

SECOND DIVISION

[G.R. No. 176184, June 13, 2012]

**ROMEO E. PAULINO, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION AND PHILIPPINE LONG DISTANCE
TELEPHONE COMPANY, INCORPORATED. RESPONDENTS.**

DECISION

SERENO, J.:

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court, seeking a review of the Court of Appeals (CA) 31 August 2006 Decision and 29 December 2006 Resolution in CA-G.R. SP No. 89267. The appellate court affirmed the 23 September 2002 Decision of the National Labor Relations Commission (NLRC) in Case No. NLRC NCR CA No. 022744-00, which upheld the dismissal of petitioner's Complaint for Illegal Dismissal.

The undisputed facts are as follows:

On 16 January 1995, petitioner, who was then employed by private respondent Philippine Long Distance Telephone Company, Inc. (PLDT) as Cable Splicer III,^[1] surrendered his service vehicle to PLDT's motor pool for body repairs. For this reason, he unloaded the company-issued plant materials contained in the vehicle and stored them at his residence for safekeeping.^[2]

For 1 month and 11 days, PLDT's properties were in the custody of petitioner. Thus, on 27 February 1995, members of the Philippine National Police (PNP), armed with a search warrant,^[3] searched his house where the following items were taken:^[4]

- a) 95 pcs soldering wire
- b) 4 pcs electrical tape
- c) 1 roll aluminum tape
- d) 1 box drive ring & C-nob
- e) ½ roll C-R tape
- f) 19 pcs. 12x20 lead sheets
- g) 4 pcs. Protector
- h) 61 pcs single drove
- i) 9 boxes staple wire
- j) 40 pcs span clamps
- k) 2 pcs safety belt
- l) 1 chipping (skinning) knife
- m) 2 manhole ladders
- n) 1 PLDT yellow tool box
- o) 1/3 roll jacketed wire
- p) 2 pcs. bandage

- q) 4 pcs. C-clamps
- r) 1 pc. 5x10 Aerial Tent
- s) 1 roll parallel wire
- t) 2 pcs. 17x20 lead sheets
- u) 5 pcs. Connecting blocks
- v) 2 boxes screws
- w) 7 pcs. Bridle ring
- x) 1 yellow hard hat
- y) 1 gun tacker
- z) 1 wooden dresser
- aa) 2 telephone instruments
- bb) Aerial cable (Piece Out Wire)

At that time, based on the investigation by the PNP, petitioner did not present any documents or requisition slips that would justify his possession of the materials.^[5] Consequently, PLDT caused the filing of an Information for qualified theft against him.^[6]

The next day, PLDT issued an invitation to V. Pesayco, the manager of petitioner, requesting him to make petitioner available to clarify certain matters.^[7] Petitioner attended this meeting along with his lawyer, but PLDT's investigators merely talked with the counsel.^[8] PLDT then received a security report stating that petitioner had engaged in the illicit disposal of its plant materials, which were recovered during the search conducted at his residence.^[9]

On 3 April 1995, PLDT issued an Inter-Office Memo requiring petitioner to explain why he should not be terminated from employment for serious misconduct (theft of company property).^[10] The Memo also gave him the option to ask for a formal hearing of his case. In reply, he requested that the proceedings be held in abeyance until the criminal case against him had been concluded.^[11]

Then, on 26 May 1995, Pesayco informed petitioner in writing that since his reply did not provide any clarification whatsoever that would have warranted an evaluation of his case, the company was terminating his services effective on the said date.^[12]

Three years later, after the criminal case for qualified theft had been terminated for failure of the prosecution to prove his guilt beyond reasonable doubt, petitioner filed a Complaint for Illegal Dismissal which the Labor Arbiter (LA) dismissed for utter lack of merit.^[13] The LA found petitioner's possession of valuable and material company properties to be highly suspect.^[14] In addition, it was "fully irregular that a highly efficient Company, such as herein respondent, would allow any of its employees to place expensive and necessary properties for personal safe-keeping."^[15]

Aggrieved, petitioner pursued his action before the NLRC. The labor court, however, affirmed the LA's Decision *in toto*.^[16] Thus, petitioner appealed to the CA.

Ruling against petitioner, the CA held thus:^[17]

To our mind, the fact alone that several company properties were found in petitioner's residence is sufficient circumstance to put any employer on guard and is already reasonable basis for private respondents' loss of trust and confidence that would justify his dismissal from employment.

Before this Court, petitioner raises the sole issue of whether or not the CA gravely erred in upholding his dismissal as valid based on just cause.

The Labor Code recognizes that an employer, for just cause, may validly terminate the services of an employee for serious misconduct or willful disobedience of the lawful orders of the employer or representative in connection with the employee's work.^[18] Fraud or willful breach by the employee of the trust reposed by the employer in the former, or simply loss of confidence, also justifies an employee's dismissal from employment.^[19]

The LA, the NLRC and the CA all acknowledged that, notwithstanding petitioner's acquittal in the criminal case for qualified theft,^[20] respondent PLDT had adequately established the basis for the company's loss of confidence as a just cause to terminate petitioner. This Court finds that approach to be correct, since proof beyond reasonable doubt of an employee's misconduct is not required in dismissing an employee.^[21] Rather, as opposed to the "proof beyond reasonable doubt" standard of evidence required in criminal cases, labor suits require only substantial evidence to prove the validity of the dismissal.^[22]

Willful breach of trust or loss of confidence requires that the employee (1) occupied a position of trust or (2) was routinely charged with the care of the employer's property.^[23] As correctly appreciated by the CA, petitioner was charged with the care and custody of PLDT's property.

To warrant dismissal based on loss of confidence, there must be **some basis** for the loss of trust or the employer must have reasonable grounds to believe that the employee is responsible for misconduct that renders the latter unworthy of the trust and confidence demanded by his or her position.^[24] Here, petitioner disputes the sufficiency of PLDT's basis for loss of trust and confidence. He alleges that he did not steal the plant materials, considering that he had lawful possession.^[25]

However, assuming that he lawfully possessed the materials, PLDT still had **ample reason or basis** to already distrust petitioner. For more than a month, he did not even inform PLDT of the whereabouts of the plant materials. Instead, he stocked these materials at his residence even if they were needed in the daily operations of the company. In keeping with the honesty and integrity demanded by his position, he should have turned over these materials to the plant's warehouse.

The fact that petitioner did not present any documents or requisition slips at the time that the PNP took the plant materials logically excites suspicion. In addition, PLDT received a security report stating that petitioner had engaged in the illicit disposal of its plant materials, which were recovered during the search conducted at