



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated March 9, 2022 which reads as follows:*

**“G.R. No. 252443 (*Buena M. Celis and Richard A. Barros v. Wonderfoods, Inc. and Caroline T. Sy*). – Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Resolutions dated September 9, 2019<sup>2</sup> and February 24, 2020<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 161169.**

*The Antecedents*

The case stemmed from a Complaint<sup>4</sup> for illegal dismissal and money claims filed by Buena M. Celis (Celis), Richard A. Barros (Barros), and Presco T. Pabuyan, Jr. (Pabuyan) (collectively, complainants) against Wonderfoods, Inc. (Wonderfoods), a company engaged in the restaurant business, and its general manager and owner, Caroline T. Sy<sup>5</sup> (collectively, respondents).<sup>6</sup>

Respondents hired Celis as an inventory clerk on December 17, 2007, Barros as a cook in September 2004, and Pabuyan also as a cook in September 2008, each with a daily wage rate of ₱474.00, ₱485.00, and ₱488.00, respectively. According to complainants, Wonderfoods tasked them to account for the meat stocks in its store, with the warning that in case of any discrepancy in the stocks, the

- over – ten (10) pages ...

114

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<sup>1</sup> *Rollo*, pp. 3-25.

<sup>2</sup> *Id.* at 31-42; penned by Associate Justice Apolinario D. Bruselas, Jr. with Associate Justices Nina G. Antonio-Valenzuela and Louis P. Acosta, concurring.

<sup>3</sup> *Id.* at 44-45.

<sup>4</sup> *Id.* at 109-111.

<sup>5</sup> Also spelled as “Carolyn” in some parts of the *rollo*.

<sup>6</sup> *Rollo*, p. 32.

variance would be charged against their salaries. They further alleged that there were unauthorized deductions from their salaries such as expenses for their company identification cards and uniforms.<sup>7</sup>

Complainants narrated that on April 10, 2017, respondents informed Celis of her preventive suspension starting that day until May 10, 2017. Respondents cited the ground of pilferage arising from the inventory variance of the meat stocks for February 2017. Complainants averred that Celis was neither given a copy of the inventory reflecting the discrepancy nor afforded the opportunity to explain. When she returned to work on May 8, 2017, respondents gave her a notice of termination.<sup>8</sup>

Purportedly, Pabuayan and Barros were surprised when they learned that respondents also placed them under preventive suspension on the same ground and during the same period as Celis. Eventually, they, too, received the notices of their termination on May 8, 2017 and May 24, 2017, respectively.<sup>9</sup>

Complainants contended that: (1) their dismissal was illegal for lack of a valid cause; (2) respondents did not observe due process in terminating their employment; and (3) the notices of their suspension indicated that there were notices to explain given on the same day as the administrative hearing, which incidentally, also fell on the same date of the notices of their suspension.<sup>10</sup>

Moreover, complainants insisted that: (1) respondents did not pay their service incentive leave (SIL) pay and proportionate 13<sup>th</sup> month pay for January 2017; (2) respondents also failed to pay Celis her last pay for the period from March 20, 2017 to April 5, 2017; and (3) the alleged unauthorized deductions from their salaries were illegal.<sup>11</sup>

For their part, respondents countered that complainants worked at their Sizzling Plate outlet in SM Bacoor. On April 6, 2017, respondents conducted a spot audit which revealed a questionable variance between the inventory and the stocks at the outlet. After a subsequent audit, they discovered that within the period from

- over -

114

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<sup>7</sup> *Id.* at 6.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 6-7.

<sup>10</sup> *Id.* at 76.

<sup>11</sup> *Id.*

February 1, 2017 to February 28, 2017, the outlet had a total discrepancy of ₱26,657.00 in unaccounted stocks of food and dining supplies.<sup>12</sup>

Respondents stated that: (1) on April 10, 2017, Celis and Pabuayan were invited to an administrative investigation at the head office of Wonderfoods; (2) both of them were given notices to explain which they refused to receive; (3) during the investigation, the latter denied the charges against them and gave their individual explanations; and (4) after the investigation, Celis and Pabuayan were notified of their preventive suspension for thirty days.<sup>13</sup>

Respondents also averred that Barros was investigated on April 17, 2017 and they informed him of the charge on the same ground as his co-complainants; however, like the latter, Barros denied the accusation against him.<sup>14</sup> Respondents stressed that two of their staff members, namely, Esperanza Mascardo (Mascardo) and Crisanto O. Galan (Galan), gave their written statements<sup>15</sup> revealing that complainants connived with each other in stealing food and other stock items from the Sizzling Plate outlet. Thus, after evaluating the evidence, respondents terminated complainants' employment.<sup>16</sup>

Respondents further asserted that: (1) the dismissal of complainants was valid by reason of their criminal act of stealing company property (food and other stock items); (2) the infraction of complainants amounted to serious misconduct and willful breach of the trust reposed in them by Wonderfoods, which were just causes for the termination of their employment; and (3) complainants were given the chance to explain their side in an administrative investigation.<sup>17</sup>

#### *Ruling of the Labor Arbiter*

On June 22, 2018, the Labor Arbiter (LA) rendered his Decision<sup>18</sup> dismissing the case for lack of merit.

- over -

114

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<sup>12</sup> *Id.* at 7, 220.

<sup>13</sup> *Id.* at 7.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 222-223.

<sup>16</sup> *Id.* at 8.

<sup>17</sup> *Id.* at 35.

<sup>18</sup> *Id.* at 218-229; penned by Labor Arbiter Renell Joseph R. Dela Cruz.

According to the LA, the charge of pilferage against complainants involved loss of trust which was a valid ground for terminating an employee's services. The LA stressed that complainants held positions of trust and confidence as their work included the inventory of stock items; in particular, they had physical access to the meat stocks that they were mandated to keep an accurate accounting of.<sup>19</sup>

The LA decreed that respondents' loss of trust was justified given the discrepancy in the inventory that was adequately proven by the audit, which complainants did not dispute.<sup>20</sup> The LA also lent credence to the statements of Mascardo and Galan, who personally witnessed the scheme of complainants in stealing meat stock. The LA stressed that their testimonies were not shown to have been obtained by fraud, duress, or any improper motive,<sup>21</sup> and complainants' mere denial and failure to rebut the evidence was fatal to their cause.<sup>22</sup>

Aggrieved, complainants appealed before the National Labor Relations Commission (NLRC).

#### *Ruling of the NLRC*

In its Decision<sup>23</sup> dated December 17, 2018, the NLRC affirmed the LA ruling with modification in that it ordered Wonderfoods to pay Celis, Barros, and Pabuayan: (a) their proportionate SIL pay for 2017; and (b) ₱15,000.00 each as nominal damages for non-observance of procedural due process. It also directed Wonderfoods to refund the amounts that were illegally deducted from the wages of Celis (₱3,350.80), Barros (₱1,072.74), and Pabuayan (₱2,336.14); and to pay Celis her unpaid wages from March 31 to April 5, 2017.<sup>24</sup>

The NLRC ruled that complainants' dismissal was justified because respondents had clearly established their loss of trust and confidence in complainants,<sup>25</sup> and in finding them guilty of serious

- over -

114

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<sup>19</sup> *Id.* at 224-225.

<sup>20</sup> *Id.* at 225.

<sup>21</sup> *Id.* at 226.

<sup>22</sup> *Id.* at 228.

<sup>23</sup> *Id.* at 74-98; penned by Presiding Commissioner Grace E. Maniquiz-Tan with Commissioners Dolores M. Peralta-Beley and Mercedes R. Posada-Lacap, concurring.

<sup>24</sup> *Id.* at 97-98.

<sup>25</sup> *Id.* at 83-91.

misconduct/violation of company rules and regulations amounting to serious misconduct.<sup>26</sup> Nonetheless, it decreed that while respondents complied with the second notice requirement, *i.e.*, the issuance of notices of termination, the defects in the notice to explain made respondents guilty of violating complainants' right to procedural due process; and thus, the latter were entitled to nominal damages.<sup>27</sup>

Finally, the NLRC declared that respondents failed to prove that they paid complainants their SIL pay for 2017. At the same time, it held that Celis was entitled to the payment of her salaries from March 31, 2017 to April 5, 2017 considering that the payroll indicated that she was paid only up to March 30, 2017. The NLRC likewise found that the deductions from complainants' salaries denominated as "Miscellaneous 1, 2 or 3" were not shown to be permitted under the Labor Code, and thus, must be returned to them.<sup>28</sup>

Undaunted, Celis and Barros (petitioners) filed a Petition for *Certiorari*<sup>29</sup> before the CA.

#### *Ruling of the CA*

On September 9, 2019, the CA dismissed the petition.<sup>30</sup> In so ruling, it emphasized the expertise of labor tribunals in employer-employee controversies. It also ruled that where there was concurrence in the LA and the NLRC decisions, courts must be more prudent in exercising its *certiorari* jurisdiction to allow greater stability.<sup>31</sup>

Thereafter, the CA denied petitioners' motion for reconsideration.<sup>32</sup>

#### *Our Ruling*

The petition is bereft of merit.

At the outset, the Court notes that the sole issue before us is whether petitioners were validly terminated from work. On this point, petitioners insist that: (1) respondents dismissed them without a valid

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<sup>26</sup> *Id.* at 91-92.

<sup>27</sup> *Id.* at 93-94.

<sup>28</sup> *Id.* at 95-97.

<sup>29</sup> *Id.* at 46-70.

<sup>30</sup> *Id.* at 31-42.

<sup>31</sup> *Id.* at 41.

<sup>32</sup> *Id.* at 44-45.

cause; and (2) respondents did not adduce evidence of petitioners' participation in the purported theft.<sup>33</sup>

The Court disagrees.

*First*, the issue of whether petitioners were validly dismissed from their employment involves factual matters which are *not* within the scope of this petition. Time and again, the Court has elucidated that only questions of law may be raised in a petition under Rule 45 of the Rules of Court. While there are recognized exceptions to this rule, none of them was established in this case.<sup>34</sup>

*Second*, the Court underscores that the findings of fact of labor tribunals are generally accorded respect and even finality by the Court, especially so when these are affirmed by the CA.<sup>35</sup> Considering the *unanimous findings* of the labor tribunals and the CA that petitioners were validly dismissed by respondents, the Court finds no reason to overturn such finding, in the absence of evidence to the contrary.

And *third*, by substantial evidence, respondents established their loss of trust and confidence in petitioners.

Under the Labor Code of the Philippines, among the just causes for dismissal from work is the employer's loss of trust and confidence in the employee. In order to properly invoke this ground, the employer must prove that: (1) the concerned employee is holding a position of trust and confidence; and (2) there is an act committed by the employee justifying the loss of the trust and confidence reposed upon him or her by the employer.<sup>36</sup>

Notably, there are *two* categories of positions of trust. "[T]here are managerial employees whose primary duty consists of the management of the establishment in which they are employed or of a department or a subdivision thereof, and to other officers or members of the managerial staff; on the other hand, there are fiduciary rank-and-file employees x x x [who] are routinely charged with the care and custody of the employer's money or property, and are thus classified as occupying positions of trust and confidence."<sup>37</sup>

- over -

114

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<sup>33</sup> *Id.* at 12-17.

<sup>34</sup> See *Ramil v. Stoneleaf, Inc.*, G.R. No. 222416, June 17, 2020.

<sup>35</sup> *Id.*

<sup>36</sup> See *Philippine Plaza Holdings, Inc. v. Episcopo*, 705 Phil. 210, 217 (2013).

<sup>37</sup> *Id.*

In the case, petitioners held positions of trust because, although they were rank-and-file employees, they were entrusted with the custody of the property of respondents. In fact, petitioners themselves confirmed that their task included the inventory of the meat stock and other food items at the restaurant outlet.<sup>38</sup> Moreover, substantial evidence supports the loss of trust and confidence in petitioners arising from their acts of stealing food stocks from respondents. That petitioners committed such infractions is bolstered by the company audits which showed the variance between the inventory and the actual stocks,<sup>39</sup> and by the written statements of Mascardo and Galan anent the scheme of petitioners in committing the pilferage of goods.<sup>40</sup>

Notably, in her written statement, Mascardo admitted her own involvement in petitioners' scheme of stealing from respondents.<sup>41</sup> The pertinent portions of her statement read:

Hindi ko po alam bakit namin nagawa ang ganitong klaseng kasalanan.

Pagpapas[s]-out o paglalabas ng order ng walang resibo nangangahulugan na hindi naka-os (order slip) an[g] order ng customers. Ang ibinayad, nakalabas. Kami nila chef Presco Pabuayan, chef Richard Barros, IC Buena Celis at ako[,] Esperanza Mascardo[,] ang naghahati-hati sa lumabas na pera. Hindi po kasama si chef Crisanto Galan dahil ayon kay Ms. Celis takot daw po ito. Alam kong mali pero bakit ako nakiisa sa kanila. Sa tuwing may oorder na, kaming apat ang nandoon aabisuhan ako ni Ms. Celis na "ok daw." Inclu[di]ng beef products also pork products. Except lang po ang bangus at squid. Pati na rin po ang inumin ay minsan pong nakakasama sa inilalabas. Hindi naka-os at hindi rin naka punch sa POS. Kaya daw habulin pero hindi pala. Kaya ang variances, umabot ng kung magkano.

Hinihingi ko po ang matinding kapatawaran ang ginawa kong pakikiisa at yun po ang labis ko pong pinagsisihan ngayon. Trabahong maayos po ang nais ko subalit nagkamali po ako ng pinakisamahan.

Ang lahat po ng perang lumalabas ay binibigay ko kay Ms. Celis at sya po naghahati-hati para sa amin. Ang highest ay umabot ng P2,000.00 at ang lowest ay nasa P500.00.

Lubos po ang aking pagsisisi at nangangakong hindi na kailanman mauulit.<sup>42</sup>

- over -

114

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<sup>38</sup> *Rollo*, p. 6.

<sup>39</sup> *Id.* at 84-85.

<sup>40</sup> *Id.* at 85-89.

<sup>41</sup> *Id.* at 85-87.

<sup>42</sup> As culled from the LA Decision; *id.* at 222.

The Court lends credence to the statement of Mascardo. As aptly put by the NLRC, by admitting her own involvement in the pilferage, Mascardo risked losing her employment and being sued criminally by respondents.<sup>43</sup> Thus, under the circumstances, there is no malice or ill motive that can be imputed against Mascardo for implicating petitioners in the pilferage of respondents' goods.

Additionally, Galan corroborated the statement of Mascardo and gave specific details of the acts committed by petitioners:

Ako po ay magsasalaysay upang ihayag ang aking nalalaman sa nangyayari sa outlet ng Sizzling Plate sa SM Bacoor.

Inaamin [ko po] na niyaya nila ako sa pag-passing-out o paglalabas ng itinitinda sa outlet. Niyaya po ako nina Ma[am] Buena Celis at Presco Pabuayan na sumali pero kahit marami akong utang, hindi po ako pumaya[g] sa gusto nila dahil may takot ako sa diyos at karma.

Alam ko pag-tandem nila yu[n] ginagawa. Niyaya rin po ako nina Presco Pabuayan at Richard Barros sa pag-uwi ng karne, pork steak, pigue at sisig na madaling nauuwi.

Tapos sasabihin na lang nila kung ano ang hahabulin. Halimbawa yung pork steak – pag makapalit o tatabasan nila o kaya gagawing dalawang piraso. Pork chop tinatangal nila yung buto tapos yun ang gagawing pork steak para mahabol yung variance sa pork steak.

Minsan kapag gagawang pigue, kunwari P5,000 kahit P4,000 lang ang product. P1,000 iuuwi nila Presco at Richard. Tapos sa sales ng tocino at tapa, babawasan rin nila hanggang makabuo sila ng pang-ulam.

Sa itlog naman, minsan naglalaga o kaya scrambled egg panghalo sa breaded pork steak.

Paano nila nauuwi?

Si Richard Barros – nakalagay sa medias tapos may dala siyang rubber band tapos kunwari pupunta sa comfort room pero ilalagay sa locker. Kapag breaktime na saka naglalagay sa medyas nya.

- over -

114

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<sup>43</sup> *Id.* at 88.

Si Presco Pabuayan – nakabalot sa plastic at ilalagay sa bag dahil wala namang nagkakapkap na guard. Tinitingnan lang yung bag nila pagkabukas.

Si Buena Celis – siya ang mastermind dahil sya ang head at siya rin ang OIC namin kaya hawak niya lahat.

At gaya ng aking nabanggit, niyaya niya ako na sumali sa kanila pero ako ay tumanggi.<sup>44</sup>

The written statements of Mascardo and Galan are sufficient to prove petitioners' involvement in the complained pilferage. Indeed, the statements of co-workers must be accorded utmost weight and credence, and cannot simply be set aside.<sup>45</sup> This is especially true in the case where Mascardo and Galan had personal knowledge of the infractions and described in detail the acts of petitioners in stealing goods from respondents. Thus, their statements constitute substantial evidence supporting the dismissal of petitioners for loss of trust and confidence.

All told, there being legal and factual bases in ruling for respondents, the Court agrees with the CA that the NLRC committed *no* grave abuse of discretion in affirming the LA Decision which found that petitioners' dismissal from work was valid. However, in line with prevailing jurisprudence,<sup>46</sup> the Court deems it proper to *increase* the amount of nominal damages awarded to petitioners from ₱15,000.00 to ₱30,000.00 *each* given Wonderfoods' *noncompliance with the procedural requisites* in terminating their employment. Pursuant to prevailing jurisprudence, the monetary awards shall earn interest at the rate of 6% *per annum* from the finality of this Resolution until paid in full.<sup>47</sup>

**WHEREFORE**, the petition is **DENIED**. The assailed Resolutions dated September 9, 2019 and February 24, 2020 of the Court of Appeals in CA-G.R. SP No. 161169 are **AFFIRMED** with **MODIFICATION**. Respondent Wonderfoods, Inc. is hereby ordered to:

- (1) Pay petitioners Buena M. Celis and Richard A. Barros and complainant Presco T. Pabuayan, Jr. their proportionate service incentive leave pay for the year

- over -

114

<sup>44</sup> As culled from the LA Decision; *id.* at 222-224.

<sup>45</sup> *JR Hauling Services v. Solamo*, G.R. No. 214294, September 30, 2020.

<sup>46</sup> *Id.*

<sup>47</sup> *Ramil v. Stoneleaf, Inc.*, G.R. No. 222416, June 17, 2020.

2017, and refund the following amounts that were illegally deducted from their wages: (a) Buena M. Celis – ₱3,350.80; (b) Richard A. Barros – ₱1,072.74; and (c) Presco T. Pabuayan, Jr. – ₱2,336.14;

(2) Pay petitioner Buena M. Celis her unpaid wages for the period March 31, 2017 to April 5, 2017; and

(3) Pay petitioners Buena M. Celis and Richard A. Barros nominal damages in the amount of ₱30,000.00 each and complainant Presco T. Pabuayan, Jr. in the amount of ₱15,000.00 for its failure to comply with procedural due process requirements.

All monetary awards shall earn interest at the rate of 6% *per annum* from the finality of this Resolution until paid in full.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *8/15*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**114**

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