

MANGGAGAWA NG KOMUNIKASYON SA PILIPINAS AND BARTOLOME O. ANDRADA, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND PHILIPPINE LONG DISTANCE TELEPHONE COMPANY (PLDT), RES...

G.R. No. 90173. February 27, 1991

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

On May 28, 1985, Deo Motus of 107 General del Pilar Street, South Cembo, Fort Bonifacio, Metro Manila, applied for a telephone service connection under Republic Act No. 12738 for his residence. On February 7, 1986, under the same RA, he changed his address to No. 1308 Corregidor Street, Bo. Guadalupe, Makati, Metro Manila. His application was approved two weeks later, for which he paid the required service connection fee. Per entry in the applications for Telephone Service, he was assigned telephone number 818-5116.

Three weeks later, a PLDT installer was dispatched to install his telephone at 1308 Corregidor Street, his friend's house in Bo. Guadalupe. However, Motus really wanted the telephone to be installed in his own house at 107 General del Pilar Street, which is adjacent to Corregidor Street but separated from it by a creek. So he cajoled and tried to convince the installer to use the same cable facilities, terminal, and drop wire in traversing the creek to install the telephone unit in his own residence. The installer, however, refused to make the telephone installation at a place other than that appearing in the service order, so he returned the unit to the PLDT office.

Actually, Motus was duplicating the tactics of his neighbor, Venancia Pulido, who was successful in having a telephone connected at her residence in that manner (by changing her address) allegedly on advice of Bartolome Andrada, a Senior Testboardman in PLDT's SPC-South, Las Piñas office. Motus' mother, Florentina Motus, met Andrada once in Mrs. Pulido's house.

Three more changes of address were requested by Motus: from 1308 to 1313 Corregidor Street; then from 1313 to 1309-E Corregidor and finally back to 107 General del Pilar Street. All of these happened in the months of April, May and June, 1986. Each time an installer came by, Motus tried to persuade him to install the service at 107 General del Pilar Street, to no avail. It seems that he could have a telephone anywhere except in his own house.

Despite several follow-up calls to Andrada, Motus failed to get a telephone for his house. Grown weary of waiting for his telephone unit, Motus lodged a complaint against Andrada with the PLDT.

On July 24, 1986, PLDT's quality inspection engineers, Fidel Paulino and Ronald Junio, inspected Motus' unconnected telephone number 818-5116 based on his complaint. On August 5, 1986, his mother, Florentina Motus, executed a sworn statement accusing Bartolome Andrada of having promised to install the telephone in her house within three weeks for a consideration of P1,500 which she allegedly paid on February 16, 1986 through Mrs. Pulido (for she [Mrs. Motus] had to go somewhere else). Mrs. Pulido allegedly told her later that she gave the money to Andrada on the same day (Salaysay-Annex D, p. 37, Rollo). Mrs. Motus further alleged that

Andrada called her up later on her neighbor's, Mrs. Lao's, telephone number 818-7752, to inform her that her application had been approved. However, no telephone service has been installed at her residence despite her several changes of address - the procedure she adopted upon Andrada's advice. Andrada allegedly promised again and again to facilitate the installation of their telephone but nothing happened. She gave Andrada an ultimatum that if by July 15, 1986, no telephone was installed at her residence, she would report the matter to the proper authorities, to which Andrada allegedly replied: "Bahala kayo!" (p. 38, Rollo). That was the reason why she lodged a complaint against him at the Quality Control and Inspection Department before investigator Rogelio Ymasa in the presence of Leopoldo Cabelin.

On August 6, 1986, Andrada was invited by the Quality Control Office to explain his side of the case. The investigation was reset on August 13, 1986 to enable him to obtain the assistance of counsel. On August 15, 1986, Andrada submitted a letter dated August 13, 1986, informing the investigator that he would not submit to the investigation, invoking his right against self-incrimination.

In an Inter-Office Memorandum dated October 21, 1986, PLDT SPC-South Manager A.C. Rowan, Jr. required Andrada to explain in writing within 72 hours why no disciplinary action should be taken against him for demanding P1,500 from Mrs. Motus as consideration for a telephone connection at the latter's residence. Andrada asked for a copy of the complaint. In another Inter-Office Memorandum dated February 5, 1987, LATS Exchange Manager A.S. Paguio informed Andrada that the written complaint would be shown to him "only if he submits himself for investigation at the QCI Department at Makati" (p. 68, Rollo). He was given another 72 hours within which to explain why no disciplinary action should be taken against him.

In an inter-office memo dated February 9, 1987, Andrada formalized his intention to submit himself to a formal hearing before the PLDT's Legal Department. After the hearing, Andrada was found guilty of "serious misconduct in office" (p. 68, Rollo) for demanding and receiving P1,500 from Mrs. Motus, a telephone subscriber, in consideration of the latter's application for telephone service.

In a June 23, 1987 inter-office memo, LATS Exchange Manager Paguio dismissed Andrada from the service effective June 30, 1987 based on the evidence adduced at the hearing of Mrs. Motus' complaint.

Andrada and his union, the Manggagawa ng Komunikasyon sa Pilipinas (MKP), filed a complaint for illegal dismissal against PLDT on July 3, 1987 in NLRC NCR Case No. 00-07-02361-87. The petitioners alleged that Mrs. Motus' complaint had no factual basis, hence, Andrada's dismissal was illegal.

Andrada admitted that he was introduced to Mrs. Motus by Mrs. Pulido, that he allowed her to call him at his PLDT office to inquire about the status of her application for telephone service, but he denied having asked for and received P1,500 from her. The petitioners submitted in evidence a Sworn Statement of Venancia Pulido denying that she received P1,500 from Mrs. Motus and that she gave that amount to Andrada. Another statement, executed by Socorro Lao, disputed Mrs. Motus' allegation that she (Mrs. Motus) received a call from Andrada on Mrs. Lao's telephone.

In a decision dated April 21, 1988, the labor arbiter found for Andrada and ordered PLDT to reinstate him to his former position without loss of seniority rights and to pay his backwages from the time he was illegally dismissed until he is actually reinstated, but not to exceed three years (pp. 14-20, Rollo).

PLDT appealed to the NLRC which, in a decision promulgated on March 20, 1989, reversed the labor arbiter's decision and dismissed the complaint for lack of merit (pp. 21-35, Rollo). Hence, this petition for review on certiorari.

After carefully deliberating on the petition and the comment thereon of the respondents, the Court resolved to

grant the petition for review.

The Court notes that PLDT failed to prove by substantial evidence that the petitioner committed serious misconduct in office justifying his dismissal from the service.

Considering the diametrically opposite versions of Mrs. Motus and Andrada regarding the transaction between them, the sworn statements of Venancia Pulido and Socorro Lao refuting Mrs. Motus' allegations should tilt the scale in favor of Andrada.

The NLRC gravely abused its discretion in not giving more credit to the declarations of these two witnesses who, being neighbors and friends of Mrs. Motus, should have been partial to her but instead deserted her to be on the side of truth.

Indeed, it is not quite believable that, for a pittance of P1,500. Andrada would jeopardize his job as a senior testboardman at PLDT.

In termination cases, the burden of proving that the employee's dismissal was for a just cause rests upon the employer in view of the security of tenure that employees enjoy under the Constitution and the Labor Code (Art. XIII, Section 3, 1987 Constitution; Section 280, Labor Code; *Century Textile Mills, Inc., et al. vs. NLRC*, 161 SCRA 528). Extreme caution should be exercised in terminating the services of a worker for his job may be the only lifeline on which he and his family depend for survival in these difficult times. That lifeline should not be cut off except for a serious, just, and lawful cause, for, to a worker, the loss of his job may well mean the loss of hope for a decent life for him and his loved ones.

WHEREFORE, the petition is granted. The decision of the NLRC in NLRC NCR Case No. 00-07-02361-87 (March 20, 1989) is hereby annulled and set aside and that of the labor arbiter is reinstated. Costs against the private respondent Philippine Long Distance Telephone.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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