

PHILIPPINE AIR LINES, INC., PETITIONER, VS. MELANIO SALCEDO, PHILIP-PINE AIR LINES EMPLOYEES ASSOCIATION AND COURT OF APPEALS, RESPONDENTS.

G.R. No. L-22119. September 29, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

It is not clear from the record whether this is an original action for certiorari, or whether the Philippine Air Lines, Inc. - hereinafter referred to as petitioner - merely seeks the review by certiorari of a resolution of the Court of Appeals, the pertinent part of which reads:

"WHEREFORE, the judgment rendered by this Court, as well as the appealed judgment, is hereby VACATED, and a new trial is granted. The lower court is directed to receive the testimony of Romulo Matro and to render a new decision in the case thereafter, as may be warranted by the facts established by the whole evidence of record. Let the records of this case be remanded to the court of origin to accomplish this purpose.

In either case, the contested resolution must be upheld.

On August 8 1958, Melanio Salcedo and the Philippine Air Lines Employees Association (PALEA) – hereinafter referred to collectively as respondents – filed, against petitioner Civil Case No. 37135 of the Court of Instance of Manila, for the reinstatement of Salcedo as petitioner's employee, with back salaries, damages and attorney's fees. In due course, petitioner filed its answer to respondent's complaint and, after due trial, on February 20, 1961, said court rendered judgment the dispositive part of which is of the following tenor:

"x x x In view of the foregoing considerations, judgment is hereby rendered in favor of plaintiff and against the defendant ordering the latter to reinstate plaintiff Melanio Salcedo to his former position and to pay him his salary from the date of his separation from office up to the time when he shall have been reinstated plus P15.00 as supplementary pay and transportation allowances of P12.50 a month also from the date of his separation up to the time when he shall have been reinstated. Defendant is hereby ordered also to pay the amount of P2,000.00 attorney's fees and costs."

On appeal therefrom, taken by petitioner, on May 3, 1963, the Court of Appeals reversed the decision of the trial court and dismissed respondents' complaint. Respondents seasonably moved for a reconsideration, which was denied by the appellate court, on June 5, 1963, but, seemingly, before receipt of notice of the resolution to this effect, respondents filed, on June 11, 1963, an "Additional Petition in support" of said motion for reconsideration. This additional petition was followed, on June 15, 1963, by respondents' "Petition for New Trial Based on the Ground of Newly Discovered Evidence." Despite petitioner's opposition thereto, on September 28, 1963, the Court of Appeals, after hearing both parties on oral argument, issued the resolution complained of. Hence, this petition for review by certiorari of petitioner herein, which maintains that:

"I - In Granting Salcedo's motion for new trial based on nothing more than the affidavit of his co-employee, Romulo Matro, executed under suspicious circumstances six (6) years after the occurrence of the facts alleged

therein and only after the judgment in Salcedo favor rendered by the trial court was reversed on appeal by respondent court, which affidavit is not only uncorroborated, patently incredible, based on hearsay and contains merely collateral matters, but furthermore, cannot in any way produce a different result on the merits of the trial even if accepted as true, Respondent Court not only acted with grave abuse of discretion but also contrary to law and the heretofore unreversed rulings of this Honorable Court in U. S. vs. Luzon, 4 Phil. 343; U. S. vs. Quijano, 11 Phil. 368; Mortera de Eceiza vs. West of Scotland Insurance Office, 36 Phil. 994; People vs. Cu Unjieng, 61 Phil. 906, establishing stringent and indispensable fundamental requirements for the allowance of new trial based on newly discovered evidence;

"II - People vs. Adolfo Saez, G. R. No. L-15776, November 29, 1961, invoked by respondent Court and upon which it relied in granting respondent Salcedo's motion for new trial is absolutely not applicable here;

"III - The grant of Salcedo's motion for new trial will cause prejudice to PAL and aggravate its contingent liability, for not only will it unduly delay this case, but what is worse will force PAL to incur additional expense and costs of litigation and in the remote possibility that Salcedo is later conclusively ordered re-instated with back wages will also correspondingly increase the back wages it may have to pay."

In support of its first proposition, petitioner alleges: 1) that respondents have not exercised reasonable diligence in producing heretofore the new evidence they now seek to introduce; 2) that said new evidence is unworthy of belief; and 3) that, apart from being corroborative, said evidence can-not alter the result of the case.

Proper consideration of the reasons adduced by the petitioner in support of its first proposition demands a brief review of the relevant facts. In their complaint herein respondents pray for the reinstatement of Salcedo as petitioner's with back salary, as well as damages and attorney's fees, upon the ground that he had been arbitrarily dismissed by petitioner herein on June 28, 1957; that to justify its action, petitioner subsequently filed against him a false charge of qualified theft, with the office of the Pasay City Attorney, which, after a protracted investigation, covering a period of eight (8) months, exonerated him; that, this notwithstanding, petitioner had refused either to reinstate Salcedo or to give him a clearance, the absence of which barred him from getting employment elsewhere; and that, as a consequence, he was humiliated and ostracised socially, apart from he and his family suffering physical and mental anguish.

Petitioner, in turn, contended and endeavored to prove that Salcedo had been dismissed for cause, because he had stolen ball bearings belonging to his employer and conveyed about 150 of said effects, for P30, to one Romualdo Abalajon, who, in turn, sold the goods to the Talastas Diesel Parts Store, at Evangelista St., Quiapo, Manila, for P45 and that, subsequently, five (5) of these ball bearings were in fact located in and recovered from said store by the authorities. For this purpose, petitioner had introduced the testimony of Abalajon, in addition to that of its employees, Romualdo Calderon and Jesus Cartagena. According to petitioner herein, it came to know, through Cartagena, of the intervention of Salcedo and Abalajon, in the sale of said allegedly stolen goods, and later located the store in which some of those goods were.

Although Salcedo denied the charge against him and asserted that the same had been fabricated, the Court of Appeals did not believe his testimony and gave credence to that of Abalajon, Cartagena and Calderon, and accordingly reversed the decision of the Court of First Instance in favor of respondents herein.

Notice of the decision of the appellate court was received by respondents on May 8, 1963. A week later, or on May 15, 1963, they filed a motion for reconsideration, which was denied on June 5, 1963. Before notice of the resolution to this effect had been, apparently, served upon them, respondents filed, on June 11, 1963, an Additional Petition and on June 15, 1963, the petition for new trial in question. Attached to both petitions was the sworn statement of Romulo Matro, an employee of petitioner herein.

Matro stated, in his affidavit, that the ball-bearings found in the store of Talastas Diesels Parts were purchased by the latter from him; that said ball-bearings were delivered to him by Cartagena and Calderon; that both persuaded him to sell said articles and keep the proceeds thereof, which he did; that, when he inquired from Cartagena and Calderon about their reason for acting as they did, they told him that it was a "military secret;" that he, later on, learned that said goods were used to back up the charge of theft against Salcedo; that he (Matro) did not volunteer to give this information before, because he felt that it would jeopardize his job as petitioner's employee and because he believed - or hoped - that respondents' counsel would be sufficiently able and resourceful to protect Salcedo; that, when the Court of Appeals reversed the decision of the Court of First Instance in favor of respondents, he realized that Salcedo's fate was finally dependent upon his civic spirit and moral courage; and that he, accordingly, approached respondents' counsel and executed the aforementioned affidavit, despite the risks concomitant therewith.

We do not believe that respondents have been negligent in securing this evidence. They had no means of knowing it before Matro, allegedly pricked by his conscience, had approached counsel for the respondents, soon after June 8, 1963, when notice of the resolution of the Court of Appeals, of June 5, 1963 - denying respondents' motion for reconsideration of the decision of said Court was served upon said counsel. Matro's affidavit was made on June 10, 1963, and the next day, respondent's "additional petition," in support of the motion for reconsideration, was filed. Four (4) days later, or on June 15, 1963, respondents filed a "petition for new trial based on the ground of newly discovered evidence," referring to Matro's testimony. Obviously, this testimony is newly discovered evidence and respondents were not negligent in securing the same, in the light of the attending circumstances.

As regards the question whether Matro's affidavit is worthy of belief or not, it should be noted that the question of credibility of witnesses is one of fact, the findings of the Court of Appeals on which are not subject to our review. This is particularly true when we consider that the contents of said affidavit are not inherently or necessarily incredible.

With respect to the sufficiency of Matro's testimony to change the result of the case, suffice it to say that the determination of the merits thereof depends upon the question as to whose testimonial evidence merits credence. If the Court believes the testimony of petitioner's witnesses, the vacated decision of the appellate Court would be in order. Otherwise, the resolution appealed from should be affirmed. And, we believe, it must be affirmed, since we cannot review the findings of said appellate court on the credibility of witnesses.

At any rate, it is manifest to us that the Court of Appeals has not abused its discretion in holding that Matro's testimony, if admitted in evidence, might change the final outcome of the case. Indeed, from the very beginning, Salcedo had protested innocence and asserted that the charge against him was fabricated. Without corroboration, his testimony thereon could hardly prevail over that of Abalajon, who claimed to have bought the ball-bearings from Salcedo. But, with the testimony of Matro, to the effect that it was he - not Salcedo who made the sale to Abalajon, and that the ball-bearings had been given to Matro by Calderon and Cartagena, it is quite conceivable that the court may entertain serious doubts on the veracity of said witnesses for the prosecution.

At this juncture, we must not lose sight of the fact that, even without Matro's testimony, the City Attorney of Pasay felt that he should not - as he did not - prosecute Salcedo. And, any doubt on the general soundness of the judgment of said prosecutor is dispelled by the fact that he was, in effect, sustained by the Court of First Instance, which rendered judgment for respondents herein. Neither should we overlook the circumstance that the aforementioned prosecutor and His Honor the trial Judge had personally heard the witnesses and observed them in the course of their testimony, and, that, accordingly, their findings thereon are entitled to great weight. In short, the factual issue in this case appears to be precariously dependent upon the credibility of the testimonial evidence

for the petitioner contradicted by that of respondents, both being, more or less so evenly balance - judging from the action taken thereon by the three (3) sets of officers who have heretofore intervened in this case - that anything could perhaps tip balance in favor of either side.

In conclusion, we find that the Court of Appeals had not only, not abused its discretion, but, also, made good use of its sound judgment in acting as it did. Accordingly, the question whether the case of *People v. Saez*,^[1] cited in the resolution appealed from is in point or not, cannot affect the result of this proceedings. Moreover, said case is really in point because it upheld the propriety of ordering a new trial when the newly discovered evidence may affect the credibility of the testimony of some witnesses for the prosecution. In fact, respondents herein have a stronger claim for a new trial than the accused in the case above-mentioned, because the newly discovered evidence therein was an affidavit made by another, before the prosecution of the accused, whereas the affidavit of Matro did not exist until after the rendition of the decision of the Court of Appeals. Hence, respondents herein could not have possibly learned, much less, availed of Matro's affidavit prior thereto.

Neither do the additional expenses that a new trial would entail justify our disturbing the resolution appealed from, it being settled that the granting or denial of a new trial is addressed to the sound discretion of the Court,^[2] which used it properly in the case at bar.

WHEREFORE, said resolution is hereby upheld and affirmed, with the costs of this instance against petitioner herein.

IT IS SO ORDERED.

Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.
Bengzon, J., on leave.

[1] G.R. No. L-15770. November 29, 1961.

[2] *Tan v. People*, 88 Phil., 609; *Araneta v. Rodas*, 81 Phil., 506; *Hodges v. Barrios*, 80 Phil., 751; *Miranda v. Legaspi*, G.R. No. L-4288, Nev. 26, 1962; *Bustamante v. Alfonso*, 55 Off. Gaz. 225; *Tan v. Go*, 47 Phil., 89; *Soriano v. Aquino*, 37 Phil., 176; *Pico v. Cohn*, 67 Cal 258, 7 Pac. 680; *Drake v. Palmer*, 2 Cal. 177 and *Palmer v. Steward*, 2 Cal. 353.

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