



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated February 1, 2023, which reads as follows:

“G.R. No. 193683 (*Ronaldo S. Mina v. Steam System Philippines, Inc., Lilibeth Alkass, Nilo Ona, and Santiago Enriquez*). – The Court resolves to **NOTE** and **DEEMED** as **SERVED** on the addressees the (1) copy of the Resolution dated January 12, 2021, which, among others, awaited the respondents’ comment on the petition for review on *certiorari*, addressed and sent to Atty. Frederick Vincent Lu, counsel for respondents, at the Office of the Island Tower Legaspi, 239 Sedenor cor. Bernavidez Streets, Legaspi Village, Makati City; and (2) copy of the Resolution dated June 23, 2021, which considered as served the show cause Resolution dated August 26, 2020 sent to respondent Ms. Lilibeth Alkass a.k.a. Lilibeth O. Moody, addressed and sent to The President/CEO Stream System Phils. Inc., at No. 32 Rafael Corpus St., BF Homes, Parañaque City, which were both returned unserved with postal carrier’s notations “RTS Moved Out” and “RTS Addressee Unknown” on the envelopes, respectively.

For resolution is a Petition for Review on *Certiorari*¹ assailing the Decision² dated February 9, 2010 and the Resolution³ dated September 8, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 107738. The CA affirmed the Decision⁴ dated February 15, 2008 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 052170-07, which

¹ *Rollo*, pp. 7-16.

² *Id.* at 19-23; penned by Associate Justice Arcangelita M. Romilla-Lontok, with Associate Justices Ricardo R. Rosario (now a Member of this Court) and Priscilla J. Baltazar-Padilla (now a Retired Member of this Court), concurring.

³ *Id.* at 25-26; penned by Associate Justice Priscilla J. Baltazar-Padilla (now a Retired Member of this Court), with Associate Justices Jose C. Reyes, Jr. (now a Retired Member of this Court) and Ricardo R. Rosario (now a Member of this Court), concurring.

⁴ *Id.* at 155-166; penned by Commissioner Angelita A. Gacutan, with Presiding Commissioner Raul T. Aquino and Commissioner Victoriano R. Calaycay, concurring.

in turn reversed the Decision⁵ dated December 15, 2006 of the Labor Arbiter (LA) in NLRC NCR Case No. 00-03-02291-06.

The Antecedent Facts

Respondent Steam Systems Philippines, Inc. (SSPI) was a company engaged in the business of importing, marketing, distributing, and trading steam engineering process products. Its primary source of income arose from its status as the exclusive distributor of Spirax Sarco Private Limited (Spirax) products in the Philippines.⁶

SSPI was founded by the spouses Charles (Charles) and Lilibeth Moody (Lilibeth). However, they eventually divorced. Lilibeth remarried and moved to Germany to live with her new husband. Charles remarried a Filipina and remained in the Philippines to continue running the company as its General Manager.⁷

On November 27, 1998, SSPI employed petitioner Ronaldo S. Mina (Mina) as a consultant for its special projects. He eventually took over Charles' role as the General Manager in 2002 when the latter was diagnosed with bone cancer and had to leave for the United Kingdom to get treatment.⁸ Nevertheless, Mina claimed that Charles continued approving every move of the company and closely monitored it remotely through him.⁹

In July 2004, upon Mina's initiative, the corporation Ainam Philippines, Inc. (Ainam) was formed. Its purpose was to develop and explore a market for alternative steam products outside of Spirax. Its operations were conducted by some employees of SSPI within its premises.¹⁰

On May 30, 2005, Charles died and left behind a will which appointed Mina as its executor. Notably, he bequeathed his SSPI shares to Mina and other employees under a designated scheme.¹¹ This allegedly displeased Lilibeth who claimed to have inherited such shares as his former wife. Mina alleged that from then on, Lilibeth started to pursue actions to oust him from the company so that she could take over.

⁵ Id. at 146-154.; penned by Labor Arbiter Eduardo G. Magno.

⁶ Id. at 146.

⁷ Id. at 32 and 146.

⁸ Id. at 146-147 and 156.

⁹ Id. at 33.

¹⁰ Id. at 147.

¹¹ Id. at 147.

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⁶ Id. at 146.

⁷ Id. at 32 and 146.

⁸ Id. at 146-147 and 156.

⁹ Id. at 33.

¹⁰ Id. at 147.

¹¹ Id. at 147.

On September 15, 2005, SSPI sent a letter¹² to Mina placing him on preventive suspension and asking him to explain the following anomalous practices discovered which violated company policies and procedures:

1. Ainam Philippines, Inc. (API), as a company, was established and registered with the Securities and Exchange Commission (SEC) July 15, 2004 with ROMEO D. TUASON, SSPI Consultant, as the major stockholder, and LEONIDES V. CAMPOMANES, an employee of SSPI who was directly and personally hired by you, as one of its minor stockholders.
2. SSPI regular employees, namely, Mariflor S. Barrientos and Leonides V. Campomanes have been and are directly involved in either invoicing, preparing, sending and/or delivery of business proposals and other transactions, in behalf of a certain company, named API, using (SSPI) Company's time, personnel, equipment and other resources.
3. API has directly been selling flanges and other spare parts to SSPI through the facilitation of Mariflor S. Barrientos from preparing invoices to delivery of these items to SSPI office and also from getting commission as per evidence gathered.
4. Today, September 15, 2005, on or about 8:00 in the morning, you came to report for work at SSPI and, in the same premises went into an outrage in the presence of the employees, namely: Luzviminda B. Sarria, Jesusa S. Galleza, Angelito V. Flores, Angelito H. Serbatos, Sabiniano R. Contreras and Marlon D. Flor, casting invective words against them. You also deliberately whilst pointing finger, mouthed malicious words to them (as per their statement "pinagmumura po kami") because of the resignation of Mariflor S. Barrientos. x x x¹³

On September 19, 2005, Mina submitted a letter¹⁴ explaining that Ainam was established to help SSPI's continued business. However, his reason was considered unacceptable and he was notified through a letter¹⁵ on September 19, 2005, that he is dismissed from employment on the grounds of gross negligence, insubordination, fraud, and loss of trust and confidence. SSPI concluded that his establishment of Ainam despite Charles' objection was direct insubordination. The fact that Ainam operated within SSPI's premises using its personnel, equipment, time, and supplies, without the knowledge and approval of Charles or SSPI's Board of Directors, was tantamount to fraud.¹⁶

¹² Id. at 88-89.

¹³ Id.

¹⁴ Id. at 93-94.

¹⁵ Id. at 95-96.

¹⁶ Id. at 95.

It likewise cited the Letter¹⁷ dated September 16, 2005 addressed to Mina from nine out of the ten employees of SSPI which stated: “We, the undersigned, declare that you have lost all moral and professional right to lead us or fight for us. We do not recognize your authority anymore as Consultant or General Manager of SSPI, and we support the Management in whatever decision it may make to preserve its interest to look after us.”

Hence, Mina filed a complaint for illegal dismissal and other monetary claims against SSPI. He asserted in his Position Paper¹⁸ that he could not be guilty of gross negligence since he actually improved the business of SSPI when he took over and helped it recover from financial collapse and bankruptcy.¹⁹ He additionally argued that the establishment of Ainam was neither fraudulent nor an act of insubordination since it was necessary to ensure the continued business of SSPI after Charles’ death. It was critical for SSPI to develop alternative steam products to market because its exclusive distributorship agreement with Spirax was practically coterminous with Charles’ life. Lilibeth allegedly understood this reality which made her give her tacit approval to the Ainam initiative.²⁰

In response, SSPI alleged in its Position Paper²¹ that Mina failed to explain why he allowed Ainam’s operations to be conducted inside SSPI’s premises and at the expense of its time, equipment, supplies, and personnel. Even worse, Ainam was a rival company of Spirax and its formation thus violated SSPI’s obligations under the exclusive distributorship agreement. Its formation was therefore clearly an act of disloyalty against SSPI’s interests.²²

It further alleged that Mina cannot claim he was in good faith when he formed Ainam since he admittedly did it despite Charles’ objection and without the approval of SSPI’s Board of Directors.²³

The LA Ruling

The LA rendered its Decision²⁴ finding that Mina was illegally dismissed and entitled to payment of backwages, separation pay, and attorney’s fees:

¹⁷ Id. at 90-91.

¹⁸ Id. at 31-45.

¹⁹ Id. at 39-40.

²⁰ Id. at 40-43.

²¹ Id. at 98-123.

²² Id. at 111-114.

²³ Id. at 114.

²⁴ Id. at 146-154.

WHEREFORE, judgment is hereby rendered declaring the dismissal of complainant as illegal. Respondent company, Steam Systems Philippines, Inc. is hereby ordered to pay complainant his backwages from the date of dismissal up to the date of decision amounting to P700,000.00. Considering the strained relationship of the parties, payment of separation pay is in order equivalent to one (1) month pay for every year of service in the amount of P400,000.00 plus attorney's fees equivalent to ten percent (10%) of the total amount of the award in the amount of P110,000.00.

SO ORDERED.²⁵

The LA recognized that the critical issue in this case involved the propriety of the establishment of Ainam.²⁶ In this regard, it found merit in Mina's claim that the formation of Ainam was necessary for SSPI considering its exclusive distributorship agreement with Spirax was coterminous with Charles' life. Thus, in view of Charles' terminal illness, Ainam was needed to develop alternative steam products to market in the event that it could no longer distribute Spirax products.²⁷

Unsatisfied, SSPI appealed to the NLRC.

The NLRC Ruling

The NLRC rendered its Decision²⁸ which granted SSPI's appeal and reversed the LA Decision:

WHEREFORE, premises considered, the Decision appealed from is hereby **REVERSED** and **SET ASIDE** and a new one entered declaring complainant's dismissal was valid. Accordingly, the monetary awards are hereto ordered **DELETED** for lack of factual and legal basis.

SO ORDERED.²⁹

The NLRC concluded that Ainam was clearly a competitor business of SSPI. Its creation by Mina was thus an act of disloyalty and a serious misconduct befitting loss of trust and confidence.³⁰ It highlighted that Mina established Ainam without Charles' knowledge and consent and allowed it to operate in SSPI's premises which constituted abuse of its resources.³¹

²⁵ Id. at 154.

²⁶ Id. at 151.

²⁷ Id. at 151-152.

²⁸ Id. at 155-166.

²⁹ Id. at 165-166.

³⁰ Id. at 163.

³¹ Id.

It further held that Mina's acts of unilaterally increasing his salary numerous times and awarding himself additional benefits such as the trip to Singapore for his whole family were not done with the approval of SSPI's Board of Directors. It was consequently a misappropriation of company property for his own benefit.³²

Aggrieved, Mina filed a Motion for Reconsideration³³ but was denied by the NLRC in its Resolution for lack of merit. He thus filed a Petition for *Certiorari* under Rule 65 of the Rules of Court with the CA.

The CA Ruling

The CA rendered its Decision³⁴ which denied Mina's Petition for *Certiorari* and affirmed the NLRC rulings:

WHEREFORE, in view of the foregoing, the petition is **DISMISSED**. The decision and resolution assailed herein are **AFFIRMED**.

SO ORDERED.

The CA emphasized that there is nothing on record which proved that Charles approved Mina's actions. It additionally noted that SSPI was a juridical entity which necessarily acted through its Board of Directors. Hence, even if Mina's assertion that Charles approved his acts was true, this would not have been adequate to prove that his acts were authorized by SSPI.³⁵

Mina filed a Motion for Reconsideration but was denied by the CA in its now assailed Resolution.³⁶

Hence, the instant petition.³⁷

This Court, acting on the petition, issued a Resolution³⁸ ordering respondents to file a Comment. However, respondents' counsel on record manifested that its firm ceased representing them on account of their refusal to pay attorney's fees.³⁹ Despite diligent efforts from their former counsel

³² Id. at 164.

³³ Id. at 167-172.

³⁴ Id. at 19-23.

³⁵ Id. at 22.

³⁶ Id. at 25-26.

³⁷ Id. at 7-16.

³⁸ Id. at 181.

³⁹ Id. at 184-186.

and Mina, respondents could not be located and it was determined that SSPI's office had long been abandoned. After several more attempts to serve respondents a copy of the resolution through personal service and registered mail, this Court resolved to consider this as satisfactorily served and that this case be submitted for resolution.⁴⁰

Mina in his Petition for Review on *Certiorari* asserted the sole argument that a supervening event occurred which tilted the scales of justice in his favor.⁴¹ He stated that sometime in 2007, a certain Angelito Flores filed a complaint for non-payment of salary against SSPI which was docketed as NLRC Case No. 09-10243-07 (*Flores* case). He quoted a portion of SSPI's Position Paper in such case wherein it stated: "Sales of the company have been very low for 2007 – because we are now carrying a new brand that still need[s] to be accepted in the market."⁴²

According to Mina, the foregoing statement showed that SSPI had the same stance as him on the need to establish Ainam to explore the market development of alternative steam engineering products. This proved that Ainam was not formed to prejudice SSPI, but to benefit its interests.⁴³ SSPI cannot be allowed to claim in this case that the formation of Ainam was unauthorized and fraudulent but in the *Flores* case suddenly recognize its purpose to be necessary for its business. Its flip-flopping stance on Ainam constituted hypocrisy and deceit.⁴⁴

The Ruling of this Court

The petition is denied.

Preliminarily, although this Court is not a trier of facts, this case falls under a recognized exception considering that the factual findings of the LA differed from that of the NLRC and the CA.⁴⁵ We shall therefore proceed with reviewing factual matters necessary for the resolution of this case.

The primary issue is essentially whether or not there was just cause to justify Mina's dismissal from employment. After a judicious review, We concur with the CA and rule in the affirmative.

⁴⁰ Id. at 339.

⁴¹ Id. at 14.

⁴² Id.

⁴³ Id.

⁴⁴ Id. at 15.

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

Article 297 of the Labor Code significantly provides the just and valid causes for termination of an employee:

ARTICLE 297. *Termination by Employer.* - An employer may terminate an employment for any of the following causes:

- (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- (b) Gross and habitual neglect by the employee of his duties;
- (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
- (e) Other causes analogous to the foregoing.

On the ground of the employee's willful breach of trust under Article 297(c), the following requisites must be established: (1) the employee concerned must be holding a position of trust and confidence; (2) there must be an act that justifies the loss of trust and confidence; and (3) the loss of trust relates to such employee's performance of duties.⁴⁶

The discussion in *Mabeza v. NLRC*⁴⁷ on what is considered a position of trust and confidence is instructive:

Loss of confidence as a just cause for dismissal was never intended to provide employers with a blank check for terminating their employees. Such a vague, all-encompassing pretext as loss of confidence, if unqualifiedly given the seal of approval by this Court, could readily reduce to barren form the words of the constitutional guarantee of security of tenure. Having this in mind, loss of confidence should ideally apply only to cases involving employees occupying positions of trust and confidence or to those situations where the employee is routinely charged with the care and custody of the employer's money or property. To the first class belong managerial employees, i.e., those vested with the powers or prerogatives to lay down management policies and/or to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees or effectively recommend such managerial actions; and to the second class belong cashiers, auditors, property custodians, etc., or those who, in the normal and routine exercise of their functions, regularly handle significant

⁴⁶ *Cadavas v. Court of Appeals*, G.R. No. 228765, March 20, 2019.

⁴⁷ 338 Phil. 386 (1997).

amounts of money or property. x x x⁴⁸ (Emphasis and underscoring supplied)

This ground of loss of trust and confidence proceeds from the principle that employers are generally given discretion to terminate the services of employees who perform functions which, by their nature, require their full trust and confidence.⁴⁹ Nevertheless, the employer cannot abuse this prerogative and should prove that the loss of trust and confidence is genuine, and not used as a subterfuge for causes which are improper, illegal or unjustified.⁵⁰

This Court in *Cruz, Jr. v. Court of Appeals*⁵¹ summarized the following guidelines on determining what constitutes a valid dismissal on this ground:

[T]he language of Article 282(c) of the Labor Code states that the loss of trust and confidence must be based on willful breach of the trust reposed in the employee by his employer. Such breach is willful if it is done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. Moreover, it must be based on substantial evidence and not on the employer's whims or caprices or suspicions otherwise, the employee would eternally remain at the mercy of the employer. Loss of confidence must not be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary. And, in order to constitute a just cause for dismissal, the act complained of must be work-related and shows that the employee concerned is unfit to continue working for the employer. In addition, loss of confidence as a just cause for termination of employment is premised on the fact that the employee concerned holds a position of responsibility, trust and confidence or that the employee concerned is entrusted with confidence with respect to delicate matters, such as the handling or care and protection of the property and assets of the employer. The betrayal of this trust is the essence of the offense for which an employee is penalized.⁵² (Citations omitted)

Applying the foregoing, this Court affirms that Mina was lawfully dismissed for the just cause of loss of trust and confidence.

The first element is present since Mina held the position of General Manager of SSPI. This was the highest position in the company and it is an admitted fact that he handled all the day-to-day management decision-

⁴⁸ Id. at 395-396.

⁴⁹ *San Miguel Corporation v. Gomez*, G.R. No. 200815, August 24, 2020.

⁵⁰ Id. citing *The Coca-Cola Export Corp. v. Cacayan*, 653 Phil. 45, 66 (2011).
⁵¹ 527 Phil. 230 (2006).

⁵² Id. at 242-243.

making and operations.⁵³ This is evidently a managerial position falling under the first class of employees holding positions of trust and confidence.

The second and third elements are likewise present through the fact that Mina established Ainam and conducted its operations inside the premises of SSPI with the use of its resources and personnel.

It bears stressing that Mina was not sufficiently authorized to establish Ainam. The CA correctly highlighted that SSPI was a juridical entity and thus the authority to form and operate Ainam could only emanate from its Board of Directors. It held:

This Court concurs with the findings of the NLRC that SSPI, as a “corporation duly registered and existing under the laws of the Republic of the Philippines” (Rollo, p. 3) is a juridical entity vested with a legal personality separate and distinct from any of its members. A corporation acts through its Board of Directors so that any actuation of its officers needs the approval of the Board. In fact, the assailed decision is explicit that “nothing on record” shows that [Charles] approved the things [Mina] did – although [Charles]’s approval would not have proved adequate.⁵⁴

In this regard, Mina did not deny that he had no approval from the SSPI Board of Directors to establish Ainam, much less use SSPI’s premises and resources for its operations. It is clear from this ground alone that Mina’s actions were unauthorized and constituted a violation of his duties to SSPI.

Mina insisted that the establishment of Ainam was done with Charles’ consent and knowledge, as well as Lilibeth’s tacit support.⁵⁵ However, these claims are bereft of merit for utter lack of supporting evidence.

On the contrary, Mina repeatedly recognized that Charles was against the idea of forming Ainam from the start because of his long relations with Spirax.⁵⁶ He also narrated how Charles and Lilibeth were at odds with the Ainam proposal as Charles was against it.⁵⁷ More convincingly, Charles stated in his Letter⁵⁸ dated March 19, 2004 addressed to Mina that he was, in principle, against the formation of a new company like Ainam. The pertinent portion of his letter stated:

⁵³ *Rollo*, p. 33.

⁵⁴ *Id.* at 22.

⁵⁵ *Id.* at 36.

⁵⁶ *Id.* at 35.

⁵⁷ *Id.* at 169.

⁵⁸ *Id.* at 65-66.

x x x x

- With regards to your intention to form a company of your own, however, selfishly, on behalf [of] maintaining your concentration on running SSPI, I would not wish to see competition of any proportionment nor anything that could contribute to your stress.⁵⁹

On Mina's claim that Ainam received the tacit approval of Lilibeth, there is not a single iota of evidence to substantiate this. This claim was therefore bare, self-serving, and unworthy of credence.

It must be noted that the formation of Ainam constituted a violation of SSPI's exclusive distributorship agreement with Spirax. Mina appeared to downplay this fact and nonchalantly admitted it in his Position Paper.⁶⁰ He then alleged that he was forced to establish Ainam for the benefit of SSPI to ensure its survival.⁶¹

We affirm SSPI's position that Mina's actions, despite his allegedly laudable intentions, were in reality immensely prejudicial to it. Mina failed to appreciate the significant consequences that could have arose from SSPI's violation of its exclusive distributorship agreement with Spirax. Spirax was its main client and biggest source of income. The discovery of SSPI's breach could have resulted in the rescission of its exclusive distributorship agreement and exposed it to civil liabilities. This was a more real and imminent danger to SSPI caused by Mina which outweighed his speculative fears on the company's future.

Hence, Mina's formation of Ainam was a serious violation of his duties as SSPI's General Manager. He was duty bound to act in accordance with SSPI's best interests and not to engage in activities prejudicial to it such as violating its exclusive distributorship agreement with Spirax. He likewise failed to fulfill his duty to ensure that SSPI's resources and personnel were properly used for company purposes. All these failures sufficiently justified SSPI's loss of trust and confidence in him.

Mina in his current petition made a final attempt to show that SSPI approved of the formation of Ainam. By citing SSPI's Position Paper in the *Flores* case, he tried to demonstrate that it recognized the need for it to explore alternative steam products aside from Spirax. Its stance on this matter was therefore the same as the intent behind the formation of Ainam which means it could not have possibly been against it.

⁵⁹ Id. at 65.

⁶⁰ Id. at 36.

⁶¹ Id. at 41.

This argument fails to persuade.

The *Flores* case was filed in 2007⁶² while Mina's actions which warranted his dismissal from employment occurred in 2004. This is significant since in 2004, SSPI was still contractually bound by its exclusive distributorship agreement with Spirax. It obviously could not set up a new company to compete against its main client and develop alternative steam products. Hence, Mina's acts back then of forming Ainam and operating it inside SSPI was not acceptable and constituted a breach of the trust and confidence reposed in him.

On the other hand, SSPI's position in 2007, as intimated in the *Flores* case, to develop and market new steam products was already acceptable by this time since it was no longer bound by its exclusive distributorship agreement with Spirax which ended on December 2005.⁶³ It was therefore only expected that SSPI already looked for other steam engineering products to develop and market at this time. Contrary to Mina's claim, this was a sound business decision and valid exercise of management prerogative, unlike his previous actions in establishing Ainam.

Consequently, the CA did not commit reversible error in affirming that Mina was validly dismissed for just cause. We have repeatedly recognized that employers cannot be compelled to retain employees who are guilty of acts inimical to its interests.⁶⁴ This especially holds true for employees such as Mina who were appointed to high managerial positions of responsibility.

WHEREFORE, premises considered, the instant petition is **DENIED**. The Decision dated February 9, 2010 and the Resolution dated September 8, 2010 of the Court of Appeals in CA-G.R. SP No. 107738 are hereby **AFFIRMED**.

SO ORDERED."

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
GER
6/14/23

⁶² Id. at 14.

⁶³ Id. at 36.

⁶⁴ *SM Development Corporation v. Ang*, G.R. No. 220434, July 22, 2019.

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