

THIRD DIVISION

[G.R. No. 117038, September 25, 1997]

**PHILIPPINE AIRLINES, INC., PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION, AVELINO MICABALO AND PROSPERO
ENRIQUEZ, RESPONDENTS.
D E C I S I O N**

PUNO, J.:

This special civil action for certiorari seeks the reversal of the June 23, 1993 Resolution^[1] of public respondent National Labor Relations Commission (NLRC), through its Fifth Division, and its subsequent Resolution dated June 27, 1994 in NLRC CA No. M-000291 affirming the complaint for illegal dismissal of private respondents Avelino Micabalo and Prospero Enriquez.

The facts show that private respondent Avelino Micabalo was hired on March 16, 1979 as ticket freight clerk while private respondent Prospero Enriquez was hired as load control clerk on August 11, 1975 by petitioner Philippine Airlines, Inc. (PAL). They were assigned at the Davao Station of PAL. The two were union officials. Micabalo was a member of the board of directors of the Philippine Airlines Employees Association (PALEA) from October 1986 to February 1990 while Enriquez served as its chief steward.^[2]

Petitioner conducted an audit check of its Davao Station. It discovered that some employees at its ticketing office procured for themselves the money paid by the passengers for their tickets and then charged the same to their or their co-employees' credit cards. To cover-up the change in the mode of payment, the audit coupon and the flight coupon of the tickets were made to carry different entries, i.e., "Cash/Charge" or simply "Charge" in the audit coupon, and "Cash" or no entry in the flight coupon.^[3] These irregularities were unearthed when a reconciliation of the flight coupon and audit coupon of the tickets were made at the head office of PAL in Makati City and the same revealed different entries in the "Form of Payment" box. In the flight coupon, the box is either empty or carries the notation "Cash". In the audit coupon, the mode of payment reflected is either "Cash/Charge" or "Charge" only.^[4]

On June 2, 1989, Micabalo was investigated by a committee for using his credit card to pay for four (4) plane tickets of various passengers. On June 18, 1989, he was administratively charged for fraud under Section 2, Article VIII and for falsification of company documents under Section 3, Article VIII of petitioner's Code of Discipline. The committee found him to have charged to his VISA credit card the payment for some plane tickets in spite of the cash payment made by the passengers. He allegedly falsified the entries in the flight coupon to conceal the irregularity.^[5] The schedule of ticket sales on charge basis^[6] was presented, to wit:

FORM OF PAYMENT

Date	Ticket No.	Audit Coupon	Flight Coupon	Amount
1/01/89		79-4205019844	Chg/Ebc	Cash P1,255
3/26/89		79-4205177135	Chg/Ebc	Cash 2,510
5/11/89		79-4205283011	-do- -	2,510
5/11/89		79-4205019810	-do- -	1,255
5/11/89		79-4205283012	-do- -	2,133.50
5/11/89		79-4205283013	-do- -	2,133.50

Micabalo was placed under preventive suspension pending his administrative investigation. On June 30, 1989, he filed his answer to the charges against him as follows:

The undersigned issued the tickets subject of the charge upon the request of a close friend and the passengers themselves [proposed] that the supposed payment of the said tickets be charged to his Visa Card due to the non-availability of their funds. There was nothing for the undersigned to pocket because there was no cash payment made by the passengers. The allegation in the charge that the undersigned pocketed the cash payment made is belied by the affidavits of the passengers concerned, hereto attached as Annexes 'A', 'B', 'C', 'D', 'E' and 'F' to form part of this answer.

"The provision of Sec. 2, Art. VIII of the Code of Discipline provides:

'Any employee who makes false or fraudulent claim against the Company, or knowingly 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 is not entitled; or knowingly honors a forged signature for his own benefit or that of another person; or gives due course or approval to a document knowing it to be false or erroneous shall suffer the penalty of dismissal.'

Nothing in the provision was violated. The undersigned did not initiate the transaction. It was requested by the passengers. It was not intended to defraud the company. On the contrary, it was for the company to generate funds. Without the undersigned charging the amount of the tickets to his Visa Card, the passengers would not have pursued (sic) their Flight as they had no money during that time to purchase the tickets within the ticketing limits. The move of the undersigned was merely to render public service by having a considerate heart. A public service that extended even beyond the limits to the end that even his personal fund is sacrificed.

"Respectively, the provision of Sec. 5, Art. VIII of the Code of Discipline provides:

'Any employee who, for personal gain or for the benefit of another, shall falsify, conceal or fabricate company documents or records or enters false information on

any official company document to the prejudice of the company shall suffer the penalty of dismissal.'

The undersigned repleads all his answer aforestated by way of reference and likewise respectfully avers that nothing in the provision was violated. An affidavit is hereto attached as Annex "K" hereof to form part of this answer. There is a discrepancy between the entries in the form of payment box of the Audit coupon and that of the Flight coupon because the undersigned corrected the entry in the audit coupon to speak the truth. A correction in a document for the document to speak the truth is not falsification (U.S. v. Mateo, 25 Phil 324; Ariola v. Republic, 103 Phil 730). The entry in the Flight coupon which is "cash" was erroneous and was corrected in the audit coupon as "charged" which is the truth. The same is true to the other tickets where no entry was made in the Flight coupon. The alleged alteration which was made to speak the truth was not intended to prejudice the company because it can never be so. On the contrary, it was for the protection of the company. It was not intended to conceal an irregularity, rather it was intended to reveal an irregularity inadvertently committed. For if the passengers would refund their tickets in the event they decide to forego their travel, the same could be possible only after reference is made of their Flight coupon with the audit coupon where the truth was entered. And granting arguendo that should no reference be done and the company would refund the passengers the purchase amount of the said tickets, still no damage is done to the company because the said amount was already paid by the undersigned to the company through the Bank right at the time of the transaction with the use of his Visa Card. If at all, it is the undersigned who would suffer damages because there is a possibility that those passengers might not pay him. Under the circumstances, the correction/alteration done by the undersigned brought him no personal gain but put him in a financial risk and at a loss, all because of public service and the company's protection. " [7]

On July 5, 1989, a second administrative charge^[8] was filed against Micabalo for similar irregularities committed on different occasions as follows:

FORM OF PAYMENT

Date	Ticket No.	Amount	Audit Coupon	Flight Coupon
2/03/89	79-4205022435	P2,510	Chg./EBC	- do -
2/11/89	79-4205093539	1,255	Chg./EBC	- do -
2/01/89	79-4205021912	2,510	Chg./143001	Cash

On August 4, 1989, Micabalo submitted his written explanation. He denied his participation in the sale of the tickets and alleged that he has liquidated the amounts due from him on the foregoing transactions.^[9]

On August 16, 1989, a third administrative charge^[10] was filed against Micabalo as follows:

A. FRAUD AGAINST THE COMPANY (Sec. 2, Art. VIII of the Code of Discipline) and FALSIFICATION OF COMPANY DOCUMENTS (Sec. 5, Art. VIII of the Code of Discipline) committed as follows:

-That sometime on 11 September 1988, you inlieued (sic) MCO 079-4020295400 (charge) to 079-42044385753 with routing CEB/OZC in favor of McDugall/E. Ms. with additional cash of P17.00, hence, "CASH/CHG" was reflected in the auditors coupon of the inlieued (sic) ticket. The flight coupon of the said ticket, however, carried the form of payment "CASH" only and was refunded on the same day it was inlieued (sic).

-That sometime on 20 May 1989, you inlieued (sic) ticket 079-2404134743 (charge) to 079-4205285564 with routing DVO/MNL/DVO in favor of BAAC/ABNER Mr. with the form of payment in the audit coupon as "CHARGE"; the flight coupon of the said ticket, however, carried the form of payment as "CASH" which was refunded on 10 June 1989.

-That sometime on 21 June 1988 you issued ticket 079-4402588493 with routing DVO/MNL/DVO in favor of REYES/ALFREDO Mr. The form of payment reflected in the audit coupon was "CASH/CHARGE UCCF#0196336"; however, the form of payment in the flight coupon was "CASH" only which was refunded on 25 June 1988.

-That sometime on 23 May 1988, you inlieued (sic) MCO #079-4010688132 (charge) to 079-4101840738 with routing DVO/CGY in favor of CARANDANG/A Mr. with form of payment "CASH" which was eventually refunded by you on 31 May 1988.

"1. B. FRAUD AGAINST THE COMPANY

-That sometime on 28 May 1989, you conspired with TFC Eliseo Villarino, Jr. by using the latter's credit card in payment for a PAL ticket in the amount of P1,255.00 knowing fully well that the said card was in the "Hot Card" list. Said accountability remains outstanding to date in spite of repeated demands to settle the same.

-That sometime on 11 May 1989, in conspiracy with TFC Jose Blones, Jr., you allowed the use of your credit card in payment for PAL tickets in the total amount of P8,032.00 knowing fully well that your card was included in the "Hot Card" list. Said accountability remains outstanding to date in spite of repeated demands to settle the same."

On October 7, 1989, an answer was filed by Micabalo reiterating the defenses in his original answer. On November 27, 1989, he was served with a notice of dismissal dated October 21, 1989,^[11] the pertinent portion of which reads as follows:

On 10 and 11 October 1989, clarificatory hearings were conducted in DVO wherein you were represented by your counsels, Attys. Nestor M. Ledesma, Victor D. Sederiosa, PALEA President George Pulido and PALEA lawyer, Atty. Emmanuel Noel Cruz, to clarify certain issues relevant to the adjudication of your respective cases. Your inability to appear and submit additional evidence compelled the committee to resolve your case based on the evidence on record. On 17 October 1989, the Committee on Investigation submitted a report finding you GUILTY OF FALSIFICATION

OF COMPANY DOCUMENTS and VIOLATION OF PROCEDURE as charged and recommended the penalty of DISMISSAL for cause from the company."

On the other hand, private respondent Enriquez was investigated on June 28, 1989 for ticket anomalies in his station. On July 9, 1989, he was placed under preventive suspension by the company as formal charges were made against him for violation of Section 2, Article VIII and Section 5, Article VIII of the Code of Discipline^[12] as follows:

A. FRAUD AGAINST THE COMPANY AND UNBECOMING CONDUCT (Sec. 2, Art. VIII of the Code of Discipline) committed as follows:

That sometime on 11 May 1989, you solicited from a certain LINO T. ESTERA the use of the cash payment for the tickets of MR. JAMES BUENAVENTURA (ticket No. 0792405044041), MR. PIO CACAM (ticket No. 0792405044634), MR. R. MADIGAN (ticket No. 079-2404044638), and instead, charged the payments of the said tickets against your credit card no. 49216110 and 29644012, which cash was used by you in negotiating a live band in CEB to perform in one of the night spots in Davao City. Such arrangement is unbecoming of a PAL employee; besides, (sic) the fact that the company suffered damages by way of its inability to make use of the immediate cash as well as the 2.5% discount rate for the use of the VISA card.

"B. FRAUD AGAINST THE COMPANY (Par. 2, Art. VIII of the Code of Discipline) and FALSIFICATION OF COMPANY DOCUMENTS (Sec. 5, Art. VIII of the Code of Discipline) committed as follows:

That sometime on 02 May 1989, you issued ticket no. 0794205097499 (CHARGE) in the name of IDOROT/SALOME with routing DVC/MSL using the VISA card of LCD Elias Gamorot, appropriating to yourself the cash payment made by the passenger. Said ticket was inlieued (sic) by you to 079-4102 369 908 (DVC/CEB) in conjunction with 0794102369909 (CEB/DVC) with the form of payment "L/CASH". Ticket nos. 0794102369908 and 909 were inlieued (sic) back to 0794205096647 DVO/MNL with form of payment "E/CASH" and refunded by you on 08 March 1989.

That sometime on 24 January 1989, you issued ticket no. 079-4205020147 (CHARGE) in the name of IDOROT/SALOME VS with routing DVC/MNL using the VISA card no. 4921, 6110, 2471, 7011 of LCD Elias Gamorot, appropriating for yourself the cash payment made by the passenger. Said ticket was inlieued (sic) by you to 0794205094408 (DVO/MNL) with form of payment "L/CHY". Ticket no. 0794205094408 was again inlieued (sic) by you to 0794205095848 (DVO/MNL) with form of payment "E/CASH" and refunded by you on 25 February 1989."

On August 3, 1989, Enriquez executed his Counter Affidavit^[13] to controvert the charges against him. He explained as follows:

As to the second charge, against (sic) take exception to the same. Actually it was a case of pure accommodation for a friend wherein the