



Republic of the Philippines
Supreme Court
 Manila

CERTIFIED BY
W. Velasco
 WILSON
 Division
 Third Division
 DEC 05 2016

THIRD DIVISION

ANGELITO R. PUBLICO,
 Petitioner,

G.R. No. 209086

Present:

- versus -

VELASCO, JR., J.,
Chairperson,
 PERALTA,
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

**HOSPITAL MANAGERS, INC.,
 ARCHDIOCESE OF MANILA –
 DOING BUSINESS UNDER THE
 TRADENAME AND STYLE OF
 “CARDINAL SANTOS MEDICAL
 CENTER”,**

Promulgated:

Respondents.

October 17, 2016

X-----*W. Velasco*-----X

RESOLUTION

REYES, J.:

This resolves the petition for review on *certiorari*¹ under Rule 45 of the Rules of Court filed by Angelito R. Publico (Publico) to assail the Decision² dated August 29, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 118222, which dismissed his complaint for illegal dismissal against Hospital Managers, Inc. (HMI), its officers,³ and Archdiocese of Manila or Roman Catholic Archbishop of Manila (RCAM), which owned Cardinal Santos Medical Center (CSMC).

¹ *Rollo*, pp. 29-49.

² Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Hakim S. Abdulwahid and Marlene Gonzales-Sison concurring; id. at 13-27.

³ President, Ricardo Murillo, and the officers of the Human Resource Department, namely, Annalyn Brillantes, Carina Afuang and Resty Dela Cruz, see CA Decision dated August 29, 2013, id. at 14.

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The Antecedents

The case stems from a complaint for illegal dismissal and other monetary claims filed by Publico against HMI and RCAM (respondents), among several other respondents, with the National Capital Region Arbitration Branch in Quezon City.

Publico was employed to work at CSMC in 1989, and was the hospital's Chief of Blood Bank Section, Laboratory Department when he was dismissed from employment by HMI in 2008.⁴ The dismissal was founded on Publico's gross and/or habitual negligence, as penalized under the following provisions of the HMI's Code of Discipline for employees, and indicated in an inter-office memo dated March 19, 2008 that directed Publico to answer the charges:

FIRST CHARGE – Rule 005-05, Work Performance, Section 10.4.f. – Gross and/or Habitual Negligence –

Blatant disregard to perform the required care or diligence demanded by the situation tantamount to wanton or reckless disregard of established rules and regulations.

SECOND CHARGE – Operating Policies and Procedures

Rule 011-05, Operating Policies and Procedures

In the conduct of its business and affairs, the Company has established procedures, which are communicated to the employees. These procedures have been thought out and prescribed in order to protect the life of the patients, guard against losses to the Company and to assure effective operations of all levels.

Section 1

Willful or intentional Non-observance of Standard Operating Procedures in Handling of Any Transaction or Work Assignment for Purposes of Personal or Another Person's Gain, Profit or Advantage.⁵

Prior to Publico's dismissal, HMI discovered incidents of unauthorized sale of blood and apheresis units by laboratory personnel, who also issued fake receipts and failed to remit payments to the hospital. When asked to explain his side on the issue, Publico denied any participation in the anomalous transactions. He claimed to have known of the incidents of unauthorized sale only when he was asked to participate in the investigation. He further evaded any responsibility by claiming that while five employees were investigated for the scheme,

⁴ Id. at 66.

⁵ Id. at 14-15.

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only one of them was under his supervision in the blood bank section. He was also tasked to supervise only personnel assigned in the morning shift, while the supposed unauthorized transactions happened during the night shift.⁶

Further investigations conducted by HMI's Management Investigation Committee eventually led to Publico's dismissal on May 9, 2008, through a Notice of Termination served upon him.⁷ Feeling aggrieved, Publico charged the respondents with illegal dismissal before the Labor Arbiter (LA).⁸

HMI and CSMC presented their respective defenses. HMI, which was the operator of CSMC from 1988 to August 14, 2008, maintained their claim of unauthorized sale of blood and apheresis units during the time that Publico was Section Chief of the Pathology and Laboratory Services. The illegal transactions went on for three years, leading to the dismissal of five employees who participated therein. HMI insisted that the wrongful scheme persisted because of Publico's failure to properly supervise, monitor and adopt preventive measures within his section.⁹

For its part, RCAM explained that it is a corporation sole and the registered owner of the parcel of land being occupied by CSMC. On August 1, 1988, it entered into an Agreement for Joint Apostolate with HMI, whereby the latter was given the use and possession of the land and hospital. Also part of the agreement was HMI's assumption as the new employer of CSMC's existing personnel. Given the set-up, RCAM argued that it could not be held liable for Publico's charge of illegal dismissal. It further cited a compromise agreement executed by HMI and RCAM, whereby all liabilities such as third party claims, salaries, wages and separation pay of HMI's employees shall be for the account of HMI. Publico was hired in 1989, or during the effectivity of the Agreement for Joint Apostolate.¹⁰

Ruling of the LA

The LA ruled in favor of Publico. He was declared illegally dismissed from employment, but only RCAM and CSMC were declared liable for the monetary claims. The LA believed that Publico was employed by CSMC in 1986, or prior to the effectivity of the Agreement for Joint Apostolate with HMI. The change in the hospital's

⁶ Id. at 16.

⁷ Id. at 16, 33-34.

⁸ Id. at 16.

⁹ Id. at 17.

¹⁰ Id.

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operator could not have affected Publico's status as an employee of RCAM.¹¹

The decretal portion of the LA's decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering [RCAM] and [CSMC] to jointly and severally pay [Publico] the amount of TWO HUNDRED NINETY[-]ONE (THOUSAND) SIX HUNDRED THIRTY[-]FIVE PESOS and 13/100 (P291,635.13) representing the backwages, accrued leave and attorney's fees.

Respondents are further ordered to reinstate [Publico] to his former position without loss of seniority rights.

The complaint against [HMI and its officers] and all other claims are dismissed for lack of merit.

SO ORDERED.¹²

Dissatisfied, RCAM appealed to the National Labor Relations Commission (NLRC).

Ruling of the NLRC

On August 6, 2010, the NLRC rendered its Decision¹³ favoring RCAM. The NLRC found Publico employed in 1989, instead of 1986 as mentioned by the LA in its decision. HMI was declared the employer of Publico, and as such was solely liable for the illegal dismissal. Per its agreement with RCAM, HMI became the employer of Publico when it became the operator of CSMC. Reinstatement, however, was no longer feasible considering that a new entity had taken over the hospital.¹⁴ The dispositive portion of the NLRC decision reads:

WHEREFORE, premises considered, [RCAM's] appeal is GRANTED. The Decision of the Executive [LA] dated March 12, 2009 is hereby REVERSED and SET ASIDE, and a NEW ONE is rendered finding [HMI] solely liable for illegal dismissal and ordered to pay [Publico]:

¹¹ Id.

¹² Id.

¹³ Penned by Presiding Commissioner Gerardo C. Nograles, with Commissioners Perlita B. Velasco and Romeo L. Go concurring; id. at 65-72.

¹⁴ Id. at 69-71.

1. Backwages computed [from] the time his wages [were] withheld up to September 1, 2009;
2. Separation pay equivalent to one month pay for every year of service computed from 1989, the year [Publico] was employed;
3. Proportionate 13th month pay for the years 2008 and 2009;
4. Unused vacation leave equivalent to the amount of P18,910.11;
5. Unused sick leave equivalent to the amount of P14,952.18; and
6. Attorney's fees equivalent to ten [percent] (10%) of the total monetary award.

The Computation Unit of the [NLRC] is hereby directed to compute the aforesaid awards, and the computation shall form part of this decision.

SO ORDERED.¹⁵

HMI's motion for reconsideration was denied by the NLRC,¹⁶ which prompted it to file a petition for *certiorari* with the CA.

Ruling of the CA

On August 29, 2013, the CA rendered its Decision¹⁷ reversing the NLRC. For the appellate court, Publico was validly dismissed for gross and habitual neglect of duties. Given his position in the hospital, Publico could have prevented, or at least discovered and reported, the anomalous transactions of his personnel. His failure to do so evidenced the neglect.¹⁸

Besides the just cause, the requirement of procedural due process was satisfied through the opportunity given to Publico to explain his side prior to his dismissal, as well as the chance to seek a reconsideration of the action or ruling complained of. Given its ruling on the legality of the dismissal, the CA found it unnecessary to rule on the entity that should be declared liable for Publico's monetary claims.¹⁹ The CA decision's dispositive portion states:

¹⁵ Id. at 71.
¹⁶ Id. at 73-88.
¹⁷ Id. at 13-27.
¹⁸ Id. at 22-24.
¹⁹ Id. at 25-26.

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WHEREFORE, premises considered[,] the instant petition is hereby **GRANTED**. Accordingly, the Decision dated August 6, 2010 and Resolution dated December 13, 2010 of the [NLRC] in NLRC NCR Case No. 00-056-06841-08 are hereby **REVERSED and SET ASIDE** and a new one is entered declaring [Publico] to have been validly dismissed. Necessarily, the backwages, separation pay, 13th month pay, unused vacation leave pay and attorney's fees awarded in his favor are hereby **DELETED**.

SO ORDERED.²⁰

Hence, this petition.

The Issue

The core issue raised in the petition is whether the CA committed a reversible error in declaring Publico validly dismissed from employment.

Ruling of the Court

The Court denies the petition. There is no cogent reason to reverse the CA's dismissal of Publico's complaint for illegal dismissal and monetary claims.

Under Article 282(b) of the Labor Code, an employer may terminate an employment on the ground of "[g]ross and habitual neglect by the employee of his duties." In the instant case, Publico was entrusted by HMI to take on the role of Chief, Blood Bank Section of the Laboratory Department, and with this carried the reasonable expectation that he would assiduously perform the demands of his position.

In affirming the CA's finding that Publico was validly dismissed, the Court takes into account the duties and responsibilities attached to Publico's position as Section Chief, as cited by the CA in the now assailed decision, to wit:

2. DUTIES AND RESPONSIBILITIES:
 - 2.1. ADMINISTRATIVE FUNCTIONS

²⁰ Id. at 26.

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- 2.1.1. Organizes work and maintain[s] [general] efficiency in the Section assigned.
- 2.1.2. Preserves discipline in the section.
- 2.1.3. Maintains Quality Control Program in a Section.
- 2.1.4. Takes full charge of Laboratory equipment and supplies in their respective Section entrusted to them by the Laboratory Administrative Head and Chief Medical Technologist.
- 2.1.5. Controls the traffic flow of the Section activities from receiving the specimen, processing of test procedures and documentation before (presenting) results to the Pathologist/Administrative Head and Chief Medical Technologist.
- 2.1.6. Assist in any section where any need may arise.

x x x x

2.3. PERSONNEL SUPERVISION

- 2.3.1. Directly supervises the personnel assigned in the section.
- 2.3.2. Responsible for evaluation of assigned staff.
- 2.3.3. Assures that staff are properly evaluated.
- 2.3.4. Monitors the completion time of various procedures[.]
- 2.3.5. Monitors the performance of the test/procedures.
- 2.3.6. Submits and implements work improvement plans.

x x x x

2.5. RECORD MANAGEMENT

- 2.5.1. Makes daily, biweekly, monthly and annual statistical reports of Laboratory Procedures.
- 2.5.2. Documents all laboratory results in a section.
- 2.5.3. Maintains the period of retention for materials and records proposed by the College of American Pathologists.

2.6. SCHEDULE

- 2.6.1. Prepares monthly schedules of staff.
- 2.6.2. Assigns staff reliever or overtime when section is short staff.
- 2.6.3. Delegation of workload to staff.

2.7. INVENTORY CONTROL AND REQUISITION

- 2.7.1. Maintains inventory level in the section.
- 2.7.2. Prepares weekly order request.
- 2.7.3. Monitors inventory in the section.²¹

²¹ Id. at 22-23.

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The anomalous transactions in the Blood Bank Section were found to have persisted for almost two years.²² Had Publico been not negligent in the performance of his duties, the wrongful dealings could have been prevented, or immediately discovered and rectified. The excuses advanced by Publico to evade any liability for the acts of his personnel only reinforce HMI's finding that he was negligent in the performance of his responsibilities as Section Chief. Among these defenses, he insisted that: *first*, some of the wrongdoers were not under his watch; *second*, the transactions happened during the night shift when he supervised only those in the morning shift; and *third*, the questioned transactions were not recorded in the log book.²³

Clearly from these defenses, Publico was careless in the performance of his responsibilities. He remained unmindful of the extent of his obligations as Section Chief. Personnel supervision was only one of his several functions, all intended to ensure proper and orderly operations within his department. These responsibilities included all matters affecting the laboratory, such as workflow supervision, record management, equipment and inventory control. He was duty-bound to monitor and supervise all equipment, supplies, work, and personnel operating in his department, regardless of whether these people were under his direct supervision and the shift when they reported for work. As correctly observed by the CA:

Publico cannot escape liability by merely claiming that he has no knowledge of the alleged anomalies or that the staff involved in the illegal transactions were not under his watch. As head of the Pathology and Laboratory Section, it is his job to monitor all the properties and supplies under his custody and maintain accurate records of the same. Besides, as correctly pointed out by HMI, his duties and responsibilities as chief of the Pathology and Laboratory Department is not only limited to the supervision of staff during the time that he reports to work, which is during the morning shift. His job description did not say so that he is only in charge of the personnel in the morning shift. Logic dictates that as head of a section or department, such is responsible for all employees under the said division regardless of whether an employee belongs to the morning or evening shift.²⁴

In addition to the foregoing, Publico could not have simply relied on the laboratory log book to monitor activities within his department, especially since the erring employees would not have recorded their illegal activities, to be able to perpetuate the commission thereof.

²² Id. at 23-24.

²³ Id. at 15.

²⁴ Id. at 24.

The foregoing circumstances show that Publico's neglect was gross and habitual. "Gross negligence connotes want of care in the performance of one's duties. Habitual neglect implies repeated failure to perform one's duties for a period of time, depending upon the circumstances."²⁵

Publico insists that the CA should have relied on the factual findings of the LA and NLRC that made them conclude that he was illegally dismissed. He refers to the NLRC's declaration on the failure of HMI to prove that Publico's negligence was gross and habitual. There was also no evidence directly linking Publico to the commission of the dubious scheme.

The Court has, however, repeatedly held that the CA, pursuant to the exercise of its original jurisdiction over petitions for *certiorari*, is specifically given the power to pass upon the evidence, if and when necessary to resolve factual issues. Moreover, while factual findings of labor tribunals are generally accorded not only respect but finality, they may be examined by the courts when there is a showing that they were arrived at arbitrarily or in disregard of the evidence on record.²⁶

Additionally, it should be emphasized that the offense and liability of Publico were for neglect of duties, which allowed the repeated commission of anomalous transactions in his department. Contrary to the LA's and NLRC's reasons in finding insufficient ground to support dismissal from employment, the liability of Publico did not depend on his knowledge or direct participation in the wrongful sale of blood and apheresis units. Even as the Court considers the inter-office memo sent by HMI to inform Publico of the charges, references were on negligence and non-observance of operating policies and procedures. The accusations pertained to his failure to perform his duties as a supervisor, rather than his own participation in the unlawful sales.

WHEREFORE, the petition is **DENIED**. The Decision dated August 29, 2013 of the Court of Appeals in CA-G.R. SP No. 118222 is **AFFIRMED**.

²⁵ *St. Luke's Medical Center, Inc., et al. v. Notario*, 648 Phil. 285, 297 (2010).
²⁶ *Prince Transport, Inc., et al. v. Garcia, et al.*, 654 Phil. 296, 309 (2011).

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SO ORDERED.

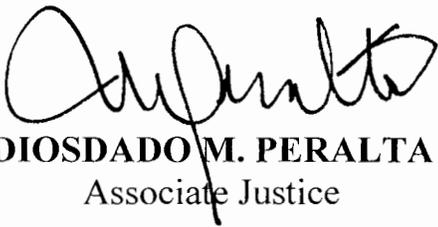


BIENVENIDO L. REYES
Associate Justice

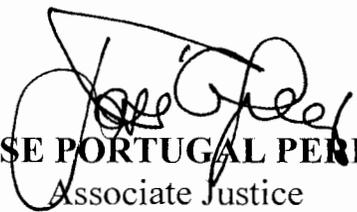
WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPID
Division Clerk of Court
Third Division

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