

MANILA ELECTRIC COMPANY, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER ANDRES LOMABAO, AND JOSE M. MASAYA, RESPONDENTS.*G.R. No. 60054. July 02, 1991*

Ponente: NARVASA, J.

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Any lawyer worth his salt knows that quanta of proof and adjective rules vary depending on whether the cases to which they are meant to apply are criminal, civil or administrative in character. In criminal actions, proof beyond reasonable doubt is required for conviction;[1] in civil actions and proceedings, preponderance of evidence, as support for a judgment;[2] and in administrative cases, substantial evidence, as basis for adjudication.[3] In criminal and civil actions, application of the Rules of Court is called for, with more or less strictness. In administrative proceedings, however, the technical rules of pleading and procedure, and of evidence, are not strictly adhered to; they generally apply only suppletorily;[4] indeed, in agrarian disputes application of the Rules of Court is actually prohibited.[5]

Quite incredibly, these familiar and elementary propositions were disregarded in the judgment a quo. The error is serious and must be, as it is here, corrected.

The facts are fairly simple and quickly recounted.

The case originated from the discovery by Meralco employees that a person by the name of Antonio Sanchez was consuming electricity at the house occupied by him at No. 2048 Amparo Street, Sta. Ana, Manila, although he had himself neither applied with Meralco for electric service nor made the requisite deposit in connection therewith.[6] It was learned that electricity was being supplied to Sanchez's house through a clandestine and illicit connection to a Meralco service line ("shunting the meter base and tapping its service drop direct to the service wire"); and household helpers of Sanchez and the owner of the house, a Mr. Castañeda, informed the Meralco investigator that it was a Meralco employee, Jose Masaya, who had made the unauthorized electric service connection.

The Meralco Legal Department thereupon sent Jose Masaya a letter charging him with a violation of the Company Code on Employee Discipline, and thereafter conducted a formal investigation of the matter.[7] Those who gave testimony at that investigation were Jose Masaya himself, and Renato Repuyan, Meralco field investigator.

Prior to being interrogated about the illegal connection and in response to preliminary questions by the investigator, Masaya stated for the record that he had received the letter accusing him of misconduct, that he had a copy of the code of discipline and understood the nature of the precise charge against him, and that he did not need to be assisted by a lawyer or a representative of his Union because, in his own words, "ang sasabihin ko naman dito ay pawang katotohanan lamang." Thereafter, Masaya deposed that he had indeed installed the connection in question in the following manner, again expressed in his own words: "Nilagyan ko ng shunt o

kaputol ng alambre ang kanilang meter base at ang koneksiyon nito ay kinabit ko sa malapit na service wire;" and that for that job, he had received P200 from Antonio Sanchez. At the close of his testimony, he also sought forgiveness for the offense, viz.:

"Nais ko po sanang ihingi ng kapatawaran sa kumpanya ang mga nagawa kong pagkakamali. Anim po ang aking mga anak at kung sakaling ako ay matanggal sa kompanya dahil sa pagkakamaling iyon, sila po ay walang aasahan kung hindi ako lamang. Kaya't ipinakikiusap ko sa inyo na ipaabot ninyo sa kompanya ang aking pagmamakaawa."

Repuyan testified on the fact of the undenied and indisputable installation of the illegal electrical connection at the residence of Antonio Sanchez (his description of the manner of its accomplishment being substantially the same as Masaya's own), and also, the disclosures made to him by Sanchez's househelpers and the owner of the house, supra.

After the investigation, and on the basis of the results thereof, Meralco filed with the Ministry of Labor and Employment an application for clearance to terminate Masaya's services,[8] serving copy on the latter. Meralco also placed Masaya under preventive suspension.[9]

A week later, Masaya filed a complaint for illegal dismissal against Meralco.

After issues were joined on the complaint for illegal dismissal as well as the application for clearance, and trial had thereon, Labor Arbiter Andres M. Lomabao rendered a decision in Masaya's favor,[10] disposing as follows:

"WHEREFORE, respondent Manila Electric Company is hereby ordered to pay complainant JOSE M. MASAYA his backwages corresponding to the period December 8, 1978 up to April 30, 1980 and separation pay of five (5) and a half months salary in lieu of reinstatement."

The Arbiter was of the view that the record of the investigation conducted by Meralco should not be accorded credence; that Meralco's contention that Masaya had "surreptitiously effected the direct connection of ** electric service" was not credible, because Masaya "was employed as a bill collector, not as a lineman collector, hence, he does not know how to install electrical connection;" and that the money received by Masaya from Sanchez (P200 or P250) was not in consideration of any clandestine connection but was accepted as "representation expenses in following up Mr. Sanchez' application for installation of electric facilities ** with the Engineer's Office at the City Hall of Manila." [11]

On appeal by Meralco, the National Labor Relations Commission affirmed the Arbiter's decision.[12] In the Commission's "considered view"[13] -?

" * * while it is true that in administrative proceedings, substantial evidence only is required, the instant case is an exception for the reason that respondent-appellant in this case is charging complainant-appellee of a criminal offense, and therefore, it is incumbent upon the former to prove beyond reasonable doubt the existence of the crime, failing which, complainant-appellee must be absolved from responsibility. The alleged admission of complainant-appellee during the investigation conducted by the legal department of respondent-appellant does not, if at all, prove beyond reasonable doubt the criminal act allegedly committed by complainant-appellee in the absence of any showing that he was given the opportunity to be heard by counsel or at least, a representative to confront his accuser."

There is implicit concession that under the substantial evidence rule, the evidence would be adequate to make out a case of gross misconduct on the part of Masaya; however, the Commission theorizes that an adjudgment to this effect was precluded by the doctrine of proof beyond reasonable doubt, applicable exceptionally to Masaya's case. Echoing the Commission's views, the public respondent's comment points out that "since there is no causal connection between private respondent's duties to the crime imputed to him, mere substantial evidence is

insufficient to hold private respondent guilty of installing electrical connection let alone deprive him of his right to labor."

There are two evident errors invalidating the Commission's conclusions.

The first is that contrary to the Commission's view, Masaya was in truth asked if he wished to be assisted by a lawyer or a representative of his Union, and his response was in the negative because, in his own words, "ang sasabihin ko naman dito ay pawang katotohanan lamang."

The second is that in administrative or quasi-judicial proceedings, proof beyond reasonable doubt is not required as basis for a judgment of the legality of an employer's dismissal of an employee, nor even preponderance of evidence, substantial evidence being sufficient.[14] Particularly as regards proceedings of the precise nature in question, the Labor Code provides that --[15]

" ** the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to the technicalities of law or procedure, all in the interest of due process. ** "

And this Court has ruled that the ground for an employer's dismissal of an employee need be established only by substantial evidence, it not being required that the former's evidence "be of such degree as is required in criminal cases, i.e., proof beyond reasonable doubt." [16] It is absolutely of no consequence that the misconduct with which an employee may be charged also constitutes a criminal offense: theft, embezzlement, assault on another employee or company officer, arson, malicious mischief, etc. The proceedings being administrative, the quantum of proof is governed by the substantial evidence rule and not, as the respondent Commission seems to imagine, by the rule governing judgments in criminal actions.

It was thus serious error, and grave abuse of discretion for the Labor Arbiter and the respondent Commission, for the reasons given, to reject and exclude from consideration the express admissions made by Masaya during the administrative investigation conducted by Meralco.

The Court cannot close its eyes to the following facts of record, to wit:

- 1) the reality of the illegal electrical connection;
- 2) the written communication to Masaya that he was accused of that illegal connection and he would be subjected to a formal investigation thereon;
- 3) Masaya's acknowledgment that, having a copy of the company's code of discipline, he understood the nature of the accusation against him, and his declining to be assisted by a lawyer or a representative of his Union because, according to him, "ang sasabihin ko naman dito ay pawang katotohanan lamang;"
- 4) his voluntary admission that it was he who had made the illegal electrical connection, describing the manner by which he had made it, and that he had received P250.00 from the occupant of the house, Antonio Sanchez; and
- 3) his plea to the company for forgiveness for having made the illegal connection.

There is on record, too, testimony regarding identification of Masaya by Antonio Sanchez' servants and by Castañeda, the owner of the house occupied by Sanchez. There is, finally, nothing in the record to demonstrate that Masaya's admissions were made otherwise than voluntarily; his subsequent assertion before the Arbiter that he had been "starved" into signing the typewritten record of the administrative investigation containing said admissions is not persuasive, and was not in fact accepted by the Arbiter or the Commission.

The Court is satisfied that the evidence sufficiently proves the commission by Masaya of an act of dishonesty against his employer, specifically described in the Meralco Code on Employee Discipline as follows:

"SECTION 7. Dishonesty. --

* * * * *

3) Directly or indirectly tampering with electric meters or metering installation of the Company or the installation of any device, with the purpose of defrauding the Company."

Such an offense is obviously of so serious a character as to merit the penalty of dismissal from employment. The Labor Code pronounces "fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative," or "serious misconduct" on the part of the employee to be lawful ground to terminate employment. And this Court has held that the "dismissal of a dishonest employee is as much in the interests of labor as it is of management. The labor force in any company is protected and the workers' security of tenure strengthened when pilferage of equipment, goods and products which endangers the viability of an employer and, therefore, the workers' continued employment is minimized or eliminated and consequently labor-management relations based on mutual trust and confidence are promoted." [17]

WHEREFORE, the petition for certiorari is GRANTED, the decisions of the National Labor Relations Commission and of the Labor Arbiter subject thereof are ANNULLED AND SET ASIDE, and the petitioner's termination of the employment of private respondent is AUTHORIZED and APPROVED, without pronouncement as to costs.

SO ORDERED.

Cruz, Griño-Aquino, and Medialdea, JJ., concur.

Gancayco, J., on leave.

[1] Sec. 2, Rule 133 (Revised Rules on Evidence), Rules of Court; see, e.g., *Peo. v. Javier*, 183 SCRA 702; *Peo. v. Torre*, 184 SCRA 525; *Peo. v. Libag*, 184 SCRA 707; *Peo. v. Flores*, 186 SCRA 830

[2] Sec. 1, Rule 133; see, e.g., *Stronghold Insurance Co., Inc. v. C.A.*, 173 SCRA 619; *Urbano v. IAC*, 157 SCRA 1; *Gandionco v. Peñaranda*, 155 SCRA 725; *Noda v. Cruz-Arnaldo*, 151 SCRA 227

[3] Sec. 5, Rule 133; see, e.g., *Rubberworld Phils. Inc. v. NLRC*, 175 SCRA 450; *DBP v. NLRC*, 175 SCRA 537; *Rodriguez v. ECC*, 178 SCRA 30

[4] See *Tibulan v. Inciong*, 176 SCRA 316; *Associated Labor Union (ALU) v. Calleja*, 179 SCRA 127; *Asiaworld Publishing House v. Ople*, 152 SCRA 219

[5] The Revised Rules of Procedure of the Department of Agrarian Reform Adjudication Board provides that: "Unless adopted herein or by resolution of the board, the provisions of the Rules of Court do not apply, not even in a suppletory character" (Sec. 3 [c], Rule I).

[6] A "Found Connected Service Report" (No. 369847) was rendered by the Meralco Meter Reading Division on July 7, 1978

[7] Conducted on October 23, 1978.

[8] The application is dated December 4, 1978

[9] The preventive suspension was made effective on December 6, 1978 pending approval of the application for clearance to dismiss.

[10] The decision is dated April 30, 1980.

[11] Rollo, p. 22

[12] The Commission's Decision was promulgated on December 12, 1982. Commissioner Cleto T. Villatuya dissented and voted for "the reversal of the Labor Arbiter's decision and to grant the application for clearance to terminate the services of the complainant" (Rollo, pp. 26-27). The Solicitor General also "found it cogent to assume a position contrary to that of (the majority of) respondent National Labor Relations Commission (NLRC), et al." (Rollo, pp.73-74).

[13] Rollo, p. 24

[14] SEE Cortes, Philippine Administrative Law, 1984 ed., pp. 356-366, citing Perez v. CTA, 101 Phil. 630 (1957), Santos v. Nable, 111 Phil. 1045 (1960), Philippine Movie Pictures Workers Association v. Premier Productions, Inc., 92 Phil. 844 (1953), Halili v. Floro, 90 Phil. 245 (1951), Estate of Florencio P. Buan v. Pampanga Bus Company and La Mallorca, 99 Phil. 373 (1956)

[15] Art. 221 of the present Labor Code, originally Art. 270, PD 442 issued July 1, 1974

[16] Commercial Motors Corporation v. Commissioners, Second Division, NLRC, et al. G.R. No. 74762, December 10, 1990; Police Commission v. Lood, 127 SCRA 757; Agusmin Promotional Enterprises, Inc. v. C.A., 117 SCRA 369; East Asiatic Co., Ltd. v. CIR, 40 SCRA 543-544; Philippine Engineering Corp. v. CIR, 41 SCRA 100; Tajonera v. Lamoroza, 110 SCRA 438

[17] International Hardwood and Veneer Co. of the Phil. v. Leogardo, 117 SCRA 967

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