

## FIRST DIVISION

[ G.R. No. 189366, December 08, 2010 ]

**PHILIPPINE LONG DISTANCE TELEPHONE COMPANY,  
PETITIONER, VS. EUSEBIO M. HONRADO, RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

The law in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer. While the Constitution is committed to the policy of social justice and the protection of the working class, it should not be supposed that every labor dispute will be automatically decided in favor of labor. Management also has its own rights, which, as such, are entitled to respect and enforcement in the interest of simple fair play. x x x<sup>[1]</sup>

For resolution is the Petition for Review on *certiorari* of petitioner Philippine Long Distance Telephone Company (PLDT) which seeks to reverse the Court of Appeals' (CA's) Decision<sup>[2]</sup> dated September 25, 2008 and Resolution dated September 2, 2009 in CA G.R. SP No. 89372 entitled "*Philippine Long Distance Telephone Company v. National Labor Relations Commission and Eusebio M. Honrado.*"

#### ***Factual Antecedents***

The antecedent facts based on the September 25, 2008 Decision of the CA are as follows:

Private respondent Eusebio Honrado (hereafter "Honrado") was an employee of petitioner Philippine Long Distance Telephone Company (PLDT for brevity) assigned at the PLDT North Parañaque Exchange. He was hired on August 25, 1981 and held the position of a senior lineman with a monthly salary of P21,600.00 prior to the termination of his employment on February 15, 2001.

On November 29, 1999, spouses Pete A. Mueda and Rodrigo H. Mueda went to PLDT's Quality Control Division (QCD for brevity) to verify their application for telephone because according to them, a person named Rony Hipolito (hereafter "Hipolito") who introduced himself as a PLDT employee went to their house on November 26, 1999 in the afternoon. Spouses Mueda narrated that Hipolito told them that he is the area inspector assigned therein and that "*okay na ang linya ng PLDT dito sa area ng Kalayaan, pwede ng magbayad ng kalahati, pero hindi pa pwedeng magpakabit ngayon dahil Sabado at ipapriority and teleponong*

*ikakabit sa amin dahil nagda-down kami*". They likewise narrated that he mentioned that *"ipapakilala niya kaming relatives niya para mauna na kami makabitan"* and that they can pay directly to him since he is a PLDT employee and that x x x the balance can be paid to PLDT within six months on installment basis. Spouses Mueda further stated: that because of this, they paid Hipolito P1,500.00 as partial payment for the installation of their new telephone line; that Hipolito even signed a receipt stating that he received P1,500.00 downpayment on the same date, November 26, 1999; and that he also gave a contact number of 822-2828 in case they have any query or follow-up.

At the QCD, Spouses Mueda found out that the act of Hipolito in soliciting and receiving P1,500.00 as down payment for installation of a new telephone line is against the policy of herein petitioner. So, in order to ascertain the identity of Rony Hipolito, Mrs. Pete Mueda was shown several pictures of outside plant personnel of herein petitioner with surname Hipolito. However, Mrs. Mueda could not pinpoint anyone who introduced himself as Rony Hipolito.

Hence, on January 18, 2000, Mr. Domosthenes J. Yap, QCD Investigator together with Mrs. Mueda, conducted a stake out operation at the PLDT North Parañaque Exchange to [determine] the identity of Rony Hipolito. When herein private respondent Honrado handed his Trip Authorization Pass (TAP for brevity) to the guard on duty at the gate of the PLDT North Parañaque Exchange, he was positively identified by Mrs. Mueda as the person who solicited and received the money from her and her husband.

On January 19, 2000, a confrontation [proceeding] between private respondent and Mrs. Mueda was conducted at the QCD. In the said [proceeding], Mrs. Mueda categorically declared, in the presence of private respondent, that the latter solicited and received P1,500.00 from her as down payment for the installation of her new telephone line. On the other hand, private respondent opted not [to] give any statement on the accusation against him. Nevertheless, he was given until January 26, 2000 to give a statement or explain his side which, was further extended until January 31, 2000 per letter dated January 26, 2000 of Mr. Fidel Paulino, acting head-QCD.

On May 9, 2000, per inter-office memorandum, the head of the QCD transmitted to the manager of private respondent, Mr. Torrenueva, the Investigation Report recommending that an administrative action for gross misconduct be filed against private respondent.

Then, on June 8, 2002, through an inter-office memorandum, Mr. Torrenueva asked private respondent to explain, in writing[,], within 72 hours from receipt of the memo, why he should not be dismissed for serious misconduct and if he so desire, he may ask for a hearing. Failure to do so shall be taken as waiver of his right to be heard. In reply, private respondent, per inter-office memorandum dated June 15, 2000, vehemently denied all the allegations imputed against him and requested for a formal hearing with the assistance of his counsel and Union official. On the same date, Mr. Torrenueva, per inter-office memorandum,

informed private respondent that the formal hearing of his case was set on June 22, 2000.

Per letter dated June 20, 2000 of Atty. Untalan, Jr., he requested for the resetting of the hearing from June 22 to June 29 as he was just retained by private respondent as counsel.

On June 29, 2000, the formal hearing took place. In the said hearing, private respondent again denied the accusation against him. Then, his counsel asked the presiding officer to show them the alleged receipt issued by private respondent. But the said PLDT officer, Mr. Yap, refused to show it to them and told them that the hearing is only for the airing of private respondent's explanation and defenses. His counsel also persistently requested Mr. Yap to give them at least a single opportunity to cross-examine the accusers of his client to determine the truth because what was at stake was the means of livelihood of his client but his plea was heard by deaf ears.

Thereafter, per inter-office memorandum dated February 13, 2001, private respondent was notified that he was found liable as charged, hence, dismissed from service effective February 15, 2001 at the close of business hours. [3]

### ***Ruling of the Labor Arbiter***

Consequently, respondent Honrado filed a complaint for illegal dismissal, money claims and damages against petitioner PLDT, denominated as NLRC NCR Case No. 30-04-01903-01. After submission of their respective position papers and other pleadings, on October 19, 2001, the Labor Arbiter dismissed the complaint, [4] the dispositive portion of which is as follows: [5]

*WHEREFORE, premises considered, judgment is hereby rendered dismissing the instant case for lack of merit.*

*SO ORDERED.*

### ***Ruling of the National Labor Relations Commission***

Respondent appealed [6] to the NLRC. On May 7, 2003 the NLRC granted the appeal, the decretal portion of which reads: [7]

*WHEREFORE, the appealed decision is set aside. The respondent is hereby directed to reinstate complainant to his former or equivalent position without loss of seniority rights and benefits to pay him full backwages computed from the date his salary was withheld from him until the time he is actually reinstated.*

*SO ORDERED.*

Petitioner filed a motion for reconsideration but the same was denied in an Order<sup>[8]</sup> dated February 8, 2005.

### ***Ruling of the Court of Appeals***

Petitioner filed a Petition for *Certiorari* with the CA. On September 25, 2008, the CA rendered a Decision denying the petition and affirming the NLRC Decision.<sup>[9]</sup> Petitioner's Motion for Reconsideration dated April 16, 2009 was likewise denied in a CA Resolution dated September 2, 2009.<sup>[10]</sup>

### ***The Parties' Arguments***

On October 20, 2009, petitioner filed the instant Petition for Review on *Certiorari* assailing the Decision dated September 25, 2008 and the Resolution dated September 2, 2009, both of the CA. Petitioner grounded its appeal on the following issues: (1) the CA misapplied the quantum of proof required in holding that there is no sufficient basis to support the cause for the respondent's termination; and (2) the CA committed serious error in finding that respondent Honrado was denied due process of law.<sup>[11]</sup>

On May 7, 2010, respondent submitted his Comment on the petition arguing that "[T]his whole case hinges on the violation of due process by the petitioner when it refused to even show the receipt allegedly signed by the respondent and used by it as the principal basis for dismissing the respondent."<sup>[12]</sup> Subsequently, in a Manifestation filed on September 16, 2010, petitioner declared its intention not to submit a reply to the respondent's Comment.<sup>[13]</sup>

### ***Our Ruling***

The petition has merit.

"The requisites for a valid dismissal are: (a) **the employee must be afforded due process, i.e.,** he must be given an opportunity to be heard and defend himself; and (b) the **dismissal must be for a valid cause** as provided in Article 282 of the Labor Code or for any of the authorized causes under Articles 283 and 284 of the same Code."<sup>[14]</sup>

#### ***On the issue of due process***

It is hornbook in employee dismissal cases that "[t]he essence of due process is an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side x x x."<sup>[15]</sup> "A formal or trial type hearing is not at all times and in all instances essential to due process, the requirements of which are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy."<sup>[16]</sup> Neither is it necessary that the witnesses be cross-examined by counsel for the adverse party.<sup>[17]</sup>

In the instant case, a confrontation proceeding between respondent Honrado and the therein complainant Mrs. Pete A. Mueda (Mrs. Mueda) was conducted at

petitioner's QCD office on January 19, 2000.<sup>[18]</sup> At the said proceeding, Mrs. Mueda declared the circumstances surrounding the complaint against the respondent and more significantly identified the respondent in a line-up:

TANONG 1: Ginang Mueda, sa inyong reklamo ay may sinasabi kayong isang empleyado ng PLDT na nagpakilala bilang Rony Hipolito na ayon sa inyo ay naningil sa inyo ng Php1,500.00 bilang down payment para sa pagpapakabit ng linya ng telepono. May ipinakita ako sa inyong litrato ng aming mga repairman na Hipolito ang apelyido ngunit ayon sa inyo ay wala ka ni isang nakikilala sa mga litratong ito. Nagbigay din kayo sa akin ng isang telephone number 822-2828 na ayon sa inyo ay ang contact number ni G. Hipolito. Nang aking suriin ito ay nakatalaga sa North [Parañaque] CS/FAS. Dahil dito, minabuti kong isama kayo sa North [Parañaque] Exchange na kung saan nakatalaga ang nasabing telepono at doon ay nakilala at itinuro ninyo ang isang taong nagngangalang Eusebio M. Honrado na ayon sa inyo [ay] positibo at sigurado kayo na siya ang naningil sa inyo ng Php1,500.00 Tama po ba ang lahat ng ito?

SAGOT: Oo.

TANONG 2: Maari ninyo po bang sabihin kung nandito siya sa paghaharap-harap na ito?

SAGOT: Oo.

TANONG 3: Maari ninyo po bang ituro kung sino siya sa mga nakahanay?

SAGOT: Siya po. (Itinuro ni Ginang Mueda ang isang taong naka suot ng light blue na T-shirt na nagpakilala bilang si Eusebio M. Honrado.)

TANONG 4: Maari ninyo bang sabihin ang inyong pangalan (investigator refers to the person pinpointed by Ms. Mueda in the line-up)?

SAGOT: Ako ho si Eusebio M. Honrado.

x x x x

Mga Tanong kay Ginang Mueda

TANONG 9: Ginang Mueda, kailan kayo unang nagkita ni Ginoong Honrado?

SAGOT: Noong November 26, 1999.

TANONG 10: Ito rin ba ang araw ng kung kailan kayo nagbigay kay Ginoong Honrado ng Php1,500.00 bilang downpayment para sa installation ng linya ng telepono na ayon sa inyo ay kayo ay siningil niya?

SAGOT: Oo.