

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**SUNSET VIEW CONDOMINIUM
CORPORATION,**
Petitioner,

-versus-

**G.R. No. 87799
December 15, 1993**

**NATIONAL LABOR RELATIONS
COMMISSION AND EVELYN A.
LORENZO,**
Respondents.

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DECISION

BELLOSILLO, J.:

This Petition for Certiorari under Rule 65 of the Rules of Court filed by Sunset View Condominium Corporation (SUNSET VIEW) seeks to annul and set aside the Resolution of the National Labor Relations Commission (NLRC) of 17 August 1987 affirming the Decision of the Labor Arbiter of 22 April 1986 which ordered the reinstatement of respondent Evelyn A. Lorenzo to her former employment with petitioner with payment of backwages from the date of her dismissal until her reinstatement.

Respondent Lorenzo started to work with petitioner corporation as clerk-typist on probationary basis. She became a permanent employee on 1 January 1979 and was appointed administrative secretary in 1980.

On 4 October 1985, respondent Lorenzo received from Amado A. Castro, President of petitioner corporation, a memorandum informing her of her suspension effective immediately until further notice in view of evidence linking her to irregularities in Sunset View Towers. She was also given five (5) days to show cause why her services should not be terminated.

The following day, 5 October 1985, respondent Lorenzo wrote Castro stating that she could not comply with the latter's order set forth in his memorandum as there were no specific charges supporting her suspension.

Notwithstanding respondent's letter to the President of petitioner, the latter proceeded with respondent's suspension. Petitioner stopped paying her salary on 5 November 1985 and failed to give her 13th month pay for that year. Even after the lapse of thirty (30) days from the date of her suspension, respondent was not reinstated nor paid her salary.

Hence, respondent Lorenzo filed with the Labor Arbiter a complaint for illegal suspension. In her position paper, she prayed for reinstatement, back wages, 13th month pay for 1985, moral or exemplary damages, and attorney's fees.

Petitioner filed its position paper on 13 February 1986 alleging that prior to 4 October 1985 management had discovered that respondent Lorenzo had tampered with three (3) duplicate copies of official receipts she had issued to condominium unit owners by erasing and replacing the amounts written thereon with lesser amounts, and appropriating the difference for herself; that she was confronted by petitioner concerning the tampered receipts and given an opportunity to return the amounts she had appropriated, but failed to do so; consequently, petitioner issued its memorandum of 4 October 1985 suspending her from her employment.

In her reply to petitioner's position paper, private respondent denied the offense imputed to her and the allegation she was confronted by petitioner concerning the falsification. She contended that the handwriting in the falsified copies of the receipts was not hers but that of somebody else, and requested the Labor Arbiter to order the production of the originals of the questioned receipts.

On motion of respondent Lorenzo, the Labor Arbiter issued subpoena duces tecum to Amado A. Castro, President of petitioner corporation, to bring the original and duplicate copies of the three (3) questioned official receipts at the hearing of 24 March 1986.

At the hearing before the Labor Arbiter on 24 March 1986, petitioner presented the original and duplicate copies of the questioned official receipts, with counsel for private respondent making the following observations: that in the duplicates of Official Receipts Nos. 18986 and 18987 the words and figures representing amounts received appeared to have been erased and substituted with lesser amounts, and that the handwriting in the altered figures were different from the accepted handwriting of respondent Lorenzo in the original receipts.

On 22 April 1986, Labor Arbiter Nestor C. Lim rendered a decision finding illegal and unjustified the indefinite suspension of respondent Lorenzo as it amounted to her constructive dismissal, and ordering her reinstatement with full back wages from the date of dismissal until reinstated, plus payment of her 13th month pay for 1985, moral damages and attorney's fees. The Labor Arbiter also concluded that respondent was not properly apprised of the particular offense she was charged with that gave rise to her suspension.

Despite repeated requests of respondent Lorenzo for petitioner to particularize or clarify the infraction that she allegedly committed, petitioner refused to shed light on the reasons for her suspension. She was only informed of the charge of falsification against her when petitioner raised this matter for the first time in its position paper before the Labor Arbiter who upheld the observations of her counsel that the handwriting of the altered figures in the duplicate copies of the questioned official receipts were quite different and distinct from her accepted handwriting appearing on the receipts, thus creating doubt on the contention that she had participated in the falsification

of the duplicate copies of the official receipts to the prejudice of petitioner.

Not satisfied with the decision of the Labor Arbiter, petitioner corporation appealed the same to the respondent Commission. On 17 August 1987, the latter affirmed the findings of the Labor Arbiter and declared that private respondent did not commit the offense attributed to her. Respondent Commission likewise sustained the order for her reinstatement and the award of full back wages and 13th month pay for 1985, deleting however the award of moral damages and attorney's fees.

In its petition, SUNSET VIEW raises the following issue before this Court: whether respondent Commission committed grave abuse of discretion in affirming the decision of the Labor Arbiter finding illegal the suspension and dismissal of Lorenzo.

Petitioner claims that respondent Commission did not consider the fact that private respondent was the one who received the malversed amounts and that she had control and custody of the official receipts, that even for the sake of argument that she was not the one who altered the duplicate receipts, still, she had been remiss in her duty to see to it that the receipts reflected the true amounts received from the unit owners.

The burden of proof that the employee is responsible for an alleged misconduct and that his participation therein has rendered him unworthy to remain in his position, is on the employer. The question of whether respondent altered or tampered with the official receipts so that she can appropriate the difference is a question of fact which is for the respondent Commission, as a trier of facts, to determine. Factual findings of quasi-judicial agencies, like the NLRC, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect but at times even finality when such findings are supported by substantial evidence.^[1] The truth or falsehood of alleged facts is not for the Supreme Court to re-examine. The probative value of the evidence presented by the litigants or any of them may no longer be inquired into. This Court steps in and exercises its power of review only when on the basis of facts the inference or conclusion arrived at is manifestly erroneous.

In the present case, we find that respondent NLRC did not abuse its discretion, much less gravely, when it concluded that private respondent was not responsible for falsifying the receipts in question. There is no evidence directly pointing to respondent as the perpetrator of the offense. Neither is there any showing that she is guilty of negligence in handling the receipts which led to the falsification thereof by other persons.

Petitioner does not deny that as administrative assistant or secretary to the project manager, private respondent has the duty to assist her superior in the daily operation of the affairs of the condominium building of petitioner corporation, a function more akin to general housekeeping.^[2]

The Manager and all the personnel hold office inside a small room where the built-in cabinet used for keeping duplicate receipts is located. It is the accountant who holds the key to the cabinet and together with the accounting clerk is in charge of the safekeeping of the receipts and corporate funds. While respondent Lorenzo also accepted payments and issued receipts, she endorsed all collections and duplicate receipts everyday to the accountant, who then turned over the collections and receipts to the collector for deposit.^[3]

Taking into account this usual procedure, it is evident that any irregularity that may arise from the collection of payments would be immediately known. However, as found by the Labor Arbiter and respondent NLRC, it took almost one year and a half for petitioner to discover the anomaly. The official receipts allegedly falsified were dated May 1984, while the memorandum suspending respondent Lorenzo was issued only in October 1985. Even then, the issue of falsification of receipts was raised by petitioner as a ground for suspension of respondent only when it submitted its position paper before the Labor Arbiter. Thus, the Labor Arbiter and respondent NLRC are correct in doubting the veracity of the charge of petitioner against respondent Lorenzo.

Petitioner also submits that it was not furnished copy of respondent Lorenzo's manifestation on her observations on the handwriting in the altered figures on the receipts. It argues that this resulted in a

denial of the opportunity to present its side of the controversy, especially when the Labor Arbiter adopted the observations in the respondent's manifestation.

The position of petitioner cannot be sustained. The essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.^[4] The failure of respondent to furnish petitioner copy of the manifestation which she submitted to the Labor Arbiter was not fatal as to invalidate his decision. Such technical defect was cured when petitioner was allowed to appeal from the decision of the Labor Arbiter and later to file a motion for reconsideration with respondent NLRC.^[5] Further, Art. 221 of the Labor Code provides that "in any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling, and it is the spirit and intention of the Labor Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process."

Respondent Lorenzo having been illegally suspended and dismissed, she should be reinstated to her previous position with back wages for a period of three (3) years without qualification and deduction, and without loss of seniority rights. However, if reinstatement is no longer feasible, petitioner should pay respondent Lorenzo, in addition to back wages, separation pay in an amount equivalent to one (1) month salary for every year of service.^[6]

WHEREFORE, the petition is **DISMISSED** and the assailed Resolution of the National Labor Relations Commission of 17 August 1987 is **AFFIRMED**, with the modification that the amount of back wages to be paid by petitioner to private respondent Evelyn A. Lorenzo shall be for a period of three (3) years without qualification and deduction, and if reinstatement is no longer feasible, petitioner shall be liable to pay private respondent, in addition to backwages, separation pay in the amount of one (1) month for every year of service.

SO ORDERED.

Cruz, Davide, Jr. and Quiason, *JJ.*, concur.

- [1] Pan Pacific Industrial Sales Co., Inc. vs. NLRC, G.R. No. 96191, 4 March 1991.
 - [2] Comment to the Petition, Rollo, p. 80.
 - [3] Comment to the Petition, Rollo, p. 80.
 - [4] Bautista vs. Secretary of Labor, G.R. No. 81374, 30 April 1991, 196 SCRA 470.
 - [5] Gen. Milling Corp. vs. Torres, G.R. No. 93666, 22 April 1991, 196 SCRA 215.
 - [6] Asphalt & Cement Pavers, Inc. vs. Leogardo, Jr., G.R. No. 74563, 20 June 1988, 162 SCRA 312; Torillo vs. Leogardo, Jr., G.R. 77205, 27 May 1991, 197 SCRA 471.
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