

## SECOND DIVISION

[ G.R. No. 190389, April 19, 2017 ]

**MANGGAGAWA NG KOMUNIKASYON SA PILIPINAS, PETITIONER,  
VS. PHILIPPINE LONG DISTANCE TELEPHONE COMPANY  
INCORPORATED, RESPONDENT.**

[G.R. No. 190390]

**MANGGAGAWA NG KOMUNIKASYON SA PILIPINAS, PETITIONER,  
VS. PHILIPPINE LONG DISTANCE TELEPHONE COMPANY  
INCORPORATED, RESPONDENT.**

### DECISION

**LEONEN, J.:**

An employer's declaration of redundancy becomes a valid and authorized cause for dismissal when the employer proves by substantial evidence that the services of an employee are more than what is reasonably demanded by the requirements of the business enterprise.<sup>[1]</sup>

This resolves the Petition for Review on *Certiorari*<sup>[2]</sup> filed by Manggagawa ng Komunikasyon sa Pilipinas assailing the Court of Appeals' Decision<sup>[3]</sup> dated August 28, 2008 and Resolution<sup>[4]</sup> dated November 24, 2009 in CA-G.R. SP No. 94365 and CA-G.R. SP No. 98975. CA-G.R. SP No. 94365 upheld the October 28, 2005<sup>[5]</sup> and January 31, 2006<sup>[6]</sup> Resolutions of the National Labor Relations Commission in NLRC Certified Case No. 000232-03 (NLRC NCR NS 11-405-02 & 11-412-02). In turn, CA-G.R. SP No. 98975 upheld the Secretary of Labor and Employment's August 11, 2006 Resolution<sup>[7]</sup> and March 16, 2007 Order.<sup>[8]</sup>

On June 27, 2002, the labor organization Manggagawa ng Komunikasyon sa Pilipinas, which represented the employees of Philippine Long Distance Telephone Company, filed a notice of strike with the National Conciliation and Mediation Board.<sup>[9]</sup> Manggagawa ng Komunikasyon sa Pilipinas charged Philippine Long Distance Telephone Company with unfair labor practice "for transferring several employees of its Provisioning Support Division to Bicutan, Taguig."<sup>[10]</sup>

The first notice of strike was amended twice by Manggagawa ng Komunikasyon sa Pilipinas.<sup>[11]</sup> On its second amendment dated November 4, 2002, docketed as NCMB-NCR-NS No. 11-405-02,<sup>[12]</sup> Manggagawa ng Komunikasyon sa Pilipinas accused Philippine Long Distance Telephone Company of the following unfair labor practices:

UNFAIR LABOR PRACTICES, to wit:

1. PLDT's abolition of the Provisioning Support Division. Such action, together with the consequent redundancy of PSD employees and the farming out of the jobs to casuals and contractuels, violates the duty to bargain collectively with MKP in good faith.
2. PLDT's unreasonable refusal to honor its commitment before this Honorable Office that it will provide MKP its comprehensive plans with respect to personnel downsizing/ reorganization and closure of exchanges. Such refusal violates its duty to bargain collectively with MKP in good faith.
3. PLDT's continued hiring of "contractual," "temporary," "project," and "casual" employees for regular jobs performed by union members, resulting in the decimation of the union membership and in the denial of the right to self-organization to the concerned employees.<sup>[13]</sup>

On November 11, 2002, while the first notice of strike was pending, Manggagawa ng Komunikasyon sa Pilipinas filed another notice of strike,<sup>[14]</sup> docketed as NCMB-NCR-NS No. 11-412-02, and accused Philippine Long Distance Telephone Company of:

UNFAIR LABOR PRACTICES, to wit:

1. PLDT's alleged restructuring of its [Greater Metropolitan Manila] Operation Services December 31, 2002 and its closure of traffic operations at the Batangas, Calamba, Davao, Iloilo, Lucena, Malolos and Tarlac Regional Operator Services effective December 31, 2002. These twin moves unjustly imperil the job security of 503 of MKP's members and will substantially decimate the parties' bargaining unit. And in the light of PLDT's previous commitment before this Honorable Office that it will provide MKP its comprehensive plan/s with respect to personnel downsizing/reorganization and closure of exchanges and of its more recent declaration that the Davao operator services will not be closed, these moves are treacherous and are thus violative of PLDT's duty to bargain collectively with MKP in good faith. That these moves were effected with PLDT paying only lip service to its duties under Art. III, Section 8 of the parties' CBA do [sic] signifies PLDT's gross violation of said CBA.<sup>[15]</sup>

On December 23, 2002, Manggagawa ng Komunikasyon sa Pilipinas went on strike.<sup>[16]</sup>

On December 31, 2002, Philippine Long Distance Telephone Company declared only 323 employees as redundant as it was able to redeploy 180 of the 503 affected employees to other positions.<sup>[17]</sup>

On January 2, 2003, the Secretary of Labor and Employment certified the labor dispute for compulsory arbitration.<sup>[18]</sup> The dispositive portion of the Secretary of Labor and Employment's Order read as follows:

WHEREFORE, FOREGOING PREMISES CONSIDERED, this Office hereby CERTIFIES the labor dispute at the Philippine Long Distance Telephone Company to the National Labor Relations Commission (NLRC) for compulsory arbitration pursuant to Article 263 (g) of the Labor Code, as

amended.

Accordingly, the strike staged by the Union is hereby enjoined. All striking workers are hereby directed to return to work within twenty four (24) hours from receipt of this Order, except those who were terminated due to redundancy. The employer is hereby enjoined to accept the striking workers under the same terms and conditions prevailing prior to the strike. The parties are likewise directed to cease and desist from committing any act that might worsen the situation.

Let the entire records of the case be forwarded to the NLRC for its immediate and appropriate action.

SO ORDERED.<sup>[19]</sup>

Manggagawa ng Komunikasyon sa Pilipinas filed a Petition for *Certiorari* before the Court of Appeals, challenging the Secretary of Labor and Employment's Order insofar as it created a distinction among the striking workers in the return-to-work order. The petition was docketed as CA-G.R. SP No. 76262.<sup>[20]</sup>

On November 25, 2003, the Court of Appeals granted the Petition for *Certiorari*, setting aside and nullifying the Secretary of Labor and Employment's assailed Order.<sup>[21]</sup>

The Philippine Long Distance Telephone Company appealed the Court of Appeals' Decision to this Court. The appeal was docketed as G.R. No. 162783.<sup>[22]</sup>

On July 14, 2005,<sup>[23]</sup> this Court upheld the Court of Appeals' Decision, and directed Philippine Long Distance Telephone Company to readmit all striking workers under the same terms and conditions prevailing before the strike. This Court held:

As Article 263(g) is clear and unequivocal in stating that ALL striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit ALL workers under the same terms and conditions prevailing before the strike or lockout, then the unmistakable mandate must be followed by the Secretary.<sup>[24]</sup>

On October 28, 2005, the National Labor Relations Commission dismissed Manggagawa ng Komunikasyon sa Pilipinas' charges of unfair labor practices against Philippine Long Distance Telephone Company.<sup>[25]</sup>

The National Labor Relations Commission held that Philippine Long Distance Telephone Company's redundancy program in 2002 was valid and did not constitute unfair legal practice.<sup>[26]</sup> The redundancy program was due to the decline of subscribers for long distance calls and to fixed line services produced by technological advances in the communications industry.<sup>[27]</sup> The National Labor Relations Commission ruled that the termination of employment of Philippine Long Distance Telephone Company's employees due to redundancy was legal.<sup>[28]</sup> The dispositive portion of the National Labor Relations Commission's Resolution read:

WHEREFORE, premises considered, the Union[']s charge of unfair labor practice against PLDT is ordered DISMISSED for lack of merit.

SO ORDERED.<sup>[29]</sup>

On January 31, 2006, the National Labor Relations Commission denied Manggagawa ng Komunikasyon sa Pilipinas' motion for reconsideration.<sup>[30]</sup>

On May 8, 2006, Manggagawa ng Komunikasyon sa Pilipinas filed a Petition for *Certiorari*<sup>[31]</sup> with the Court of Appeals. The petition was docketed as CA-G.R. SP No. 94365, and it assailed the National Labor Relations Commission's resolutions, which upheld the validity of Philippine Long Distance Telephone Company's redundancy program.<sup>[32]</sup>

On August 11, 2006, the Secretary of Labor and Employment dismissed Manggagawa ng Komunikasyon sa Pilipinas' Motion for Execution<sup>[33]</sup> of this Court's July 14, 2005 Decision.<sup>[34]</sup>

On March 16, 2007, the Secretary of Labor and Employment denied<sup>[35]</sup> Manggagawa ng Komunikasyon sa Pilipinas' motion for reconsideration.<sup>[36]</sup>

On May 21, 2007, Manggagawa ng Komunikasyon sa Pilipinas filed a Petition for *Certiorari*<sup>[37]</sup> before the Court of Appeals, assailing the August 11, 2006 Resolution and March 16, 2007 Order of the Secretary of Labor and Employment. The petition was docketed as CA-G.R. SP No. 98975.

The Court of Appeals consolidated CA-G.R. SP No. 94365 with CA G.R. SP No. 98975, and dismissed Manggagawa ng Komunikasyon sa Pilipinas' appeals on August 28, 2008.<sup>[38]</sup>

For CA-G.R. SP No. 94365, the Court of Appeals ruled that the National Labor Relations Commission did not commit grave abuse of discretion when it found that Philippine Long Distance Telephone Company's declaration of redundancy was justified and valid, as the redundancy program was based on substantial evidence.<sup>[39]</sup>

The Court of Appeals also found that Philippine Long Distance Telephone Company's 2002 declaration of redundancy "was not attended by [unfair labor practice] ... [because it was] transparent and forthright in its implementation of the redundancy program."<sup>[40]</sup> Philippine Long Distance Telephone Company also successfully redeployed 180 of the 503 affected employees to other positions.<sup>[41]</sup>

As for CA-G.R. SP No. 98975, the Court of Appeals confirmed that its assailed order of reinstatement indicated that all employees, even those declared separated effective December 31, 2002, should be reinstated *pendente lite*.<sup>[42]</sup> However, the Court of Appeals stated that the order of reinstatement became moot due to the National Labor Relations Commission's October 28, 2005 Decision, which upheld the validity of the dismissal of the employees affected by the redundancy program.<sup>[43]</sup>

The Court of Appeals also denied Manggagawa ng Komunikasyon sa Pilipinas' prayer that:

[T]he affected employees should at least be paid their salaries during the period from January 3, 2003 (the working day immediately following the effectivity of their separation) to April 29, 2006 (the date when the October 28, 2005 decision of the NLRC (declaring the employees' dismissal as valid) became final and executory.<sup>[44]</sup>

The Court of Appeals compared the case to an illegal dismissal case where the Labor Arbiter found for the employee and ordered the payroll reinstatement of the employee; however, the finding of illegality was later reversed on appeal.<sup>[45]</sup>

The dispositive portion of the Court of Appeals' Decision read:

WHEREFORE, the PETITIONS FOR *CERTIORARI* IN CA-G.R. SP Nos. 94365 and 98975 are DISMISSED for lack of merit.

SO ORDERED.<sup>[46]</sup> (Emphasis in the original)

On November 24, 2009, the Court of Appeals denied Manggagawa ng Komunikasyon sa Pilipinas' motion for reconsideration.<sup>[47]</sup>

In its Petition for Review on *Certiorari*, Manggagawa ng Komunikasyon sa Pilipinas states that employees in the Provisioning Support Division and in the Operator Services Section had their positions declared redundant in 2002.<sup>[48]</sup> Manggagawa ng Komunikasyon sa Pilipinas asserts that the total number of rank-and-file positions actually declared redundant was 538, or 35 positions in the Provisioning Support Division and 503 positions in the Operator Services Section.<sup>[49]</sup>

Manggagawa ng Komunikasyon sa Pilipinas maintains that Philippine Long Distance Telephone Company failed to submit evidence in support of its declaration of redundancy of the 35 rank-and-file employees in the Provisioning Support Division.<sup>[50]</sup> It claimed that "[Philippine Long Distance Telephone Company] only notified [the Department of Labor and Employment] of the 'closure of traffic operations at Regional Operator Services affecting three hundred ninety-two (392) employees and the restructuring of [Greater Metropolitan Manila] Operator Services affecting one hundred eleven (111) employees.'"<sup>[51]</sup> Manggagawa ng Komunikasyon sa Pilipinas asserts that there was no notice given regarding the closure of Philippine Long Distance Telephone Company's Provisioning Support Division, and the termination of employment due to redundancy of the affected rank-and-file employees.<sup>[52]</sup> It points out that the justifications for the redundancy put forth by Philippine Long Distance Telephone Company "only pertained to the affected operator services positions and not the affected [Provisioning Support Division] positions."<sup>[53]</sup>

Manggagawa ng Komunikasyon sa Pilipinas also maintains that the National Labor Relations Commission committed grave abuse of discretion when it disallowed the written interrogatories that Manggagawa ng Komunikasyon sa Pilipinas submitted.<sup>[54]</sup>

As for the issue of reinstatement *pendente lite*, Manggagawa ng Komunikasyon sa