

**ROMULO J. FUENTEBELLA AND JOSE ANGELO LLANEZA,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, HI
MARKETING CORPORATION, MAUEL H. PUEY AND RIBOLU D.
TERRE, RESPONDENTS.**

G.R. No. 70688. January 07, 1987

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-70688/>

PARAS, J.:

This is a petition for certiorari filed by Romulo J. Fuentebella and Jose Angelo Llaneza, former employees who were dismissed by their employer, herein private respondent Hi Marketing Corporation (HIMARK), seeking to set aside the decision dated December 10, 1984, promulgated by respondent National Labor Relations Commission (NLRC) which reversed the appealed decision of Labor Arbiter Raymundo R. Valenzuela, dated April 29, 1983, in this labor case (NLRC-NCR Case No. 9-5828-82), thus sanctioning as lawful and valid respondent HIMARK's act of terminating the employment of its two employees, herein petitioners, and dismissing the latter's complaints for illegal dismissal, but ordering "private respondent Corporation to pay Romulo J. Fuentebella his unpaid commission of P3,132.00 and Jose Angelo Llaneza his separation pay."

The facts of the case are briefly as follows:

Petitioners Romulo J. Fuentebella and Jose Angelo Llaneza started as salesmen of respondent company HIMARK, a domestic corporation, engaged, among other things, in the promotion and sale of HOTSYS, a hot water high pressure washer. Because of their good performance, Fuentebella was given a raise in pay while Llaneza was promoted to sales supervisor in the machinery department (Annex "A", Petition). As salesman, Fuentebella continued to promote and sell the said HOTSYS, collect payments from customers, and turn over said collections to HIMARK. On the other hand, Llaneza supervised salesmen under him, among them Fuentebella, who reported to him in connection with his duties and performance as salesman.

On July 22, 1982, Fuentebella presented his claim for payment of unpaid third party commissions in the total amount of Two Thousand Four Hundred Pesos (P2,400.00). One of the private respondents, Terre, as manager, recommended the approval of the claim, and the other private respondent, Puey, as president, approved said claim. The next day, however, Terre issued a memorandum to Llaneza, instructing him to remind salesmen or representatives to secure prior clearance from him (Terre) regarding third party commissions or TPCs and not to quote prices below the company's selling price, (Annex "L", Petition).

On August 13, 1982, without preamble or cause, Terre required petitioners to submit their resignations, allegedly upon orders of "top level management." He gave no reason for the order but instructed petitioners to see President Puey and to refrain from continuing whatever transactions they may have entered into with the customers in the field, pending completion of the audit in the machinery department (Annex "B", Petition). Petitioners followed his instructions and they wrote the president requesting for an appointment with him on August 16, 1982.

The next day, or on August 14, 1982, Fuentebella collected the sum of Six Thousand Pesos (P6,000.00) from Radian International, Inc., which earlier purchased on credit two units of HOTSYS. That date being a Saturday, during which the office of HIMARK was already closed in the afternoon, Fuentebella deposited the collected amount with the Family Savings Bank, intending to remit the same to HIMARK on the next working day, August 16, 1982. (Annex "A", Petition) On August 16, 1982, however, Fuentebella failed to withdraw the amount of P6,000.00 from the bank due to their appointment with President Puey. Only Llaneza, however, was allowed to see the company President. When Llaneza told Fuentebella that their status was "frozen", pending an investigation which would be conducted by President Puey, Fuentebella submitted a written claim to President Puey, including therein his P6,000.00 collection as among the sales he had made for which he was claiming unpaid commissions in the total amount of Twelve Thousand Eight Hundred Pesos (P12,800.00). (Annex "E", Petition). Then, he informed Terre of his (Fuentebella's) intention to retain the collection of P6,000.00 in the bank until his status is cleared and his unpaid commissions are settled.

On August 24, 1982, the company Comptroller, Antonio R. Reyes required them to surrender the provisional receipts booklets issued to them (Annex "E", Petition) but because in his four (4) years of service, this was the first time that this happened, Llaneza wrote said Comptroller to inquire whether this was in connection with Terre's instructions, and if so, he would trace said provisional receipts and make the necessary report, if it would still be required (Annex "G", Petition) No further request, however, was made for the return of the said booklets, nor was there any demand for the remittance of the collection withheld by Fuentebella. (p. 29, Rollo)

On August 25, 1982, petitioners wrote President Puey, inquiring about the result of the investigation. Petitioners also asked for personal confrontation to enable them to air their grievances against Terre. Terre and Comptroller Reyes were furnished copies of the said letter (copy of which was attached as Annex "H-1", Petition) but neither of them replied thereto. Instead, Comptroller Reyes sent a note to each of the petitioners, for them to have a conference with him (Annexes "H-2"-and "H-3", Petition)

On August 31, 1982, Fuentebella and Llaneza met with Comptroller Reyes, who offered them the company's proposition "of one month salary for every year of service, plus accrued or unpaid commissions on sales made by them to date, in exchange for their respective resignations and return of P6,000.00 collected by Fuentebella and not turned over to the company together with the provisional receipts booklets issued to them." Petitioners, however, declined to accept the offer and instead insisted on an investigation of the matter. They also requested to be allowed to discuss the same with President Puey. (copy of Reyes' Affidavit, attached as Annex "J", Petition)

Despite the help of Reyes in trying to arrange for a meeting between the petitioners and President Puey, Fuentebella and Llaneza received their letters of termination of service dated August 31, 1982 and September 1, 1982, respectively. (Annexes "I" and "I-1", Petition)

On September 4, 1982, Fuentebella wrote Terre, questioning his August 31, 1982 letter of termination. (Annex "L-2", Petition) While President Puey, Reyes and the company's counsels, Dy and Tagalo, were furnished copies thereof, none of them replied to the said letter.

On September 7, 1982, petitioners filed NLRC NCR Case No. 9-5828-82 for illegal dismissal, unpaid wages, commissions and damages, alleging that they were dismissed from employment without being heard or informed beforehand of the cause or reason for their dismissal; that Terre's motive in requiring them to resign was due to Fuentebella's refusal to share with Terre his (Fuentebella's) third party commissions or TPC's; and that since Fuentebella was using Llaneza's provisional receipts booklet, Terre concluded that Fuentebella was sharing instead his TPCs with Llaneza. (p. 126, Rollo)

Respondents, on the other hand, denied the illegal dismissal charge, and claimed that Fuentebella and Llaneza

were discharged from their employment due to dishonesty, fraud and breach of trust reposed upon them by their employer. They pointed out: that Fuentebella's act of misappropriating for himself his collection of P6,000.00 by depositing said amount to his own savings account and his refusal to remit the same to HIMARK, despite several demands, as well as Llaneza's defiance of a lawful order of his superior to surrender his provisional receipts booklet, are acts clearly inimical to the interest of HIMARK; that as a result of Fuentebella's dishonesty, a complaint for Estafa was filed against him; and that Fuentebella is entitled only to P3,152.00 his salesman's commission, but not to TPCs, which are payable only to non-employees.

On April 29, 1983, the Labor Arbiter rendered a decision, finding petitioners' termination illegal, and ordered respondents to reinstate them with full backwages and accrued benefits, and to pay Fuentebella his commission in the amount of P12,800.00 but deducting therefrom the P6,000.00 collection which Fuentebella purposely withheld. (Labor Arbiter's Decision, p. 35, Rollo)

Respondents appealed to the National Labor Relations Commission (NLRC). On December 10, 1984, the NLRC reversed the appealed decision, and ordered respondents to pay Fuentebella's commission amounting to P3,152.00, and to pay Llaneza his separation pay. (NLRC Decision, p. 47, Rollo)

Petitioners filed a Motion for Reconsideration, but same was denied.

In this petition, the principal issue raised is whether or not the NLRC gravely abused its discretion in setting aside the labor arbiter's decision.

The petition is impressed with merit.

As may be gleaned from the narration of facts above, from August 13, 1982, the day Terre gave petitioners the verbal instruction to submit their resignations, up to August 31, 1982 and September 1, 1982, when Fuentebella and Llaneza respectively received their walking papers, Terre and Reyes merely gave both petitioners the runaround, and never afforded petitioners the opportunity to know the charges against them, and to be heard in their defense. Even President Puey, after promising Llaneza on August 16, 1982, that he would investigate the matter of Terre's verbal resignation instruction within 24 to 48 hours, never conducted a formal investigation of the charges, if any, against the petitioner. The close dates of the issuance of the termination letters and the actuations of Terre and President Puey, demonstrate that the management of HIMARK was already dead set on dismissing the petitioners, without according them their right to due process.

As correctly found by the labor arbiter, the proximate cause of petitioners' dismissal was the matter of sharing the TPCs. The evidence clearly shows that when Terre became the general manager of the administrative and machinery department of the company in January, 1982, with both Fuentebella and Llaneza under his direct supervision, he wanted Fuentebella to share with him (Terre) the additional income he (Fuentebella) was earning in big amounts by way of third party commissions (TPCs) from the sales the latter was making. That this is so is bolstered by Fuentebella's un rebutted explanation that:

"xxx before there was no more need to seek clearance from the manager regarding TPC and the net price of the units but Mr. Terre issued a memorandum on July 23, 1982 compelling us to secure clearance from him regarding TPC and the selling of the unit below the net price to make sure that he gets a share from the TPC, because Your Honor, we do not account for the TPC that was given to us in full." (tsn., p. 21, February 18, 1983)."

Fuentebella further explained that Terre asked him to give him (Terre) also one-half (½) share of the TPC, for Terre believed it was too big an amount for him and also for allowing them to sell below the net price. (tsn., pp. 22-23, supra) There being no misdemeanors or infractions shown to have been committed by petitioners between

January, 1982, when Terre became their manager, and August 13, 1982, when Terre told them to submit their resignations, We are convinced that their refusal to comply with Terre's demand was the reason for asking them to resign.

While Terre contends that TPCs are given only to non-employees, therefore, it would be illogical for him to demand a share of the same from the petitioners, such contention is belied by Fuentebella's claim for his commission on July 22, 1982 (Exh. "E", Petition) which Terre himself recommended for approval, and which Nicolas O. Katigbak, the then Company's Officer-In-Charge, approved for payment, despite the fact that the bulk of said commission was comprised of TPCs. The same holds true with respect to the claim on March 1, 1982 of Llaneza for his commission (Exh. "E-1", Petition) consisting solely of TPCs and so with another claim of Fuentebella on May 13, 1982 (Exh. "E-5") where out of P1,400.00 commission, P500.00 was for TPC.

With this finding that Fuentebella is entitled to his unpaid commissions in the total amount of P12,800.00 (which is more than double the amount of the P6,000.00 collection withheld by Fuentebella after he learned that his position was floating), We are inclined to believe that Fuentebella acted for self-protection, and the filing of a criminal case against him was for leverage purposes. Moreover, when Fuentebella submitted a formal written demand to President Puey on August 16, 1982, for payment of accrued commissions, he reported the 6,000.00 collection. Management did not make any demand, verbal or written, for Fuentebella to remit the said collection. The first and only time such a demand was made was on September 3, 1982, when Fuentebella received his termination letter, dated August 31, 1982. Until a demand is made by HIMARK, and a refusal thereto is made by Fuentebella, the withholding of said amount cannot legally be considered to have ripened into a felony.

In the case of Llaneza, despite his letter-query to Reyes regarding the latter's directive to surrender the said provisional receipts booklets, no further request was made for the return of said booklets. He cannot, therefore, be held liable for insubordination.

PREMISES CONSIDERED, the decision of the National Labor Relations Commission, dated December 10, 1984, is hereby SET ASIDE and REVERSED and the decision of the Labor Arbiter, dated April 29, 1983, is hereby AFFIRMED and REINSTATED.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.