

CLERKED TRUE COPY
Angel Labao
CLERK, DEPARTMENT OF
JUDICIAL ADMINISTRATION
OFFICE OF THE CLERK
JULY 10 2015



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

COCA-COLA BOTTLERS PHILS., G.R. No. 169967
INC., EMMANUEL CURA, ANGEL
LABAO, ALMEDO LOPEZ, and
RUSTOM ALEJANDRINO,
Petitioners,

- versus -

IBM LOCAL I, REGNER
SANGALANG and ROLANDO
NACPIL,
Respondents.

X-----X

REGNER A. SANGALANG and G.R. No. 176074
ROLANDO V. NACPIL,
Petitioners,

- versus -

COCA-COLA BOTTLERS PHILS.,
INC. (CCBPI), EMMANUEL CURA,
ANGEL LABAO, and RUSTOM
ALEJANDRINO,
Respondents.

X-----X

1

**COCA-COLA BOTTLERS PHILS.,
INC., EMMANUEL CURA, ANGEL
LABAO, and RUSTOM
ALEJANDRINO,**

Petitioners,

- versus -

G.R. No. 176205

Present:

VELASCO, JR., J.,
Chairperson,
PERALTA,^{*}
PEREZ,
REYES, and
LEONEN,^{**} JJ.

**REGNER A. SANGALANG and
ROLANDO NACPIL;**

Respondents.

Promulgated:

November 23, 2016

Reginald Reyes

X-----X

DECISION

REYES, J.:

These three (3) consolidated petitions for review on *certiorari*¹ under Rule 45 of the Rules of Court stemmed from a complaint for illegal dismissal filed by Regner A. Sangalang (Sangalang) and Rolando Nacpil (Nacpil) (collectively, the complainants) against Coca-Cola Bottlers Philippines, Inc. (CCBPI).

Antecedents

The facts are as follows:

Sangalang and Nacpil were hired by CCBPI on July 1, 1983 and July 16, 1972, respectively, as assistant syrupmen. They were assigned at the syrup room production department of CCBPI's San Fernando City, Pampanga plant.² The assistant syrupman in CCBPI had the following duties and responsibilities,³ to wit:

* On official leave.

** Designated additional Member per Raffle dated February 2, 2015 *vice* Associate Justice Francis H. Jardeleza.

¹ *Rollo* (G.R. No. 169967), pp. 5-49; *rollo* (G.R. No. 176074), pp. 10-36; *rollo* (G.R. No. 176205), pp. 15-44.

² *Rollo* (G.R. No. 176205), pp. 539-540.

³ *Rollo* (G.R. No. 169967), pp. 62-63.

1

1. PERFORMS ALL DUTIES OF THE SYRUP MAN AS MAY BE ASSIGNED OR DELEGATED BY THE SYRUP MAN OR BY THE PRODUCTION SUPERVISOR.
2. ACTS AS SYRUP MAN IN THE LATTER'S ABSENCE AND MEALBREAKS.
3. RESPONSIBLE FOR THE MAINTENANCE, CLEANLINESS, AND SMOOTH OPERATION OF THE SUGAR DUMPER AND ITS ACCES[S]ORIES.
4. RESPONSIBLE FOR THE PROPER HOUSEKEEPING AND CLEANLINESS OF THE PLAIN SYRUP ROOM, FILTER PRESS ROOM, AND FLAVORED SYRUP ROOM.
5. RESPONSIBLE FOR THE MAINTENANCE, CLEANLINESS, AND SMOOTH OPERATION OF THE VENTILATION FANS AND AIR CONDITIONING UNITS.
6. DUMPS THE REQUIRED AMOUNT AND TYPE OF SUGAR IN THE PLAIN SYRUP TANK DURING SYRUP PREPARATION.
7. POURS THE FLAVORING MATERIALS ON THE FLAVORED SYRUP TANK AS PER STANDARD MIXING INSTRUCTIONS.
8. CHECKS THE TOP OF SYRUP TANKS FOR OIL LEAKS FROM THE SPEED REDUCER OF THE PROPELLER.
9. RESPONSIBLE FOR THE PROPER STOCKING OF ALL MATERIALS IN THE SYRUP ROOM.
10. REMOVES ALL EMPTY FIGALS, JUGS, BOXES, SEALS FROM THE FLAVORING MATERIALS USED AND DISPOSE THEM PROPERLY OUTSIDE THE SYRUP ROOM.
11. DURING THE WEEKEND MAINTENANCE AND CLEANING ACTIVITIES.
12. PERFORMS OTHER RELATED TASKS AND DUTIES THAT MAY BE ASSIGNED BY THE PRODUCTION SUPERVISOR.⁴

As a nationwide company practice, the duty of dumping caps/crowns belonged to the assistant syrupmen. In CCBPI's San Fernando City plant, however, this activity was passed on to the utility men sometime in 1982. After the positions of utility men were abolished, CCBPI engaged the services of independent contractors to perform the said activity and other allied services.⁵

⁴ Id. at 63.

⁵ *Rollo* (G.R. No. 176205), pp. 541-542.

Λ

On July 13, 2000, Quality Control Superintendent Angel T. Labao and Process Supervisor Jose P. Diaz held a meeting with the assistant syrupmen to advise the concerned employees of the management's decision to revert the duty of dumping caps/crowns to the assistant syrupmen which was supposed to be among the duties and responsibilities incumbent in said position in all of CCBPI's plants. The employees concerned, however, suggested that CCBPI instead regularize the contractual employees who were performing the dumping task because they feared that they might be held responsible for damages that CCBPI may suffer in carrying out two important tasks of production, namely, the preparation of syrup and dumping caps/crown at the cap bin.⁶

On August 16, 2000, another meeting was held to notify the assistant syrupmen that the proposed dumping activity was within their job description. The assistant syrupmen were likewise informed that a dry run will be held on August 17, 2000 and its full implementation shall commence on August 21, 2000.⁷ The following day after the dry run, CCBPI issued a Memorandum containing the dumping activity schedule which was sent to and received by the concerned employees, including the complainants.⁸

On August 22, 2000, Line 1 Production Supervisor Jovir Tomanan sent a Memorandum⁹ to the management to report that the complainants refused to comply with CCBPI's order pertaining to the dumping of caps/crown on the ground that the same was not part of their responsibilities.

On the same day, CCBPI immediately sent a Notice to Explain¹⁰ to the complainants, requiring them to explain in writing why no disciplinary action should be imposed against them for violating CCBPI's Code of Disciplinary Rules and Regulation (Code of Discipline). The notice reads as follows:

Please explain in writing within twenty[-]four (24) hours, upon receipt hereof, why no disciplinary action should be imposed against you for violation of Section 22, Rule 003-85-Insubordination or Willful disobedience in complying with, or carrying out reasonable and valid order or instruction of superiors.

As per attached incident report of Mr. Jovir Tomanan you refused to dump resealable caps closures at the cap bin of Line 1 causing stoppage of bottl[ing] operations during the 2nd shift operation of Line 1 on August 21, 2000 based on the schedule of crowns and caps dumping as per memo dated August 18, 2000.¹¹

⁶ Id. at 542.

⁷ Id. at 76.

⁸ *Rollo* (G.R. No. 169967), p. 82.

⁹ *Rollo* (G.R. No. 176205), p. 79.

¹⁰ Id. at 80-81.

¹¹ Id.

^

Section 22, Rule 003-85 of CCBPI's Code of Discipline provides:

Sec. 22. Insubordination or willful disobedience in complying with, or carrying out reasonable and valid order or instructions of superiors, whether committed within a calendar year or not, analogous cases:

First offense	15 days suspension
Second offense	30 days suspension
Third offense	DISCHARGE ¹²

On the same day, the complainants submitted a letter and denied that the stoppage of the bottling operations was attributable to them. They claimed that the same was deliberately stopped by the Bottling Supervisor with the intention of passing the blame to them as a result of their refusal to perform the dumping activity. Also, the letter stated that they will submit the required written explanation after consultation with their counsel.¹³

On August 23, 2000, the complainants did not again perform the dumping activity by refusing to accept the key to the dumping area when the Line 1 Production Supervisor on duty, Edgar M. Reyes, handed it to them.¹⁴ On the same day, CCBPI issued a Notice of Investigation¹⁵ to the complainants for violation of Section 22, Rule 003-85 of CCBPI's Code of Discipline on August 21, 2000.

Meanwhile, on August 24, 2000, the complainants were served a second Notice to Explain¹⁶ for violation of the same Code of Discipline's provision for their failure to perform the dumping activity on August 23, 2000.

On August 24, 2000, the complainants again refused to accept the key to the dumping area and perform the assigned duty to dump caps/crowns. Accordingly, a third Notice to Explain¹⁷ dated August 25, 2000 was served to require them to explain why they should not be held liable for violation of the Code of Discipline. Additionally, the complainants were placed under preventive suspension for 30 days from August 26, 2000 to September 24, 2000 pursuant to Article III, Section 4 of the Collective Bargaining Agreement and Sections 3 and 4 of Rule XIV, Book V of the Implementing Rules and Regulations of the Labor Code. Also, on the same day, CCBPI

¹² *Rollo* (G.R. No. 169967), p. 60.

¹³ *Rollo* (G.R. No. 176205), p. 82.

¹⁴ *Id.* at 85.

¹⁵ *Id.* at 83-84.

¹⁶ *Id.* at 87-88.

¹⁷ *Id.* at 92.

A

issued a second Notice of Investigation¹⁸ against the complainants for their August 23, 2000 violation.

On September 1, 2000, CCBPI issued a Notice of Consolidation of Investigation¹⁹ informing the complainants of the scheduled investigation on September 4, 2000 for their alleged insubordination during the scheduled dumping of cap/crowns on August 21, 23, and 24, 2000. The same, however, was re-scheduled to September 5, 2000 upon the request of the union's counsel and union officer Alfredo Maranon.²⁰

On September 5, 2000, the consolidated investigation for violation of Section 22, Rule 003-85 of the CCBPI's Code of Discipline in relation to Article 282 of the Labor Code on insubordination, willful disobedience, and serious misconduct was conducted. During the investigation, the complainants' counsel opted to submit a joint affidavit in lieu of a question and answer type of investigation.²¹

After review and deliberations, CCBPI issued on September 22, 2000 an Inter-Office Memorandum,²² where it found the complainants guilty of the offenses charged and meted a penalty of dismissal effective on September 25, 2000. Consequently, the complainants filed a Complaint²³ for illegal dismissal where they asked, among others, to be reinstated to their former positions.

On December 14, 2001, the Labor Arbiter (LA) rendered a Decision²⁴ declaring the complainants to have been illegally dismissed after finding CCBPI's order for the reversion of the duty of dumping caps/crown to the assistant syrupmen unreasonable and unlawful. Thus, the LA ruled that the complainants' refusal to perform such additional duty was justified. The dispositive portion reads as follows:

WHEREFORE, foregoing premises considered, judgment is hereby rendered declaring as illegal the termination of the complainants. Respondents [CCBPI], Virgilio Olivarez, Emmanuel L. Cura, Angel Labao, Almedo Lopez and Rustum R. Alejandrino are hereby ordered to cause the immediate actual or payroll reinstatement of the complainants. Further, the named respondents are hereby enjoined to jointly and solidarily pay complainants the total amount of **FOUR HUNDRED FIVE THOUSAND and FORTY[-]THREE PESOS AND 30/100 (P405,043.30)** representing complainants' full backwages. Further,

¹⁸ Id. at 89-90.

¹⁹ Id. at 94-95.

²⁰ Id. at 100-101.

²¹ Id. at 110-113.

²² Id. at 114-121.

²³ Id. at 122-123.

²⁴ Rendered by Executive Labor Arbiter Eduardo J. Carpio; *rollo* (G.R. No. 176074), pp. 279-290.

A

respondents are ordered to pay complainants attorney's fees equivalent to ten [percent] (10%) of the total monetary award.

In the event that reinstatement could no longer be attained, respondents are hereby ordered to pay complainants their separation pay in the total amount of **SIX HUNDRED NINE THOUSAND THREE HUNDRED TWELVE PESOS AND 08/100 (P609,312.08)** in addition to their backwages.

SO ORDERED.²⁵

Aggrieved, CCBPI consequently filed its appeal to the National Labor Relations Commission (NLRC). On June 28, 2002, the NLRC issued a Decision²⁶ reversing the LA's decision. The NLRC declared that the LA encroached on CCBPI's prerogative to conduct its business when it ruled that CCBPI should have just instead regularized its contractual employees who were already carrying out the said task. Further, the NLRC ruled that the LA erred when it considered the three-day refusal of the complainants as one act of insubordination. It ruled that in three occasions, the complainants were found by CCBPI to have violated its Code of Discipline, which clearly merits the penalty of dismissal. However, the NLRC stated that the offense did not involve moral turpitude; thus, it ordered CCBPI to award the complainants separation pay. It disposed, to wit:

WHEREFORE, premises considered, the 14 [December] 2001 [Decision] of Executive [LA] is hereby Reversed and Set Aside and a new one entered Dismissing the instant complaint for lack of merit. Respondents, however, is directed to grant financial assistance to the complainants in the amount equivalent to one-half (1/2) month salary per year of service.

SO ORDERED.²⁷

Both parties moved for the reconsideration²⁸ of the NLRC decision. On October 18, 2004, the NLRC issued a Decision²⁹ denying both motions for reconsiderations but with modification that the complainants be awarded financial assistance of one (1) month salary for every year of service.

WHEREFORE, complainants-appellees' Motion for Reconsideration and respondents-appellants' Motion for Reconsideration are DENIED.

²⁵ Id. at 289-290.

²⁶ Penned by Commissioner Ireneo B. Bernardo, with Presiding Commissioner Lourdes C. Javier and Tito F. Genilo concurring; *rollo* (G.R. No. 169967), pp. 292-307.

²⁷ Id. at 306.

²⁸ Id. at 308-314, 315-349.

²⁹ Id. at 351-363.

1

Accordingly, We AFFIRM our June 28, 2002 decision with the modification that [the complainants] are awarded financial assistance of one (1) month salary for every year of service.

SO ORDERED.³⁰

Unable to agree, both parties filed their respective petitions for *certiorari* under Rule 65 with the Court of Appeals (CA) assailing the decision of the NLRC.³¹

CCBPI's appeal to the CA was docketed as CA-G.R. SP. No. 88026, assigned to the 3rd Division of the CA. CCBPI questioned the decision of the NLRC as to the award of financial assistance in favor of the complainants in the amount of one (1) month pay for every year of service.³²

Meanwhile, the complainants' appeal was docketed as CA-G.R. SP No. 87997, assigned to the CA 17th Division. They claimed that the NLRC erred and committed grave abuse of discretion amounting to lack or in excess of jurisdiction when it reversed the decision of the LA, which was contrary to law and evidence on records. They likewise assailed the decision of the NLRC in denying their claim for damages and litigation costs.³³

Regrettably, these two appeals of the parties were not consolidated in the CA.

CA-G.R. SP. No. 88026

On June 28, 2005, acting on CCBPI's appeal, the CA 3rd Division in CA-G.R. SP. No. 88026 set aside the NLRC decision and reinstated the judgment rendered by the LA.³⁴ Thus, the CA disposed:

WHEREFORE, the Decisions of the NLRC are hereby **SET ASIDE**, and the judgment rendered by the Executive [LA] is **REINSTATED** and **AFFIRMED in all respect**.

SO ORDERED.³⁵

³⁰ Id. at 363.

³¹ Id. at 364-389, 398-421.

³² Id. at 387.

³³ Id. at 419.

³⁴ Penned by Associate Justice Eugenio S. Labitoria, with Associate Justices Eliezer R. Delos Santos and Arturo D. Brion concurring; id. at 424-437.

³⁵ Id. at 437.

The CA 3rd Division ruled that the punishment of dismissal for a first-time offense was too harsh citing CCBPI's Code of Discipline where it was stated that the penalty for first time offense is only for 15 days of suspension. It also ruled that the behavior of the complainants did not constitute the "wrongful and perverse attitude" that merited dismissal considering that the surrounding circumstances indicate that they were only motivated by their honest belief that the dumping activity was not among their official duties and responsibilities. CCBPI filed a Motion for Reconsideration (MR)³⁶ but the same was denied by the CA in a Resolution³⁷ dated September 21, 2005.

Hence, CCBPI went up to this Court assailing said decision of the CA 3rd Division in CA-G.R. SP. No. 88026. This was docketed as G.R. No. 169967.

CA-G.R. SP No. 87997

With respect to the complainants' appeal, the CA 17th Division in CA-G.R. SP No. 87997 rendered a Decision³⁸ on August 31, 2006, annulling and setting aside the NLRC's decision and reinstating the LA's decision. It, however, modified the same by deleting the award of backwages and, instead, ordered CCBPI to pay the complainants separation pay. The dispositive portion of which reads as follows:

WHEREFORE, the assailed decision of public respondent NLRC is **ANNULLED** and **SET ASIDE**. The [LA's] Decision is **REINSTATED** but **MODIFIED** by the deletion of the award of backwages and in its stead, private respondent [CCBPI] is **ORDERED** to pay [the complainants] separation pay, for the reasons earlier stated.

SO ORDERED.³⁹

The CA 17th Division conceded that CCBPI was merely exercising a valid management prerogative in requiring the complainants to perform the disputed additional task. However, the penalty of dismissal was too harsh under the circumstances. The CA found tenable the complainants' argument that the insubordination committed by them merely constituted a single violation which warranted the penalty of only 15 days suspension following the schedule of penalties provided for in Section 22 of the Code of Discipline.

³⁶ Id. at 440-453.

³⁷ Id. at 456-458.

³⁸ Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Rebecca De Guia-Salvador and Ramon R. Garcia concurring; *rollo* (G.R. No. 176275), pp. 539-552.

³⁹ Id. at 551.

A

From this decision of the CA 17th Division in CA-G.R. SP. Nos. 87997, CCBPI filed a petition for review with this Court, docketed as G.R. No. 176205. The complainants, likewise, filed their own petition for review, docketed as G.R. No. 176074.⁴⁰

On March 28, 2007, this Court issued a Resolution⁴¹ consolidating the three petitions.

The Issues

The following are the assigned errors of the CA:

In G.R. No. 169967:

I. THE CA SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN REVERSING AND SETTING ASIDE THE DECISIONS OF THE NLRC AND IN REINSTATING THE DECISION OF THE LA NOTWITHSTANDING THE FACT THAT THE PETITION FOR *CERTIORARI* DID NOT OPEN THE WHOLE CASE FOR REVIEW AS THE SAME WAS LIMITED [sic] A DETERMINATION OF THE PROPRIETY OF THE AWARD OF FINANCIAL ASSISTANCE OF ONE (1) MONTH SALARY FOR EVERY YEAR OF SERVICE IN FAVOR OF THE COMPLAINANTS DESPITE THE FINDING THAT THE DISMISSAL WAS VALID AND LEGAL.

II. THE CA SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN REVERSING AND SETTING ASIDE THE DECISIONS OF THE NLRC AND REINSTATING THE DECISION OF THE LA NOTWITHSTANDING THE FACT THAT THE NLRC CORRECTLY RULED THAT THE COMPLAINANTS' CONTINUING INSUBORDINATION OF THE LAWFUL ORDERS OF THE COMPANY WARRANT THE PENALTY OF DISMISSAL FROM SERVICE UNDER SECTION 22, RULE 003-85 OF THE CODE OF DISCIPLINE.

III. THE CA SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS IN JURISDICTION IN DISMISSING THE PETITION FOR *CERTIORARI* NOTWITHSTANDING THE

⁴⁰ *Rollo* (G.R. No. 176074), pp. 10-36.

⁴¹ *Rollo* (G.R. No. 176205), p. 604.

A

FACT THAT THE AWARD OF FINANCIAL ASSISTANCE EQUIVALENT TO ONE (1) MONTH PAY FOR EVERY YEAR OF SERVICE IN FAVOR OF THE COMPLAINANTS HAS NO BASIS IN FACT OR IN LAW.⁴²

In G.R. No. 176074:

I. THE HONORABLE CA 17TH DIVISION SERIOUSLY ERRED IN METING THE PENALTY OF DISMISSAL TO THE COMPLAINANTS, DESPITE ITS CLEAR FINDING THAT THEY HAVE COMMITTED ONLY A SINGLE ACT OF INSUBORDINATION WHICH MERELY WARRANTS THE PENALTY OF SUSPENSION FOR A PERIOD OF 15 DAYS, CONTRARY TO LAW AND COMPANY RULES AND REGULATIONS.

II. THE HONORABLE CA SERIOUSLY ERRED IN FAILING TO RESOLVE THE COMPLAINANTS' CLAIM FOR DAMAGES, AND LITIGATION COSTS.⁴³

In G.R. No. 176205:

I. THE QUESTIONED DECISION AND RESOLUTION OF THE CA SHOULD BE REVERSED AND SET ASIDE CONSIDERING THAT THE AWARD OF SEPARATION PAY IN FAVOR OF THE COMPLAINANTS IS CONTRARY TO LAW AND PREVAILING JURISPRUDENCE.⁴⁴

Ruling of the Court

The CA is empowered to review rulings even if they were not assigned as errors in the appeal.

Before this Court proceeds in deciding the case, it is imperative to resolve first the procedural issue raised by CCBPI, wherein it argued that the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled on the legality of the complainants' termination despite the fact that the only issue raised on appeal pertains to the monetary judgment rendered by the NLRC. To support their argument, CCBPI relies

⁴² *Rollo* (G.R. No. 169967), pp. 23-24.

⁴³ *Rollo* (G.R. No. 176074), p. 23.

⁴⁴ *Rollo* (G.R. No. 176205), p. 36.

A

upon the sound procedural precept that only errors specifically assigned may be considered on appeal.

Undoubtedly, Section 8 of Rule 51 of the Revised Rules of Court recognizes the expansive discretionary power of the CA to consider errors not assigned on appeal. It provides:

Sec. 8. Questions that may be decided. – No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered, unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

Thus, an appellate court is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal in these instances: (a) grounds not assigned as errors but affecting jurisdiction over the subject matter; (b) matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; (c) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice; (d) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; (e) matters not assigned as errors on appeal but closely related to an error assigned; and (f) matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.⁴⁵

The instant case falls squarely under the third exception. Since CCBPI appealed the matter of financial assistance which was based on the termination of the complainants, the legality of their termination was therefore open to further evaluation.

Indeed, in the spirit of liberality infused in the Rules, the appellate court may overlook the lack of proper assignment of errors and consider errors not assigned in the appeal.⁴⁶

The complainants' refusal to perform the additional duties of dumping caps/crowns is a single continuous act which constitutes

⁴⁵ *Buñing v. Santos*, 533 Phil. 610, 615-616 (2006).

⁴⁶ *Dee Hwa Liong Electronics Corporation (DEECO) and/or Dee v. Pasiona*, 562 Phil. 451, 456 (2007).

1

**only a single offense of
insubordination**

This Court is not unmindful that in a petition under Rule 45 of the Rules of Court, only questions of law, not of fact, may be raised.⁴⁷ Where the findings of the NLRC contradict those of the LA, however, this Court, in the exercise of equity jurisdiction, may look into the records of the case and re-examine the questioned findings.⁴⁸

In the instant case, the Court is constrained to re-examine the factual findings of both the LA and the CA, and that of the NLRC since they have different appreciations of the facts of the case.

CCBPI argues that since the complainants deliberately refused to perform their additional assigned task of dumping caps/crowns on three (3) different occasions: August 21, August 23, and August 24, 2000, they have already committed three (3) offenses of insubordination which warrants a penalty of dismissal from service pursuant to Section 22, Rule 003-85 of CCBPI's Code of Discipline.⁴⁹

The argument is without merit.

The CA correctly ruled that the failure of the complainants to perform their additional assigned task on three (3) separate instances constitutes merely a single offense. The Court quotes:

We take notice of the company's efforts to comply with the two-notice requirement that would otherwise validate a dismissal from employment by its act of serving upon [the complainants] three (3) notices requiring them to explain the commission of three (3) alleged acts of insubordination committed on three (3) separate dates. But bearing in mind the constitutionally enshrined mandate to afford protection to labor, **this Court finds that the refusal of [the complainants] to abide by the schedule of dumping caps/crowns on separate dates constitutes only a single continued defiance of the company's lawful order.** The circumstances in this case show that although [the complainants] refused to carry out the task on three separate dates, it must be noted that what they were, in fact, rejecting was the new activity which they truly believed was not part of their job description.⁵⁰ (Emphasis ours)

⁴⁷ *Land Bank of the Philippines v. Spouses Chico*, 600 Phil. 272, 285 (2009).

⁴⁸ *Abel v. Philex Mining Corporation*, 612 Phil. 203, 213 (2009).

⁴⁹ *Rollo* (G.R. No. 169967), p. 60.

⁵⁰ *Rollo* (G.R. No. 176205), p. 548.

A

Moreover, the records of the case clearly show that what the complainants opposed was the implementation of the additional task of dumping caps/crowns given to the assistant syrupmen and not the schedule of the dumping activity. As it is, their continuous refusal to perform such additional task merely translates to one single offense, *i.e.* the performance of the dumping activity. This is even supported by the fact that the complainants did not even attempt to perform the dumping activity since the start of its implementation.

CCBPI's termination of the complainants for insubordination is illegal.

In *Bascon v. CA*,⁵¹ this Court outlines the elements of gross insubordination as follows:

As regards the appellate court's finding that petitioners were justly terminated for gross insubordination or willful disobedience, Article 282 of the Labor Code provides in part:

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.

However, willful disobedience of the employer's lawful orders, as a just cause for dismissal of an employee, envisages the concurrence of at least two requisites: **(1) the employee's assailed conduct must have been willful, that is, characterized by a wrongful and perverse attitude; and (2) the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.**⁵² (Emphasis ours)

In the present case, CCBPI argues that the position description of the assistant syrupmen requires the complainants to "perform other related tasks and duties that may be assigned by the Production Supervisor." Moreover, CCBPI contends that they have been considerate in taking time to discuss the re-alignment of activities with all syrup room personnel prior to its implementation.

The Court, however, finds CCBPI's contention untenable.

⁵¹ 466 Phil. 719 (2004).

⁵² *Id.* at 730.

1

On the first requisite, an examination of the position description for the assistant syrupmen clearly indicates that the additional tasks and duties allowed to be given to the employees are limited to the performance of activities related to the responsibilities of assistant syrupmen. In the present case, the other duties and responsibilities of the assistant syrupmen, which CCBPI did not controvert, refer to syrup preparation, tanks sanitation, batching of syrup, slow pouring of concentrates, maintenance of the plain and flavored syrup room, withdrawal of concentrates, and any work/job inside the plain and flavored syrup room.⁵³ Clearly, these additional responsibilities mainly refer to works related to the syrup preparation and not to dumping caps/crowns.

The second requisite is also lacking in the present case. The refusal of the complainants was not without basis. According to them, their apprehensions to perform the additional task were based on their legitimate fear of handling two equally critical and sensitive positions. Apparently, their behavior did not constitute the wrongful and perverse attitude that would sanction their dismissal. The surrounding circumstances indicate that the complainants were motivated by their honest belief that the Memorandum was indeed unlawful and unreasonable.

In sum, the Court agrees that the complainants were indeed bound to obey the lawful orders of CCBPI, but only as long as these pertain to the duties as indicated in their position description. The order to perform the additional task of dumping caps/crowns, however, while being lawful, is not part of their duties as assistant syrupmen.

In *Zagala v. Mikado Philippines Corporation*,⁵⁴ the Court ruled that: “[w]hile the power to dismiss is a formal prerogative of the employer, this is without limitations. The employer is bound to exercise caution in terminating the services of his employees, and dismissals must not be arbitrary and capricious. Due process must be observed and employers should respect and protect the rights of their employees which include the right to labor. Indeed, to effect a valid dismissal, the law requires not only that there be just and valid cause; it must also be supported by clear and convincing evidence.”⁵⁵

At any rate, dismissal was too harsh a penalty for the omission imputed to them. Considering that CCBPI’s own rules provide for a progression of disciplinary measures to be meted out on erring employees, there is no showing that CCBPI imposed on the complainants the lesser penalties first, before imposing on them the extreme penalty of termination from employment. Also, this Court observes that the complainants had been

⁵³ *Rollo* (G.R. No. 176074), pp. 542-543.

⁵⁴ 534 Phil. 711 (2006).

⁵⁵ *Id.* at 721-722.

1

in the service of CCBPI for the past 20 years and nowhere in the records does it appear that they committed any previous infractions of company rules and regulations.

Considering that the complainants were illegally terminated, they are entitled to backwages and separation pay.

An employee who is illegally dismissed is entitled to the twin reliefs of full backwages and reinstatement. If reinstatement is not viable, separation pay is awarded to the employee. In awarding separation pay to an illegally dismissed employee, in lieu of reinstatement, the amount to be awarded shall be equivalent to one month salary for every year of service. Under Republic Act No. 6715, employees who are illegally dismissed are entitled to full backwages, inclusive of allowances and other benefits or their monetary equivalent, computed from the time their actual compensation was withheld from them up to the time of their actual reinstatement but if reinstatement is no longer possible, the backwages shall be computed from the time of their illegal termination up to the finality of the decision.⁵⁶

In the present case, the NLRC found that actual animosity existed between the complainants and CCBPI as a result of the filing of the illegal dismissal case. Such finding, especially when affirmed by the appellate court as in the case at bar, is binding upon the Court, consistent with the prevailing rules that this Court will not try facts anew and that findings of facts of quasi-judicial bodies are accorded great respect, even finality. Clearly then, the complainants are entitled to backwages *and* separation pay as their reinstatement has been rendered impossible due to strained relations.

The complainants are not entitled to damages.

In *Audion Electric Co., Inc. v. NLRC*,⁵⁷ the Court held that moral and exemplary damages are recoverable only where the dismissal of an employee was attended by bad faith or fraud, or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy.⁵⁸

A dismissal may be contrary to law but by itself alone; it does not establish bad faith to entitle the dismissed employee to moral damages. The award of moral and exemplary damages cannot be justified solely upon the

⁵⁶ *General Milling Corp. v. Casio, et al.*, 629 Phil. 12, 38 (2010).

⁵⁷ 367 Phil. 620 (1999).

⁵⁸ *Id.* at 635.

1

premise that the employer dismissed his employee without authorized cause and due process. The person claiming moral damages must prove the existence of bad faith by clear and convincing evidence for the law always presume good faith.⁵⁹

After a careful review of the case, however, the Court finds that the complainants failed to present clear and convincing evidence to show that their termination had been carried out in an arbitrary, capricious and malicious manner. As such, the awards of moral and exemplary damages are not warranted.

The award of attorney's fees is proper under the circumstances.

With respect to the award of attorney's fees, the Court finds the same proper given the circumstances prevailing in the instant case, as well as the fact that the complainants have been forced to litigate from the LA to the NLRC, in the CA and all the way up to this Court in order to seek redress of their grievances.

In *San Miguel Corporation v. Aballa*,⁶⁰ this Court held that in actions for recovery of wages or where an employee was forced to litigate and, thus, incur expenses to protect his rights and interests, a maximum of 10% of the total monetary award by way of attorney's fees is justifiable under Article 111 of the Labor Code, Section 8, Rule VIII, Book III of its Implementing Rules, and paragraph 7, Article 2208 of the Civil Code.⁶¹

Finally, legal interest shall be imposed on the monetary awards herein granted at the rate of six percent (6%) *per annum* from September 26, 2000 (date of termination) until fully paid.⁶²

WHEREFORE, premises considered, the consolidated petitions are hereby **DENIED**. The Decision dated December 14, 2001 of the Executive Labor Arbiter is **REINSTATED and AFFIRMED in all respect**. Coca-Cola Bottlers Philippines, Inc. is further **ORDERED to PAY** attorney's fees in the amount of ten percent (10%) of the total monetary award; and that legal interest shall be imposed on the monetary award at the rate of six percent (6%) *per annum* from September 26, 2000 (date of termination) until fully paid.

⁵⁹ *Manila Water Company, Inc. v. Pena*, 478 Phil. 68, 84 (2004).

⁶⁰ 500 Phil. 170 (2005).

⁶¹ *Id.* at 210.

⁶² *Nacar v. Gallery Frames, et al.*, 716 Phil. 267 (2013).

1

SO ORDERED.



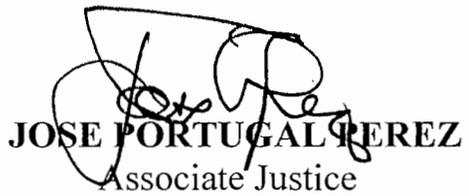
BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

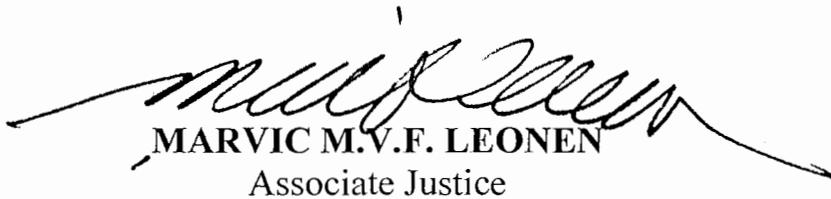


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

(On official leave)
DIOSDADO M. PERALTA
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

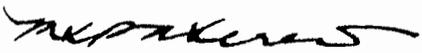
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

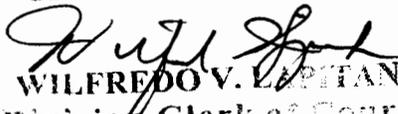


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision 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

CERTIFIED TRUE COPY

WILFREDO V. LAPID
Division Clerk of Court
Third Division
JAN 17 2017

1

