

DYNE-SEM ELECTRONICS CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND NOEMA CODERA, RESPONDENTS.

G.R. No. 100736. September 30, 1993

Ponente: NARVASA, C.J.

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NARVASA, C.J.:

The petitioner, Dyne-Sem Electronics Corporation (hereafter, simply Dyne-Sem), is engaged in the manufacture of high-technology electronic components. The private respondent, Noema Codera, was employed by it as a lead-bond operator assigned to the plastic front line section. The issue in this special civil action of certiorari is whether or not the public respondent gravely abused its discretion in adjudging that Dyne-Sem had no just cause to terminate Noema Codera's employment.

It is not denied that on September 17, 1988 Codera reported for work at 6:00 in the morning and proceeded to do some work at the company's 3rd Optical Station. She was then assigned to work on the so-called "1419 Machine No. 30," to bond quantities of "Supertex 20 lead dice" with gold wire.

Now, Dyne-Sem alleges that there were two (2) lots of lead dice to be bonded with two different types of gold wire, as follows:

"Lot No. 1 - consisting of 713 units, technically referred to as Wafer Lot #86115.01, device HV 1514P, to be bonded with a1.0 mil gold wire;

Lot No. 2 - consisting of 394 units, technically referred to as Wafer Lot #86115.02, device HV 1316P, to be bonded with a1.5 mil gold wire."[1]

Codera however asserts that there was only one (1) lot assigned to her, that first described (as Lot No. 1 above). According to her, when she began bonding the lead dice assigned to her on the machine (No. 30) at 7:00 o'clock she found the machine to be somewhat out of order. Nevertheless, it seems she was able to bond some units of the lot satisfactorily, because two quality inspectors came by, examined her work, and said nothing. Codera had the machine repaired, and resumed bonding of the lot of lead dice at 7:40 o'clock. She says she completed the bonding of the units in this lot with 1.0 millimeter gold wire according to the required specifications at 9:40 o'clock after which, following standard procedure, she prepared a time ticket and recorded therein the work done on that particular lot and its progress.[2] Her time ticket reads as follows:

"0700H Bonder Codera assigned to bond 86115.05 (qty. = 713). Claims no ball and high loop problems: machine was repaired

0740 - 0800H Production: output = 200 units

1800 - 0815H Breaktime

0815 - 1940H Production; Output = 513 units

0940 - 1000H Material Downtime

1000 - 1030H Breaktime

1030 - 1345H Material Downtime."

Codera claims that after she had prepared her time ticket, as aforesated, she left Machine No. 30 because she was recalled to do bonding and inspection work at the 3rd Optical Station; and that nothing unusual transpired thereafter until she went home at the end of her shift at 2:00 o'clock in the afternoon.

Dyne-Sem's reconstruction of the events, hereunder described, is quite different.

Rosalinie de Padua, a Supervisor of Dyne-Sem who regularly reports for work following Noema Cordera's shift, noted the entry in the latter's time ticket that machine No. 30 was on a "material downtime status," a term meaning simply that there are no units available to be worked on.[3] This connoted that work on or processing of the lots assigned to Codera had already been completed on said machine No. 30 and hence, there were no longer "units available to be worked on." But this was inconsistent with another record being kept by Dyne-Sem respecting the work being done by its employees -- called a "tracking record on whiteboard" -- in which Lot #86115.02 (Lot No. 2) still appeared under the column "for bonding." So, de Padua instructed three employees[4] to look for Lot 2 in the company premises, being fully aware that the missing units could not have been removed from the premises of the company because its security system included machines that would detect any attempt at such removal. The employees were unable to find it.[5] This aroused de Padua's suspicions that something had gone wrong with the lot, that there had been a "misprocessing" thereof. Those suspicions deepened when she also observed that on yet another record -- "the wire pull monitor record" -- "there was nothing which showed (that) the 1.5 wire[6] was used." [7] De Padua entered her suspicions in the log book, on September 19, 1988.

The following day, September 20, three (3) frames (each encasing a set of units) of the missing lot -- Lot No. 2, assigned to Noema Codera -- were found inside a cabinet in the third floor of the company's plant. Another frame was found on September 22, 1988; and on September 28 and 29, twenty-five (25) more frames were found inside another area (the Mold Area) of the plant, mixed among "dummy frames," i.e., rejected units or units not electrically charged. All strips in the frames were marked with ink as "rejects" and all dice were dotted also with ink to make them appear as "ink dice," i.e., frames or dice rejected by customers after testing. The marking was done superficially, with a whiteboard pen, and could easily be removed or erased. And, although the units pertaining to this Lot No. 2 were supposed to be bonded with 1.5 gold wire, as aforesated,[8] they were found by Alex Domingo, Dyne-Sem Manager, to have been "bonded with 1.0 mil. wire, * * (and the) bond sequence was similar to that of (Lot No. 1)."[9]

In the meantime, Supertex, the foreign client interested in the processing of Lot No. 2, had been inquiring about this particular lot and had "even threatened to do something drastic, including pulling out its business ** if Lot No. 2 was not found and processed." [10]

The foregoing findings led Noema Codera's superiors came to conclude that there had indeed been a "misprocessing" by her (Codera), and that she had sought to prevent discovery of this misdeed not only by hiding the "misprocessed" units of Lot No. 2, but also by destroying the time ticket she had initially prepared after completing work on Lot No. 1 -- bonding with 1.0 millimeter wire -- and drawing up an entirely new one, which made no reference whatever to Lot No. 2 and which, as already stated, reads as follows:[11]

"0700H Bonder Codera assigned to bond 86115.05 (qty.=713). Claims no ball and high loop problems: machine was repaired

0740 - 0800H Production: output = 200 units

1800 - 0815H Breaktime

0815 - 1940H Production; Output = 513 units

0940 - 1000H Material Downtime

1000 - 1030H Breaktime

1030 - 1345H Material Downtime."

Codera was thus asked to explain what appeared to be the "gross violation of the company rules she had committed in connection with the misprocessing of Lot No. 2,"[12] her acts being more specifically set out as follows:

- "1. Misprocessing -- wrong use of wire, 1.0 mil. instead of required 1.5 mil. was used.
2. You did not inform your shift supervisor.
3. You connived with others in destroying the bonded units by marking, them with ink and hid the unbonded frames at different areas at third floor.
4. You falsified the entries in your time ticket of September 17, 1988 to hide the fact that you processed that lot.
5. You connived with others and hid/destroyed the accompanying travel card of the lot."[13]

These charges Codera denied, in a letter sent to Dyne-Sem's Personnel Department on September 30, 1988. In the letter, she asserted that she had not worked on Lot No. 2 at all; that had there been a misprocessing she would have definitely informed her Junior Supervisor, who should have read the travel card indicating the specific bonding wire required; that, in any event, the frames could be re-bonded by her if so instructed.[14]

A formal inquiry was then scheduled and held on October 3, 1988 at which Dyne-Sem's Personnel Manager, Victor Luis S. Galvez, presided. Codera was present, having been notified thereof, accompanied and assisted by Amado Palillo, the Executive Vice-President of the Dyne-Sem Employees Union, of which she was a member. Also in attendance were some managers and supervisors of Dyne-Sem. At that investigation, Manager Alex Domingo presented "the details of the missing/mutilated Supertex 20L units with Wafer Lot #8611502," including evidence that, among other things, said Lot #861155.02 was on the work counter of the latter's machine (No. 30) at 9:43 a.m. of September 17, 1988. Codera, for her part, denied either seeing or processing said Lot No. 2.[15] The union representative who accompanied her at this meeting, A. Palillo, "opined that the loss/mutilation of the units could not have been committed by Ms. Codera alone and that others were involved."[16]

After consideration of the evidence, Dyne-Sem concluded that Norma Codera was guilty of the accusations against her -- serious misconduct, gross negligence, falsification of documents, i.e., misprocessing of the wafer lot, falsification of her time ticket and, "in party with others," hiding the misprocessed frames and marking them "with ink to simulate reject units/frames" -- dismissed her from employment, notifying her of her discharge through a letter of Personnel Manager Galvez dated October 5, 1988.[17]

Codera and the Dyne-Sem Employees Union thereupon filed with the Labor Arbiter a complaint for illegal dismissal against Dyne-Sem. In the position paper subsequently submitted by Codera,[18] she alleged that she was arbitrarily dismissed from work "on grounds of serious misconduct; gross negligence and falsification of documents/records ** without the benefit of an impartial investigation as well as ** the right to confront the witnesses against her." She argued that it took Dyne-Sem at least eighteen (18) days before it issued the memorandum of October 5, 1988, separating her from work, and that this "was a length of time within which it would easily fabricate evidence." She alleged that her own junior supervisor, Virginia Tividad, "who herself was

also investigated," had sent a handwritten letter dated October 7, 1988[19] to Dyne-Sem's supervisor (Noel Trivinio) and Production Manager (Alex Domingo) stating that Codera had "only done work on #861155.01" (requiring bonding with 1.0 mil wire), and not on #861155.02 (requiring bonding with 1.5 mil wire).

In its own position paper, on the other hand[20] -- verified by Personnel Manager Victor Galvez,[21] and to which were appended the sworn statements of Bella P. Rodique (Junior Supervisor for Lead Bond, Plastic Frontline),[22] Merceditas S. Ferrer (Quality Assurance Inspector assigned at the Plastic Frontline, Lead Bond),[23] Teresita S. Tiglao (Quality Assurance Inspector of Molding, Plastic Backend),[24] and Rosalinie M. de Padua (Production Supervisor)[25] -- Dyne-Sem insisted that Codera's dismissal from employment was for cause, duly established by satisfactory proof.

By agreement of the parties, the case was submitted for decision on the basis of their position papers and the other evidence on record. On March 2, 1989, the Labor Arbiter[26] rendered his decision, dismissing Codera's complaint for lack of merit, the decision declaring that based on "the contention and denials, and the sequences of events spelled-out and elucidated in the arguments in the position paper of respondents, there can be no other conclusion than that complainant is guilty of gross negligence and misconduct which is a just cause for dismissal of employment." [27]

The Labor Arbiter's judgment was, however, reversed by the National Labor Relations Commission on appeal taken by Codera. In justification of said reversal, the Commission adverted, in its decision promulgated on May 10, 1991[28] to (a) what it described as the "partial and one-sided investigation posited (sic) by ** (Dyne-Sem, which violated) Codera's constitutional right to due process (presentation of her evidence and the opportunity to cross-examine her accusers/s and witnesses against her in an impartial investigation)," and "a clear disregard of material evidence ** (of) Codera's innocence or non-culpability of the charges levelled against her."

The NLRC faults the investigation conducted by Dyne-Sem on October 3, 1988 because "no witnesses (were) presented which complainants could have cross-examined as this could be gleaned from the Minutes of said investigation, attached as 'Annex G' to respondent's (Dyne-Sem's) position paper." [29]

The document referred to was obviously merely a very terse, general statement of what had taken place in the investigation, and not meant to be a verbatim or even a detailed record of everything that had taken place on that occasion. What is clearly apparent therefrom, and this is not disputed by Codera,[30] is that an investigation was scheduled and held on October 3, 1988; that Codera was timely notified thereof and in fact attended the meeting together with the Executive Vice-President of her labor union (A. Palillo); that at that meeting Plastic Frontline Manager Alex Domingo "presented the details of the missing/mutilated Supertex 20L units with Wafer Lot#86155.02;" that Codera denied "seeing/processing the said units even upon presentation of QA records" and, despite importunities by Dyne-Sem officers, "continued to deny seeing/processing/cons re- the said units;" that A. Pafillo had spoken out in Codera's behalf, expressing the opinion "that the loss/mutilation of the units could not have been committed by Ms. Codera alone and that others were involved;" and that finally, prior to the meeting, or on September 30, 1988, Codera had submitted a letter to Personnel Department Head Galvez containing her "responses to the charges given me by my superior." What is evident, in other words, is that Codera had been informed of the charges against her, that she had presented a written refutation thereof, that at an investigation subsequently scheduled, she was made aware of the details of the charges, and that she and the union officer representing her were entirely free to speak out in her defense during that investigation. Equally plain is that neither Codera nor the Union officer representing her had asked for any confrontation with witnesses or offered to produce evidence apart from Codera's own statements, at that investigation.

The Court is satisfied that Dyne-Sem had complied with the legal requirements of due process. It had, prior to the

investigation, furnished her with "written notice stating the particular acts or omissions constituting the grounds for ** (projected) dismissal,"[31] it had given Codera an opportunity to "answer the allegations against (her) ** within a reasonable period" as well as "ample opportunity to be heard and to defend ** (herself) with the assistance of ** (her) representative,"[32] and she was "immediately" notified (i.e., within two (2) days from the investigation) of the "decision to dismiss ** (her) stating clearly the reasons thereof." [33] She was, in fine, given an opportunity to explain her side, with the assistance of a representative of her choice.[34] Moreover, during the proceedings before the Labor Arbiter, after Dyne-Sem had presented its evidence against Codera in even greater detail, Codera had agreed to submit the case for decision on the basis of the parties' position papers. All these being quite patent on the record, it was grave abuse of discretion on the part of the NLRC to have ruled that Codera had been denied due process.[35]

So, too, it was grave abuse of discretion on NLRC's part to hold that Dyne-Sem had disregarded the handwritten letter of Virginia Tividad dated October 7, 1988 and even "suppressed (it) during the alleged investigation on October 3, 1988." This is a manifest fallacy. It was plainly impossible for Dyne-Sem to have taken account, on October 3, 1988, of a letter written four (4) days later! Apart from this, the fact that the Tividad letter was presented in evidence to and duly passed upon by the Labor Arbiter, and the author was herself strongly suspected of connivance with Codera in the effort to keep the misprocessing from the knowledge of the company, there is no evidence whatever that said letter was ever sent to or received by Dyne-Sem.

The Court agrees with the Labor Arbiter that there is enough evidence on record to establish sufficient cause for Codera's dismissal from employment.

Dyne-Sem Manager Alex Domingo deposed among other things that Codera's statement in her time ticket of September 17, 1988 that she had bonded (processed) 200 units from 0740H to 0800H -- or 20 minutes -- is a fabrication; the machine she was using had a capacity of 416 (20L) units per hour or 6.93 units per minute; in 20 minutes it could have bonded only 138.60 units. Her claim that she had not worked on Lot No. 2 is similarly false, since, according to Domingo, in the whole plant, only machine No. 30 "was set up to process the two Supertex lots," hence the units of Lot No. 2 afterwards hidden and discovered days afterwards -- mistakenly bonded with 1.0 mil wire instead of 1.5 mil wire -- could only have been processed on that machine. Besides, the bonding sequence in these hidden units of Lot No. 2 was the same as that followed in the processing of Lot No. 1, admittedly worked on by Codera.[36]

Merceditas Ferrer, "Quality Assurance Inspector assigned at the Plastic Frontline, Lead Bond, wire pull monitoring at Dyne-Sem **," stated under oath that in the course of performing her duty "to monitor the progress of the processing of lots, frames and dice being worked on by an operator," particularly Noema Codera who on September 17, 1988 had been assigned to work on the 1419 Machine No. 30, she had seen the latter working on Lot #86115.01 at 7:22 a.m., and on Lot #86115.02 at 9:43 a.m.[37] Bella Rodique, "Junior Supervisor for Lead Bond, Plastic Frontline at Dyne-Sem **," deposed that on September 17, 1988 she had placed two (2) lots of Supertex frames on machine No. 30, assigned to Norma Codera, these being Lot 861155.01, requiring bonding with 1.0 mil gold wire, and Lot 861155.02, requiring bonding with 1.5 mil gold wire.[38] Teresita S. Tiglao, "Quality Assurance Inspector of Molding, Plastic Backend at Dyne-Sem **," declared under oath that on September 28, 1988, while arranging some dummy frames contained in a tray carrier (dummy frames being "rejects" or unusable units), she had seen five (5) frames of Supertex units which she separated from the others; that her microscopic examination of these five frames the following day confirmed her suspicion that the units were good units marked with ink to make them appear as rejects or unusable units. Rosalinie M. de Padua, "Production Supervisor," deposed among others that the record regarding wire pulling had been altered by someone by crossing out "0.2" and placing "0.1" atop it.[39]

Apart from the testimony of the persons just described, not otherwise shown to be biased, or harboring any motive to depose falsely against Codera -- that she had in fact worked on Lot No. 2, and that units of said lot, showing clear indications of misprocessing had been falsely marked as "rejects" -- there are other circumstances demonstrative of the misprocessing ascribed to her and the efforts by her and others to prevent discovery thereof, namely: the "tracking record on whiteboard" -- in which Lot #86115.02 (Lot No. 2) still appeared under the column "for bonding;" "the wire pull monitor record" indicating that "there was nothing which showed (that) the 1.5 wire[40] was used;" and the fact that the units of Lot No. 2 hidden and later discovered in different places showed that they had been "bonded with 1.0 mil. wire, * * (and the) bond sequence was similar to that of (Lot No. 1)."

Nor has the Court been cited to any rational motive on Dyne-Sem's part to single out Codera for dismissal. No reason exists for an employer to dismiss an otherwise competent and experienced employee unless the latter were, as here, guilty of gross negligence and misconduct.

Accordingly, the writ of certiorari prayed for is hereby issued, **ANNULING AND SETTING ASIDE** the Decision of the National Labor Relations Commission (First Division) in NLRC NCR Case No 00-10--04355-88 promulgated on May 10, 1991, and the Decision of Labor Arbiter Quintin C. Mendoza dated March 21, 1989 is **REINSTATED AND AFFIRMED**, without pronouncement as to costs.

SO ORDERED.

Padilla, Regalado, Nocon, and Puno, JJ., concur.

[1] The value of Lot No. 2, at that time, was US \$ 3,187.60, or approximately P65,345.00 at an exchange rate of P20.50 to U.S. \$1.00.

[2] Rollo, p. 26 (Position Paper of complainants filed with the Labor Arbiter and attached to the petition as Annex B)

[3] Rollo, p. 42: Affidavit of Rosaline M. de Padua, Annex D of Dyne-Sem's Position Paper (Annex C, Petition)

[4] A Lead Bonder, a Material Handler, and a Junior Supervisor

[5] Annex C, petition

[6] SEE footnote 1, supra, and related text

[7] Annex C, petition

[8] SEE footnote 1, supra

[9] Rollo, p. 57: Annex J of Dyne' Sem's Position Paper

[10] Id., p. 9: Petition, p. 8

[11] Id., p. 7

[12] By letter of Supervisor Noel Triviño and Manager Alex Domingo, dated September 29, 1988; Petition, p. 8

[13] Rollo, pp. 45-46: Annex F, petition

[14] Id., p. 44: Annex E, Dyne-Sem's Position Paper

[15] Id., p. 131: Comment of Solicitor General, citing Annex G of Annex C of the petition

- [16] Id., p. 47: Minutes of the Investigation Meeting, October 3, 1989
- [17] Id., pp. 48-49
- [18] Id., pp. 26-28
- [19] Id., pp. 29-31
- [20] Id., pp. 32-38
- [21] Id., pp. 37-38
- [22] Id., p. 39
- [23] Id., p. 40
- [24] Id., p. 41
- [25] Id., p. 42
- [26] Labor Arbiter Quintin C. Mendoza
- [27] Id., pp. 64 et seq.
- [28] Id., pp. 82-89
- [29] Id., p. 85
- [30] SEE her Comment dated August 9, 1991 (Rollo, pp. 124-126)
- [31] SEC. 2, Rule XIV, Book V, Implementing Rules of the Labor Code
- [32] SEC. 5, id.
- [33] SEC. 6, id.
- [34] SEE *Tajonera v. Lamaroza*, 110 SCRA 438; *Gas Corporation of the Phil. v. Hon. Inciong*, 93 SCRA 653; *CebuInstitute of Technology v. Minister of Labor*, 113 SCRA 257
- [35] SEE *Manila Resource Development Corp. v. NLRC, et al.*, 213 SCRA 296 (1992), citing *Yap v. Inciong*, 186 SCRA 664 (1990) and *B. Sta. Rita & Co., Inc. v. Arroyo and NLRC*, 168 SCRA 581 (1988); *Commando Security Agency v. NLRC, et al.*, 211 SCRA 645 (1992), citing Secs. 2 and 3 of the Revised Rules of the NLRC, giving the labor arbiter the discretion to dispense with a full blown hearing; *Coca ColaBottlers Phils. v. NLRC, et al.*, 180 SCRA 195 (1989, citing *Remerco Garment Manufacturing v. Minister of Labor & Exmployment, et al.*, 135 SCRA 262 (1985) and *Asia World Publishing House, Inc. v. Ople*, 152 SCRA 219 (1987), citing Art. 221 of the Labor Code; SEE also *Blue Bar Coconut Philippines v. Minister of Labor*, 174 SCRA 25 (1989), *Llora Motors Inc. v. Drilon*, 179 SCRA 175
- [36] Rollo, pp. 55-57
- [37] Id., p. 40
- [38] Id., p. 39
- [39] Id., p. 42
- [40] SEE footnote 1, supra

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