Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

UNIVERSAL CANNING INC., MS. MA. LOURDES A. LOSARIA, Personnel Officer, and ENGR. ROGELIO A. DESOSA, Plant Manager, **Petitioners,**	**G.R. No. 215047**
	Present:
	VELASCO, JR., *J.*, Chairperson, PERALTA,* PEREZ, REYES, and JARDELEZA, *JJ.*
- versus -	
COURT OF APPEALS and DANTE SAROSAL, FRANCISCO DUMAGAL, JR., NELSON E. FRANCISCO, ELMER C. SAROMINES and SAMUEL D. CORONEL, **Respondents.**	Promulgated: **November 23, 2016**

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DECISION

PEREZ, *J.*:

For resolution by the Court is this instant Petition for Review on *Certiorari*[1] filed by petitioners Universal Canning Inc., Ma. Lourdes Losaria and Engr. Rogelio A. Desosa, seeking to reverse and set aside the Decision[2] dated 13 December 2013 and the Resolution[3] dated 9 September 2014 of the Court of Appeals in CA-G.R. SP. No. 03808-MIN. The assailed decision and resolution reversed the ruling of the National Labor Relations

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* On Wellness Leave.
1 *Rollo*, pp. 2-14.
2 Penned by Justice Renato C. Francisco with Associate Justices Romulo V. Borja and Oscar V. Badelles concurring; id. at 41-53.
3 Id. at 55-58.

Commission (NLRC) in NLRC Case No. MAC-09-011031-2009 and declared the dismissal of respondents Dante M. Sarosal, Francisco Dumagal. Jr., Nelson E. Francisco, Elmer C. Saromines and Samuel D. Coronel, as illegal.

The Facts

Petitioner Universal Canning Inc. is a domestic corporation duly authorized to engage in business by Philippine laws. Petitioners Ma. Lourdes A. Losaria and Engr. Rogelio Desosa are respectively employed by the company as its Personnel Officer and Plant Manager.[4]

Respondents Dante M. Sarosal, Francisco Dumagal. Jr., Nelson E. Francisco, Elmer C. Saromines and Samuel D. Coronel were employed by petitioner Universal Canning on various capacities with wages ranging from ₱240.00 to ₱280.00 a day.[5]

On 21 January 2009, respondents were caught by petitioner company's Purchasing Officer, Falconieri Almazan, playing cards at the company's premises during working hours. The incident was immediately reported by Almazan to the Personnel Officer, Ma. Lourdes Losaria, who immediately conducted an investigation to determine the names and of those who were involved in the gambling activities. On the same day, respondents were placed under preventive investigation pending further investigation by a panel indicated in a memorandum addressed to and duly received by the individuals concerned. Under the same memorandum, respondents were required by the petitioner to file their written explanation of the incident. Respondents complied with the directive.[6]

In their letter-explanation dated 23 January 2009, respondents denied that they were involved in gambling activities within the company's premises during work hours. It was argued by the respondents that while indeed they were playing cards inside the company premises, it cannot be considered gambling as there was no money involved and that it took place during noon break.[7]

On 9 February 2009, the investigation was conducted where respondents were questioned regarding their participation in the 21 January 2009 activities inside the company's premises. After the inquiry, the Investigating Officer found that respondents were playing cards during

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4 CA Decision; id. at 42.
5 Id.
6 Id. at 42-43.
7 NLRC Decision; id. at 24-25.

working hours which is considered an infraction of the company's rules and regulations.[8]

On the basis of the Investigation Report, respondents were dismissed from employment through a notice thereof dated 19 February 2016 which enumerated the grounds: (1) taking part in a betting, gambling or any unauthorized game of chance inside the company premises while on duty; and (2) for loss of trust and confidence. The termination of respondents was reported by the petitioner to the Department of Labor of Employment (DOLE) on 24 February 2009.

Aggrieved by the turn of events, respondents initiated an action for illegal dismissal, illegal suspension, payment of separation pay, rest day pay and moral and exemplary damages before the Labor Arbiter. In their Position Paper, respondents argued that their severance from employment is unlawful because of lack of sufficient basis for their termination. They reiterated their position in their letter-explanation that they could not be considered guilty of gambling because there were no stakes involved and the activity took place during authorized noon break.

For lack of merit, the Labor Arbiter dismissed the complaint in a Decision[9] dated 24 August 2009. The Labor Arbiter held that respondents were dismissed for just cause and after compliance with due process. The dispositive portion of the Decision reads:

> WHEREFORE, the above-entitled case is hereby dismissed for lack of merit.
>
> SO ORDERED.[10]

On appeal, the NLRC affirmed the dismissal of respondents' complaint. It was declared by the Commission that "playing cards during office hours whether for a stake or fun is considered a dishonest act of stealing company time. The company's working hours could be used for more profitable activities since they are paid by the company." Setting aside the claim of respondents that their length of service should be considered a mitigating circumstance, the NLRC held that "the fact that [respondents] have been employed by the company for a long period of time could not work in their favor. Their attitude towards their work is smocked (sic) with disloyalty, lack of concern and enthusiasm."[11]

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8 CA Decision; id. at 43.
9 Id. at 21-28.
10 Id. at 28.
11 Id. at 30-36.

On *Certiorari*, the Court of Appeals reversed and set aside the NLRC Decision on the ground that it was rendered with grave abuse of discretion amounting to lack or excess in jurisdiction. According to the appellate court, there exists no just cause to dismiss respondents from employment. As rank and file employees, respondents could not be dismissed for lack of trust and confidence as they were not holding positions imbued with trust and confidence.[12] The Court of Appeals disposed in this wise:

> THE FOREGOING CONSIDERED, the instant PETITION is thus GRANTED. The NLRC's Resolution dated December 29, 2009 and June 29, 2010 are hereby REVERSED AND SET ASIDE, and a new entered mandating UCI to:
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> 1. Pay each [respondents] their respective full backwages, inclusive of allowances and other benefits required by law or their monetary equivalent computed from the time they were actually dismissed effective February 20, 2009 until the finality of this decision; and
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> 2. To reinstate [respondents] without loss of seniority rights and other privileges, or if reinstatement is not possible, to pay each of the petitioners their respective separation pay equivalent to one month to every year of service, computed from the date of employment up to the finality of the decision. A fraction of at least six (6) months shall be considered one (1) whole year. Any fraction below six (6) months shall be paid *pro rata.*
>
> SO ORDERED.

In a Resolution[13] dated 9 September 2014, the Court of Appeals refused to reconsider its earlier Decision.

Petitioners are now before this Court *via* this instant Petition for Review on *Certiorari* assailing the Courts of Appeals' Decision and Resolution on the ground that:

The Issue

> THE COURT OF APPEALS ERRED IN REVERSING AND SETTING ASIDE THE NLRC DECISION WHICH IN TURN, AFFIRMED THE LABOR ARBITER'S DECISION DISMISSING RESPONDENTS' COMPLAINT FOR ILLEGAL DISMISSAL FOR LACK OF MERIT.

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12 Id. at 41-53.

13 Id. at 55-56.

The Court's Ruling

The core issue here is whether the Court of Appeals erred in holding that there is no just cause for dismissing respondents from employment.

The Court resolves to grant the petition.

It must be stressed at the onset that respondents were dismissed by petitioners for two reasons: (1) for violation of company rules and regulations under Paragraph IV, Number 4 under Offenses Against Public Morals;[14] and (2) for loss of trust and confidence. While it is true that loss of trust and confidence alone could not stand as a ground for dismissal in this case since respondents are rank and file employees who are not occupying positions of trust and confidence, such is not the only ground, relied by the company in terminating respondents' employment. Petitioner company also cited the infraction of company rules and regulations, in addition to loss and trust of confidence. Infraction of the company rules and regulation which is akin to serious misconduct is a just cause for termination of employment recognized under Article 282 (a) of the Labor Code which states that:

> ARTICLE 282. *Termination by employer.* – An employer may terminate an employment for any of the following causes:
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> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

Misconduct is defined as an improper or wrong conduct. It is a 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. To constitute a valid cause for the dismissal within the text and meaning of Article 282 of the Labor Code, the employee's misconduct must be serious, *i.e.*, of such grave and aggravated character and not merely trivial or unimportant. Additionally, the misconduct must be related to the performance of the employee's duties showing him to be unfit to continue working for the employer. Further, and equally important and required, the act or conduct must have been performed with wrongful intent.[15]

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14 Taking part in a betting, gambling or in an any unauthorized game of chance inside the company premises while on duty;

15 *Imasen Philippine Manufacturing Company v. Alcon*, G.R. No. 194884, 22 October 2014, 739 SCRA 186, 197.

Here, there is no question that respondents were caught in the act of engaging in gambling activities inside the workplace during work hours, a fact duly established during the investigation conducted by the petitioner company and adopted by the labor tribunals below. As a matter of fact, respondents never controverted their participation in the gambling activities, but instead raised the defense that it took place during noon break and that no stakes were involved; these claims even if were proven true, will however not save the day for the respondents. The use of the company's time and premises for gambling activities is a grave offense which warrants the penalty of dismissal for it amounts to theft of the company's time and it is explicitly prohibited by the company rules on the ground that it is against public morals.

Suffice it to state that an employee may be validly dismissed for violation of a reasonable company rule or regulation adopted for the conduct of the company's business. It is the recognized prerogative of the employer to transfer and reassign employees according to the requirements of its business. For indeed, regulation of manpower by the company clearly falls within the ambit of management prerogative. A valid exercise of management prerogative is one which, among others, covers: work assignment, working methods, time, supervision of workers, transfer of employees, work supervision, and the discipline, dismissal and recall of workers. Except as provided for, or limited by special laws, an employer is free to regulate, according to his own discretion and judgment, all aspects of employment.[16] As a general proposition, an employer has free reign over every aspect of its business, including the dismissal of his employees as long as the exercise of its management prerogative is done reasonably, in good faith, and in a manner not otherwise intended to defeat or circumvent the rights of workers.[17]

Both the Labor Arbiter and the NLRC uniformly ruled that the complaint for illegal dismissal filed by the respondents utterly lacks merit and, thus, upheld the petitioners' position that there exists a valid ground for dismissing the respondents. The NLRC even went further by saying that respondents' length of service should not mitigate the consequence of their acts as they owe the company loyalty and concern. Considering that there is substantial evidence at hand to support the ruling of the labor tribunals, the Court hereby adopts their findings.

It is settled that this Court is not a trier of facts, and this applies with greater force in labor cases.[18] Factual findings of administrative or quasi-

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16 *Autobus Worker's Union v. NLRC*, 353 Phil. 419, 429 (1998).

17 Supra note 15, at 195.

18 *Noblado v. Alfonso*, G.R. No. 189229, 23 November 2015, 775 SCRA 178, 187.

judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence.[19]

WHEREFORE, premises considered, the petition is **GRANTED**. The assailed Resolutions of the Court of Appeals are hereby **REVERSED AND SET ASIDE.**

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

Wellness Leave
DIOSDADO M. PERALTA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

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19 *Philippine Transmarie v. Cristino*, G.R. No. 188638, 9 December 2015.

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
Third Division, Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified 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

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
DEC 19 2016