Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

METRO PSYCHIATRY, INC., Petitioner,	**G.R. No. 245258**
	Present:
- versus -	PERLAS-BERNABE, *J.*, *Chairperson*, REYES, A., JR., HERNANDO,* INTING, and DELOS SANTOS, *JJ.*
BERNIE J. LLORENTE, Respondent.	Promulgated: 05 FEB 2020

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DECISION

REYES, A., JR., *J.*:

This is a Petition for Review on *Certiorari*[1] filed by petitioner Metro Psychiatry, Inc. (MPI) assailing the Decision[2] dated October 16, 2018 and the Resolution[3] dated February 12, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 153723, which reversed the Decision[4] dated August 23, 2017 of the National Labor Relations Commission (NLRC) and Decision[5] dated April 28, 2017 of the Labor Arbiter (LA).

The Antecedent Facts

The respondent, Bernie Llorente (Llorente), was hired in November 2007 as a nursing attendant at MPI, a domestic corporation engaged in full service psychiatric care and rehabilitation services of its patients.[6]

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* On official leave.

1 *Rollo*, pp. 3-23.

2 Penned by Associate Justice Stephen C. Cruz with Associate Justices Zenaida T. Galapate-Laguilles and Geraldine C. Fiel-Macaraig, concurring; id. at 31-45.

3 Id. at 47-48.

4 Penned by Commissioner Cecilio Alejandro C. Villanueva with Presiding Commissioner Alex A. Lopez and Commissioner Pablo C. Espiritu, Jr., concurring; id. at 334-360.

5 Penned by Labor Arbiter Reynante L. San Gaspar; id. at 253-273.

6 Id. at 3.

On June 22, 2016, Llorente was served with a Memorandum[7] by MPI requiring him to explain why no disciplinary action should be taken against him for continuously refusing to perform certain tasks assigned to him by his immediate supervisor. In his Explanation Letter, (in Filipino), Llorente bewailed how he was being treated by MPI.[8]

On July 9, 2016, MPI served Llorente with another Memorandum,[9] this time, for:

a. for falsely reporting to the parents of one patient that the latter was being maltreated in the hospital; and

b. for failing to comply with the assistant nursing attendant head's instruction to clean the facility and to attend endorsement meetings.[10]

Per the Memorandum,[11] the mother of a patient named David Warren Tan (Tan) appeared at MPI's facility on March 17, 2016, demanding to see her son because earlier that day, she received a text message from someone who claimed to be a former staff of MPI, stating that Tan was being subjected to physical assault by the members of the clinic staff. However, upon checking Tan, no sign of physical injury was found on him. Consequently, Tan's mother called the informant *via* speaker phone, and as she did, Nurse Garry Dumalanta and Nurse John Paul Manawat (Nurses Dumalanta and Manawat) recognized Llorente's voice on the other end. When the management reviewed the closed circuit television (CCTV) footage on the said date, Llorente was seen flipping through patients' charts and copying information, which he placed inside his pocket. MPI then issued the Memorandum requiring Llorente to explain his side. He was also placed on preventive suspension.[12]

Through an Explanation Letter (in Filipino)[13] dated July 9, 2016, Llorente denied contacting Tan's mother and alleged that he was merely copying the vital signs of patients for endorsement. Llorente also claimed that the allegations of him not attending endorsement meetings were untrue. As for his failure to comply with the instruction to clean the facility, he explained that it was not his job to do housekeeping because he is a nursing attendant.[14]

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7 Id. at 109.
8 Id. at 111-113.
9 Id. at 114-115.
10 Id.
11 Id. at 114.
12 Id.
13 Id. at 116-118.
14 Id. at 117.

On September 5, 2016, Llorente received a Notice of Termination[15] informing him of his dismissal from employment for loss of trust and confidence and willful disobedience.[16] This prompted Llorente to file a complaint for constructive dismissal against MPI. He posited that because of a previous labor case, MPI subjected him to harassment and discriminatory acts such as: reducing his work days, assigning him to refill water and to clean the facility, and accusing him of calling Tan's parents, among others.[17]

MPI counteracted that Llorente raised immaterial matters in an attempt to absolve himself from his misdeeds.[18] They alleged that on February 26, 2010, Llorente was caught sleeping on duty and went on absence without official leave on March 4, 2012.[19] He was also reported to be discourteous and disrespectful to patients. Additionally, he was given notices to explain his tardiness on September 16, 2012 and November 24, 2012.[20] Finally, MPI was compelled to terminate the employment of Llorente for maliciously relaying false information to Tan's relatives.[21]

The Ruling of the LA

On April 28, 2017, the LA rendered a Decision[22] dismissing the complaint, *viz.*:

> WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the instant complaint for lack of merit.
>
> SO ORDERED.[23]

The LA clarified that Llorente did not resign but was actually terminated from employment. Hence, his dismissal was not constructive.[24] The LA found that Llorente's allegations were belied by his own evidence because several employees, other than Llorente, were also assigned to perform tasks such as refilling water and cleaning the facility. Furthermore, the work schedule was distributed among them.[25] Therefore, the LA rejected Llorente's claim of harassment and discrimination.

With regard to Llorente's actual dismissal from work, the LA ruled that there was substantial evidence proving that Llorente maliciously

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15 Id. at 119-120.
16 Id. at 119.
17 Id. at 137-138.
18 Id. at 128.
19 Id. at 80.
20 Id. at 80-81.
21 Id. at 81.
22 Id. at 253-273.
23 Id. at 273.
24 Id. at 270.
25 Id.

reported the alleged physical abuse to Tan's parents. Also, the LA concluded that Llorente had no valid excuse for his disobedience since other nursing attendants perform the duties he refused to do.[26] Thus, the LA upheld Llorente's termination from work.

The Ruling of the NLRC

On August 23, 2017, the NLRC affirmed the LA ruling with modification. In its Decision,[27] NLRC agreed with the LA as regards the validity of Llorente's dismissal. However, the NLRC awarded salary differential, service incentive leave, holiday pay, and pay for additional work days rendered by Llorente based on the evidence that the parties submitted, thus:

> WHEREFORE, premises considered, the instant Appeal is hereby PARTIALLY GRANTED and the assailed Decision by the Labor Arbiter Reynante L. San Gaspar dated 28 April 2017 is hereby MODIFIED in that the respondent METRO PSYCHIATRY, INC. is liable to pay the complainant the following:
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> a) unpaid salary for six (6) days in the amount of Php2,886.00;
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> b) service incentive leave in the amount of Php20,817.28;
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> c) salary differential with double indemnity pursuant to R.A. 6727, as amended by R.A. 8188 in the amount of Php131.20; and, (sic)
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> d) two holiday pay in the amount of Php962.00.
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> SO ORDERED.[28]

The Ruling of the CA

The CA, in a Decision[29] dated October 16, 2018, overturned the ruling of the NLRC and the LA, holding that the evidence presented by MPI against Llorente were inadequate to cause his termination from employment. According to the CA, MPI failed to substantiate their claim that it was Llorente who falsely alerted Tan's family about his alleged physical abuse because it relied entirely on the handwritten statements of witnesses, Nurses Dumalanta and Manawat.[30] While the CA found Llorente's actions in the

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26 Id. at 271.
27 Id. at 334-360.
28 Id. at 359- 360.
29 Id. at 31-45.
30 Id. at 40-41.

CCTV footage suspicious, the CA concluded that the same was not completely untoward since he is a nursing attendant.[31]

As for Llorente's refusal to obey the orders of his superior, the CA deemed the penalty of termination harsh as he should have been subjected to a simple reprimand only.[32] Accordingly, the CA disposed of the case in this wise:

> WHEREFORE, premises considered, the instant petition is PARTIALLY GRANTED. Accordingly, the assailed Decision and Resolution of the National Labor Relations Commission dated August 23, 2017 and September 29, 2017, respectively, are hereby MODIFIED to include the payment of full backwages and separation pay from the date of dismissal until the finality of the decision plus 10% attorney's fees and the requisite 6% legal interest of the entire judgment award from the finality thereof until full satisfaction.
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> SO ORDERED.[33]

The petitioner's motion for reconsideration was denied in a Resolution[34] dated February 12, 2019 by the CA.

Issue

Whether the CA erred in holding that Llorente was illegally dismissed from employment, in effect, reversing the findings and conclusion of the LA and the NLRC.

The Ruling of the Court

The petition is meritorious.

"As a general rule, a petition for review under Rule 45 of the Rules of Court covers *only* questions of law. Questions of fact are not reviewable and cannot be passed upon by the Court in the exercise of its power to review under Rule 45."[35] Nevertheless, this rule admits of certain exceptions, such as:

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31 Id. at 41.
32 Id. at 42.
33 Id. at 44.
34 Id. at 47-48.
35 *Gumabon v. Philippine National Bank*, 791 Phil. 101, 116 (2016).

1. when the findings are grounded entirely on speculations, surmises or conjectures;

2. when the inference made is manifestly mistaken, absurd or impossible;

3. when there is grave abuse of discretion;

4. when the judgment is based on a misapprehension of facts;

5. when the findings of fact are conflicting;

6. when in making its findings[,] the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;

7. when the findings are contrary to that of the trial court;

8. when the findings are conclusions without citation of specific evidence on which they are based;

9. when the facts set forth in the petition[,] as well as in the petitioner's main and reply briefs[,] are not disputed by the respondent;'

10. when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; [and]

11. when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[36]

The present case falls under one of the exceptions since the factual findings and conclusion of the labor tribunals are diametrically opposed with those of the CA. Hence, the Court is constrained to re-examine the facts and evidence on record.

It appears that the CA overlooked that "the quantum of proof required in determining the legality of an employee's dismissal is only substantial evidence,"[37] which is "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."[38]

In the present case, aside from the CCTV footage where Llorente was seen copying from the records and pocketing the paper where he wrote the information, Nurses Dumalanta and Manawat submitted their written statements avowing that they recognized Llorente's voice on the speaker phone as the latter talked to Tan's mother.[39] It was not shown that Nurses

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36 *Reyes v. Global Beer Below Zero, Inc.*, 819 Phil. 483, 494 (2017).
37 *PLDT Company, Inc. v. Tiamson*, 511 Phil. 384, 395 (2005).
38 *Doctor v. NII Enterprises*, G.R. No. 194001, November 22, 2017, 846 SCRA 53, 66.
39 *Rollo*, pp.105-107.

Dumalanta and Manawat were impelled by ill-motive to give their statements against Llorente. Besides, the CCTV footage where Llorente was seen acting in a suspicious manner was recorded on March 17, 2016 – the same day that Tan's mother received the message about her son. These circumstances constitute substantial evidence of Llorente's wrongdoing.

Even though Llorente refuted the accusation against him, he never alleged that *copying* information from the records for endorsement is something that is regularly done at MPI by nursing attendants as part of their functions. Worse, he hid the piece of paper where he copied the information inside his pocket. On the other hand, MPI was categorical in stating that no employee is allowed to get hold of a patient's personal information.[40] The CA justified Llorente's act as not completely untoward because as a nursing attendant, Llorente has access to a patient's records at the hospital.[41] However, the CA missed a crucial detail: *having access to a patient's information is different from copying such information and pocketing the same*. Unsurprisingly, the incident involving Tan occurred after Llorente's questionable act. Coupled with the statements from Nurses Dumalanta and Manawat, Llorente's connection to the incident catapulted from a mere speculation to reasonable certainty.

While the CA entertained doubts as to the identity of the person who contacted Tan's parents, the Court reiterates that "as opposed to the 'proof beyond reasonable doubt' standard of evidence required in criminal cases, labor suits require only substantial evidence to prove the validity of the dismissal."[42] "The standard of substantial evidence is satisfied where the employer has reasonable ground to believe that the employee is responsible for the misconduct and his participation therein renders him unworthy of the trust and confidence demanded by his position."[43] It would be unfair for MPI to continue to engage Llorente as a nursing attendant despite the presence of substantial evidence of his wrongful act, which amounts to serious misconduct.

"Misconduct is defined as the 'transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment."[44] For misconduct to be a just cause for dismissal, the following requisites must concur: "(a) the misconduct must be serious; (b) it must relate to the performance of the employee's duties showing that the employee has

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40 Id. at 114.
41 Id. at 41.
42 *Paulino v. NLRC,* 687 Phil. 220, 225-226 (2012).
43 *Ting Trucking/Mary Violaine A. Ting v. Makilan*, 787 Phil. 651, 663 (2016).
44 *Sy v. Neat, Inc.*, G.R. No. 213748, November 27, 2017, 846 SCRA 612, 633.

become unfit to continue working for the employer; and (c) it must have been performed with wrongful intent."[45]

Llorente's actuations of copying a patient's personal information and using it to malign MPI by relaying a false narrative are indicative of his wrongful intent. His actions comprise serious misconduct because as a nursing attendant, he has access to private and confidential information of MPI's patients, but he did not only illicitly copy the personal information of a patient of MPI, he also used the information to fulfill a deceitful purpose. The unauthorized use of a patient's personal information destroys a medical facility's reputation in the industry and in this case, could have even exposed MPI to a lawsuit. Thus, MPI is justified in terminating the employment of Llorente.

Concerning the charge of willful disobedience or insubordination, Llorente's refusal to heed the directives of the nursing attendant head, by itself, is insufficient to warrant his termination from employment. For dismissal to be valid under this ground, the following must be present: (a) there must be disobedience or insubordination; (b) the disobedience or insubordination must be willful or intentional characterized by a wrongful or perverse attitude; (c) the order violated must be reasonable, lawful, and made known to the employee; and (d) the order must pertain to the duties which he has been engaged to discharge.[46]

Here, it cannot be said that the penalty of dismissal is commensurate to Llorente's act of disobedience. However, viewed with the charge of serious misconduct, termination is justified under the circumstances. The records of the case are also replete with evidence of Llorente's past infractions, which the Court deemed no longer necessary to discuss, as these were not included by MPI in the Memorandum and the Notice of Termination served to Llorente. Nonetheless, these are indicative of Llorente's unbecoming behavior at work and wanton disregard of his employment with MPI.

WHEREFORE, the Petition is **GRANTED**. The Decision dated October 16, 2018 and Resolution dated February 12, 2019 of the Court of Appeals in CA-G.R. SP No. 153723 are hereby **REVERSED** and **SET ASIDE**. The Decision dated August 23, 2017 of the National Labor and Relations Commission is **REINSTATED**.

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45 *Sterling Paper Products Enterprises, Inc., v. KMM-Katipunan,* 815 Phil. 425, 436 (2017).

46 Department of Labor and Employment, Department Order No. 147-15, Series of 2015.

SO ORDERED.

ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

(On official leave)
RAMON PAUL L. HERNANDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

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.

DIOSDADO M. PERALTA
Chief Justice