SUPREME COURT
SECOND DIVISION

SANYO TRAVEL CORPORATION and/or ARTHUR TAN and KELLY TAN,
***Petitioners*,**

-versus-

G.R. No. 121449
October 2, 1997

NATIONAL LABOR RELATIONS COMMISSION and FLORENTINO HADUCA,
***Respondents*.**
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D E C I S I O N

REGALADO, *J.*:

In this Petition for *Certiorari*, petitioners Sanyo Travel Corporation (Sanyo, for brevity), Arthur Tan and Kelly Tan assail the decision of public respondent National Labor Relations Commission (NLRC), dated April 25, 1995,[1] which reversed the decision of the labor

arbiter and found that Sanyo illegally dismissed private respondent, Florentino Haduca. Petitioners likewise assail the resolution of the NLRC, dated August 10, 1995, which denied their motion for reconsideration.

Private respondent was hired by Sanyo as a tourist bus driver in November, 1989. He was assigned to its Transportation Department and was based in its bus terminal in the then municipality of Makati, Metro Manila, where he usually slept.

In the evening of January 2, 1992, there was a commotion in the company premises. A fistic free-for-all broke out among its employees who were allegedly intoxicated. Drivers Ernesto delos Reyes, Eduardo Tuazon and Fernando Ortega, and Vito Adel, a company security guard, were involved in the incident. Private respondent was then in the company premises as he had decided to spend the night at the driver's quarters. He was informed by Froilan Esteban, a co-employee, of the ongoing brawl.

Private respondent and Esteban went to the area where the commotion was taking place. In the course of the affray, Tuazon boxed the security guard, Adel, who ran to the guardhouse. Private respondent, his co-employees and Kelly Tan, a company manager who was likewise present during the incident, followed Adel and pacified him.

The following day, said Kelly Tan submitted an incident report to the management.[2] Then on January 8, 1992, he ordered private respondent, together with Tuazon and Delos Reyes, to report to his office where they were informed that they were being terminated from employment effective immediately on the ground of gross misconduct for their involvement in the fracas that previous week. They were handed termination letters signed by Arthur Tan, Sanyo's executive vice-president and chief executive officer. Afterwards, the dismissed employees were asked to submit their statements on the incident.[3]

Private respondent submitted his statement the following day.[4] By then, he, Tuazon and Delos Reyes were no longer permitted to report for work. On the same day, Kidlat Investigation Security Service, the

security agency of Sanyo, submitted an incident report on the slugfest.[5] On January 17, 1992, private respondent was made to sign a quitclaim releasing Sanyo from all future money claims.[6]

In February of the same year, private respondent filed a complaint for illegal dismissal and for money claims before the NLRC where a hearing was held before the labor arbiter.[7] Among the evidence presented were the testimonies of private respondent and of company manager Kelly Tan, the incident report of the latter dated January 3, 1992, and the incident report of the security agency of the company dated January 9, 1992.[8]

In August, 1993, during the pendency of the proceedings, the Transportation Department of Sanyo to which private respondent was assigned was phased out due to business losses.[9]

On June 1, 1994, the labor arbiter rendered a decision dismissing the complaint and upholding the validity of the dismissal of private respondent on the ground of serious misconduct. The labor arbiter further ruled that private respondent was not entitled to the monetary benefits and damages which he was claiming.[10]

Private respondent appealed the decision to the NLRC. On April 25, 1995, respondent commission reversed the decision of the labor arbiter and declared Sanyo guilty of illegal dismissal.[11]

The NLRC found the evidence presented before the labor arbiter insufficient to justify a dismissal on the ground of serious misconduct. In addition, it found that the incident reports submitted by petitioner Kelly Tan and the security agency of Sanyo did not contain any detailed narration of private respondent's supposed commission of acts of aggression and violence constituting his alleged malfeasance.

Absent both a valid ground for dismissal and due process, the dismissal could not be sustained and private respondent was ordered reinstated to his former position without loss of seniority rights and other benefits, and with full back wages. The NLRC permitted private respondent to recover the monetary benefits claimed notwithstanding

the fact that he had executed a quitclaim releasing Sanyo from liability for benefits due him.

Petitioners sought reconsideration of the NLRC decision but their motion was denied.[12]

In the instant petition, it is claimed that the NLRC committed grave abuse of discretion in reversing the decision of the labor arbiter. Petitioners argue that the NLRC, in finding Sanyo guilty of illegal dismissal, relied solely on the incident reports of Kelly Tan and the security agency of Sanyo. It allegedly disregarded the overwhelming evidence presented before the labor arbiter which established that private respondent was involved in the altercation and figured in acts of violence while intoxicated, hence he was guilty of serious misconduct warranting his dismissal for cause.

Petitioners assert that the quitclaim executed by private respondent was binding on him and, therefore, he could no longer claim monetary benefits against Sanyo. They further claim that private respondent had executed a promissory note in 1990 by reason of previous incidents wherein he was making trouble while likewise inebriated,[13] thus his involvement in the imbroglio of January 2, 1992 was a violation of that undertaking and justified his dismissal.

On his part, private respondent denied any participation in that fight and claimed that he was merely a witness who helped pacify the protagonists. He accordingly contends that his dismissal was unjustified.

The issues in the instant case may be summed up as follows: first, whether or not private respondent was validly dismissed by Sanyo; second, assuming that the dismissal was valid, whether or not private respondent was accorded due process; and, finally, whether or not private respondent is entitled to the monetary benefits claimed by him.

After a review of the records, the Court finds the petition to be unmeritorious since the NLRC did not commit grave abuse of discretion in reversing the decision of the labor arbiter and in ruling that private respondent was illegally dismissed.

We are constrained to quote once again Article 277 of the Labor Code which guarantees the right of an employee to security of tenure by providing that —

> (b) Subject to the constitutional right of workers of security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this code the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations. (Emphasis supplied).

It is clear therefrom that the dismissal of private respondent may be sustained only if shown to have been made for a just cause and with due process. It is also well settled by jurisprudence that serious misconduct in the form of drunkenness and disorderly or violent behavior is a just cause for the dismissal of an employee.[14]

In determining whether or not private respondent was guilty of serious misconduct, the NLRC reviewed the records of the proceedings before the labor arbiter. It found that the evidence did not conclusively show that private respondent was a participant in the fray which gave rise to this case.[15]

The Court finds no cogent reason to reverse the findings of the NLRC. Indeed, private respondent was not involved at all in the rumpus on January 2, 1992. While it is undisputed that he was in the company premises and witnessed the incident, the evidence does not show that he was a participant therein.

Moreover, there is no basis for petitioners' contention that the NLRC relied solely on the incident reports submitted by Kelly Tan and the security agency of Sanyo. The NLRC reversed the decision of the labor arbiter after an evaluation of all the evidence presented during the proceedings, primarily the stenographic transcripts of the testimonies

given during the hearing. For that matter, the incident reports aforestated did not specify the particular acts which would indicate that private respondent was involved in the rumpus or that he committed infractions and acts of misconduct. The Court is consequently persuaded that, from all the evidence of record, the factual findings of the NLRC sufficiently support its conclusions.

Neither was private respondent accorded due process. Private respondent was entitled, under the law, to a written notice informing him of the causes for his dismissal and an opportunity to present his defense or explanation before being dismissed.[16] A week after the donnybrook, private respondent was informed of his dismissal. Prior to this notification, he did not receive any notice of the intention of Sanyo to dismiss him, neither was he given an opportunity to be heard.

Worse, it was only after private respondent was informed of his dismissal and was handed his termination letter that he was told by the company manager to submit a statement to the management explaining his side of the matter. When private respondent submitted the required report the following day, he had already been considered dismissed and was no longer permitted to report for work.

Sanyo claimed that between January 2 and January 8, 1992, it conducted an investigation of the incident. There is no evidence supporting this claim. Moreover, to repeat, the statement which private respondent was ordered to submit cannot be deemed as compliance with the due process requirement because he was told to submit it only after he had been dismissed. There is no evidence that private respondent was accorded an opportunity to be heard prior to his dismissal.

Assuming arguendo that a valid investigation was conducted and due process was accorded to private respondent, petitioners' claims cannot be sustained because the Court is convinced that the dismissal was unjustified, hence, the attendance of due process becomes immaterial. It would be well to reiterate at this juncture that the prerogative of management to dismiss an employee must be exercised without abuse of discretion, for what is at stake is not only the employee's position but also his means of livelihood.[17]

The basic principle is that the employer has the burden of proving that the dismissal is for just cause, and failure to do so would necessarily mean that the dismissal was unjustified and, therefore, illegal.[18] It is the employer who must prove its validity, and not the employee who must prove its invalidity.[19] To allow an employer to dismiss an employee based on mere allegations and generalities would place the employee in a dangerous situation. He would be at the mercy of his employer and the right to security of tenure which this Court is bound to protect would be unduly emasculated.[20]

It is an accepted rule that fighting in the 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 application of the same because Sanyo has not substantiated its allegations of serious misconduct.[21] It has consequently failed to discharge the burden of proving that private respondent was terminated from employment for just cause.

Employers are generally allowed a wider latitude of discretion in dismissing managerial personnel or those of similar rank. However, the termination of employment of ordinary rank and file employees, such as private respondent, requires proof of involvement in the event in question.[22]

Respondent NLRC evaluated the evidence presented before the labor arbiter and concluded that the charges made against private respondent were baseless. Doctrinally, the findings of fact of the NLRC are conclusive on this Court, absent a showing that they were reached arbitrarily.[23]

Sanyo cannot rely merely on the weakness of the defense of private respondent or on his failure to present evidence to disprove the charge of gross misconduct.[24] In the absence of substantial evidence, the contentions of Sanyo are self-serving and incapable of showing that the dismissal of private respondent was justified.

The quitclaim signed by private respondent does not prevent him from filing a complaint and recovering monetary benefits. The Court has repeatedly held that a deed of release or quitclaim cannot always bar an employee from demanding what is legally due him.[25] This is

because the employee does not stand on equal footing with his employer and, in desperate situations, may be willing to bargain away his rights. This is especially true where the quitclaim is made under circumstances where the voluntariness of the agreement is questionable.[26]

In the present case, private respondent was not allowed to report for work after he was notified of his dismissal, notwithstanding the fact that he disputed the validity thereof. He was made to sign the quitclaim a few days after he was handed a notice of termination from employment. Verily, private respondent was a man in need without the privilege of a choice. That quitclaim should, therefore, not prevent him from recovering what is rightfully his.

Finally, the contention of Sanyo that private respondent should be dismissed since he violated the so-called Letter of Undertaking he executed in 1990 is an anathema in law, not only because the Court is convinced that there was no just cause for the dismissal of private respondent but, more importantly, because of the fundamental policy that agreements designed to permit an employer to arbitrarily dismiss an employee cannot be sanctioned.

Private respondent was dismissed without just cause and is entitled to reinstatement with back wages up to the time of his actual reinstatement.[27] However, since reinstatement is no longer feasible as the Transportation Department of Sanyo to which private respondent was formerly assigned has already been phased out,[28] private respondent shall instead be entitled to separation pay equivalent to one month pay for every year of service, without loss of seniority or other rights. This will be in addition to back wages from the date of his dismissal up to the finality of this decision,[29] minus the amount of P3,402.41 which he received under the quitclaim.

WHEREFORE, the Petition at bar is **DISMISSED** for lack of merit. The assailed Decision and Resolution of respondent National Labor Relations Commission are **AFFIRMED**, with the **MODIFICATION** that, in lieu of reinstatement, private respondent is entitled to separation pay as above indicated.

SO ORDERED.

Puno and Torres, Jr., *JJ.*, concur.
Mendoza, *J.*, is on leave.

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[1] National Labor Relations Commission, CA Case No. 007062-94 was decided by the Third Division of the National Labor Relations Commission, with Commissioner Joaquin A. Tanodra, ponente; Presiding Commissioner Lourdes C. Javier and Commissioner Ireneo B. Bernardo, concurring.
[2] Rollo, 104.
[3] Rollo, 133.
[4] Rollo, 91.
[5] Ibid., 105.
[6] Ibid., 35.
[7] Ibid., 133.
[8] Ibid., 9-10.
[9] Rollo, 3.
[10] The decision was rendered by Labor Arbiter Jesus N. Rodriguez in NLRC NCR Case No. 00-02-01310-92; Rollo, 62-68.
[11] Rollo, 41-47.
[12] Rollo, 48-49.
[13] The alleged "Letter of Undertaking" is dated June 10, 1990; Rollo, 35-36.
[14] Club Filipino, Inc. vs. Sebastian, et al., G.R. No. 85490, July 23, 1992, 211 SCRA 717; Seahorse Maritime Corporation, et al. vs. National Labor Relations Commission, et al., G.R. No. 84712, May 15, 1989, 173 SCRA 390.
[15] Rollo, 43-44.
[16] Article 277(b) of the Labor Code (Republic Act No. 6715, as amended); Dizon vs. National Labor Relations Commission, et al., G.R. No. 79554, December 14, 1989, 180 SCRA 52.
[17] Kapisanan ng Manggagawa sa Camara Shoes, et al. vs. Camara Shoes, et al., G.R. No. 50985, January 30, 1982, 111 SCRA 477.
[18] Metro Transit Organization, Inc. vs. National Labor Relations Commission, et al., G.R. No. 121574, October 17, 1996; Mapalo vs. National Labor Relations Commission, et al. G.R. No. 107940, June 17, 1994, 233 SCRA 266; Philippine Manpower Services, Inc., et al. vs. National Labor Relations Commission, et al., G.R. No. 98450, July 21, 1993, 224 SCRA 691.
[19] Samahang Manggagawa ng Rizal Park, et al. vs. National Labor Relations Commission, et al., G.R. No. 94372, June 21, 1991, 198 SCRA 480.
[20] JGB and Associates, Inc. vs. National Labor Relations Commission, et al., G.R. No. 109390, March 7, 1996, 254 SCRA 457.
[21] See Oania, et al. vs. National Labor Relations Commission, et al., G.R. Nos. 97162-61, June 1, 1995, 244 SCRA 668.
[22] San Miguel Corporation, et al. vs. National Labor Relations Commission, et al., G.R. No. 100168, July 8, 1992, 211 SCRA 353; Manila Midtown

Commercial Corporation vs. NUWHRAIN (Ramada Chapter), et al., G.R. No. 57268, March 25, 1988, 159 SCRA 212.

[23] Falguera vs. Linsangan, et al., G.R. No. 114848, December 14, 1995, 251 SCRA 364; Ex-Bataan Veterans Security Agency, Inc., et al. vs. National Labor Relations Commission, et al., G.R. No. 121428, November 29, 1995, 250 SCRA 418; Panay Electric Company, Inc. vs. National Labor Relations Commission, et al., G.R. No. 102672, October 4, 1995, 248 SCRA 688.

[24] See Botulan, Jr. vs. National Labor Relations Commission, et al., G.R. No. 69073, June 9, 1992, 209 SCRA 624.

[25] JGB and Associates, Inc. vs. National Labor Relations Commission, et al., supra, fn. 18; Marcos, et al. vs. National Labor Relations Commission, et al., G.R. No. 111744, September 8, 1995, 248 SCRA 146; Fuentes vs. National Labor Relations Commission, et al., G.R. No. 76835, November 24, 1988, 167 SCRA 767.

[26] B. Sta. Rita and Co., Inc., et al. vs. National Labor Relations Commission, et al., G.R. No. 119617, August 14, 1995, 247 SCRA 354.

[27] Article 279 of the Labor Code.

[28] See Globe-Mackay Cable and Radio Corporation vs. National Labor Relations Commission, et al., G.R. No. 82511, March 3, 1992, 206 SCRA 701; Hydro Resources Contractors Corporation vs. Pagalilauan, et al., G.R. No. 62909, April 18, 1989, 172 SCRA 399.

[29] Gaco vs. National Labor Relations Commission, et al., G.R. No. 104690, February 23, 1994, 230 SCRA 260; Pepsi-Cola Bottling Co., et al. vs. National Labor Relations Commission, et al., G.R. No. 101900, June 23, 1992, 210 SCRA 277.