

**JOSE LOPEZ, PLAINTIFF AND APPELLANT, VS. ALEJANDRO ROCES,
AS MANAGER OF PEOPLE'S HOMESITE CORPORATION, ET
AL., DEFENDANTS AND APPELLEES.**

G.R. No. 47950. July 01, 1942

Ponente: MORAN, J.

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MORAN, J.:

Plaintiff Jose Lopez was hired by the People's Homesite Corporation as its chauffeur at a stipulated monthly salary of P40. There was no agreement as to the duration of the employment, and after the lapse of few months plaintiff, without notice and for no stated cause whatever, was discharged upon payment to him of the salary corresponding to his last month of service. Plaintiff filed an action for a month's salary in lieu of the 30-day notice which was not accorded him by the defendant. Upon motion of the defendant, alleging that the complaint fails to state a valid claim, the action was dismissed. Hence, this appeal.

Articles 300, 301 and 302 of the Code of Commerce read as follows:

"ART. 300. The following shall be special reasons for which merchants may discharge their employees, even though the time of service of the contract has not elapsed:

"1. Fraud or breach of trust in the business entrusted to them.

"2. The transaction of some commercial business for their own account without the express knowledge and permission of the principal.

"3. Serious disrespect and lack of consideration to said principal or to members of his family or establishment."

"ART. 301. The following shall be reasons for which employees may leave the service of their principals, even though the time of their contract of service has not elapsed;

"1. Nonpayment of the salary or remuneration agreed upon at the times fixed.

"2. Noncompliance with any of the other conditions agreed upon in favor of the employee.

"3. Bad treatment or serious offenses on the part of the principal."

"ART. 302. In cases in which no special time is fixed in the contracts of service, any one of the parties thereto may dissolve it, advising the other party thereof one month in advance.

"The factor or shop clerk shall be entitled, in such case, to the salary due for said month."

Under the last provision, when the one-month notice is given, only a factor or shop clerk is entitled to a month's salary. But when the one-month notice is not given, not only the factor or shop clerk but any employee discharged without cause is entitled to indemnity which may be a month's salary. The People's Homesite Corporation is a business corporation and its chauffeur may be considered as a commercial employee.

Order of dismissal is reversed and the case remanded to the lower court for further proceedings, with costs against appellees.

Yulo, C. J., Ozaeta, Paras, and Bocobo, JJ., concur.

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