

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**SHOPPES MANILA, INC.,
*Petitioner,***

-versus-

**G.R. No. 147125
January 14, 2004**

**THE HON. NATIONAL LABOR
RELATIONS COMMISSION, LABOR
ARBITER ERMITA ABRASALDO-
CUYUCA and LORIE TORNO,
*Respondents.***

X-----X

DECISION

CALLEJO, SR., J.:

Before us is a Petition for Review under Rule 45 of the Rules of Court filed by Shoppes Manila, Inc. for the nullification of the May 31, 2000 Decision^[1] and February 2, 2001 Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 54109.

The Antecedents

The petitioner is a domestic corporation engaged in garments manufacturing using the brand name “KAMISETA.” On May 6, 1994, the petitioner employed private respondent Lorie Torno as trimmer with a salary of P80/day. In September 1995, the respondent’s salary was increased to P110/day. A year later, it was increased to P165/day. In April 1997, her salary was further increased to P185/day. The private respondent and a co-employee, Maricar Buan, were tasked to handle the inventory of finished products.

Sometime thereafter, the petitioner started to receive information from the head of its production department that, according to other employees, Buan and the private respondent had been stealing “KAMISETA” items from the factory. The petitioner had the witnesses interviewed. Susan Paligamba and Loly dela Cruz, co-employees of Buan and the private respondent, executed unverified statements implicating the latter. In her statement, Paligamba declared that the private respondent encouraged her to steal a belt, while Dela Cruz stated that she saw “KAMISETA” items in the private respondent’s house. When informed of the foregoing statements, the latter agreed to have her house inspected and searched for the alleged stolen items. On July 30, 1997, the private respondent’s supervisor, Ms. Myrasol O. Silva, conducted the inspection and submitted a report to the effect that she found the following items in the private respondent’s house:

1. Several yardages of fabrics – the one used for Kamiseta T-Shirt (waist cutting).
2. She also showed me 2 pcs. of T-Shirts made out of wrong cut materials for Kamiseta T-Shirts. These are cut T-Shirt panels with fabric damage.
3. Used Kamiseta wall papers.
4. New wall papers that were intended to be used for Nautical Shop.^[2]

On the basis of the said report, the petitioner issued a disciplinary action form suspending the private respondent indefinitely without pay.^[3] On August 25, 1997, a notice of dismissal was addressed to the

private respondent specifying the charge against her, the factual basis thereof and the impossible penalties for the said charge if proven. The charge and notice read:

- 1) On July 31, 1997, an investigation was conducted involving you for being under suspicion of theft.
- 2) On the same day, two witnesses gave testimonies. One admitted to visiting your home and finding numerous KAMISETA clothing. The other said you encouraged her to steal a KAMISETA belt from the stocks.
- 3) On the same day, you were made aware of the allegations made against you and you were given a chance to explain yourself. You were also asked by representatives of the Company if you were willing to have your home inspected. You agreed and accompanied the said representatives to your residence.
- 4) During the said inspection, the representatives found the following items:
 - a. KAMISETA fabrics (approx. 1¹/₄ yds)
 - b. 2 pcs. shirts made out of KAMISETA excess cuttings
 - c. NAUTICAL SHOP wall paper
- 5) On July 31, 1997, you were given a disciplinary action by the company and placed under indefinite suspension without pay for stealing. You signed the said form thereby accepting the charges as true.
- 6) You have violated Article 12 under Category 4 of our Company rules and regulations. You have received a copy of this handbook on March 17, 1997 (Booklet No. 63) and on the same day you signed your acceptance and compliance to the rules therein.

ARTICLE 12 UNDER CATEGORY 4 states: Ang pagnanakaw sa kompanya o pagnanakaw sa iba. Kasama nito ang: pagkuha ng anumang pag-aari mula sa kapwa empleyado ng walang pahintulot. Ang paglabas/paggamit ng pera ng kompanya ng walang pahintulot.

The above violation is punishable by termination.

- 7) You are hereby called to the Head Office on August 26, 1997 to give you an opportunity to explain yourself further.
- 8) Non-attendance would mean you have no cause to explain yourself further and the Company shall proceed with the evaluation of your case.^[4]

The private respondent failed to appear during the scheduled hearing. Consequently, the petitioner decided to dismiss the private respondent from her employment. When notified of the petitioner's decision, the private respondent filed a complaint for illegal dismissal with prayer for reinstatement and payment of backwages, non-payment of service incentive leave pay and 13th-month pay against the petitioner before the National Capital Regional Arbitration Branch of the National Labor Relations Commission (NLRC), docketed as NLRC-NCR Case No. 00-09-06160-97. The case was initially raffled to Labor Arbiter Emerson C. Tumanong (LA Tumanong for brevity). Despite mandatory conferences, the parties did not reach an amicable settlement. In due course, they submitted their respective position papers and replies. The petitioner filed a motion for the labor arbiter to conduct a formal investigation on its claim that a full blown hearing during which the witnesses can be cross-examined by the opposing counsel was necessary to ascertain the truth.^[5] Acting on the motion, LA Tumanong granted the same and set the case for hearing. However, the hearing failed to materialize because of the absences of either the private respondent or her counsel. In the meantime, LA Tumanong was replaced by Labor Arbiter Ermita Abrasaldo-Cuyuca (LA Cuyuca for brevity) who issued an order declaring that the case was submitted for decision. The petitioner filed a manifestation and motion informing LA Cuyuca that a formal hearing had been set by LA Tumanong and requested

that the case be set for hearing anew. However, no action was taken by LA Cuyuca on the said motion.

On August 31, 1998, LA Cuyuca rendered a decision holding that the respondent was illegally dismissed and directed the petitioner to pay P62,530 as backwages and P19,240 as separation pay to the private respondent. The decretal portion of the decision reads:

WHEREFORE, in view of the foregoing, Shoppes Manila, Inc., is declared to have illegally dismissed Lorie Torno and the former is ordered to pay the latter the amount of P62,530.00 representing backwages and P19,240.00 as separation pay.^[6]

LA Cuyuca declared that the private respondent was denied of her right to due process before she was dismissed from her employment and that the petitioner failed to show that it notified the private respondent of the charges against her. The petitioner also failed to show that the private respondent received the notice of dismissal. Hence, the dismissal of the private respondent was illegal. However, according to the labor arbiter, reinstatement could no longer be effected, as the relationship between the private respondent and the petitioner had been strained and ruptured. The private respondent's claims for non-payment of service incentive leave and 13th-month pay were denied for her failure to specify the period covered therein. Her claim of underpayment of wages (wage differential) was, likewise, denied, as it was not included in the original complaint.

Aggrieved, the petitioner appealed the decision to the NLRC, alleging that it was deprived of its right to a formal hearing before the labor arbiter rendered her decision. It argued that while the conduct of hearing is not mandatory in labor cases, the Labor Arbiter was mandated to do so in this case because LA Tumanong had already declared that a formal hearing was necessary. Hence, the petitioner had acquired a vested right thereto. LA Cuyuca's failure to conduct a hearing deprived the petitioner of its vested right; consequently, her decision was null and void.

On March 17, 1999, the NLRC issued a resolution dismissing the appeal and affirming the decision of the labor arbiter. The dispositive portion of which reads:

WHEREFORE, premises considered, the appeal is hereby dismissed for lack of merit and the decision affirmed en (sic) toto.^[7]

The NLRC reasoned that a formal hearing of the case on its merits is not mandatory in labor cases but is dependent on the discretion of the labor arbiter who has the sole power to determine whether or not there is a need for a hearing. Thus, in finding that there was no longer a need to conduct a hearing before rendering judgment of the case on its merits, LA Cuyuca cannot be said to have committed an error.

The NLRC also ruled that no error could be imputed to LA Cuyuca when she found that the petitioner did not comply with the two-notice requirement upon the petitioner's failure to show that (a) she was notified of the charges against her, and (b) the notice of dismissal was sent to her.

The petitioner filed a motion for reconsideration which was denied by the NLRC in a Resolution dated May 18, 1999.

Dissatisfied, the petitioner filed a petition for certiorari under Rule 65 of the Rules of Court before the Court of Appeals. The petitioner alleged therein that LA Cuyuca committed a grave abuse of discretion when she rendered a decision without even conducting a formal hearing to enable the petitioner to cross-examine the private respondent and her witnesses. It reiterated the contention that it had acquired a vested right to a formal hearing when LA Tumanong granted its motion therefor.

The CA rendered judgment affirming the decision of the NLRC and the finding of both the NLRC and LA Cuyuca that the private respondent was deprived of due process and was thus illegally dismissed. The CA ruled that as laid down in Section 4, Rule V of the New Rules of Procedure of the NLRC, a formal hearing is not required in proceedings before the labor arbiter; hence, a failure on the part of LA Cuyuca to conduct a formal hearing prior to the rendition of judgment did not give rise to a grave abuse of discretion on her part. Moreover, the petitioner was able to appeal the decision of the labor

arbiter to the NLRC; it cannot thus contend that it was deprived of its right to defend itself.

The CA emphasized that in a petition for certiorari under Rule 65 of the Rules of Court, the CA cannot evaluate the findings of fact of the labor arbiter and the NLRC. Its inquiry is limited to the determination of whether or not the public respondent had acted without or in excess of jurisdiction or with grave abuse of discretion. In this case, the labor arbiter declared that the petitioner failed to show that the private respondent's dismissal was for a just cause.

The petitioner's motion for reconsideration was denied in a CA Resolution dated February 2, 2001.^[8]

The petitioner forthwith filed the instant petition, assigning the following errors:

I

THE HONORABLE COURT OF APPEALS ERRED IN FINDING THAT THE ABSENCE OF A FORMAL HEARING DID NOT AMOUNT TO A DENIAL OF PETITIONER'S RIGHT TO DUE PROCESS.

II

THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE ILLEGALITY OF PRIVATE RESPONDENT'S DISMISSAL DESPITE THE EXISTENCE OF JUST CAUSES IN SUPPORT THEREOF.^[9]

The petition is barren of merit.

The petitioner contends that when LA Tumanong agreed to conduct a formal hearing of the case and, indeed, set the case for hearing, the petitioner thenceforth acquired a vested right. This decision could no longer be set aside by LA Tumanong's successor; otherwise, the petitioner would be deprived of its right to due process. The petitioner likewise pointed out that the violation of the notice requirement did not render the private respondent's dismissal as

illegal, especially considering that the termination of the employment was based on a just and valid cause.

We agree with the CA that the petitioner did not have a vested right to a formal hearing simply and merely because LA Tumanong granted its motion and set the case for hearing. Pursuant to Section 5, Rule V of the New Rules of Procedure of the NLRC, the labor arbiter has the authority to determine whether or not there is a necessity to conduct formal hearings in cases brought before him for adjudication. The holding of a formal hearing or trial is discretionary with the labor arbiter and is something that the parties cannot demand as a matter of right. It is entirely within his authority to decide a labor case before him, based on the position papers and supporting documents of the parties, without a trial or formal hearing. (*Columbus Philippines Bus Corporation vs. NLRC*, 364 SCRA 606 [2001]). The requirements of due process are satisfied when the parties are given the opportunity to submit position papers wherein they are supposed to attach all the documents that would prove their claim in case it be decided that no hearing should be conducted or was necessary. (*Mark Roche International vs. NLRC*, 313 SCRA 356 [1999]).

The order of LA Tumanong granting the petitioner's motion for a hearing of the case was not conclusive and binding on LA Cuyuca who had the discretion either to hear the case before deciding it, or to forego with the hearing if, in her view, there was no longer a need therefor as the case could be resolved on its merits based on the records.

Similarly, we affirm the finding of the CA that the private respondent was illegally dismissed. In order to effect a valid dismissal, the law requires that (a) there be just and valid cause as provided under Article 282 of the Labor Code; and (b) the employee be afforded an opportunity to be heard and to defend himself. (*Teodorico Rosario vs. Victory Ricemill*, G.R. No. 147572, February 19, 2003).

As stated by the CA, the petitioner had failed to show that it had complied with the two-notice requirement: (a) a written notice containing a statement of the cause for the termination to afford the employee ample opportunity to be heard and defend himself with the assistance of his representative, if he so desires; (b) if the employer

decides to terminate the services of the employee, the employer must notify him in writing of the decision to dismiss him, stating clearly the reason therefor. (Shoppes Manila, Inc. vs. NLRC, et al., G. R. No. 147125, January 14, 2004). Teodorico Rosario vs. Victory Ricemill, G.R. No. 147572, February 19, 2003).

We must stress that only errors of law are generally reviewed by this Court in petitions for review on certiorari of the CA decisions. (Producers Bank vs. Court of Appeals, G.R. No. 115324, February 19, 2003). Questions of fact are not entertained. (Alfaro vs. Court of Appeals, 363 SCRA 799 [2001]). The Court is not a trier of facts, and in labor cases; this doctrine applies with greater force. Factual questions are for labor tribunals to resolve. (Hacienda Fatima vs. National Federation of Sugarcane Workers-Food, etc., G.R. No. 149440, January 28, 2003). The findings of fact of quasi-judicial bodies, like the NLRC, are accorded with respect, even finality, if supported by substantial evidence. Particularly, when passed upon and upheld by the CA, they are binding and conclusive upon the Court and will not normally be disturbed. (San Miguel Corporation vs. MAERC Integrated Services, Inc., G.R. No. 144672, July 10, 2003).

IN LIGHT OF ALL THE FOREGOING, the petition is **DENIED** for lack of merit. The Decision dated May 31, 2000 and Resolution dated February 2, 2001 of the Court of Appeals in CA-G.R. SP No. 54109 are **AFFIRMED**.

SO ORDERED.

Puno, J., Chairman, Quisumbing, and Tinga, JJ., concur.
Austria-Martinez, J., no part.

[1] Penned by Associate Justice Elvi John S. Asuncion with Associate Justices Ma. Alicia Austria-Martinez (now Associate Justice of the Supreme Court) and Portia Aliño-Hormachuelos concurring.

[2] Annex "C," Rollo, p. 42.

[3] Rollo, p. 52.

[4] Annex "F," Rollo, p. 45.

[5] Annex "I," Rollo, pp. 48-49.

[6] Id. at 59.

[7] Id. at 69.
[8] Id. at 41.
[9] Id. at 15.

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