

PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, PETITIONER, VS. EUSEBIO M. HONRADO, RESPONDENT.

G.R. No. 189366. December 08, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The law in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer. While the Constitution is committed to the policy of social justice and the protection of the working class, it should not be supposed that every labor dispute will be automatically decided in favor of labor. Management also has its own rights, which, as such, are entitled to respect and enforcement in the interest of simple fair play. x x x[1]

For resolution is the Petition for Review on certiorari of petitioner Philippine Long Distance Telephone Company (PLDT) which seeks to reverse the Court of Appeals' (CAs') Decision[2] dated September 25, 2008 and Resolution dated September 2, 2009 in CA G.R. SP No. 89372 entitled "Philippine Long Distance Telephone Company v. National Labor Relations Commission and Eusebio M. Honrado."

Factual Antecedents

The antecedent facts based on the September 25, 2008 Decision of the CA are as follows:

Private respondent Eusebio Honrado (hereafter "Honrado") was an employee of petitioner Philippine Long Distance Telephone Company (PLDT for brevity) assigned at the PLDT North Parañaque Exchange. He was hired on August 25, 1981 and held the position of a senior lineman with a monthly salary of P21,600.00 prior to the termination of his employment on February 15, 2001.

On November 29, 1999, spouses Pete A. Mueda and Rodrigo H. Mueda went to PLDT's Quality Control Division (QCD for brevity) to verify their application for telephone because according to them, a person named Rony Hipolito (hereafter "Hipolito") who introduced himself as a PLDT employee went to their house on November 26, 1999 in the afternoon. Spouses Mueda narrated that Hipolito told them that he is the area inspector assigned therein and that "okay na ang linya ng PLDT dito sa area ng Kalayaan, pwede ng magbayad ng kalahati, pero hindi pa pwedeng magpakabit ngayon dahil Sabado at ipapriority and teleponong ikakabit sa amin dahil nagda-down kami". They likewise narrated that he mentioned that "ipapakilala niya kaming relatives niya para mauna na kami makabitan" and that they can pay directly to him since he is a PLDT employee and that x x x the balance can be paid to PLDT within six months on installment basis. Spouses Mueda further stated: that because of this, they paid Hipolito P1,500.00 as partial payment for the installation of their new telephone line; that Hipolito even signed a receipt stating that he received P1,500.00 downpayment on the same date, November 26, 1999; and that he also gave a contact number of 822-2828 in case they have any query or follow-up.

At the QCD, Spouses Mueda found out that the act of Hipolito in soliciting and receiving P1,500.00 as down payment for installation of a new telephone line is against the policy of herein petitioner. So, in order to ascertain the identity of Rony Hipolito, Mrs. Pete Mueda was shown several pictures of outside plant personnel

of herein petitioner with surname Hipolito. However, Mrs. Mueda could not pinpoint anyone who introduced himself as Rony Hipolito.

Hence, on January 18, 2000, Mr. Domosthenes J. Yap, QCD Investigator together with Mrs. Mueda, conducted a stake out operation at the PLDT North Parañaque Exchange to [determine] the identity of Rony Hipolito. When herein private respondent Honrado handed his Trip Authorization Pass (TAP for brevity) to the guard on duty at the gate of the PLDT North Parañaque Exchange, he was positively identified by Mrs. Mueda as the person who solicited and received the money from her and her husband.

On January 19, 2000, a confrontation [proceeding] between private respondent and Mrs. Mueda was conducted at the QCD. In the said [proceeding], Mrs. Mueda categorically declared, in the presence of private respondent, that the latter solicited and received P1,500.00 from her as down payment for the installation of her new telephone line. On the other hand, private respondent opted not [to] give any statement on the accusation against him. Nevertheless, he was given until January 26, 2000 to give a statement or explain his side which, was further extended until January 31, 2000 per letter dated January 26, 2000 of Mr. Fidel Paulino, acting head-QCD.

On May 9, 2000, per inter-office memorandum, the head of the QCD transmitted to the manager of private respondent, Mr. Torrenueva, the Investigation Report recommending that an administrative action for gross misconduct be filed against private respondent.

Then, on June 8, 2002, through an inter-office memorandum, Mr. Torrenueva asked private respondent to explain, in writing[,] within 72 hours from receipt of the memo, why he should not be dismissed for serious misconduct and if he so desire, he may ask for a hearing. Failure to do so shall be taken as waiver of his right to be heard. In reply, private respondent, per inter-office memorandum dated June 15, 2000, vehemently denied all the allegations imputed against him and requested for a formal hearing with the assistance of his counsel and Union official. On the same date, Mr. Torrenueva, per inter-office memorandum, informed private respondent that the formal hearing of his case was set on June 22, 2000.

Per letter dated June 20, 2000 of Atty. Untalan, Jr., he requested for the resetting of the hearing from June 22 to June 29 as he was just retained by private respondent as counsel.

On June 29, 2000, the formal hearing took place. In the said hearing, private respondent again denied the accusation against him. Then, his counsel asked the presiding officer to show them the alleged receipt issued by private respondent. But the said PLDT officer, Mr. Yap, refused to show it to them and told them that the hearing is only for the airing of private respondent's explanation and defenses. His counsel also persistently requested Mr. Yap to give them at least a single opportunity to cross-examine the accusers of his client to determine the truth because what was at stake was the means of livelihood of his client but his plea was heard by deaf ears.

Thereafter, per inter-office memorandum dated February 13, 2001, private respondent was notified that he was found liable as charged, hence, dismissed from service effective February 15, 2001 at the close of business hours. [3]

Ruling of the Labor Arbiter

Consequently, respondent Honrado filed a complaint for illegal dismissal, money claims and damages against petitioner PLDT, denominated as NLRC NCR Case No. 30-04-01903-01. After submission of their respective position papers and other pleadings, on October 19, 2001, the Labor Arbiter dismissed the complaint,[4] the dispositive portion of which is as follows:[5]

WHEREFORE, premises considered, judgment is hereby rendered dismissing the instant case for lack of merit.

SO ORDERED.

Ruling of the National Labor Relations Commission

Respondent appealed[6] to the NLRC. On May 7, 2003 the NLRC granted the appeal, the decretal portion of which reads:[7]

WHEREFORE, the appealed decision is set aside. The respondent is hereby directed to reinstate complainant to his former or equivalent position without loss of seniority rights and benefits to pay him full backwages computed from the date his salary was withheld from him until the time he is actually reinstated.

SO ORDERED.

Petitioner filed a motion for reconsideration but the same was denied in an Order[8] dated February 8, 2005.

Ruling of the Court of Appeals

Petitioner filed a Petition for Certiorari with the CA. On September 25, 2008, the CA rendered a Decision denying the petition and affirming the NLRC Decision.[9] Petitioner's Motion for Reconsideration dated April 16, 2009 was likewise denied in a CA Resolution dated September 2, 2009.[10]

The Parties' Arguments

On October 20, 2009, petitioner filed the instant Petition for Review on Certiorari assailing the Decision dated September 25, 2008 and the Resolution dated September 2, 2009, both of the CA. Petitioner grounded its appeal on the following issues: (1) the CA misapplied the quantum of proof required in holding that there is no sufficient basis to support the cause for the respondent's termination; and (2) the CA committed serious error in finding that respondent Honrado was denied due process of law.[11]

On May 7, 2010, respondent submitted his Comment on the petition arguing that "[T]his whole case hinges on the violation of due process by the petitioner when it refused to even show the receipt allegedly signed by the respondent and used by it as the principal basis for dismissing the respondent." [12] Subsequently, in a Manifestation filed on September 16, 2010, petitioner declared its intention not to submit a reply to the respondent's Comment.[13]

Our Ruling

The petition has merit.

"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 of the Labor Code or for any of the authorized causes under Articles 283 and 284 of the same Code." [14]

On the issue of due process

It is hornbook in employee dismissal cases that "[t]he essence of due process is an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side x x x." [15] "A formal or trial type hearing is not at all times and in all instances essential to due process, the requirements of which are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy." [16] Neither is it necessary that the witnesses be cross-examined by counsel for the adverse party.[17]

In the instant case, a confrontation proceeding between respondent Honrado and the therein complainant Mrs. Pete A. Mueda (Mrs. Mueda) was conducted at petitioner's QCD office on January 19, 2000.[18] At the said proceeding, Mrs. Mueda declared the circumstances surrounding the complaint against the respondent and more significantly identified the respondent in a line-up:

TANONG 1: Ginang Mueda, sa inyong reklamo ay may sinasabi kayong isang empleyado ng PLDT na nagpakilala bilang Rony Hipolito na ayon sa inyo ay naningil sa inyo ng Php1,500.00 bilang down payment para sa pagpapakabit ng linya ng telepono. May ipinakita ako sa inyong litrato ng aming mga repairman na Hipolito ang apelyido ngunit ayon sa inyo ay wala ka ni isang nakikilala sa mga litratong ito. Nagbigay din kayo sa akin ng isang telephone number 822-2828 na ayon sa inyo ay ang contact number ni G. Hipolito. Nang aking suriin ito ay nakatalaga sa North [Parañaque] CS/FAS. Dahil dito, minabuti kong isama kayo sa North [Parañaque] Exchange na kung saan nakatalaga ang nasabing telepono at doon ay nakilala at itinuro ninyo ang isang taong nagngangalang Eusebio M. Honrado na ayon sa inyo [ay] positibo at sigurado kayo na siya ang naningil sa inyo ng Php1,500.00 Tama po ba ang lahat ng ito?

SAGOT: Oo.

TANONG 2: Maari ninyo po bang sabihin kung nandito siya sa paghaharap-harap na ito?

SAGOT: Oo.

TANONG 3: Maari ninyo po bang ituro kung sino siya sa mga nakahanay?

SAGOT: Siya po. (Itinuro ni Ginang Mueda ang isang taong naka suot ng light blue na T-shirt na nagpakilala bilang si Eusebio M. Honrado.)

TANONG 4: Maari ninyo bang sabihin ang inyong pangalan (investigator refers to the person pinpointed by Ms. Mueda in the line-up)?

SAGOT: Ako ho si Eusebio M. Honrado.

x x x x

Mga Tanong kay Ginang Mueda

TANONG 9: Ginang Mueda, kailan kayo unang nagkita ni Ginoong Honrado?

SAGOT: Noong November 26, 1999.

TANONG 10: Ito rin ba ang araw ng kung kailan kayo nagbigay kay Ginoong Honrado ng Php1,500.00 bilang downpayment para sa installation ng linya ng telepono na ayon sa inyo ay kayo ay siningil niya?

SAGOT: Oo.

x x x x

Upon the identification of the respondent as the person who solicited, collected and received the downpayment for the purported installation of therein complainant's telephone service, respondent was apprised of the charges against him as well as his rights:

Mga Tanong kay Ginoong Honrado

TANONG 5: Narinig ninyo ang sagot at pahayag ni Ginang Mueda na ayon sa kanya ay ikaw raw ay humingi, naningil at tumanggap ng halagang P1,500.00 bilang down payment para sa pagpapakabit ng linya ng telepono. Ngunit bago kita tanungin tungkol sa bagay na ito ay nais ko munang ipaalam sa iyo ang iyong mga karapatan ayon sa ating Bagong Saligang Batas. Na kayo ay may karapatang tumangging sumagot sa mga tanong [na] sa tingin ninyo ay maaring makasama o makapagpababa sa iyong pagkatao, o kaya'y sumagot ng hindi nanunumpa. Karapatan mo ring magsawalang kibo kung iyong nanaisin. May karapatan ka ring sumangguni sa abogado na sarili mong pili o sa inyong Union Council Representative upang makatulong sa iyo sa pagsisiyasat na ito. Dahil anuman ang sabihin mo sa pagsisiyasat na ito ay maaring gamiting ibedensiya laban o panig sa iyo. Naiintindihan mo ba ang iyong mga karapatan?

SAGOT: Oo.[19]

Thereafter, respondent was notified by way of an Inter-Office Memo[20] dated June 8, 2000 of the formal charges against him and was required to explain in writing "why [he] should not be dismissed for serious misconduct."

On June 15, 2000, respondent filed an Inter-Office Memo[21] denying all the allegations imputed against him and requested for a formal hearing with the assistance of his lawyer and a Union official.

Acting on the request of the respondent, petitioner scheduled and held a formal hearing, with the respondent accompanied by his lawyer and the union representative.[22] During said hearing, respondent's counsel manifested that they should first be shown the receipt evidencing the alleged down payment made by Mrs. Mueda before the respondent would be asked to answer.[23] The company hearing officer noted the request and clarified that the purpose of the proceedings was to hear the respondent's counter-statement to the accusation presented against him. Respondent denied the accusation against him.[24] Thereafter, his counsel asked the hearing officer to allow them to cross-examine Mrs. Mueda.[25] However, considering that there was already a prior confrontation proceeding between Mrs. Mueda and the respondent, the company hearing officer denied the said request.[26]

Subsequently, respondent Honrado received, through Inter-Office Memo dated February 13, 2001, a Notice of Termination informing him that after a careful evaluation of his case, he was found liable as charged and dismissed from the service due to gross misconduct.[27]

On the basis of the above-related circumstances, this Court agrees with the finding of the CA that "petitioner technically followed all the procedures laid down in Book VI, Rule I, Section 2(d) of the Omnibus Rules Implementing the Labor Code in the sense that: (1) private respondent was served with written notice specifying the ground for his termination; (2) a formal hearing was conducted with the assistance of his counsel; (3) and he was served with written notice of termination indicating the grounds to justify it."[28]

The CA cited this Court's ruling in *Asuncion v. National Labor Relations Commission*[29] citing *Ruffy v. National Labor Relations Commission*,[30] that ample opportunity would be "every kind of assistance that management must accord to the employee to enable him to prepare for his defense." However, a careful reading of the factual setting of both cases belies their inapplicability to the instant case. In *Asuncion*, this Court took note of the fact that the two-day period for the petitioner to answer the charges against her was unreasonable considering that she was charged with several infractions (35 absences, 23 half-days and 108 tardiness).[31] On the other hand, in *Ruffy*, the employee was terminated prior to the investigation.[32] We further held in the latter case that in order to enable the employee to prepare adequately for his defense, he may be provided with a representative.[33] In this case, in addition to the actual confrontation proceeding with Mrs. Mueda, Honrado asked for and was given a formal hearing where he together with his counsel and his union representative had "ample opportunity" to rebut the accusation lodged against him. However, despite said opportunity, other than his general denial, he did not present his counter-statement in the company proceedings. Clearly, Honrado was afforded ample opportunity to air his side and defend himself. Hence, there was no denial of his right to due process.

On the issue of just cause

During the January 19, 2000 confrontation proceeding, Mrs. Mueda categorically declared in the presence of respondent Honrado that the latter solicited and received P1,500.00 from her as downpayment for the installation of her telephone line on November 26, 1999. This fact is corroborated by the unnotarized affidavits of the spouses Mueda and the receipt issued for the P1,500.00 downpayment.

On the other hand, respondent merely denied the accusations posed by Mrs. Mueda. In addition, in respondent's position paper submitted to the Labor Arbiter on June 28, 2001, he submitted the affidavits of Ernesto Ponce, Rodolfo Untalan and Valente Jose, all dated June 27, 2001,[34] claiming that Honrado was at his residence at PLDT Village, Biñan, Laguna on November 26, 1996 until 6:00 p.m. With these affidavits, Honrado sought to establish that he was nowhere near the Makati residence of the spouses Mueda in the afternoon of November 26, 1999 when the solicitation and collection of downpayment occurred.[35]

However, we cannot give credence to said affidavits. In respondent's August 13, 2001 Reply filed with the Labor Arbiter, respondent indicated that he reported for work at 6:00 p.m. Thus, we agree with the factual finding of the Labor Arbiter in his October 19, 2001 Decision that "[I]f complainant reported for work at 6:00 p.m. of November 26, 1999, he definitely was not in PLDT Village, Biñan, Laguna shortly after 6:00 p.m. or at around 6:30 p.m. of November 26, 1999,"[36] as the separate affidavits of Rodolfo S. Untalan and Valente Jose declared.[37] Time and again, this Court has held that "[p]ositive identification of the [respondent] where categorical and consistent, without any showing of ill motive on the part of the eyewitness x x x, should prevail over the alibi and denial of [the respondent and his witnesses] whose testimonies are [conflicting] and not substantiated." [38]

"[T]he quantum of proof required in determining the legality of an employee's dismissal is only substantial evidence." [39] In a similar case involving PLDT and another installer/repairman, this Court held that "[T]he standard of substantial evidence is met where the employer, as in this case, has reasonable ground to believe that the employee is responsible for the misconduct and his participation in such misconduct makes him unworthy of the trust and confidence demanded by his position." [40]

In this case, petitioner has sufficiently established that respondent Honrado solicited, collected and received the P1,500.00 downpayment from the spouses Mueda. First, on January 18, 2000, the PLDT QCD Investigator together with Mrs. Mueda conducted a stake-out operation to expose the identity of the person who asked for the downpayment. Honrado was identified by Mrs. Mueda when he handed his Trip Authorization Pass to the guard on duty at the PLDT North Parañaque Exchange gate. Second, Mrs. Mueda categorically affirmed, during the January 19, 2000 confrontation proceeding, that it was indeed Honrado who solicited and received the P1,500.00 downpayment for the installation of her new telephone line. Third, corroborating evidence in the form of the affidavits of the spouses Mueda were submitted by the petitioner, together with the receipt issued for the downpayment. Taken together, the petitioner has dispensed with the burden of establishing the serious misconduct committed by respondent Honrado. Such misconduct makes him unworthy of the trust and confidence demanded by his position.

WHEREFORE, the petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals are set aside. The Decision of the Labor Arbiter dated October 19, 2001 dismissing the complaint for lack of merit is hereby REINSTATED and AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Abad,[*] and Perez, JJ., concur.

[*] In lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order No. 917 dated November 24, 2010.

[1] Mercury Drug Corporation v. National Labor Relations Commission, G.R. No. 75662, September 15, 1989, 177 SCRA 580, 586-587.

[2] Rollo, pp. 54-66; penned by Associate Justice Pampio A. Abarintos and concurred in by Associate Justices

Arcangelita Romilla Lontok and Ricardo R. Rosario.

[3] Id. at 55-58.

[4] Penned by Labor Arbiter Aliman D. Mangandog.

[5] Rollo, p. 115.

[6] Id. at 183-185.

[7] Id. at 101; penned by Commissioner Vicente S.E. Veloso and concurred in by Presiding Commissioner Roy V. Señeres.

[8] Id. at 103-104; penned by Commissioner Ernesto S. Dinopol and concurred in by Presiding Commissioner Roy V. Señeres and Commissioner Romeo L. Go.

[9] Id. at 65.

[10] Id. at 67-68.

[11] Id. at 39-40.

[12] Id. at 221.

[13] Id. at 234-235.

[14] *Estacio v. Pampanga I Electric Cooperative, Inc.*, G.R. No. 183196, August 19, 2009, 596 SCRA 542, 563-564. (Emphasis supplied.)

[15] *Philippine Long Distance Telephone Company v. Bolso*, G.R. No. 159701, August 17, 2007, 530 SCRA 550, 564-565.

[16] *NEECO II v. National Labor Relations Commission*, 499 Phil 777, 787 (2005).

[17] *Bantolino v. Coca-Cola Bottlers Philippines, Inc.*, 451 Phil 839, 845 (2003), citing *Rase v. National Labor Relations Commission*, G.R. No. 110637, October 7, 1994, 237 SCRA 523.

[18] Rollo, pp. 126-127.

[19] Id. at 126.

[20] Id. at 130.

[21] Id. at 131.

[22] Id. at 134.

[23] Id. at 134-135.

[24] Id. at 135.

[25] Id. at 136-137.

[26] Id. at 137.

[27] Id. at 144.

[28] Id. at 63.

[29] 414 Phil 329, 341 (2001).

[30] G.R. No. 84193, February 15, 1990, 182 SCRA 359, 365.

[31] Supra at 340-341.

[32] Supra at 369.

[33] Id. at 370.

[34] Rollo, p. 159.

[35] Id.

[36] Id. at 112.

[37] Id. at 171-172.

[38] De La Salle University, Inc. v. Court of Appeals, G.R. No. 127980, December 19, 2007, 541 SCRA 22, 55, citing People v. Abes, 465 Phil 165 (2004). Emphasis supplied.

[39] Faeldonia v. Tong Yak Groceries, G.R. No. 182499, October 2, 2009, 602 SCRA 677, 685, citing Philippine Long distance Telephone Company, Inc. v. Tiamson, G.R. Nos. 164684-85, November 11, 2005, 474 SCRA 761.

[40] Philippine Long Distance Telephone Company v. Bolso, supra note 15 at 561.

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