

CHONA ESTACIO AND LEOPOLDO MANLICLIC, PETITIONERS, VS. PAMPANGA I ELECTRIC COOPERATIVE, INC., AND LOLIANO E. ALLAS, RESPONDENTS.

G.R. No. 183196. August 19, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure assailing the Decision[1] of the Court of Appeals dated 29 May 2008 in CA-G.R. SP No. 93971, which annulled and set aside the Decision dated 30 June 2005 and Resolution dated 24 January 2006 of the National Labor Relations Commission (NLRC) in NLRC-NCR Case No. 040757-04. The NLRC found that petitioners Chona Estacio (Estacio) and Leopoldo Manliclic (Manliclic) were illegally dismissed by respondents Pampanga I Electric Cooperative, Inc. (PELCO I) and Engineer Loliano E. Allas (Engr. Allas), and ordered the reinstatement of petitioners and payment of their backwages. The NLRC reversed the Decision dated 30 April 2004 of the Labor Arbiter in NLRC Case No. RAB-III-03-5517-03 dismissing petitioners' Complaint for illegal dismissal against respondents for lack of merit.

The facts of the case as culled from the records are as follows:

Respondent PELCO I is an electric cooperative duly organized, incorporated, and registered pursuant to Presidential Decree No. 269.[2] Respondent Engr. Allas is the General Manager of respondent PELCO I.[3]

Petitioner Estacio had been employed at respondent PELCO I as a bill custodian since 1977, while petitioner Manliclic had been working for respondent PELCO I as a bill collector since June 1992.[4]

On 22 August 2002, Nelia D. Lorenzo (Lorenzo), the Internal Auditor of respondent PELCO I, submitted her "Audit Findings at the San Luis Area Office" to respondent Engr. Allas, pertinent portions of which state:

Evaluation of the results of physical inventory of bills through reconciliation of records such as aging schedule of consumer accounts receivable balance, collection reports and other related documents revealed 87 bills amounting to One Hundred Twenty Six Thousand Seven Hundred Fifty and 93/100 (P126,750.93) remained unremitted as of August 20, 2002.

Accounting of which includes the accountability of Ms. Estacio amounting to One Hundred Twenty Three Thousand Eight Hundred Seven and 14/100 (P123,807.14) representing 86 bills.[5]

Respondent Engr. Allas issued a Memorandum dated 6 September 2002 to petitioner Estacio informing her of the audit findings, and directing her to explain in writing, within 72 hours upon receipt thereof, why no disciplinary action should be imposed upon her for Gross Negligence of Duty under Section 6.6 of Board Policy No. 01-04 dated 23 July 2001.

In her written explanation, petitioner Estacio averred that she had no control over and should not be held

answerable for the failure of the bill collectors at the San Luis Area Office to remit their daily collections. Petitioner Estacio also asserted that according to her revised job description as a bill custodian, she merely had to ascertain on a daily basis the total bills collected and uncollected by collectors. Any failure on her part to update the bill custodian records by the time the audit was conducted on 9 August 2002 was due to the abnormal weather conditions during July 2002, resulting in the flooding of San Luis and Candaba, Pampanga. Such negligence could not be categorized as gross in character as would warrant the imposition of disciplinary action against her.[6]

Unsatisfied with petitioner Estacio's explanation, respondent Engr. Allas issued a Memorandum[7] dated 26 September 2002 charging Estacio with gross negligence of duty. A formal investigation/hearing then ensued, during which petitioner Estacio was duly represented by counsel. The investigating committee, in the report it submitted to respondent Engr. Allas on 23 October 2002, found petitioner Estacio guilty of dishonesty and gross negligence of duty under Section 6.4[8] and Section 6.6,[9] respectively, of Board Policy No. 01-04 dated 23 July 2001; and recommended her dismissal from service with forfeiture of benefits.[10]

On 25 October 2002, respondent Engr. Allas rendered a Decision which adopted the recommendation of the investigation committee dismissing petitioner Estacio from service, with forfeiture of her benefits, effective 28 October 2002; with the modification deleting the charge of dishonesty.[11] Petitioner Estacio sought a reconsideration of the said decision but it was denied by respondent Engr. Allas.

In the same "Audit Findings at the San Luis Area Office" submitted to respondent Engineer Allas on 22 August 2002, Internal Auditor Lorenzo reported that petitioner Manliclic, a bill collector, failed to remit to respondent PELCO I management his collection amounting to P4,813.11, as of 20 August 2002. Respondent Engr. Allas issued a Memorandum dated 6 September 2002 directing petitioner Manliclic to explain in writing, within 48 hours from receipt thereof, why no disciplinary action should be taken against him for committing offenses against respondent PELCO I properties,[12] under Section 2.1 of Board Policy No. 01-04 dated 23 July 2001.

On 11 September 2002, petitioner Manliclic submitted his written explanation[13] admitting the he used the amount of P4,813.11 from his collection to cover pressing family obligations and requesting two months to pay the same. With this admission, respondent Engr. Allas issued another Memorandum[14] dated 28 September 2002 dismissing petitioner Manliclic from service effective 1 October 2002, with forfeiture of benefits. Petitioner Manliclic sought reconsideration[15] of his dismissal, but was rebuffed by respondent Engr. Allas in the latter's letter[16] dated 10 October 2002, which reads:

Your letter of reconsideration detailed in full the manner by which the amount of P4,813.11 was misappropriated. You admitted having lend (sic) to Joselito Ocampo the sum of P3,719.75 and this is supported by the affidavit of admission of said Mr. Joselito Ocampo which was duly notarized by Notary Public, Juan Manalastas. Thus, said affidavit is taken by management as gospel truth.

This affidavit does not however exculpate you from the offense of misappropriation, defined and penalized under Section 2, paragraph 2.1 ON COOP FUNDS (2.1.2, 2.1.3 & 2.1.4) of the Board Policy No. 27-96 and Administrative Policy No. 10-89.

If we may inform you the money you collected are held in trust by you so that you have to remit the same to the cooperative (San Luis Area Office) at the proper time.

You should not take the liberty of lending them to any co-employee because you have to account for them to the last centavo at the end of the collection day.

In view of the foregoing, it is sad to say that your letter of reconsideration is hereby denied.[17]

From respondent Engr. Allas' actions on their administrative case, petitioners Estacio and Manliclic separately filed with the Board of Directors of respondent PELCO I their memoranda of appeal.[18] The Board of Directors of respondent PELCO I subsequently passed two resolutions, with essentially the same contents, i.e., Resolutions No. 38[19] dated 15 November 2002 and No. 39,[20] dated 25 November 2002, respectively. In said Resolutions, the Board of Directors of respondent PELCO I reinstated petitioners to their positions without loss of seniority, and ordered respondent Engr. Allas to pay in full the salaries and other incentives accruing to petitioners after deducting the first 15 days of their suspension.

Notwithstanding the approval of Resolutions No. 38 and No. 39, respondent Engr. Allas refused to reinstate petitioners and proceeded to dismiss them from service. Addressing the Board of Directors of respondent PELCO I, respondent Engr. Allas stated in his letter dated 29 November 2002[21]:

The act of reducing their penalties is a gross abuse of authority and commission of acts inimical to the interest of the cooperative and the public at large because you have no authority to do so since Board Policy No. 01-04 of PELCO I clearly provides the penalty of dismissal for the offenses they were found guilty. Your honors' authority to act is governed by the rules as provided in the aforesaid Board Policy. Going beyond that is abuse of authority instead of protecting the interest of the cooperative you protected the employees who through their acts depleted the earnings and funds of the cooperative.

In a letter dated 9 December 2002 by Regional Director Alberto A. Guiang of the National Electrification Administration (NEA) to the Board of Directors of respondent PELCO I, he wrote:

THE BOARD OF DIRECTORS
Pampanga I Electric Cooperative, Inc. (PELCO I)
Mexico, Pampanga

Gentlemen:

This has reference to your Board Resolution No. 38 and 39 series of 2002, granting the letters of appeal of Ms. Chona Estacio and Mr. Leopoldo Manliclic for reinstatement of their positions to the PELCO I workforce.

While we appreciate your concern to the coop operation, we wish to call your attention to the NEA Guidelines dated 27 January 1995, specifying the delineation of Roles of EC Board of Directors and General Managers, and on Memorandum No. 35. Accordingly, the Board is not vested with the authority to hire and fire nor rehire employees. The General Manager is the only authorized official for this matter, while the Board has to formulate policies nor guidelines only for the GM to implement.

This office carefully reviewed the facts surrounding the issues raised by the concerned parties, and we found that due process was undertaken after rendering the decision by the General Manager on this matter, and should be enforced. This is healthy move of eradicating dishonesty and inefficiency among the employees. Thus, the disapproval of the above resolutions.

Thank you.

Very truly yours,

(SGD)ALBERTO A. GUIANG[22]

NEA through Regional Director Alberto A. Guiang issued another letter to the Board of Directors of respondent PELCO I dated 10 December 2002 stating that it was disapproving Resolution No. 39 issued by the Board of Directors of respondent PELCO I granting the letter of appeal of petitioners.[23]

The foregoing events prompted petitioners to file with the NLRC, Regional Arbitration Board (RAB)-III, City of San Fernando, Pampanga, their Complaints[24] against respondents for illegal dismissal and payment of

backwages, 13[th] month pay, and other benefits. The Complaints were docketed as NLRC Case No. RAB-III-03-5517-03.

In a Decision dated 30 April 2004, the Labor Arbiter ruled in favor of respondents, for the following reasons:

Respondents under their onus were required to show that [herein petitioners] were dismissed for cause.

As to [petitioner] Chona Estacio respondents contended that she was guilty of gross negligence of duty under sec. 6.6.6. of its Employee's Code of Discipline (Board Policy 01-04). Respondents have shown that [petitioner] Estacio failed to carry out her duties and responsibilities as a bill custodian per the latter's job description more particularly no. 2 and no. 3 of her detailed duties, namely:

"2. Maintains an accurate record of all Official Electric Bill Receipts (OERB) issued to and returned by collectors, and sees to it that the same are properly signed or initialed by the collector as clearance to any accountability;

"3. Accounts and ascertains on a daily basis the total bills collected and uncollected by collectors and those bills paid in the office by consumers through the maintenance of bill route control and related record" (Annex "1" of respondents' Reply).

It was likewise shown that this infraction carries the penalty of dismissal. Record also showed that the requirements of procedural due process was afforded the [petitioner] before she was finally separated.

In the case of [petitioner] Manliclic, respondents were able to show with the admission of the former that sec. 2, subsection 2.1, pars. 2.1.2 to 2.1.4 of Board Policy No. 01-04 were violated by [petitioner]. The same violations carry the penalty of dismissal. The procedural requirements of notice and hearing were likewise afforded [petitioner] Manliclic before he was finally terminated.

In view of the above, we hold that there is no illegal dismissal.[25]

In the end, the Labor Arbiter decreed:

WHEREFORE, premises considered, judgment is hereby rendered dismissing instant complaint for illegal dismissal for lack of merit.

However, respondents are held liable and ordered to pay [petitioners] the following:

Service Incentive

Leave pay

13[th] month pay

1. Chona Estacio

P5,765.19

P5,074.03

2. Leopoldo Manliclic

8,294.19

6,596.25

Disgruntled with the Labor Arbiter's Decision, petitioners appealed to the NLRC. The appeal was docketed as NLRC-NCR Case No. 040757-04.

The NLRC, in its Decision dated 30 June 2005, disagreed with the Labor Arbiter:

There is nothing on record showing that Resolution No. 39, Series of 2002 is null and void. Neither is there any evidence on record showing that there is legal basis to hold the December 9 and 10, 2002 letters of Alberto A. Guiang, Regional Director, National Electrification Administration (NEA), Regional Electrification Office III as having nullified Resolution No. 39, Series of 2002. For what the mentioned letters may be worth, we are convinced they were nothing but mere opinions which bear no weight on the labor dispute obtaining between complainants and respondents. Verily, complainants' employer is Pampanga I Electric Cooperative, Inc. (PELCO), not the National Electrification Administration (NEA).

Finally, jurisprudence teaches us that the Court, out of its concern for those less privileged in life, has inclined towards the worker and upheld his cause on his conflicts with the employer (*Revidad vs. NLRC*, 245 SCRA 356). Time and again we have held that should doubts exist between the evidence presented by the employer and the employee, the scales of justice must be tilted in favor of the latter (*Asuncion vs. NLRC*, G.R. No. 129329, July 31, 2001). This favored treatment is directed by the social justice policy of the Constitution (Article II of the 1987 Constitution), and embodied in Articles 3 and 4 of the Labor Code.[27]

The dispositive portion of the NLRC Decision[28] reads:

WHEREFORE, premises considered, the decision appealed from is hereby MODIFIED.

The findings a quo dismissing the complaint for illegal dismissal is REVERSED and SET ASIDE and a new one entered finding [herein petitioners] to have been illegally dismissed by respondents. Accordingly, respondents are hereby ordered to reinstate [petitioners] and pay them backwages pursuant to Article 279 of the Labor Code. The rest of the assailed decision is AFFIRMED.

Let the Arbitration Branch of origin render the appropriate computations of [petitioners'] backwages.[29]

Respondents filed a Motion for Reconsideration[30] of the NLRC Decision dated 30 June 2005, asking the Commission to affirm, instead, the Decision dated 30 April 2004 of the Labor Arbiter which dismissed petitioners' Complaints for illegal dismissal for lack of merit.

On 24 January 2006, the NLRC promulgated its Resolution[31] denying respondents' Motion for Reconsideration.[32]

Respondents elevated their case to the Court of Appeals via a Petition for Certiorari, under Rule 65 of the 1997 Rules of Civil Procedure, docketed as CA-G.R. SP No. 93971.

In a Decision dated 29 May 2008, the Court of Appeals held:

We agree with the [herein respondents], who was joined by the Labor Arbiter in their stance, pointing out that if only [herein petitioner] Estacio had conscientiously performed her duties in accordance with the revised job description of a bill custodian, then the unremitted collection of P123,807.14, representing different collection periods from July 3, 5, 6, 10, 23, 26, 27, 31 to August 1, 3, 5, 7, 2002, in the hands of the bill collector could have been discovered earlier and could not have accumulated to a bigger amount. [Petitioner] Estacio's excuse that if she was not able to update the records of the Bill Custodian at the time when the audit was made on August 9, 2002, it is because due to the abnormal weather condition on the month of July 2002 when San Luis and Candaba were flooded, was correctly rejected by [respondents] for being insufficient justification since the whole month of July 2002 was not flooded and she was only on leave for a total of five (5) days.

So also, from the evidence adduced by [respondents], it has been adequately established that [herein petitioner] Manlicic violated Section 2.1 of the Revised Employees' Code of Discipline under Board Policy No. 01-04 for failure on his part to remit/turn-over his collection to the management and misappropriating the same for his own personal use and benefit, constituting serious misconduct.[33]

The Court of Appeals disposed of CA-G.R. SP No. 93971, thus:

WHEREFORE, premised considered, the instant petition is GRANTED. The assailed Decision dated June 30, 2005 and the Resolution dated January 24, 2006 rendered by public respondent NLRC are hereby ANNULLED and SET ASIDE. The Decision dated 30 April 2004 of the Labor Arbiter in NLRC Case No. RAB-III-03-5517-03 is REINSTATED.[34]

Petitioners did not file a Motion for Reconsideration to the Court of Appeals.

Petitioners now come to this Court raising the following issues in the instant Petition:

- WHETHER OR NOT THE DECISION OF THE COURT OF APPEALS IS IN ACCORDANCE WITH LAW AND APPLICABLE DECISION OF THE SUPREME COURT AND ITS FINDINGS AND CONCLUSIONS WHICH ARE BASED ON MISAPPREHENSION OF FACTS WITHOUT CITATION OF SPECIFIC EVIDENCE OF WHICH THEY ARE PREMISED DUE TO THE APPARENT REASON THAT THEY WERE NOT SUPPORTED BY EVIDENCE AND CONTRADICTED BY RECORDS, SHALL PREVAIL OR PREPONDERATE OVER THE DECISION OF THE NLRC, WHICH IS SUPPORTED BY EVIDENCE ADDUCED BY BOTH PARTIES, LAWS, APPLICABLE JURISPRUDENCE AND CONSTITUTIONAL PROVISIONS.

- WHETHER OR NOT THE COURT OF APPEALS ACTED IN ACCORDANCE WITH EVIDENCE ON RECORD, APPLICABLE LAWS AND JURISPRUDENCE WHEN IT RULED THAT RESOLUTIONS NOS. 38 AND 39 GRANTING THE LETTERS OF APPEAL OF ESTACIO AND MANLICLIC AND ORDERING THEIR REINSTATEMENT WITHOUT LOSS OF SENIORITY RIGHTS AND THE PAYMENT OF THEIR BACKWAGES INVALID.

- WHETHER OR NOT THE COURT OF APPEALS ACTED IN ACCORDANCE WITH LAWS, ESTABLISHED JURISPRUDENCE AND CONSTITUTIONAL MANDATES WHEN IT RULED THAT RESPONDENT ALLAS AS GENERAL MANAGER OF PELCO I HAS THE SOLE PREROGATIVE AND POWER TO SUSPEND AND/OR DISMISS THE EMPLOYEES OF PELCO I, BASED ON NATIONAL ELECTRIFICATION ADMINISTRATION BULLETIN NO. 35.

- WHETHER OR NOT THE FINDINGS OF THE COURT OF APPEALS COMMITTED SERIOUS ERRORS IN IGNORING OR THRUSTING ASIDE THE UNDISPUTED FACTS THAT THE PETITION FOR CERTIORARI FILED BY ALLAS TO THE COURT OF APPEALS WHICH WAS VERIFIED BY HIM WITHOUT BOARD RESOLUTION OF PELCO I BOARD OF DIRECTORS ASSAILING OR QUESTIONING RESOLUTIONS NO. 38 AND 39 OF PELCO I BOARD OF DIRECTORS DISCLOSED HIS LACK OF LEGAL PERSONALITY CONSIDERING THAT THE LATTER IS THE GOVERNING BODY OF PELCO I, AND HAS THE DIRECT INTEREST AND CONTROL OF ITS CORPORATE POWERS AND IN OVERLOOKING OR DISREGARDING THE FACT THAT RESOLUTION NO. 53-06 BELATEDLY ISSUED BY ANOTHER SET OF MEMBERS OF BOARD OF DIRECTORS OF PELCO I ATTACHED BY ALLAS IN A MOTION FOR RECONSIDERATION IN EFFECT RATIFIED OR CONSENTED ALLAS PETITION QUESTIONING OR ASSAILING PELCO I BOARD OF DIRECTORS VERY OWN RESOLUTIONS NO. 38 AND 39 EARLIER PROMULGATED BY DIFFERENT SET OF MEMBERS OF BOARD OF DIRECTORS, DEBAR OR PRECLUDE PELCO I FOR DOING SO, FOR IT IS AN OBVIOUS INSTANCE OF ESTOPPEL AND LACHES AND AN ELOQUENT PROOF OF AFTERTHOUGHT.

- WHETHER OR NOT RESOLUTIONS NO. 38 AND 39 WHICH WAS (sic) UPHELD BY THE NLRC IS IN ACCORDANCE WITH LAW, SETTLED JURISPRUDENCE AND CONSTITUTIONAL MANDATES.[35]

Before delving into the substantial issues in this case, the Court must first resolve the procedural issue of whether

respondent Engr. Allas had the legal personality to file before the Court of Appeals the Petition in CA-G.R. SP No. 93971.

The Court answers in the affirmative.

It bears to stress that petitioners themselves filed their Complaints before the NLRC against both respondents PELCO I and Engr. Allas. Respondent Engr. Allas participated in the proceedings before the Labor Arbiter and the NLRC. As a party aggrieved by the NLRC decision and resolution, respondent Engr. Allas had a substantial interest to file with the Court of Appeals the Petition for Certiorari under Rule 65 of the 1997 Revised Rules of Civil Procedure, on his own behalf.[36]

As for respondent Engr. Allas' authority to file the same Petition on behalf of respondent PELCO I, it is evidenced by Board Resolution No. 53-06,[37] approved by the Board of Directors of the cooperative on 5 August 2006. Even though Board Resolution No. 53-06 was belatedly filed, the Court of Appeals rightfully accepted the same. In the present case, the findings and conclusion of the Labor Arbiter and the NLRC are at odds, and the case concerns a labor matter to which our fundamental law mandates the state to give utmost priority and full protection.[38] Necessarily, this Court will look beyond alleged technicalities to open the way for resolution of substantive issues.[39]

The Court cannot subscribe to petitioners' argument that after passing Resolutions No. 38 and No. 39 reversing petitioners' dismissal from service and ordering that they be reinstated and paid their backwages, the Board of Directors of respondent PELCO I was estopped from subsequently passing Board Resolution No. 53-06. The Board Resolution authorized respondent Engr. Allas to file the Petition for Certiorari with the Court of Appeals, challenging the NLRC judgment that petitioners were illegally dismissed.

Estoppel, an equitable principle rooted upon natural justice, prevents persons from going back on their own acts and representations, to the prejudice of others who have relied on them.[40]

The party claiming estoppel must show the following elements:

- 1) lack of knowledge and of the means of knowledge of the truth as to the facts in question;
- 2) reliance in good faith, upon the conduct or statements of the party to be estopped; and
- 3) action or inaction based thereon of such character as to change the position or status of the party claiming the estoppel, to his injury, detriment or prejudice.[41]

In this case, the essential elements of estoppel are inexistent.[42]

The first element is unavailing in the case at bar. Petitioners have the knowledge and the means of knowledge of the truth as to the facts in question. In issuing Resolutions No. 38 and No. 39, the Board of Directors of respondent PELCO I relayed its initial determination that petitioners' dismissal from service was harsh and drastic. These Resolutions merely expressed the position of the Board of Directors of respondent PELCO I at the time of their issuance. The subsequent passing of Board Resolution No. 53-06 by the same Board of Directors of respondent PELCO I, explicitly conveyed a change of mind, i.e., the Board now wanted to contest, through respondent Engr. Allas, the finding of the NLRC that petitioners were illegally dismissed.

Without any basis, the Court cannot conclude that by the mere issuance of Board Resolution No. 53-06, the Board of Directors of respondent PELCO I committed false representation or concealment of material facts in its earlier Resolutions No. 38 and No. 39. What is apparent to this Court, on the face of these Resolutions, is that the Board of Directors of respondent PELCO I eventually arrived at a different conclusion after reviewing the very same facts, which it considered for Resolutions No. 38 and No. 39.

Also, Board Resolution No. 53-06 was unanimously passed by all the directors of respondent PELCO I. There is no allegation, much less, evidence, of any irregularity committed by the Board in the approval and issuance of said Board Resolution. Hence, the Court cannot simply brush Board Resolution No. 53-06 aside. Questions of policy and of management are left to the honest decision of the officers and directors of a corporation (or in this case, cooperative), and the courts are without authority to substitute their judgment for the judgment of the board of directors. The board is the business manager of the corporation, and so long as it acts in good faith, its orders are not reviewable by the courts.[43]

Moreover, petitioners were unable to establish the third element of estoppel. It bears stressing that if there be any injury, detriment, or prejudice to the petitioners by the action of the Board of Directors in passing Resolution Nos. 38 and 39 and subsequently Resolution No. 53-06, such injury was due to petitioners' own fault. Petitioner Estacio failed to account for and ascertain on a daily basis a total of 86 bills collected and uncollected by the bill collectors of PELCO I, resulting in unremitted bills amounting to P123,807.14. In the case of petitioner Manliclic, he admitted having used the amount of P4,813.111 from his collection. Estoppel is a shield against injustice; a party invoking its protection should not be allowed to use the same to conceal his or her own lack of diligence.[44]

To be sure, estoppel cannot be sustained by mere argument or doubtful inference; it must be clearly proved in all its essential elements by clear, convincing and satisfactory evidence.[45]

The Court then proceeds to resolve the substantive issue of whether petitioners were illegally dismissed by respondents.

The requisites for a valid dismissal are: (a) the employee must be afforded due process, i.e., he must be given an opportunity to be heard and defend himself; and (b) the dismissal must be for a valid cause as provided in Article 282[46] of the Labor Code or for any of the authorized causes under Articles 283[47] and 284[48] of the same Code.

Well-settled is the rule that the essence of due process is simply an opportunity to be heard or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.[49]

It is undisputed that petitioners were accorded due process. Through the Memoranda issued by respondent Engr. Allas, petitioners were duly informed of the results of the audit conducted by Internal Auditor Lazaro, which were unfavorable to petitioners. Petitioners were given a chance to submit their written explanations. As to petitioner Estacio, a formal hearing/investigation was even conducted by an investigating committee. Only thereafter, did respondent Engr. Allas notify petitioners Estacio and Manliclic, through a Decision dated 25 October 2002 and Memorandum dated 28 September 2002, respectively, that they were found guilty of the charges against them and were being dismissed from service. Both petitioners had the opportunity to seek reconsideration of their dismissal.

The Court also finds that there was valid cause for petitioner Estacio's dismissal.

Petitioner Estacio was dismissed from service for the commission of an offense under Board Policy No. 01-04 dated 23 July 2001 of respondent PELCO I, particularly:

Section 6.6 On Negligence of Duty

6.6.6 Gross negligence in assigned tasks/duties as specified in the job description.

Gross negligence connotes want or absence of or failure to exercise even slight care or diligence, or the total absence of care. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them. To

warrant removal from service, the negligence should not merely be gross, but also habitual.[50] A single or isolated act of negligence does not constitute a just cause for the dismissal of the employee.[51]

In *JGB and Associates, Inc. v. National Labor Relations Commission*,[52] the Court further declared that gross negligence connotes want of care in the performance of one's duties. Habitual neglect implies repeated failure to perform one's duties for a period of time, depending upon the circumstances. Fraud and willful neglect of duties imply bad faith of the employee in failing to perform his job, to the detriment of the employer and the latter's business.

To determine if indeed petitioner Estacio was grossly negligent in the performance of her duties, the Court must first understand what her duties were. Petitioner Estacio, as a bill custodian of respondent PELCO I -

- Issues and accounts all electric bills issued to and returned by collectors as well as paid office bills and shall be accountable and liable for all uncollected bills under his/her custody.
- Maintains an accurate record of all Official Electric Bill Receipts (OEBR) issued to and returned by collectors, and sees to it that the same are properly signed or initialed by the collector as clearance to any accountability.
- Accounts and ascertains on a daily basis the total bills collected and uncollected by collectors and those bills paid in the office by consumers through the maintenance of bill route control and related records;
- Prepares listings of delinquent consumers due for disconnection;
- Issues or certifies to the clearance of accounts of consumers before reconnection or change of billing names is effected.
- Issues bills due from employees to be deducted from their respective pay and correspondingly logs the same in the bill route control;
- Files in an orderly and systematic manner all the pertinent electric bills and other related documents in her possession for easy access and reference;
- Performs other duties that may be assigned from time to time.[53]

There is no more question that petitioner Estacio did fail to account for and record the bill collections for eight days of July and four days of August 2002. As a result of petitioner Estacio's improper accounting and records keeping, the amount of P123,807.14 remains unremitted to respondent PELCO I. As correctly observed by the investigating committee of PELCO[54]:

From the record of the case and investigation conducted it appears that Ms. Estacio as the designated Bill Custodian at San Luis Area Office is responsible for the safekeeping of consumers of electric bills especially the unpaid or uncollected bills. That for control and accounting purposes, she has to account daily all collected and uncollected bills in her custody including the bills paid in the office. That in issuing the bills to the bill collectors, she has to maintain an accurate record which is the basic tool in maintaining and controlling all the bills in her possession. Then in case the collectors do not return the bills uncollected and do not make a report of the collected bills in a day, as Bill Custodian, it is also her duty to require the collectors to return the bills and make a report of the collected bills. If the collector still failed to do such, the custodian should report the matter to the immediate supervisor or Area Manager. But sad to say Ms. Estacio failed to perform all the above stated duties which resulted to the accumulation of unremitted bills (86) amounting to P123,807.14.

If only Ms. Estacio is performing her duties as Bill Custodian in accordance with what is prescribed on the job description these unremitted collections could have been discovered earlier and did not accumulate to a bigger amount.

Petitioner Estacio, despite the opportunities given to her, did not offer any satisfactory explanation or evidence in her defense. Her only reason for failing to comply with the requisite daily accounting and reporting of the bill collections was the terrible weather condition during the month of July 2002, which resulted in the flooding of the San Luis and Candaba area in Pampanga, hence, keeping her from going to work. Like the investigating committee, the Labor Arbiter, and the Court of Appeals, this Court is unconvinced. Petitioner Estacio was on leave for only five days of July 2002. She had the occasion to update her records on the bill collections during the other days of July and August 2002, when the weather was fine and she was able to report for work; yet, she still did not do so. She waited until her infraction was discovered during the conduct of the internal audit, only to proffer a feeble excuse.

Petitioner Estacio's failure to make a complete accounting and reporting of the bill collections plainly demonstrated her disregard for one of her fundamental duties as a bill custodian. It was an omission repeated by petitioner Estacio for several days, spanning several billing periods for July and August 2002; thus, she allowed, during the said period, the accumulation of the amounts unremitted by bill collectors to respondent PELCO I, until these reached the substantial amount of P123,807.14. All the foregoing considered, the Court can only conclude that there was valid cause to dismiss petitioner Estacio for gross and habitual negligence.

Similarly, the Court rules that there is valid cause for petitioner Manliclic's dismissal from service.

To recall, petitioner Manliclic, a bill collector, admitted to having used the amount of P4,813.11 from his collection, lending P3,719.75 thereof to a Joselito Ocampo and presumably keeping the rest to himself. This qualifies as an offense against properties of respondent PELCO I, which may be committed by any of the means described in Section 2.1 of Board Policy No.01-04 dated 23 July 2001, to wit:

2.1.1. Malversation of Coop funds or other financial securities and such other funds or other financial securities in the care and custody of or entrusted to the Coop for which it maybe held liable.

2.1.2. Failure to remit collection and/or failure to turn-over materials/equipments due the Coop within the required period of time pursuant to Coop policies and rules and regulations. (Depending on the gravity as a result of the offense.)

2.1.3. Malversing/misappropriating or withholding Coop funds or any attempt/frustration thereof.[55]

In *Piedad v. Lanao del Norte*,^[56] Warlito Piedad was a bill collector with the Lanao del Norte Electric Cooperative. Upon audit, Piedad was found to have incurred a shortage in his cash collection in the amount of P300.00. He acknowledged having used said amount. The Court affirmed Piedad's termination from service on account of such shortage, despite his having rendered nine years of unblemished service and being awarded as Collector of the Year. We expostulated in that case that it was neither with rhyme nor reason that the petitioner was dismissed from employment. His acts need not have resulted in material damage or prejudice before his dismissal on grounds of loss of confidence may be effected. Being charged with the handling of company funds, the petitioner's position, though generally described as menial, was, nonetheless, a position of trust and confidence. No company can afford to have dishonest bill collectors.

In *Garcia v. National Labor Relations Commission*,^[57] Evelyn Garcia, a cashier at a school, committed several irregularities in handling school funds. The Court upheld her dismissal from service on the ground of breach of trust. Bearing in mind that the position of cashier is a highly sensitive position, requiring as it does the attributes of absolute trust and honesty because of the temptations attendant to the daily handling of money, it could not be helped that Garcia's acts would sow mistrust and loss of confidence on the part of respondent employer.

Petitioner Manliclic's honesty and integrity are the primary considerations for his position as a bill collector

because, as such, he has in his absolute control and possession -- prior to remittance -- a highly essential property of the cooperative, i.e., its collection. Respondent PELCO I, as the employer, must be able to have utmost trust and confidence in its bill collectors.

The amount misappropriated by petitioner Manliclic is irrelevant. More than the resulting material damage or prejudice, it is petitioner Manliclic's very act of misappropriation that is offensive to respondent PELCO I. If taxes are the lifeblood of the state, then, by analogy, the payment collection is the lifeblood of the cooperative. The collection provides respondent PELCO I with the financial resources to continue its operations. Respondent PELCO I cannot afford to continue in its employ dishonest bill collectors.

By his own admission, petitioner Manliclic committed a breach of the trust reposed in him by his employer, respondent PELCO I. This constitutes valid cause for his dismissal from service.

WHEREFORE, premises considered, the instant Petition is DENIED and the Decision dated 29 May 2008 of the Court of Appeals in CA-G.R. SP No. 93971 is AFFIRMED. No costs.

SO ORDERED.

MINITA V. CHICO-NAZARIO

Associate Justice

Acting Chairperson

WE CONCUR:

CONCHITA CARPIO MORALES

Associate Justice

PRESBITERO J. VELASCO, JR.

Associate Justice

ANTONIO EDUARDO B. NACHURA

Associate Justice

DIOSDADO M. PERALTA

Associate Justice

[*] Per Special Order No. 679 dated 3 August 2009, signed by Chief Justice Reynato S. Puno, designating Associate Justice Conchita Carpio Morales to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave.

[**] Per Special Order No. 681 dated 3 August 2009, signed by Chief Justice Reynato S. Puno, designating Associate Justice Minita V. Chico-Nazario as Acting Chairperson to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave.

[1] Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Amelita G. Tolentino and Lucenito N. Tagle, concurring; rollo p. 58.

[2] Presidential Decree No. 269, "Creating the 'National Electrification Administration' as a Corporation, prescribing its powers and activities, appropriating the necessary funds therefor and declaring a national policy objective for the total electrification of the Philippines on an area coverage service basis, the organization, promotion and development of electric cooperatives to attain the said objective, prescribing terms and conditions

for their operations, the repeal of Republic Act No. 6038, and for other purposes."

[3] CA rollo, p. 4.

[4] Records, p. 24.

[5] Id. at 52-56.

[6] Id. at 50.

[7] Annex D; rollo, p. 88.

[8] 6.4. On Dishonesty.

[9] 6.6. On Negligence of Duty.

[10] Records, p. 37.

[11] Rollo, p. 96.

[12] Section 2. Offenses against Coop properties. x x x

2.1 On Coop Funds

2.1.1 Malversation of Coop funds or other financial securities and such other funds or other financial securities in the care and custody of or entrusted to the Coop for which it may be held liable.

2.1.2 Failure to remit collection and/or failure to turn-over materials/equipment due the Coop within the required period of time pursuant to Coop policies and rules and regulations (Depending on the gravity as a result of the offense).

2.1.3 Malversing/misappropriating or withholding Coop funds or any attempt/frustration thereof.

2.1.4 Failure to turn-over to the Coop immediately upon receipt thereof any money of whatever currency or amount given by the client or his/her representative to the Coop.

[13] Manliclic's letter states:

This has reference to your Memorandum dated September 28, 2002, dismissing the undersigned from the service effective October 01, 2002 due to non-remittance of the amount of Four Thousand Eight Hundred Thirteen and Eleven Centavos (P4,813.11) which with all candidness was admitted by the undersigned in my letter of explanation dated September 11, 2002. The undersigned opted to utilize the reason of pressing family obligations but the truth of the matter is that out of the aforesaid amount the sum of Three Thousand Seven Hundred Nineteen and Seventy-Five Centavos (P3,719.75) was borrowed from me by Mr. Joselito Ocampo on the last week of June 2002. This is confirmed by the Affidavit of Mr. Joselito Ocampo executed last October 3, 2002, a copy of which is hereto attached for your reference.

That the remaining amount of One Thousand Ninety-Three Pesos and Thirty-Six Centavos (P1,093.36) represents two electric bills which were not included on the first audit and such amount as well as the receipts were turn[ed] over by the bill custodian Marijo Panlilio to our auditor.

While indeed I took sole responsibility for the unremitted amount and I knew fully well that it should not have been lend (sic) by me to Mr. Ocampo the undersigned was constrained to do so out of human compassion on the predicament of Mr. Ocampo at that time. The undersigned is filing this letter of reconsideration in order to divulge the truth regarding such amount for the reconsideration of your Memorandum dated September 28, 2002.

(Sgd) Leopoldo Manliclic

Meter Reader/Collector (Records, p. 43.)

[14] Id. at 42.

[15] Rollo, p. 99.

[16] Records, p. 43.

[17] Id. at 45.

[18] According to Board Policy No. 01-04 dated 23 July 2001:

An aggrieved employee who feels that the charges against him/her are not true, or that the penalty imposed on him/her by the General Manager for the alleged particular violation or offense committed is too heavy or drastic, or that his/her case has not been given proper due process/course, may appeal in writing to the General Manager for reconsideration or for a thorough review of his/her case within five (5) days from receipt of such action. The General Manager shall act on such appeal within five (5) days from receipt thereof.

If he/she is not yet fully satisfied with the General Manager's decision, he/she may elevate his/her case in writing to the Board of Directors, through the President, for further review/evaluation/investigation and hearing of his/her case as appealed within ten (10) days from receipt of the General Manager's action. The Board will then render its decision accordingly within thirty (30) days from receipt thereof, based on the merits and facts of the case at bar. (Annex 2, records, p. 82.)

[19] Rollo, p. 117.

[20] Resolution No. 39, in particular, reads:

RESOLUTION NO. 39

SERIES OF 2002

RESOLUTION GRANTING THE LETTERS OF APPEAL OF MRS. CHONA ESTACIO AND MR. LEOPOLDO MANLICLIC WITH MODIFICATION

WHEREAS, the board of Directors of PELCO I received letters of appeal of Mrs. Chona Estacio and Mr. Leopoldo Manliclic regarding their dismissal from the service.

WHEREAS, upon deliberation and thorough study of the members of the Board of Directors of PELCO I it was found out that the penalty of dismissal that were imposed against Mrs. Chona Estacio and Mr. Leopoldo Manliclic is too drastic and cruel in character.

WHEREAS, that Board of Directors of PELCO I deem it improper and unjust to reconsider the penalty of dismissal imposed to Mrs. Chona Estacio and Mr. Leopoldo Manliclic; while Director Miranda's motion that the initial disciplinary action would only be a first offense and the objection was raised by Director Dizon that he is not in favor of the reinstatement.

WHEREAS, in view of the fact that Mrs. Chona Estacio has already served a thirty (30) days preventive suspension, General Manager Loliano Allas is hereby directed to reinstate Mrs. Chona Estacio and Mr. Leopoldo Manliclic to be included in the payroll and to receive all benefits upon effectivity of their reinstatement.

NOW, THEREFORE, upon Motion of Director Venancio S. Macapagal duly seconded by Director Albert B.

Franco resolved as it is hereby resolved that upon majority votes of the Board of Directors of PELCO I approved the granting of the letters of appeal of Mrs. Chona Estacio and Mr. Leopoldo Manliclic to be reinstated. Eventually, G.M. Allas is hereby ordered to comply 2 days upon receipt of this resolution. (Records, pp. 48-49.)

[21] Annex 3, Records.

[22] Annex 5, id.

[23] Annex 6, id.

[24] Records, pp. 1 and 8.

[25] Rollo, pp. 143-144.

[26] Id. at 145.

[27] Id. at 160-161.

[28] Id. at 147.

[29] Id. at 161.

[30] Id. at 163.

[31] Id. at 167.

[32] Id. at 173.

[33] Id. at 67.

[34] Id. at 71.

[35] Id. at 337-338.

[36] RULE 65

CERTIORARI, PROHIBITION AND MANDAMUS

SECTION 1. Petition for certiorari. - When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

[37] Entitled "Resolution Authorizing the General Manager, Engr. Allas, to file an Appeal/Petition for Review at the Court of Appeals, Re: Chona Estacio and Leopoldo Manliclic v. Pamapanga I Electric Cooperative Incorporated. (Rollo, p. 316.)

[38] Philippine National Construction Corporation v. Matias, G.R. No. 156283, 6 May 2005, 458 SCRA 148, 158.

[39] Tacloban II Neighborhood Association, Inc. v. Office of the President, G.R. No. 168561, 26 September 2008, 566 SCRA 493, 510-511.

[40] Philippine National Bank v. Palma, G.R. No. 157279, 9 August 2005, 466 SCRA 307, 323-325.

[41] *The Insular Life Assurance Co. Ltd. v. Asset Builders Corp.*, 466 Phil. 751, 773 (2004).

[42] *Republic Glass v. Qua*, 479 Phil. 393 (2004).

[43] *Philippine Stock Exchange, Inc. v. Court of Appeals*, 346 Phil. 218, 234 (1997).

[44] *Mijares v. Court of Appeals*, 338 Phil. 274, 289 (1997).

[45] *The Insular Life Assurance Company, Ltd. v. Asset Builders Corporation*, supra note 41 at 772.

[46] ART. 282. TERMINATION BY EMPLOYER. - 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;

(b) Gross and habitual Neglect by the employee of his duties;

(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

(d) Commission of a Crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and

(e) Other causes Analogous to the foregoing.

[47] ART. 283. CLOSURE OF ESTABLISHMENT AND REDUCTION OF PERSONNEL - The employer may also terminate the employment of any employee due to the installation of labor saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the worker and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered as one (1) whole year.

[48] ART. 284. DISEASE AS GROUND FOR TERMINATION. - An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health as well as to the health of his co-employees: Provided, That he is paid separation pay equivalent to at least one (1) month salary or to one-half (1/2) month salary for every year of service, whichever is greater, a fraction of at least six (6) months being considered as one (1) whole year.

[49] *Sarapat v. Salanga*, G.R. No. 154110, 23 November 2007, 538 SCRA 324, 332.

[50] *Salas v. Aboitiz One, Inc.*, G.R. No. 178236, 27 June 2008, 556 SCRA 374, 385-386.

[51] *Premiere Development Bank v. Mantal*, G.R. No. 167716, 23 March 2006, 485 SCRA 234, 239.

[52] 324 Phil. 747 (1996); *Premiere Development Bank v. Mantal*, id.

[53] CA rollo, p. 157.

[54] Records, p. 86.

[55] Rollo, p. 106.

[56] G.R. No. L-73735, 31 August 1987, 153 SCRA 500.

[57] 327 Phil. 1097 (1996).

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