

THIRD DIVISION

[G.R. No. 99039, February 03, 1997]

**FORD PHILIPPINES, INC., JOHN SAGOVAC AND ANASTACIO R.
TEODORO, II, PETITIONERS, VS. COURT OF APPEALS AND
MANUEL I. OBOZA, RESPONDENTS.
D E C I S I O N**

FRANCISCO, J.:

The facts of this case as found by the respondent Court of Appeals and which we quote with approval are as follows:

"Manuel I. Oboza worked with appellee Ford Philippines from 1968 to 1983. He was initially employed as supervisor of Ford's Sales and Planning Distribution Section. He received promotions in succession and on August 19, 1980 he was appointed to the newly-created position of General Sales Manager and concurrently member of the Operating Committee (Exh. "A", Records, p. 270). The position is one rank below the position of Director of Sales and Marketing, then occupied by appellee Malcolm J. Johnston, an American Citizen.

"In a letter dated December 9, 1982, Ford Philippines through Anastacio R. Teodoro II, in his capacity as Director of Industrial Relations, wrote the following advisory to the appellant:

'When WHQ approved the establishment of the position of General Sales Manager (SG T-11) on August 1980 and your appointment to the same position on September 1980, the condition laid out was for this position to be transitory and the continued appropriateness of this position would be revised within the next 18 months. It has now been decided and approved that it is no longer appropriate to maintain the position of General Sales Manager as originally planned. Consequently, the position is declared redundant and the more relevant position of Vehicle Sales Manager (SG-10) is re-established.

'On October 12, 1982, I confirmed with you this fact and advised you of two alternatives. The first was for you to accept redundancy which includes the payment of full benefits in accordance with the provision of law as well as under Company policy. The second was for you to accept an appointment to the position of Vehicle Sales Manager (SG-T11). The second alternative is offered in recognition of your long years of service to the company. During this discussion, you asked for more time to decide.

'On Wednesday, December 1, 1982, I again requested for your decision and you still do not have any decision in this regard. I explained that management is hard-pressed by APAQ for a resolution of this case on or before December 31, 1982. To date you still have not advised me officially of your decision and in view of your reluctance to do so, Management has no choice but to conclude that you are not

interested in the position of Vehicle Sales Manager (SG-10).

'This is to advise you, therefore, that with the abolition of the position of General Sales Manager, the Company is declaring you redundant as of January 15, 1983. x.x.x. (Underscoring supplied, Exh. "C", Records, p. 278).'

"Under these circumstances, Oboza left the employ of Ford, Philippines.

"On August 31, 1983, Oboza filed an action for damages in the trial court, alleging that the abolition of his position on the ground of redundancy was done in bad faith.

"It is admitted that what prompted appellant to file this action for damages was his discovery of the existence of an appeal and memorandum filed before the Department of Labor and Employment by appellee Ford Philippines in behalf of its employee Malcolm Johnston who holds a position one rank higher than that of Manuel Oboza's and, in effect, the latter's immediate superior. The appeal and memorandum was filed pursuant to the denial of Ford's petition for extension of the alien employment permit of Malcolm J. Johnston.

"This appeal and memorandum dated November 29, 1982 alleged among others, that:

'xxx

'2. On September 1, 1980, Mr. Manuel I. Oboza, Vehicle Sales Manager (understudy), was appointed and tried as General Sales Manager of appellant company to further strengthen his development with the prime intention of the appellant company of ultimately appointing him as replacement of Mr. Malcolm J. Johnston as the other understudy, Mr. Clarito P. Munda (Dealer Affairs Manager) had resigned from Ford Philippines, Inc. on June 30, 1980. However, after more than eighteen (18) months on the job training. Mr. Manuel Oboza has not developed the proper attitudes motivation and qualities required for the position of Director of Sales and Marketing.

'3. Due to the aforesaid development, appellant Ford Philippines, Inc., on September 2, 1982 thru its counsel filed an extension/renewal (sic) the Alien Employment Permit of Mr. Malcolm J. Johnston which was valid until October 9, 1982, with the prime purpose of retaining him until and after a deserving Filipino understudy can qualify to the position x x x.

'x x x in view of the failure of Mr. Manuel I. Oboza (understudy) to mature and qualify for the position of Director, Sales and Marketing appellant, Ford Philippines Inc. has no alternative but to request the extension/renewal of the alien employment permit of Mr. Malcolm J. Johnston, Director Sales Marketing (sic), Ford Philippines, Inc. on September 2, 1982, otherwise the company will have no qualified Sales and Marketing Director.

'The Alien Employment Permit of Mr. Malcolm J. Johnston was only valid up and until October 9, 1982. (Exh. "D", Records, pp. 282-283, 286, Underscoring supplied)'

"Appellant, upon discovery of said Appeal and Memorandum filed an action for damages alleging that:

'The abolition of his [appellant's] position, as will be clearly seen, was timed in such a way that as admitted by Mr. Teodoro, it was after the denial of the petition for extension of Mr. Johnston's alien work permit to stay in the Philippines. And to support or buttress the appeal memorandum, defendants had to resort to the abolition of plaintiff's position on the ground of redundancy. Of course, he was offered an alternative, reappointment to the position of Vehicle Sales Manager, [which] plaintiff previously occupied which was another debasing, degrading and humiliating act. Plaintiff Oboza had no choice but to accept redundancy. (Memorandum for plaintiff, Records, p. 199).'

"To these allegations, defendants-appellees interposed the defense that the abolition of plaintiff's position was done in good faith on the ground of redundancy and that the allegation in appellant's testimony that Ford Philippines terminated his employment in order to use it as an argument in support of Ford's application for extension of Johnston's alien employment permit is without basis.x x x."^[1]

After hearing, the trial court rendered a decision dismissing private respondent's complaint. It found that the only basis for the private respondent's claim for damages against the petitioners was their act of insulting, maligning and discrediting him in their Appeal and Memorandum filed before the Department of Labor and Employment (DOLE) for the extension of Malcolm Johnston's Alien Employment Permit. The trial court viewed the statements contained in the said Appeal and Memorandum as falling under the category of privileged communication which cannot be the basis of an action for damages.^[2]

The foregoing decision was, however, reversed upon appeal to the respondent court which held, among others, that the trial court gravely erred in motu proprio amending the private respondent's complaint, thereby limiting his cause of action to the discrediting statements contained in the Memorandum and Appeal. The allegations in the complaint filed before the trial court conclusively establish that the private respondent predicated his cause of action on the allegation that in dismissing him from employment, the petitioners acted with injustice, failed to give him his due and did not observe honesty and good faith.^[3] Thus, as correctly held by the respondent court, what the private respondent invokes for the redress of the wrong committed against him are the following provisions of the Civil Code^[4]:

"ART. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith."

"ART. 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage."

Thus, the issue of paramount consideration which confronted the respondent court and which is now before us for resolution is: whether or not the petitioners, in dismissing the private respondent from employment on the ground of redundancy, had acted with bad faith.