINA E. BELARSO,
Petitioner,

G.R. No. 209983

Present:
PERLAS-BERNABE, J.,
Chairperson,
HERNANDO,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

- versus -

QUALITY HOUSE, INC. AND/OR
CARMELITA GO,
Respondents.

Promulgated:

NOV 10 2021

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DECISION

HERNANDO, J.:

This petition for review on *certiorari*¹ assails the July 10, 2013 Decision² and November 4, 2013 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP. No. 126064 that affirmed the ruling⁴ of the National Labor Relations Commission (NLRC) dismissing petitioner Evelina E. Belarso's (Belarso) complaint⁵ for illegal dismissal against respondents Quality House, Inc. (QHI) and its President and Manager, Carmelita Go.⁶

¹ *Rollo*, pp. 11-26.

² *Id.* at 259-269. Penned by Associate Justice Priscilla J. Baltazar-Padilla (former Member of the Court) and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Agnes Reyes-Carpio.

³ *Id.* at 279-279A.

⁴ *Id.* at 102-111.

⁵ *CA rollo*, pp. 23-24.

⁶ *Rollo*, p. 268.

Antecedents:

The facts, as summarized by the CA are as follows:

Private respondent Quality House, Inc. (QHI) is a manufacturer and distributor of leather products, such as belts, wallets and other small leather items. On November 14, 1976, it hired petitioner Evelina E. Belarso. She was initially assigned at the belt department of QHI. Sometime in 1986, [Belarso] was transferred from the belt department to the raw materials warehouse. On December 7, 1987, she was promoted as supervisor of the Raw Materials Warehouse. As supervisor, she was tasked to receive and keep the raw materials for storage. She was also in-charge of releasing them to the different departments of QHI upon request.

On December 10, 2010, before leaving the warehouse, [Belarso] submitted herself to the routinary outgoing inspection and body frisking of employees at the QHI gate. When [Belarso's] bag was inspected, Lady Guard (L/G) Lolita Salamanca found a belt buckle inside the bag. She called [Belarso's] attention but the latter had no gate pass or authorization to bring out the said item from the warehouse. [Belarso] denied any knowledge on why and how the belt buckle got inside her bag. Thereafter, an incident report was immediately filed by L/G Salamanca with Security Guard (S/G) Richard Portodo. Mr. Reagan Amurao and Mr. Dennis Velasco stood as witnesses.

On December 13, 2010, [Belarso] received a notice from QHI placing her under preventive suspension and requiring her to submit a written explanation within 48 hours from receipt of the notice why she should not be subjected to disciplinary action in connection with the December 10, 2010 incident report. On December 15, 2010, [Belarso] submitted her written explanation denying all the accusations against her. She claimed that her bag was placed outside her work station under a table located beside the door and near the window. The bag was visible to everyone. She stressed that in her 34-years of service in the company she was fully aware of QHI's policy of inspecting its employees, their bags and other belongings before leaving the company premises, so why would she place a belt buckle inside her bag without even wrapping or concealing it.

On December 22, 2010, she requested management for a dialogue with Ms. Carmelita Go to personally explain her side. QHI acceded. Hence, on January 4, 2011, a conference was held. At the said conference, no plausible explanation was given by [Belarso] other than that she was framed-up by her co-employees by putting the belt buckle inside her bag without her knowledge.

The result of the conference was summarized by Ms. Go in the January 6, 2011 "*Rule Violation Memo*" addressed to [Belarso]. In the said memo, QHI expressed that it found [Belarso's] explanation to be unsatisfactory. It also informed [Belarso] that her employment was being terminated effective January 7, 2011 for stealing company property and for loss of trust and confidence. At the time that [Belarso] was dismissed from service she was the supervisor at Raw Materials Warehouse with a monthly salary of P12,000.00.

However, before the result of the investigation was even released, a complaint for illegal dismissal against QHI was already filed by [Belarso] on January 5, 2011. In her complaint, [Belarso] indicated that she was illegally dismissed by QHI on December 13, 2010.

For its part, private respondent QHI, claimed that [Belarso] was terminated from employment for cause. It asserted that [Belarso] had violated company rules and policies by stealing a belt buckle and by bringing her bag to work station when the same was not allowed by the company. [Belarso] also failed to give a valid explanation why the belt buckle was in her possession. She could not also give a valid [explanation] why she was bringing her bag in her work place when lockers are provided by the company to every employee for the safekeeping of their things. Under company rules and policies, the infractions committed by [Belarso] are punishable by dismissal. QHI further averred that [Belarso] is not entitled to payment of separation pay and damages as she was dismissed for cause.⁷

Ruling of the Labor Arbiter (LA):

The LA ruled⁸ that Belarso had been illegally dismissed by QHI. He found that it was unbelievable for Belarso to attempt to steal the belt buckle knowing that the employees of QHI were regularly frisked upon exit.⁹ It was also unthinkable that Belarso would commit the infraction given her 34 years of service in the company.¹⁰ As for the evidence submitted by QHI, the LA determined that the affidavits executed by the guards and Belarso's co-employees were more likely an afterthought considering that they were similarly worded and were executed a month after filing of the complaint.¹¹

The dispositive portion of the LA Decision reads:

WHEREFORE, it is hereby declared that complainant Evelina E. Belarso was illegally dismissed by respondents. In view of the above findings, respondents are hereby ordered jointly and solidarily liable to pay complainant the total amount of P593,653.85 representing her backwages and separation pay.

SO ORDERED.¹²

Aggrieved, QHI appealed to the NLRC.

Ruling of the National Labor Relations Commission:

The NLRC reversed¹³ the ruling of the LA after finding that QHI, through its evidence, was able to establish that Belarso's dismissal was for a just cause, *i.e.*, loss of trust and confidence. First, the NLRC determined that there was basis for QHI to lose its confidence on Belarso considering that the affidavits of the guards and her co-employees showed that Belarso indeed attempted to

⁷ Id. at 259-261.

⁸ Id. at 102-111. Penned by Labor Arbiter Quintin B. Cueto III.

⁹ Id. at 106-107.

¹⁰ Id.

¹¹ Id. at 107.

¹² Id. at 111.

¹³ Id. at 179-198. Penned by Commissioner Teresita D. Castillon-Lora and concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Napoleon M. Menese.

steal the belt buckle.¹⁴ Second, the NLRC noted that Belarso, whose position was Raw Materials Supervisor, held a position of trust and confidence as she was in charge of the custody of QHI's raw materials.¹⁵ Notably, the NLRC did not give credence to the allegations of Belarso since she lied about several material matters in the proceedings before the LA:

Complainant's other arguments in fact, are erratic [and] bordering on lies, if not blatant lies.

Respondents alleged and substantiated their claim that the position of Complainant is Raw Materials Supervisor (p. 21, Records). Complainant never denied this. However, she alleged that 'she is not a managerial or confidential employee in whom greater trust is placed by management and from whom greater fidelity is correspondingly expected' (p. 51, Records).

Respondents before the Labor Arbiter alleged that for several past years, Complainant was no longer efficient contrary to her claim. She simply ignored this as she continued alleging that "(A)s a matter of fact, except for the memo subject matter of this case, she was never issued any memorandum or notice by her superior that she committed any infraction or violation of the company rules and regulations" in her Position Paper (p. 13, Records), and that "she is a first time offender" in her Reply (p.51, Records).

However, Respondents with their appeal, exhibited proofs of their allegations in the form of copies of memorandums (sic) to Complainant dating back to 1986 up to 2005, with the copy of Complainant's 1987 appointment as Raw Materials Supervisor (pp. 96-116, Records).

In fact, the erratic stand of Complainant started in her January 5, 2011 complaint where she charged Respondents of illegally dismissing her on December 13, 2010 (pp. 1-3, Records), when she was merely placed on one month preventive suspension effective that date (p. 41, Records). She was effectively dismissed on January 7, 2011 (p. 45, Records), or before she filed this case.¹⁶

The dispositive portion of the NLRC Decision¹⁷ reads:

WHEREFORE, premises considered, the appeal is hereby declared with merit; the appealed decision is hereby **REVERSED** and **SET ASIDE**, declaring this case **DISMISSED** for lack of merit.

SO ORDERED.¹⁸

Unsatisfied, Belarso filed a Motion for Reconsideration¹⁹ but it was denied²⁰ for lack of merit. Thus, her appeal before the CA.

¹⁴ Id. at 190.

¹⁵ Id. at 194.

¹⁶ Id. at 191-192.

¹⁷ Id. at 179-198.

¹⁸ Id. at 268.

¹⁹ Id. at 199-202.

²⁰ Id. at 210-211.

Ruling of the Court of Appeals:

In the assailed Decision,²¹ the CA sustained the NLRC's findings and agreed that the evidence on record supports QHI's position. It rejected Belarso's defense of a frame-up as she did not submit any proof to corroborate the same.²² The CA also noted that the fact alone that the bag was visible to her co-employees does not by itself prove that the belt buckle was planted therein.²³ What further aggravated the situation, according to the CA, was Belarso's own admission that she brought her bag to the workstation despite the fact that it was prohibited by QHI and that lockers were provided for employees to place their belongings in.²⁴ The dispositive portion of the assailed Decision reads:

WHEREFORE, the foregoing considered, the petition is **DENIED**.

The assailed Decision and Resolution of the NLRC in NLRC LAC No. 01-000419-12/NLRC NCR No. 01-00231-11 are **AFFIRMED**.

SO ORDERED.²⁵

Belarso's Motion for Reconsideration²⁶ was denied by the CA in the assailed Resolution.

Hence, this Petition, where Belarso raises the following issues:

I

WHETHER THERE EXISTS A JUST CAUSE TO TERMINATE THE PETITIONER FROM HER EMPLOYMENT.

II

GRANTING *ARGUENDO* THAT THE PETITIONER VIOLATED THE COMPANY'S RULES AND REGULATIONS, WHETHER THE PENALTY OF DISMISSAL IS PROPER AND WARRANTED BY THE CIRCUMSTANCES.²⁷

In arguing that her dismissal is illegal, Belarso insists that (1) the charge imputed against her defies logic and common experience since she knew that she would be inspected by guards;²⁸ (2) the affidavits executed by the guards and Belarso's co-employees were all similarly worded and executed on the same day, and thus deserve scant consideration;²⁹ (3) the inspecting guard's testimony revealed a material discrepancy, *i.e.*, in her affidavit, she mentioned

²¹ CA rollo, pp. 256-266.

²² Rollo, p. 265.

²³ Id.

²⁴ Id. at 266.

²⁵ Id. at 34.

²⁶ CA rollo, pp. 270-277.

²⁷ Id. at 17.

²⁸ Id. at 18.

²⁹ Id. at 19.

that the belt buckle was found in Belarso's raincoat but in the incident report, she stated that it was found inside Belarso's bag, covered by a raincoat;³⁰ (4) that the affidavit was executed two months after the incident occurred;³¹ (5) that in her 34 years of service, she was never involved in any theft of company property;³² and (6) that the belt buckle was planted.³³ Further, granting *arguendo* that she committed the infraction, Belarso maintains that the penalty imposed was too harsh.³⁴

In its Comment,³⁵ QHI maintains that Belarso was validly dismissed for loss of trust and confidence.³⁶

Our Ruling

The Petition lacks merit.

The Court may review the factual findings of the LA and the NLRC when they are conflicting.

While the Court's jurisdiction in a Rule 45 petition is limited to the review of questions of law,³⁷ this rule admits of exceptions, one of which is when the factual findings of the LA and the NLRC are conflicting.³⁸ Since such exception is present in this case, We review the contradictory factual findings.

Belarso was validly dismissed.

The reason for Belarso's dismissal was clearly stated in the Rule Violation Memo³⁹ addressed to her:

Ms. Belarso you failed to answer properly the above questions and that was your chance to explain your side. **For violating our company rule and for our loss of trust and confidence in you, we have no recourse but to terminate you effective January 07, 2011.**⁴⁰ (Emphasis supplied)

Loss or breach of trust and confidence, as a just cause for termination by an employer, is based on Article 297 of the Labor Code:

³⁰ Id.

³¹ Id.

³² Id.

³³ Id. at 20.

³⁴ Id. at 21.

³⁵ Id. at 287-301.

³⁶ Id. at 291-299.

³⁷ RULES OF COURT, Rule 45, Sec. 1.

³⁸ *Paredes v. Feed the Children Phils., Inc.*, 769 Phil. 418, 433 (2015), citing *Agabon v. National Labor Relations Commission*, 485 Phil. 248, 277 (2004).

³⁹ *Rollo*, pp. 86-87.

⁴⁰ Id. at 87.

ARTICLE 297. [282] *Termination by Employer*. — An employer may terminate an employment for any of the following causes:

x x x x

(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative[.]

Jurisprudence provides for two conditions before an employee may be dismissed for such cause:

First. Breach of trust and confidence must be premised on the fact that the employee concerned holds a position of trust and confidence, where greater trust is placed by management and from whom greater fidelity to duty is correspondingly expected. The essence of the offense for which an employee is penalized is the betrayal of such trust.

In the case of *Wesleyan University Phils. v. Reyes*, employees vested with trust and confidence were divided into two classes: (a) the managerial employees; and (b) the fiduciary rank-and-file employees. As explained by the Court:

To the first class belong the managerial employees or those vested with the powers or prerogatives to lay down management policies and to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees or effectively recommend such managerial actions. The second class includes those who in the normal and routine exercise of their functions regularly handle significant amounts of money or property. Cashiers, auditors, and property custodians are some of the employees in the second class.

Second. There must be some basis for the loss of trust and confidence. The employer must present clear and convincing proof of an actual breach of duty committed by the employee by establishing the facts and incidents upon which the loss of confidence in the employee may fairly be made to rest. This means that “the employer must establish the existence of an act justifying the loss of trust and confidence.” Otherwise, employees will be left at the mercy of their employers.⁴¹ (Citations omitted; emphasis supplied)

After a careful review of the records, We find the above conditions present.

First, Belarso never denied in her Petition that she held a position of trust and confidence. Her appointment letter⁴² showed that she assumed the position of Raw Materials Supervisor in 1987. As a supervisor, she was responsible for the custody, handling, safekeeping, and releasing of QHI’s raw materials.⁴³ This brings her within the scope of employees vested with trust and confidence, *i.e.*,

⁴¹ *University of Manila v. Pinera*, G.R. No. 227550, August 14, 2019.

⁴² *Rollo*, p. 131.

⁴³ As noted by the NLRC, Belarso never disputed QHI’s description of her job as being “in charge of custody, safekeeping, and release of respondent QHI’s materials” (*rollo*, p. 194).

those who in the normal and routine exercise of their functions regularly handle significant amounts of money or property.

Second, QHI was able to establish the basis of its loss of trust on Belarso: her violation of the company rule prohibiting the stealing or attempting to steal company property. Contrary to Belarso's claim and the LA's ruling that QHI was unable to establish such, the evidence on record reflects otherwise.

To prove its allegations, QHI presented the following: (1) Incident Report⁴⁴ prepared by the inspecting guard narrating that on December 10, 2010, during routine inspection, a belt buckle belonging to QHI was found in Belarso's bag;⁴⁵ (2) individual *Sinumpaang Salaysay*⁴⁶ of the inspecting guard, another guard,⁴⁷ and two other employees⁴⁸ who witnessed the incident; (3) Notice⁴⁹ directing Belarso to explain why she should not be disciplined for attempting to steal company property; (4) Belarso's handwritten explanation⁵⁰ denying the charge; (5) another handwritten letter⁵¹ requesting for a dialogue with the management; (6) the memorandum⁵² of dismissal stating that after the dialogue, QHI found Belarso's explanation unsatisfactory and thus terminates her services for violation of company rule and for loss of trust and confidence; (7) a *Sinumpaang Salaysay*,⁵³ with supporting documents, executed by another employee stating that when an inventory was conducted after the incident, she discovered that there were five missing belt buckles; and (8) a copy of QHI's rules and regulations⁵⁴ prohibiting the stealing or attempting to steal company property.

Belarso, on the other hand, failed to establish her defense. While she insists that the belt buckle was planted by her co-employee, she did not provide any reason or explanation to support such claim. What is more, the said co-employee executed a *Sinumpaang Salaysay*⁵⁵ denying the accusation and stating that he did not harbor any ill feeling toward Belarso and that he did not know of any reason why the latter would accuse him of a frame-up.

Further, while Belarso insists that the charge imputed against her defies logic and common experience, the records show that she had a propensity to violate company rules and regulations. As shown by the various rule violation memoranda issued against her, Belarso had committed a total of 19 infractions from 1986 to 2005.⁵⁶ Indeed, even her allegation that she placed her bag under

⁴⁴ *Rollo*, p. 77.

⁴⁵ *Id.*

⁴⁶ *Id.* at 78.

⁴⁷ *Id.* at 79.

⁴⁸ *Id.* at 80-81.

⁴⁹ *Id.* at 82.

⁵⁰ *Id.* at 83-84.

⁵¹ *Id.* at 85.

⁵² *Id.* at 86-87.

⁵³ *Id.* at 88.

⁵⁴ *Id.* at 76.

⁵⁵ *Id.* at 100.

⁵⁶ *Id.* at 132-151.

her table making it possible for anyone to put anything in it, constitutes a violation of company rules. Understandably to prevent incidents of frame-up, all employees were required to place their belongings in their individual lockers.

Belarso also assails the affidavits executed by the guards and her co-employees for being similarly worded and executed on the same day, and for being dated two months after the incident. However, these do not automatically invalidate the contents of the affidavits. Being duly notarized, they carry with them the presumption of regularity and authenticity which may be rebutted only by “strong, complete and conclusive proof.”⁵⁷ This, Belarso was unable to present.

As to the supposed material discrepancy in the inspecting guard’s affidavit⁵⁸ (*i.e.*, that the belt buckle was found in Belarso’s raincoat, contrary to the incident report, wherein the same was found inside Belarso’s bag covered by a raincoat), said discrepancy is but negligible and reconcilable. Regardless of whether the belt buckle was covered by the raincoat or was inside the same, the fact remains that it was found inside her bag during the inspection.

Belarso finally argues that the penalty is too harsh considering her 34 years of service in the company. However, length of service is not a bargaining chip that can simply be stacked against the employer.⁵⁹ Under the present circumstances, length of service only aggravates Belarso’s offense. First, she held a position of trust and confidence, overseeing the custody of the raw materials she tried to steal. As a supervisor, greater trust was placed on her by QHI. Second, her infraction affected the very essence of loyalty and honesty which all employees owe to their employers. It was serious, grave, and reflected adversely on her character.

In fine, We find Belarso’s dismissal for loss of trust and confidence valid. Indeed, “[w]hile the State can regulate the right of an employer to select and discharge his or her employees, an employer cannot be compelled to continue the employment of an employee in whom there has been a legitimate loss of trust and confidence.”⁶⁰

WHEREFORE, the Petition is hereby **DENIED**. The July 10, 2013 Decision and November 4, 2013 Resolution of the Court of Appeals in CA-G.R. SP. No. 126064 are **AFFIRMED**. Petitioner Evelina E. Belarso’s dismissal is valid. No pronouncement as to cost.


⁵⁷ *University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas*, 776 Phil. 401, 453 (2016), citing *Sales v. Court of Appeals*, 286 Phil. 1026-1036 (1992).

⁵⁸ *Rollo*, p. 88.


⁵⁹ *Reno Foods, Inc. v. Nagkakaisang Lakas ng Manggagawa-Katipunan*, 629 Phil. 247, 260 (2010).


⁶⁰ *Cadavas v. Court of Appeals*, G.R. No. 228765, March 20, 2019, citing *Bristol Myers Squibb (Phils.), Inc. v. Baban*, 594 Phil. 620, 631 (2008).

SO ORDERED.

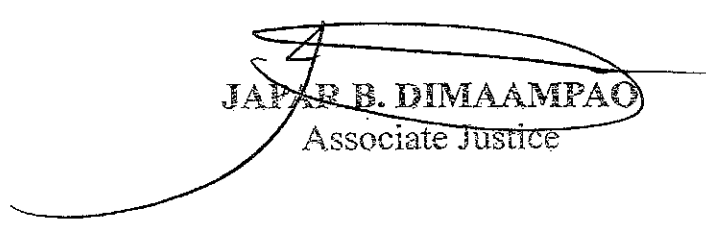

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

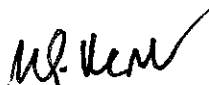

HENRI JEAN PAUL B. INTING
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

I attest 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.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.


ALEXANDER G. GESMUNDO
Chief Justice