

MANILA ELECTRIC COMPANY, PETITIONER, VS. JAN CARLO GALA, RESPONDENT.

G.R. Nos. 191288 & 191304. February 29, 2012

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-191288/>

BRION, J.:

We resolve the petition for review on certiorari,[1] seeking to annul the decision[2] dated August 25, 2009 and the resolution[3] dated February 10, 2010 of the Court of Appeals (CA) rendered in CA-G.R. SP. Nos. 105943 and 106021.

The Antecedents

The facts are summarized below.

On March 2, 2006, respondent Jan Carlo Gala commenced employment with the petitioner Meralco Electric Company (Meralco) as a probationary lineman. He was assigned at Meralco's Valenzuela Sector. He initially served as member of the crew of Meralco's Truck No. 1823 supervised by Foreman Narciso Matis. After one month, he joined the crew of Truck No. 1837 under the supervision of Foreman Raymundo Zuñiga, Sr.

On July 27, 2006, barely four months on the job, Gala was dismissed for alleged complicity in pilferages of Meralco's electrical supplies, particularly, for the incident which took place on May 25, 2006. On that day, Gala and other Meralco workers were instructed to replace a worn-out electrical pole at the Pacheco Subdivision in Valenzuela City. Gala and the other linemen were directed to join Truck No. 1891, under the supervision of Foreman Nemecio Hipolito.

When they arrived at the worksite, Gala and the other workers saw that Truck No. 1837, supervised by Zuñiga, was already there. The linemen of Truck No. 1837 were already at work. Gala and the other members of the crew of Truck No. 1891 were instructed to help in the digging of a hole for the pole to be installed.

While the Meralco crew was at work, one Noberto "Bing" Llanes, a non-Meralco employee, arrived. He appeared to be known to the Meralco foremen as they were seen conversing with him. Llanes boarded the trucks, without being stopped, and took out what were later found as electrical supplies. Aside from Gala, the foremen and the other linemen who were at the worksite when the pilferage happened were later charged with misconduct and dishonesty for their involvement in the incident.

Unknown to Gala and the rest of the crew, a Meralco surveillance task force was monitoring their activities and recording everything with a Sony video camera. The task force was composed of Joseph Aguilar, Ariel Dola and Frederick Riano.

Meralco called for an investigation of the incident and asked Gala to explain. Gala denied involvement in the pilferage, contending that even if his superiors might have committed a wrongdoing, he had no participation in what they did. He claimed that: (1) he was at some distance away from the trucks when the pilferage happened;

(2) he did not have an inkling that an illegal activity was taking place since his supervisors were conversing with Llanes, giving him the impression that they knew him; (3) he did not call the attention of his superiors because he was not in a position to do so as he was a mere lineman; and (4) he was just following instructions in connection with his work and had no control in the disposition of company supplies and materials. He maintained that his mere presence at the scene of the incident was not sufficient to hold him liable as a conspirator.

Despite Gala's explanation, Meralco proceeded with the investigation and eventually terminated his employment on July 27, 2006.[4] Gala responded by filing an illegal dismissal complaint against Meralco.[5]

The Compulsory Arbitration Rulings

In a decision dated September 7, 2007,[6] Labor Arbiter Teresita D. Castillon-Lora dismissed the complaint for lack of merit. She held that Gala's participation in the pilferage of Meralco's property rendered him unqualified to become a regular employee.

Gala appealed to the National Labor Relations Commission (NLRC). In its decision of May 2, 2008,[7] the NLRC reversed the labor arbiter's ruling. It found that Gala had been illegally dismissed, since there was "no concrete showing of complicity with the alleged misconduct/dishonesty[.]"[8] The NLRC, however, ruled out Gala's reinstatement, stating that his tenure lasted only up to the end of his probationary period. It awarded him backwages and attorney's fees.

Both parties moved for partial reconsideration; Gala, on the ground that he should have been reinstated with full backwages, damages and interests; and Meralco, on the ground that the NLRC erred in finding that Gala had been illegally dismissed. The NLRC denied the motions. Relying on the same grounds, Gala and Meralco elevated the case to the CA through a petition for certiorari under Rule 65 of the Rules of Court.

The CA Decision

In its decision of August 25, 2009,[9] the CA denied Meralco's petition for lack of merit and partially granted Gala's petition. It concurred with the NLRC that Gala had been illegally dismissed, a ruling that was supported by the evidence. It opined that nothing in the records show Gala's knowledge of or complicity in the pilferage. It found insufficient the joint affidavit[10] of the members of Meralco's task force testifying that Gala and two other linemen knew Llanes.

The CA modified the NLRC decision of May 2, 2008[11] and ordered Gala's reinstatement with full backwages and other benefits. The CA also denied Meralco's motion for reconsideration. Hence, the present petition for review on certiorari.[12]

The Petition

The petition is anchored on the ground that the CA seriously erred and gravely abused its discretion in -

1. ruling that Gala was illegally dismissed; and
2. directing Gala's reinstatement despite his probationary status.

Meralco faults the CA for not giving credit to its witnesses Aguilar, Dola and Riano, and instead treated their joint affidavit (Samasamang Sinumpaang Salaysay) as inconclusive to establish Gala's participation in the pilferage of company property on May 25, 2006. It submits that the affidavit of the three Meralco employees disproves the CA's findings, considering that their statements were based on their first-hand account of the incident during their day-long surveillance on May 25, 2006. It points out that the three Meralco employees categorically stated that all of the company's foremen and linemen present at that time, including Gala, had knowledge of the pilferage that was happening at the time. According to Aguilar, Dola and Riano, the trucks' crew, including Gala, was familiar

with Llanes who acted as if his presence — particularly, that of freely collecting materials and supplies — was a regular occurrence during their operations.

Meralco maintains that Gala himself admitted in his own testimony[13] that he had been familiar with Llanes even before the May 25, 2006 incident where he saw Zuñiga, the foreman of Truck No. 1837, conversing with Llanes. Meralco submits that Gala's admission, instead of demonstrating "his feigned innocence,"[14] even highlights his guilt, especially considering that by design, his misfeasance assisted Llanes in pilfering company property; Gala neither intervened to stop Llanes, nor did he report the incident to the Meralco management.

Meralco posits that because of his undeniable knowledge of, if not participation in, the pilferage activities done by their group, the company was well within its right in terminating his employment as a probationary employee for his failure to meet the basic standards for his regularization. The standards, it points out, were duly explained to him and outlined in his probationary employment contract. For this reason and due to the expiration of Gala's probationary employment, the CA should not have ordered his reinstatement with full backwages.

Finally, Meralco argues that even if Gala was illegally dismissed, he was entitled to just his backwages for the unexpired portion of his employment contract with the company.

Gala's Case

By way of his Comment (to the Petition) dated September 2, 2010,[15] Gala asks for a denial of the petition because of (1) serious and fatal infirmities in the petition; (2) unreliable statements of Meralco's witnesses; and (3) clear lack of basis to support the termination of his employment.

Gala contends, in regard to the alleged procedural defects of the petition, that the "Verification and Certification," "Secretary's Certificate" and "Affidavit of Service" do not contain the details of the Community or Residence Tax Certificates of the affiants, in violation of Section 6 of Commonwealth Act No. 465 (an Act to Impose a Residence Tax). Additionally, the lawyers who signed the petition failed to indicate their updated Mandatory Continuing Legal Education (MCLE) certificate numbers, in violation of the rules.

With respect to the merits of the case, Gala bewails Meralco's reliance on the joint affidavit[16] of Aguilar, Dola and Riano not only because it was presented for the first time on appeal to the CA, but also because it was a mere afterthought. He explains that Aguilar and Dola were the very same persons who executed a much earlier sworn statement or transcription dated July 7, 2006. This earlier statement did not even mention Gala, but the later joint affidavit "splashes GALA's name in a desperate attempt to link him to an imagined wrongdoing." [17]

Zeroing in on what he believes as lack of credibility of Meralco's evidence, Gala posits that there is clear lack of basis for the termination of his employment. Thus, he wonders why Meralco did not present as evidence the video footage of the entire incident which it claims exists. He suspects that the footage was adverse to Meralco's position in the case.

Gala adds that the allegations of a "reported pilferage" or "rampant theft or pilferage" committed prior to May 25, 2006 by his superiors were not established, for even the labor arbiter did not make a finding on the foremen's involvement in the incident. He stresses that the same is true in his case as there is no proof of his participation in the pilferage.

Gala further submits that even if he saw Llanes on May 25, 2006 at about the time of the occurrence of the pilferage near or around the Meralco trucks, he was not aware that a wrongdoing was being committed or was about to be committed. He points out at that precise time, his superiors were much nearer to the trucks than he as he was among the crew digging a hole. He presumed at the time that his own superiors, being the more senior employees, could be trusted to protect company property.

Finally, Gala posits that his reinstatement with full backwages is but a consequence of the illegality of his dismissal. He argues that even if he was on probation, he is entitled to security of tenure. Citing *Philippine Manpower Services, Inc. v. NLRC*,^[18] he claims that in the absence of any justification for the termination of his probationary employment, he is entitled to continued employment even beyond the probationary period.

The Court's Ruling

The procedural issue

Gala would want the petition to be dismissed outright on procedural grounds, claiming that the "Verification and Certification," "Secretary's Certificate" and "Affidavit of Service" accompanying the petition do not contain the details of the Community Tax Certificates of the affiants, and that the lawyers who signed the petition failed to indicate their updated MCLE certificate numbers, in violation of existing rules.

We stress at this point that it is the spirit and intention of labor legislation that the NLRC and the labor arbiters shall use every reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, provided due process is duly observed.^[19] In keeping with this policy and in the interest of substantial justice, we deem it proper to give due course to the petition, especially in view of the conflict between the findings of the labor arbiter, on the one hand, and the NLRC and the CA, on the other. As we said in *S.S. Ventures International, Inc. v. S.S. Ventures Labor Union*,^[20] "the application of technical rules of procedure in labor cases may be relaxed to serve the demands of substantial justice."

The substantive aspect of the case

We find merit in the petition.

Contrary to the conclusions of the CA and the NLRC, there is substantial evidence supporting Meralco's position that Gala had become unfit to continue his employment with the company. Gala was found, after an administrative investigation, to have failed to meet the standards expected of him to become a regular employee and this failure was mainly due to his "undeniable knowledge, if not participation, in the pilferage activities done by their group, all to the prejudice of the Company's interests."^[21]

Gala insists that he cannot be sanctioned for the theft of company property on May 25, 2006. He maintains that he had no direct participation in the incident and that he was not aware that an illegal activity was going on as he was at some distance from the trucks when the alleged theft was being committed. He adds that he did not call the attention of the foremen because he was a mere lineman and he was focused on what he was doing at the time. He argues that in any event, his mere presence in the area was not enough to make him a conspirator in the commission of the pilferage.

Gala misses the point. He forgets that as a probationary employee, his overall job performance and his behavior were being monitored and measured in accordance with the standards (i.e., the terms and conditions) laid down in his probationary employment agreement.^[22] Under paragraph 8 of the agreement, he was subject to strict compliance with, and non-violation of the Company Code on Employee Discipline, Safety Code, rules and regulations and existing policies. Par. 10 required him to observe at all times the highest degree of transparency, selflessness and integrity in the performance of his duties and responsibilities, free from any form of conflict or contradicting with his own personal interest.

The evidence on record established Gala's presence in the worksite where the pilferage of company property happened. It also established that it was not only on May 25, 2006 that Llanes, the pilferer, had been seen during a

Meralco operation. He had been previously noticed by Meralco employees, including Gala (based on his admission),[23] in past operations. If Gala had seen Llanes in earlier projects or operations of the company, it is incredulous for him to say that he did not know why Llanes was there or what Zuñiga and Llanes were talking about. To our mind, the Meralco crew (the foremen and the linemen) allowed or could have even asked Llanes to be there during their operations for one and only purpose — to serve as their conduit for pilfered company supplies to be sold to ready buyers outside Meralco worksites.

The familiarity of the Meralco crew with Llanes, a non-Meralco employee who had been present in Meralco field operations, does not contradict at all but rather support the Meralco submission that there had been “reported pilferage” or “rampant theft,” by the crew, of company property even before May 25, 2006. Gala downplays this particular point with the argument that the labor arbiter made no such finding as she merely assumed it to be a fact,[24] her only “basis” being the statement that “may natanggap na balita na ang mga crew na ito ay palagi ang hindi nagsasauli ng mga electric facilities na kanilang ginagamit o pinapalitan bagkus ito ay ibinenta palabas.”[25] Gala impugns the statement as hearsay. He also wonders why Meralco’s supposed “video footage” of the incident on May 25, 2006 was never presented in evidence.

The established fact that Llanes, a non-Meralco employee, was often seen during company operations, conversing with the foremen, for reason or reasons connected with the ongoing company operations, gives rise to the question: what was he doing there? Apparently, he had been visiting Meralco worksites, at least in the Valenzuela Sector, not simply to socialize, but to do something else. As testified to by witnesses, he was picking up unused supplies and materials that were not returned to the company. From these factual premises, it is not hard to conclude that this activity was for the mutual pecuniary benefit of himself and the crew who tolerated the practice. For one working at the scene who had seen or who had shown familiarity with Llanes (a non-Meralco employee), not to have known the reason for his presence is to disregard the obvious, or at least the very suspicious.

We consider, too, and we find credible the company submission that the Meralco crew who worked at the Pacheco Subdivision in Valenzuela City on May 25, 2006 had not been returning unused supplies and materials, to the prejudice of the company. From all these, the allegedly hearsay evidence that is not competent in judicial proceedings (as noted above), takes on special meaning and relevance.

With respect to the video footage of the May 25, 2006 incident, Gala himself admitted that he viewed the tape during the administrative investigation, particularly in connection with the accusation against him that he allowed Llanes (binatilyong may kapansanan sa bibig) to board the Meralco trucks.[26] The choice of evidence belongs to a party and the mere fact that the video was shown to Gala indicates that the video was not an evidence that Meralco was trying to suppress. Gala could have, if he had wanted to, served a subpoena for the production of the video footage as evidence. The fact that he did not does not strengthen his case nor weaken the case of Meralco.

On the whole, the totality of the circumstances obtaining in the case convinces us that Gala could not but have knowledge of the pilferage of company electrical supplies on May 25, 2006; he was complicit in its commission, if not by direct participation, certainly, by his inaction while it was being perpetrated and by not reporting the incident to company authorities. Thus, we find substantial evidence to support the conclusion that Gala does not deserve to remain in Meralco’s employ as a regular employee. He violated his probationary employment agreement, especially the requirement for him “to observe at all times the highest degree of transparency, selflessness and integrity in the performance of their duties and responsibilities[.]”[27] He failed to qualify as a regular employee.[28]

For ignoring the evidence in this case, the NLRC committed grave abuse of discretion and, in sustaining the NLRC, the CA committed a reversible error.

WHEREFORE, premises considered, the petition is GRANTED. The assailed decision and resolution of the Court of Appeals are SET ASIDE. The complaint is DISMISSED for lack of merit.

SO ORDERED.

Carpio, (Chairperson), Perez, Sereno, and Reyes, JJ., concur.

[1] Rollo, pp. 10-44.

[2] Id. at 52-64; penned by Associate Justice Ricardo R. Rosario, and concurred in by Associate Justices Martin S. Villarama, Jr. and Magdangal M. de Leon.

[3] Id. at 66-67.

[4] Id. at 80.

[5] Id. at 81-82.

[6] Id. at 149-159.

[7] Id. at 171-175.

[8] Id. at 174.

[9] Supra note 2.

[10] Rollo, pp. 72-76.

[11] Supra note 7.

[12] Supra note 1.

[13] Rollo, pp. 78-79.

[14] Id. at 31.

[15] Id. at 357-374.

[16] Supra note 10.

[17] Rollo, p. 360.

[18] G.R. No. 98450, July 21, 1993, 224 SCRA 691.

[19] LABOR CODE, Article 221.

[20] G.R. No. 161690, July 23, 2008, 559 SCRA 435, 447 citing Fiel v. Kris Security Systems, Inc., G.R. No. 155875, April 3, 2003, 400 SCRA 533, 536, and El Toro Security Agency, Inc. v. NLRC, G.R. No. 114308, April 18, 1996, 256 SCRA 363, 366.

[21] Supra note 1, at 34.

[22] Rollo, pp. 68-71.

[23] Supra note 13.

[24] Supra note 15, at 363.

[25] Ibid.

[26] Supra note 13, at 78.

[27] Supra note 22, at 69.

[28] LABOR CODE, Article 281.

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.