

THIRD DIVISION

[G.R. NO. 169731, March 28, 2007]

**ALFREDO BARBA AND RENATO GONZALES, PETITIONERS, VS.
HON. COURT OF APPEALS, NATIONAL LABOR RELATIONS
COMMISSION AND PHILIPPINE AIRLINES INC., RESPONDENTS.**

DECISION

CHICO-NAZARIO, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Decision,^[1] dated 15 April 2005, promulgated by the Court of Appeals, affirming the Decision^[2] of the National Labor Relations Commission (NLRC), dated 30 January 2003, declaring that the dismissal of the petitioners from their employment was valid. The NLRC, in turn, modified the Decision^[3] rendered by the Labor Arbiter and ruled that both petitioners merited the penalty of dismissal for their respective offenses, and not the lesser penalty of suspension. The petition also seeks to set aside the Resolution^[4] of the Court of Appeals, dated 5 September 2005, denying the Motion to Admit Motion for Reconsideration,^[5] filed on 3 June 2005, for having been filed beyond the reglementary period.

Petitioners Alfredo Barba (Barba) and Renato Gonzales (Gonzales) were terminated from their employment with respondent Philippine Airlines Inc. (PAL) under distinct circumstances, which will be separately discussed.

ALFREDO BARBA

Petitioner Barba worked as a Station Agent with PAL from 4 May 1992 to 9 March 1998. His duties included weighing the baggage of PAL passengers, assessing excess baggage charges, and recording on the tickets and the computer data system the correct number of the pieces of baggage and the baggage weight carried by the passengers.^[6]

On 6 July 1997, Barba attended to a passenger named Roderick Nunez and recorded in the latter's baggage tag that Nunez had checked-in four pieces of baggage, with a total weight of 18 kilos. Upon arrival, Nunez's baggage was weighed again and it was discovered that it weighed 55 kilos, and not 18 kilos as indicated in his baggage tag. As a PAL economy class passenger in a domestic flight, he was allowed only 18 kilos of baggage and should have been required to pay for his excess baggage. However, he was unable to produce an excess baggage receipt, and was thus required to pay the corresponding charges.^[7]

On 29 August 1997, PAL served a "Notice of Administrative Charge for Fraud against the Company and Falsification," dated 14 August 1997, on Barba, citing the applicable provisions of the Company Code of Discipline^[8]:

Fraud Against the Company, Article 57, Section 7, which provides that:

An employee who deliberately or negligently makes a false representation of facts or any kind of deception or a false or fraudulent claim against the Company or knowingly or with gross negligence, initiates or takes part in any act intended to defraud the Company or to obtain payment, benefit, or gain from the Company to which he or a third party is not entitled shall suffer the penalty of dismissal.

Falsification, under Article 60, Section 7, which states that:

Falsification of a company document or the use of a falsified document or false information is a serious misconduct. Any employee who shall falsify, conceal, or fabricate Company documents or records or who enters false information on any official Company documents shall suffer the penalty of dismissal.

The said notice allowed Barba to file an answer within ten days from receipt.

PAL also conducted a clarificatory hearing in connection with the incident. During the hearing, Barba explained that while the baggage was first weighed at 55 kilos, Nunez had voluntarily unloaded some of the contents of his bags, the weight of which was then reduced to 18 kilos. He also alleged that the discrepancy may have been caused by an error committed by a PAL employee, who weighed the baggage, upon arrival.^[9]

In a letter dated 28 February 1998, PAL informed Barba of his dismissal from service for violations of herein aforequoted Articles 57 and 60 of the Company Code of Discipline.^[10]

RENATO GONZALES

Petitioner Gonzales was employed by PAL as Station Agent from 17 October 1994 to 11 May 2000. On 20 January 2000, while Gonzales was on duty at the check-in counter, a passenger, Beth Wright, was carrying with her three pieces of baggage, the total weight of which was beyond the free baggage allowance. The check-in clerk on duty, Dominique dela Rosa, computed the amount due and instructed Wright to pay US\$160 for the excess baggage at the Excess Baggage Counter. However, she was informed that the initial computation was incorrect and that she should pay US\$200 for her excess baggage. Instead of paying for the additional fees, she decided to offload her excess baggage.^[11]

Gonzales accompanied Wright when she retrieved her excess baggage. Thereafter, she went to the Airport Ticket Office to report a PAL employee who offered to have her excess baggage accommodated for a fee of US\$100, for which no receipt would be issued. When she was referred to the Supervisor, Olive Fuentebella, Wright executed a written statement relating the incident and identifying Gonzales as the PAL employee involved. Dominique dela Rosa, a co-employee of Gonzales, likewise made an incident report stating that Gonzales asked her to lower the excess baggage fee of Beth Wright.^[12]

On 16 February 2000, PAL served a "Notice of Administrative Charge for Corruption/Extortion/Bribery" on Gonzales. The said notice allowed him ten days to submit his Answer.^[13]

Gonzales also attended the clarificatory hearings held on 22 March 2000 and 29 March 2000. He denied making Wright the offer of allowing her to bring excess baggage in exchange for US\$100. He also alleged that Wright may have made the report due to an argument which ensued between him and Wright's companion, who felt disgruntled because of the inconvenience suffered by Wright.^[14]

On 11 May 2000, PAL found Gonzales guilty of the charges and terminated his employment, notifying him through a Notice of Termination.^[15]

The Philippine Airlines Employee's Association (PALEA), in behalf of Gonzales and Barba, filed a complaint against PAL for illegal dismissal before the NLRC. During the proceedings before the Labor Arbiter, Barba added in his defense that it was a certain LCD Dycoco who advised him to record the weight of Nunez's baggage as 18 kilograms, instead of 55 kilograms, since Dycoco was Nunez's friend.^[16] This assertion was inconsistent with his earlier defense that after Nunez removed some of the contents of his baggage, Barba had correctly recorded its weight as 18 kilograms.

In a Decision, dated 19 February 2002, the Labor Arbiter noted that PAL complied with the procedural requirements and found both Gonzales and Barba guilty of the offenses with which they were charged. However, it ruled that dismissal was too harsh a penalty. It ordered their reinstatement without backwages and maintained that three years without pay is sufficient punishment. In holding that dismissal was too severe a penalty, it pointed out that only negligence was established in Barba's case. On the other hand, it took note of Gonzales' length of service and that there was no proof that he was a habitual offender.^[17] The dispositive part of the Decision reads:

WHEREFORE, respondents are hereby disputed to reinstate the complainant without backwages effective March 16, 2002.^[18]

PAL filed an appeal before the NLRC, which reversed the Labor Arbiter's Decision, dated 19 February 2002. It ruled that the offenses committed by Barba and Gonzales merited their dismissal. It reasoned that Barba's incorrect entries in connection with the baggage weight could have put the safety of the aircraft and its passengers in serious peril since the correct weight distribution of cargo is crucial in ensuring safety. Whether this error was intentional or not, Barba was gravely remiss in his duties. In Gonzales' case, the NLRC considered his length of service as indicative of his lack of loyalty, and not as a ground for moderating his penalty. It added that Gonzales' offense was serious and constituted a serious and willful breach of trust, an act justifying dismissal under Article 282 of the Labor Code.^[19] Hence, it decreed that considerations of first offense and length of service are negated by the seriousness of the offense, especially when it involves an act reflecting the moral character of an employee.^[20] In its Decision, dated 30 January 2003, the NLRC ruled thus^[21]:

WHEREFORE, instant appeal is hereby GRANTED for being meritorious. Accordingly, the assailed decision of 16 March 2002 is SET ASIDE. Conformably thereto, the complaint for illegal dismissal is DISMISSED for lack of merit.

Barba and Gonzales filed a joint Motion for Reconsideration, which was denied by the NLRC in a Resolution dated 2 April 2003.^[22]

Consequently, Barba and Gonzales filed a petition for *certiorari* to annul and set aside the NLRC Decision, dated 30 January 2002, and the Resolution, dated 2 April 2003 before the Court of Appeals. The Court of Appeals, however, dismissed the petition in a Decision, dated 15 April 2005. It affirmed the findings of the NLRC that Barba and Gonzales committed offenses that warranted their dismissal.^[23]

The Decision, dated 15 April 2005 was received by Barba and Gonzales on 29 April 2005, which gave them fifteen days to file their Motion for Reconsideration. Since the fifteenth day, 14 May 2005 was a Saturday, they had until 16 May 2005 to file their Motion for Reconsideration. Failing to do so, they filed a Motion to Admit Motion for Reconsideration on 3 June 2005. In the said motion, counsel for Barba and Gonzales thus explained the delay^[24]:

x x x While this motion was prepared and ready to be filed on 10 May 2005, the same was not filed because the undersigned counsel was informed by the Philippine Airlines Employees Association (PALEA), the labor union assisting petitioners in the appeal, that petitioners were no longer interested in filing a motion for reconsideration because they have not responded to telephone call and notices sent to them by text messages. however (sic), sometime on May 26, 2005, the undersigned counsel was informed that petitioners will pursue this case and requested the undersigned counsel to file the motion for reconsideration.

In addition, Gonzales executed an Affidavit^[25] on 2 June 2005, wherein he explained the cause for the delay:

3. That I was notified by PALEA that a Decision in our case had been issued by the Court of Appeals and for me to report to the union office but I was not able to respond to the notice because my wife and kid were sick at that time and still under medication at present;
4. That when I reported to PALEA, I was informed that PALEA already notified our counsel of record Atty. Adolpho M. Guerzon and he was informed that there is no more need to file a Motion for Reconsideration based on the information of my co-petitioner Alfredo Barba who at that time informed PALEA that he was no longer interested in pursuing the case;
5. That I called up Atty. Adolpho M. Guerzon and told him to file the Motion for Reconsideration, even if the period for filing the same had expired, in the interest of justice and that I also asked my co-petitioner Alfred Barba to reconsider his position and to join me in pursuing the case which he later on agreed;

In the aforementioned motion, Gonzales and Barba also sought to have the 19 February 2002 Decision of the Labor Arbiter reinstated, wherein the penalty of suspension would be imposed on them, and, consequently, to set aside the 15 April 2005 Decision of the Court of Appeals affirming the validity of their dismissal.^[26] In a Resolution,^[27] dated 5 September 2005, the Court of Appeals denied the motion on the ground that it was filed out of time.

On 21 November 2005, Barba and Gonzales filed the present petition to set aside the 15 April 2005 Decision of the Court of Appeals and to reinstate the 19 February 2002 Decision of the Labor Arbiter ordering their reinstatement on 16 March 2002, after having served their three-year suspension, with full backwages. They raised the following issues in this petition:^[28]

I.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR IN AFFIRMING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION (NLRC).

II.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERROR IN DENYING THE MOTION TO ADMIT MOTION FOR RECONSIDERATION FILED BY THE PETITIONERS.

This petition is devoid of merit.

The Court will initially resolve the procedural issue of whether the Motion to Admit Motion for Reconsideration filed by Gonzales and Barba on 3 June 2005, or 18 days after the expiration of the reglementary period, may be given due course.

Section 1, Rule 52 of the 1997 Rules of Court prescribes a period of fifteen days from the receipt of the decision within which to file a motion for reconsideration. In the case of *Habaluyas Enterprises, Inc. v. Judge Japson*,^[29] as reiterated in *Amatorio v. People*,^[30] the Court declared that there is a prohibition against the filing of a motion for extension of time to file a motion for new trial or motion for reconsideration in all courts, except the Supreme Court. The same doctrine was applied in *Heirs of Andrea Cristobal v. Court of Appeals*,^[31] wherein this Court advocated the strict adherence to this fifteen-day period and disregarded the Motion for Extension of Time to File the Motion for Reconsideration filed by the petitioners therein. Although the petitioners in the aforesaid case attached a medical certificate showing that their counsel had been sick, the Court found that the illness of their counsel did not justify their failure to comply with the fifteen-day reglementary period.

When compared with the aforesaid case, the circumstances that attend the present case are even less likely to excuse their failure to comply with the reglementary period. Gonzales and Barba received the Decision of the Court of Appeals on 29 April 2005. After failing to file a Motion for Reconsideration on or before the expiration of the reglementary period on 16 May 2005, they filed their Motion to Admit Motion for Reconsideration on 3 June 2005. By their own admission, both of them were notified