

SECOND DIVISION

[G.R. NO. 159556, May 26, 2005]

**PHILIPPINE AIRLINES, INC., PETITIONER-MOVANT, VS.
HONORABLE COURT OF APPEALS AND ALENDRY DE LEON,
RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

Before the Court is the petition for review on *certiorari* filed by Philippine Airlines, Inc. (PAL) seeking the reversal of the Decision^[1] dated April 25, 2003 of the Court of Appeals (CA) in CA-G.R. SP No. 63398. The assailed decision, reversing that of the National Labor Relations Commission (NLRC), found the petitioner liable for unlawfully terminating the employment of respondent Alendry de Leon. Likewise sought to be reversed and set aside is the appellate court's Resolution dated August 18, 2003 denying the petitioner's motion for reconsideration.

The factual backdrop of the case is as follows:

On September 15, 1995, the petitioner received a copy of the complaint of Cesar Villanueva addressed to the Director of the National Bureau of Investigation. Villanueva alleged therein that he purchased a round trip ticket for the petitioner's Iloilo-Manila-Iloilo flight route. He further averred that he took PAL flight PR 140 bound for Manila on August 22, 1995. Instead of taking the return flight to Iloilo, however, Villanueva decided to take the boat. Subsequently, he went to the PAL office in Iloilo to request for a refund of his unused Manila-Iloilo ticket. To his consternation, he was told that his ticket did not show that he took the PR 140 (Iloilo-Manila) flight on August 22, 1995 and neither did his name appear in the passenger boarding manifest for the said flight. Upon further verification, it was discovered that another person had collected the refund of his Manila-Iloilo ticket.

Villanueva's complaint triggered an investigation conducted by the petitioner through its internal audit. The initial findings showed that PAL Ticket No. 079 2420943398 was issued to Villanueva for the Iloilo-Manila-Iloilo route. He was originally booked on PAL flight PR 140 for Iloilo-Manila on August 22, 1995. Villanueva actually took that flight and surrendered the Iloilo-Manila coupon of his ticket to the petitioner's check-in counter in Iloilo. The Check-in Clerks then on duty were Perseus Dinglasa and Claude Corpuz while the Load Control Clerk was Arturo Garrido.

Generally, a Check-in Clerk is tasked to receive the tickets of passengers and issue to them their respective boarding passes corresponding to their flights. Upon receipt of the ticket, the Check-in Clerk is required to indicate thereon the passenger's boarding sequence number^[2] and seat number and baggage information. The Check-in Clerk is also required to put his or her initials on the ticket. These checked-

in tickets are to be turned over by the Check-in Clerk to the Load Control Clerk who shall log or list the passengers' names in the passenger boarding manifest or flight manifest. The Load Control Clerk shall, thereafter, invalidate these checked-in tickets by perforating or punching two holes on the lower right hand corner of each ticket.

However, with respect to Villanueva's ticket, which was surrendered to Check-in Clerks Dinglasa and Corpuz, it did not bear any boarding sequence number, seat number or baggage information. Neither did it bear the initials of Dinglasa or Corpuz. Worse, Villanueva's name did not appear in the flight manifest prepared by Garrido. It appeared that Villanueva's checked-in ticket was not invalidated by Garrido as it did not bear any perforation or punched holes.

The investigation further showed that Villanueva's PAL Ticket No. 079 2420943398 was cancelled and in lieu thereof PAL Ticket No. 079 2420946097 was issued in his name, this time for the Bacolod-Manila route initially with an open date. The new ticket was issued by Ticket Freight Clerk Roberto Dinson. Thereafter, it was received by respondent Alendry De Leon, also a Ticket Freight Clerk, who affixed revalidation sticker No. 11277306 thereon showing booking on PAL flight PR 134 (Bacolod-Manila) on August 30, 1995. Subsequently, payment for the refund of Villanueva's new ticket was made by Dinson.

Ticket Freight Clerks are, among other tasks, responsible for issuing revalidation stickers in cases of rebookings and cancellations by passengers of their flight reservations. They are also authorized to refund tickets to *bona fide* refund applicants. In the refund of tickets, the Ticket Freight Clerks are required to observe certain procedural safeguards to ensure that the person requesting for the refund is the same person whose name appears in the ticket. Ticket Freight Clerks are thus required to: verify the identity of the person requesting and receiving the refund; note down the identification documents presented therefor; require the person receiving the refund to affix his or her signature on the sticker; and have a responsible officer countersign the ticket.

Upon finding that irregularities attended the refund of Villanueva's ticket, the petitioner conducted a more thorough investigation on the other tickets that had been refunded in its Iloilo Airport Ticket Office for the period of July to September 1995. The petitioner's auditors were able to contact those passengers who purportedly had their tickets refunded. These passengers confirmed that they actually took their flights but, upon verification, their names did not appear in the passenger boarding manifest of their respective flights. Further, they did not ask for the refund of their tickets. Some even turned over the passenger coupons of their flown or used tickets or boarding passes to prove that they took their flights. More than sixty (60) passengers executed affidavits and/or certificates attesting that they actually took their respective flights and that they did not request for any refund of their used or flown tickets nor cancelled their bookings.

The petitioner then formed a Special Committee to look into the anomalous transactions. The *modus operandi* was outlined, thus:

1. Upon presentation by the passenger of his ticket to the Check-in Clerk, the Check-in Clerk issues a Boarding Pass. Without indicating the passenger's sequence number, seat number, baggage

information, nor his initial, the Check-in Clerk forwards the flight ticket coupon to the Load Control Clerk for posting/listing of the name of the passenger in the Passenger Boarding Manifest/Flight Manifest;

2. The Load Control Clerk instead of posting/listing the needed data in the Passenger Boarding Manifest/Flight Manifest forwards the flight ticket coupon (without invalidating/perforating it) to Ticket Freight Clerks/Check-in Clerks where the surrendered flight ticket coupon is either:
 - a. Rerouted, reissued or "in-lieued" to another sector;
 - b. Revalidated to make it appear that the passenger backed out;
 - c. Revalidated to open status.

The above-mentioned activities of the Ticket Freight Clerks and Check-in Clerks after the flight ticket coupons are handed to them by [the] Load Control Clerk allow them to refund the same without arousing suspicion from the Station and Accounting Department. There are instances specially in cases of full flights where full fare coupons were even substituted with child fare (half fare) tickets issued to fictitious persons or non-revenue tickets (trip pass) of their dependents to ensure that the passenger whose ticket they intend to refund is assured a seat and would not be bumped off to prevent early detection of this malevolent scheme.

[3]

From the foregoing, it was deduced that the scheme could only have been effected by the employees of the petitioner themselves and by not just one but several of them acting in concert. The investigation showed that the fraudulent refunds were perpetrated by the following employees:

1. Mr. Perseus Dinglasa Ticket Freight Clerk/Check-In Clerk
2. Mr. Claude Corpuz Clerk Porter/Check-In Clerk
3. Mr. Nestor Resma Ticket Freight Clerk/Check-In Clerk
4. Mr. Arturo Garrido Load Control Clerk
5. Mr. Alendry de Leon Ticket Freight Clerk
6. Mr. Jeffrey de Toro Ticket Freight Clerk
7. Mr. Roberto Dinson Ticket Freight Clerk
8. Mr. Rogelio Manar Ticket Freight Clerk

These eight employees were all assigned at the petitioner's Iloilo Airport Ticket Office. It appeared that the anomalous transactions occurred whenever these employees were on duty and that the fraudulently refunded tickets passed through their hands for processing.

Consequently, administrative charges were filed against them for "Fraud against the Company, Falsification of Company Documents and Failure on the Job." Each of the eight employees was furnished with their respective notices of the administrative charges against them. The notices uniformly read:

1. The results of the fact-finding committee confirms (sic) your involvement in a concerted action to defraud the company of its rightful revenues by your deliberate participation in the mishandling

of; lifted coupons of passengers later verified to have used/flown their tickets; resulting to passenger not being manifested on his flight; and/or substitution of the tickets of these passengers with child fare tickets; and/or issuance of fictitious child fare tickets to be used in the aforementioned substitution; and/or entering false information in the lifted tickets by affixing revalidation stickers as a spurious assumption of backing out from a flight; and/or in-lieuing of lifted flight coupons to same or different routing; and ultimately refunding of the tampered tickets; and/or improper use of space accommodation.

2. Be advised therefore that after due consideration and evaluation of the fact-finding committee of the evidence on hand and circumstances pertinent thereto, there appears a probable cause to administratively charge you for the offense of:

A. FRAUD – under Chapter 2, Sec. 7, Art. 57 as defined as follows:

FRAUD AGAINST THE COMPANY

Any employee who deliberately or negligently makes a false presentation 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 action intended to defraud the company or to obtain a payment, benefit or gain from the company to which he or [a] third party is not entitled, or knowingly honors a forged signature for his own benefit or that of another person; or accepts, submits or gives due course or approval to a document knowing it to be false or erroneous, under or overvalued, shall suffer the penalty of dismissal.

B. FALSIFICATION OF COMPANY DOCUMENTS under Chapter 2, Sec. 7, Art. 60, as defined as follows:

FALSIFICATION

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 enters false information on any official company document shall suffer the penalty of dismissal.

Acts of falsification include not only tampering with or altering documents or records, but also that of representing falsely or distorting, or violating the truth.

C. FAILURE ON THE JOB under Chapter II, Sec. 2, Art. 25 defined as follows:

FAILURE ON THE JOB

Any employee who demonstrates his refusal or inability without

justifiable reasons or cause to perform the duties and responsibilities on his job and to accomplish the performance and productivity standards thereof shall be meted the penalty AS PRESCRIBED IN THE SCHEDULE OF PENALTIES UNDER ARTICLE 14 OF THIS CODE, depending upon the gravity and/or frequency of the offense and whether the evidence shows the situation to be temporary and remediable or permanent and incurable. WHERE SUCH ACT OR ACTS AMOUNT TO ANY OF THE JUST CAUSES FOR TERMINATION UNDER ARTICLE 282 OF THE LABOR CODE OF THE PHILIPPINES, THE PENALTY SHALL BE DISMISSAL.

3. Your particular participation in this conspiracy to defraud the company and other violations so mentioned are summarized in the attached schedule under "responsible employee."
4. The foregoing charges constitute grave abuse of trust and confidence reposed upon you by the company, which are sufficient grounds for your dismissal from employment not only under [the] Code of Discipline but also under the Labor Code as amended, without prejudice to the company filing a criminal complaint.
5. You are given ten (10) calendar days from receipt of this notice within which to answer the charge/s contained herein. You may submit your sworn written answer or counter-affidavit with sworn statements of your witness, if any, and other supporting documents.
6. Since it appears that your continued employment poses a serious and eminent threat to the interests of the company you are hereby placed on preventive suspension for thirty (30) days immediately upon receipt of this notice.^[4]

As indicated in the notices, the said employees were given ten (10) days to submit their respective sworn written answers to the charges against them. Clarificatory hearings were conducted by the petitioner's Administrative Investigating Panel where the said employees appeared with their respective counsels. Thereafter, the panel submitted its report and recommendation finding the eight employees guilty of the charges against them. Accordingly, the petitioner meted the penalty of dismissal on these employees. It furnished them their respective notices of dismissal stating therein the reasons and grounds therefor.^[5]

Forthwith, Roberto Dinson, Rogelio Manar, Alendry De Leon (respondent herein), Jeffrey De Toro, Arturo Garrido and Perseus Dinglasa filed their respective complaints for illegal dismissal against the petitioner docketed as NLRC SRAB VI Case Nos. 06-12-50415-95, 06-02-50133-96, 06-12-50416-95, 06-02-50135-96, 06-02-50136-96, 06-02-50142-96 and 06-02-50145-96, respectively. Dinglasa's complaint, however, was dismissed without prejudice to its re-filing because he did not sign his complaint and its verification. Only his attorney-in-fact signed the same.

The cases were consolidated and jointly tried. The Labor Arbiter conducted a full-blown trial where the petitioner presented three^[6] of its employees who described