

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**SEGUNDINO ROYO, GERMAN ROYO  
and CIPRIANO ROYO,**  
*Petitioners,*

*-versus-*

**G.R. No. 109609  
May 8, 1996**

**THE HON. NATIONAL LABOR  
RELATIONS COMMISSION, SECOND  
DIVISION, STANDARD ALCOHOL,  
INC., and RAMON CHUANICO,**  
*Respondents.*

X-----X

**DECISION**

**MENDOZA, J.:**

Petitioners are relatives who were employed at the Standard Alcohol Inc. Segundino Royo was hired on October 1, 1978 as truck driver. His brother German Royo had been a caretaker of private respondent's

compound since August 21, 1960, while his son, Cipriano Royo, was hired as a repacker and handyman on September 8, 1971.

On February 28, 1990, at around 9:00 a.m., while Mario Alvarez, another employee of the company, was loading cargoes on a company truck, he was called into the office by German Royo. As soon as Alvarez got in, Segundino Royo grabbed him by the right arm and pulled him to a chair. He was accused of reporting petitioners to the management for theft of company property. When he answered that it was true and that many people knew of the anomalies committed by them, he was slapped by Segundino Royo. As Alvarez tried to get up from his seat, German Royo boxed him on the face. The brothers then took turns boxing and kicking him on various parts of his body until Alvarez collapsed and fell on the floor. Mario Alvarez tried to run outside but he was stopped by Cipriano Royo who tried to hit him with a piece of wood. Only the timely intervention of Reynaldo Bernales saved Alvarez from further punishment. Alvarez was treated at the Valenzuela Medical Hospital. A medical certificate was issued to him.

In the afternoon of February 28, 1990, private respondents issued a memorandum suspending petitioners and prohibiting them from entering the company premises.<sup>[1]</sup> The memorandum stated:

#### MEMO NO. 1

Effective March 1, 1990 the following persons, namely SEGUNDINO ROYO, GERMAN ROYO AND CIPRIANO ROYO are suspended and absolutely prohibited from entering the company premises for the following reasons:

1. Commission of a crime in company premises;
2. Dishonesty and disorderly conduct; and
3. Stealing company property.

BY ORDER OF MANAGEMENT

(Sgd.) ATTY. WILLY CHUANICO

On March 2, 1990, criminal charges were filed by Mario Alvarez against petitioner with the Office of the Provincial Prosecutor of Malolos, Bulacan which eventually filed an information in the Municipal Trial Court of Valenzuela, Metro Manila, charging petitioners with slight physical injuries.

In turn, petitioners filed on March 5, 1990 a complaint for illegal suspension and violation of P.D. No. 851 and for payment of service incentive leave against private respondents. On April 10, 1990, more than 30 days having elapsed without their being allowed to return to work, petitioners charged private respondents with illegal dismissal.

It appears that, on the same day on which petitioners filed their complaint in the labor office, private respondents notified petitioners that an investigation of the mauling incident would be conducted on March 6, 1990. Petitioners were asked to come and take part in the inquiry. The notice to petitioners stated:

March 5, 1990

Messrs.  
SEGUNDINO ROYO  
GERMAN ROYO  
CIPRIANO ROYO  
Fernando Road, Valenzuela  
Metro Manila

S i r s:

In connection with that incident last February 28 inside the company compound involving the three of you and Mario Alvarez, wherein you allegedly laid hands on the latter and inflicted physical injuries on him, please come to a conference and investigation thereof to be held on Tuesday, March 6, 1990, at 3:30 in the afternoon, at the STALCO office, San Fernando Road, Valenzuela, Metro Manila, whereat the three of you may confront said Mario Alvarez and present your side of said incident. Bring your witnesses, if you have any.

Please cooperate with the company in this matter so that it will be able to solve and settle said incident in fairness to all concerned.

Very truly yours,

WILLY U. CHUANICO

But petitioners did not attend the investigation. Accordingly they were dismissed by the company.

On January 16, 1992, the Labor Arbiter rendered a Decision,<sup>[2]</sup> finding private respondents guilty of illegal dismissal. The dispositive portion of his decision reads:

WHEREFORE, respondent Standard Alcohol is hereby ordered to pay complainants Segundino Royo, German Royo and Cipriano Royo their separation pay equivalent to one (1) month for every year of service, as well as their incentive leave pay for three (3) years and proportionate 13<sup>th</sup> month pay for 1990, computed as follows:

1. SEGUNDINO ROYO:

a) Separation pay

$$\begin{array}{rcl} 10/1/78 - 2/28/90 & = & 11 \text{ years} \\ P100.00 \times 26 \times 11 & = & P28,600.00 \end{array}$$

b) Service Incentive Leave

$$\begin{array}{rcl} 1987 - P59.69 \times 5 \text{ days} & = & P288.45 \\ 1988 - P76.92 \times 5 \text{ days} & = & 384.60 \\ 1989 - P80.46 \times 5 \text{ days} & = & \underline{442.30} \\ & & \underline{1,115.35} \end{array}$$

c) 1990 Proportionate 13<sup>th</sup> month pay

$$\begin{array}{rcl} P100.00 \times 26 \text{ days} \times 1.93/12 & = & \underline{418.16} \\ & & P30,133.51 \end{array}$$

2. GERMAN ROYO

a) Separation pay

$$\begin{aligned} 8/21/60 - 2/28/90 &= 29 \text{ years} \\ P2,650.00/\text{mo.} \times 29 \text{ mos} &= P76,850.00 \end{aligned}$$

b). Service Incentive Leave

$$\begin{aligned} 1987 - P69.23 \times 5 \text{ day} &= P346.15 \\ 1988 - P84.61 \times 5 \text{ day} &= 423.05 \\ 1989 - P96.15 \times 5 \text{ days} &= \underline{480.76} \\ &1,249.96 \end{aligned}$$

c). 1990 Proportionate 13<sup>th</sup> month pay

$$\begin{aligned} P2,650.00 \times 1.93/12 &= \underline{426.21} \\ &78,526.17 \end{aligned}$$

3. CIPRIANO ROYO

a) Separation pay

$$\begin{aligned} 426.21 \ 78,526.17 \ 9/8/71 - 2/28/90 &= 11 \text{ years} \\ P90.00 \times 26 \text{ days} &= P25,740.00 \end{aligned}$$

b). Service Incentive Leave Pay

$$\begin{aligned} 1987 - P46.15 \times 5 \text{ days} &= P230.75 \\ 1988 - P57.69 \times 5 \text{ days} &= 88.45 \\ 1989 - P69.23 \times 5 \text{ days} &= \underline{346.15} \\ &\underline{865.35} \end{aligned}$$

c). 1990 Proportionate 13<sup>th</sup> month pay

$$\begin{aligned} P90.00 \times 26 \text{ day} \times 1.93/12 &= \underline{P376.35} \\ &\underline{26,981.70} \end{aligned}$$

TOTAL

$$\begin{aligned} &P135,641.38 \\ &===== \end{aligned}$$

Although three grounds were cited in private respondents' Memo No. 1, initially suspending petitioners, the Labor Arbiter considered only the first ground (i. e, "commission of a crime in company premises") in view of private respondents' manifestation that petitioners had been dismissed only for "unruly behavior and disorderly conduct inside the office, not dishonesty."<sup>[3]</sup>

With respect to this charge, the Labor Arbiter held that petitioners' misconduct was not so serious as to constitute a valid cause for termination of employment, because the charge was only a case for slight physical injuries.<sup>[4]</sup> The Labor Arbiter likewise ruled that the indefinite suspension of petitioners was a "virtual dismissal" which the company had imposed without due process and that the subsequent notice of investigation was a mere afterthought to cover up the lack of a previous hearing. In lieu of reinstatement and backwages, the Labor Arbiter ordered private respondents instead to pay petitioners separation pay in view of his finding that the relationship between the parties had been severely strained.

Private respondents appealed, maintaining that petitioners had committed serious misconduct "in audaciously perpetrating [a] dastardly act right inside their offices, during office hours and in the very presence of other employees;" that petitioners had to be immediately suspended to secure the company's warehouse, because of highly inflammable products kept there; that it was never private respondents' intention to indefinitely suspend, much less dismiss, petitioners without due process; that in their anxiety and haste, private respondents overlooked to fix the period of suspension but they subsequently corrected their mistake by giving notice of investigation to petitioners on March 5, 1990 but petitioners did not attend. Private respondents argued that even assuming that there was no good faith attempt on their part to conduct an investigation, they could only be held liable for damages in a sum of not more than P1,000, there being just cause for the dismissal of petitioners.

The NLRC found private respondents' appeal to be meritorious. It held that in inflicting physical injuries on Mario Alvarez on February 28, 1990, petitioners committed serious misconduct, warranting their dismissal under Art. 282(a) of the Labor Code.

With respect to the allegation that petitioners were denied due process, the NLRC found otherwise, because the fact is that they were given notice of the investigation to be held on March 6, 1990 but they stayed away from it.

Accordingly, the NLRC modified the Labor Arbiter's decision by deleting the award of separation pay but retaining the award of service incentive leave pay and proportionate 13<sup>th</sup> month pay. The dispositive portion of its decision, dated November 27, 1992, reads:

WHEREFORE, premises considered, the appealed Decision is hereby MODIFIED in the sense that the award for separation pay is hereby deleted for lack of basis but the award for service incentive leave and proportionate 13<sup>th</sup> month is hereby retained.

Hence, this petition.

First. Petitioners argue that for all intents and purpose they were dismissed on March 1, 1990 because they were suspended indefinitely and "absolutely prohibited from entering the company premises." They contend that their dismissal was without just cause (1) because there was no evidence to support the charge of theft against them except the self-serving affidavits of Mario Alvarez and Reynaldo Bernaldes and (2) because their conviction was only of slight physical injuries, for which they already suffered the commensurate penalty.

On the other hand, the Solicitor General, in behalf of the NLRC, contends that petitioners were not dismissed but only suspended in the beginning as this is clearly stated in Memo No. 1 of the company and as shown by the fact that private respondents set an investigation on March 6, 1990, although petitioners refused to participate in it.

We agree with this view of the Solicitor General. Although the notice of suspension did not fix the period of suspension of petitioners, the fact is that five days after the suspension order was issued, the company set the investigation on March 6, 1990 of the incident. Petitioners were asked to come and cooperate with the company in its effort to determine responsibility for the mauling incident of February 28, 1990. But petitioners snubbed the investigation. They

now justify their action claiming that the investigation was to be held inside the company premises from which they had been previously barred.

It was petulance for petitioners to refuse to come simply because they had been previously suspended and prevented from getting into the company. By asking petitioners to attend the investigation, it was clear that the company had lifted the ban on them. As private respondents explained, on February 28, 1990, when the incident took place, their immediate concern was to secure the company premises because a large quantity of inflammable products was stored therein. Hence, if petitioners were not heard in their defense, it was because they spurned the opportunity given to them by the company, invoking instead all sorts of pretext to justify their absence.

Nonetheless, we think that private respondents should have given petitioners notice of their dismissal. As it is, because no such notice was given, the suspension of petitioners became indefinite, exceeding the 30-day limit imposed in Book V, Rule XIV, §§3-4 of the Omnibus Rules Implementing the Labor Code which provide:

§3. Preventive suspension. The employer may place the worker concerned under preventive suspension if his continued employment poses a serious and imminent threat to the life or property of the employer or of his co-workers.

§4. Period of suspension. No preventive suspension shall last longer than 30 days. The employer shall thereafter reinstate the worker in his former or in a substantially equivalent position or the employer may extend the period of suspension provided that during the period of extension he pays the wages and other benefits due to the worker. In such case, the worker shall not be bound to reimburse the amount paid to him during the extension if the employer decides, after completion of the hearing, to dismiss the worker.

For the violation of this rule, private respondents must indemnify each of petitioners in the amount of P1,000.00, in accordance with our rulings.<sup>[5]</sup>

Second. We hold that there was a just and valid cause for the dismissal of petitioners.

There is no question that they beat up Mario Alvarez, inflicting on him physical injuries, for which they were convicted of slight physical injuries by the Municipal Trial Court. The matter cannot be treated lightly. We agree with the NLRC that petitioners committed serious misconduct within the meaning of Art. 282(a) of the Labor Code, providing for the dismissal of employees. The mauling incident was not just a private matter which had no effect on the interests of the company. The fact is that petitioners mauled Alvarez because the latter had reported them to the management for alleged anomalies committed against the company.

Even if it was a purely private quarrel between petitioners and Alvarez, the fact is that, as a result of what they had done, they disturbed the peace in the company and committed a breach of its discipline. We have held in several cases<sup>6</sup> that fighting within the premises of a company is a just cause for terminating one's employment.

**WHEREFORE**, the Decision of the National Labor Relations Commission dated November 27, 1992, denying petitioners separation pay but awarding to them service incentive leave pay and 13<sup>th</sup> month pay is **AFFIRMED**, with the **MODIFICATION** that private respondents are **ORDERED** to indemnify each of petitioners in the amount of P1,000.00.

**SO ORDERED.**

**Regalado, Romero, Puno and Torres Jr., JJ., concur.**

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[1] Rollo, p. 38.

[2] Rollo, pp. 42-43.

[3] The Labor Arbiter disregarded the two other grounds for suspension, i.e., theft of company property and dishonesty.

[4] The Labor Arbiter was referring to the case filed in the Metropolitan Trial Court of Metro Manila which, on January 9, 1992, found petitioners guilty of slight physical injuries and sentenced each of them to suffer imprisonment of eleven (11) days of arresto menor.

- [5] JRS Business Corp. vs. NLRC, 246 SCRA 445 (1995) Great Pac. Life Assurance Corp. vs. NLRC, 187 SCRA 694 (1990).
- [6] E.g., Foodmine, Incorporated vs. NLRC, 188 SCRA 748 (1990); Wenphil Corp. vs. NLRC, 170 SCRA 69 (1989); North Camarines Lumber Co., Inc. vs. Barreda, 153 SCRA 244 (1987); Haverton Shipping, Ltd. vs. NLRC, 135 SCRA 685 (1985).

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