

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**FELICIDAD MIRANO, ANABELLE
CIPRES, LINA ARMEDILLO, LEONCIA
CALANOG, NELIA CIPRES, ESTELITA
MALAPITAN, SHIRLEY MENDOZA,
EDITHA PEREZ, PRISCA
PAGLINAWAN, ERLINDA SAJER,
CESAR MALAPITAN, ZORAIDA
MIRANO, NENITA BONSOLO,
VERONICA FARAON, RONA DE
GUZMAN, LUCITA ROSAS, NICETA
MALAPITAN, and PACITA VALENCIA,
*Petitioners,***

-versus-

**G.R. No. 121112
March 19, 1997**

**NATIONAL LABOR RELATIONS
COMMISSION, GRANDOE
PHILIPPINES INDUSTRIES, INC. and
ROBERTO MAGNAYE,
*Respondents.***

X-----X

DECISION

PUNO, J.:

The present case stemmed from two (2) consolidated cases for illegal dismissal^[1] filed by eighteen (18) former employees^[2] (petitioners) of Grandoe Philippines Industries, Inc. (private respondent), before Regional Arbitration Branch No. 4 of the National Labor Relations Commission.

Petitioners were dismissed on February 13, 1993, for falsifying or forging medical reports while claiming sickness benefits with the Social Security System.

The procedure before any employee of private respondent can avail of sickness benefits from the Social Security System (SSS) is not disputed. He must first accomplish a Sickness Notification Form (SN Form) and present himself to the company physician, Dr. Pedro Rosales, for a medical check-up. After the check-up, Dr. Rosales will reflect his findings on the SN Form and sign it. The employee then will file the SN Form with the personnel department for submission to the SSS.

On January 9, 1993, SSS returned to private respondent the SN Form filed by petitioner Lucita Rosas for failure to attach her complete blood count (CBC) examination report. The CBC report was needed to check her alleged illness, "anemia." Plant Personnel Supervisor Yolly Mendoza-Panganiban ordered the company's nurse, Elenita Magnaye, to secure a copy of the CBC report from Dr. Rosales. Dr. Rosales denied having conducted a CBC examination on Rosas. He disowned his signature on Rosas' SN Form.^[3]

Dr. Rosales reported the forgery to private respondent. Upon his request, the SN Forms filed by Rosas' co-employees between the months of December 1992 and January 1993 were sent to him for verification. He discovered that the medical findings on twenty five (25) SN Forms, including those filed by petitioners, were fabricated. His signature on the SN Forms were forged.^[4]

Private respondent investigated the anomaly. It sent written notices to the employees concerned, including petitioners, requiring them to explain why they should not be disciplined for submitting falsified medical reports. The management also interviewed other employees to pinpoint the authors of the scam.

In their written explanations, petitioners denied knowledge of the forgery. All claimed they gave their SN Forms to Teresita Manalo, their co-employee and director of their union, who allegedly promised to secure the signature of Dr. Rosales for them. Manalo admitted to Dr. Rosales that she forged his signature on the SN Forms upon the request of her co-employees. In her written explanation^[5] to private respondent, she reiterated her admission, thus:

“Inaamin ko po na gumawa ako. Ang alam ko po ay makakatulong ako sa mga taong nakikiusap sa akin. Ang hiling ko lang ho sana kung ano man and magiging desisyon para sa akin, iyong galing sa inyong mga puso dahil apdo man ay matamis namnamin kapag sa puso nanggagaling. (Emphasis supplied)

“Salamat po.

The anomaly was exposed in DZBR, a local radio station in Batangas. Learning the anomaly, SSS Provincial Officer Alicia Panganiban warned that they would take legal action against private respondent if it failed to impose disciplinary action against its perpetrators.

Twenty-one (21) out of the twenty-five (25) employees investigated were recommended for dismissal for violating Item No. 12 of the company’s schedule of Offenses and Penalties. The rule, punishable by dismissal on first offense, states:

“Misrepresentation or concealment of material fact in employment application, falsifying company records or documents or knowingly using falsified record or document.”

On February 13, 1993, private respondent dismissed its erring employees, including herein petitioners.

Petitioners assailed their dismissal as illegal before the Regional Arbitration Branch of the National Labor Relations Commission. On June 30, 1994, Labor Arbiter Pedro C. Ramos rendered judgment^[6] in favor of petitioners. The arbiter held that petitioners were denied due process because the written notices did not mention the particular acts or omissions constituting the grounds for their dismissal. He also ruled that petitioners were not afforded ample opportunity to be heard and to defend themselves with the assistance of their representative. He also found bad faith in the dismissal of petitioners, hence, moral and exemplary damages were awarded in their favor. The dispositive portion of the arbiter's decision states:

“WHEREFORE, premises considered, judgment is hereby rendered, as follows:

1. Declaring respondent company guilty of illegal dismissal, as charged;
2. Ordering the respondent, thru its Plant Manager, to reinstate all the complainants to their former or equivalent positions without loss of seniority rights and other privileges, under the same terms and conditions obtaining at the time of their illegal dismissal on February 13, 1993, either physically or in the payroll as mandated by Republic Act No. 6715, otherwise known as the Herrera Law, immediately upon receipt of this decision; or if reinstatement is no longer possible, to pay the complainants their separation pay in the total amount of Eight Hundred Sixty-Four Thousand Four Hundred Fifty-Nine Pesos & 70/100 (P864,459.70);
3. Ordering the respondent company to pay complainants their full backwages, including holiday pay, 13th month pay and other benefits, partially computed as of June 30, 1994, in the amount of One Million One Hundred Ninety Thousand One Hundred Sixty-Six Pesos & 70/100 (P1,190,166.70);

4. Ordering the respondent to pay the complainants their total moral damages in the amount of Three Hundred Sixty Thousand Pesos (P360,000.00) and exemplary damages in another amount of Three Hundred Sixty Thousand Pesos (P360,000.00), and attorney's fees in the amount of Two Hundred Seventy-Seven Thousand Four Hundred Sixty-Two Pesos (P277,462.00).

SO ORDERED.”

On December 16, 1995, the National Labor Relations Commission affirmed the labor arbiter's ruling,^[7] except that, it disallowed the award for moral damages, exemplary damages and attorney's fees.

Private respondent filed a Partial Motion for Reconsideration and a Supplement to Partial Motion for Reconsideration^[8] assailing NLRC's finding that petitioners were illegally dismissed. It cited circumstances proving petitioners' conspiracy with self-confessed forger Teresita Manalo, viz.:

- “(1) The fraudulent scheme was initiated by the complainants-appellees (petitioners) themselves as they were the ones who obtained their respective SSS Sickness Notification Forms.
- “(2) The (petitioners) were the ones who filled up their respective Sickness Notification Forms and who supplied the fake illnesses indicated therein. The illnesses were obviously fake as the (petitioners) never even bothered to seek medical assistance from the resident physician, Dr. Pedro Rosales.
- “(3) The (petitioners) gave their Sickness Notification Forms to Teresita Manalo knowing that Teresita Manalo will forge Dr. Rosales' signature as they cannot possibly be signed by Dr. Rosales because they had not presented themselves for medical examination.

“(4) After Teresita Manalo’s forgery of Dr. Rosales’ signature, the forms were submitted by the complainants (petitioners) to the company.”

On June 26, 1995, the NLRC granted the partial motion for reconsideration, thus: ^[9]

“WHEREFORE, the Motion for Reconsideration is GRANTED and our Decision dated December 16, 1994 is hereby SET ASIDE. The appealed decision of Labor Arbiter Pedro C. Ramos, dated 30 June 1994, in the above-entitled cases is hereby REVERSED and SET ASIDE and the complaints a quo are hereby dismissed for lack of merit. However, respondents are hereby directed to indemnify complainants in the amount of P1,000.00 each.

“SO ORDERED.”

Hence, this petition where it is contended that public respondent NLRC gravely abused its discretion in: (1) dismissing petitioners’ complaints for illegal dismissal, and (2) denying them awards for moral and exemplary damages and attorney’s fees despite clear and convincing evidence to the contrary.

We affirm that petitioners were dismissed for cause but without the observance of due process.

Before an employee can be validly dismissed: (a) the employee must be afforded due process; and (b) the dismissal must be for any of the causes specified in Article 282 of the Labor Code. ¹⁰ The first refers to procedural due process, while the second involves substantive due process.

First, on the procedural aspect.

It is familiar learning that the essence of due process in administrative proceedings is an opportunity to explain one’s side or an opportunity to seek reconsideration of the action or ruling complained of.^[11] Thus, the Labor Code^[12] requires the employer to furnish the employee a written notice containing a statement of the

cause for termination and to afford said employee ample opportunity to be heard and to defend himself with the assistance of his representative, if he so desires. The employer is also required to notify the worker in writing of the decision to dismiss him, stating clearly the reasons therefor.

In the case at bar, petitioners were duly notified of the charges levelled against them. The records show that on January 15, 1993, petitioners were made to explain why they submitted “sickness notifications bearing (the) false signature of Dr. Pedro Rosales for purposes of claiming sickness benefits.”^[13] In another notice,^[14] dated February 1, 1993, they were apprised of the particular acts or omissions constituting the bases for their investigation. The notice reads:

“Reports received by this department shows that you were absent from your work. You filed a SSS sickness notification for the purpose of claiming a monetary benefit from the SSS compensating for loss of income due to alleged illness. Your sickness was allegedly certified and signed by our company physician, Dr. Pedro Rosales. We presented to our company physician the sickness notification you filed to check the veracity of your claim. Dr. Rosales filed a complaint of [sic] forgery on his signature attesting that you never made a medical consultation nor did he ever attend to you on the alleged illness you claim.

The aforementioned omission is a serious violation of our rules and regulation penalized by immediate dismissal.

You’re therefore requested to explain within 24 hours upon receipt hereof why your employment will not be terminated for cause on such omission.

(Sgd.)
GUILLERMO D. DELA CRUZ
Personnel/Administrative Manager”

However, we find that no hearing was conducted before petitioners were dismissed by private respondent. As observed by the labor arbiter:

“What the respondents did was to gather information from other employees but the complainants were not allowed to confront these witnesses/employees. After personal interviews made by Ma. Yolly Mendoza, Personnel Supervisor, of the complainants, Ms. Teresita Manalo, Dr. Pedro Rosales and other employees, she discussed the matter with top management and then decided to terminate the complainants without giving the latter any opportunity to defend themselves with the assistance of their representative or lawyer.”

We have held in *Radio Communications of the Philippines, Inc. vs. NLRC*,^[15] that it is not enough that the employee be served with written notices, viz.: (1) notice stating the charges against him; and (2) notice of the decision to dismiss him. The employee must be afforded the opportunity to be heard and to defend himself with the assistance of his representative, if he so desires. Similarly, in *Segismundo vs. NLRC*,^[16] we stressed that the “ample opportunity” contemplated by law connotes every kind of assistance that management must accord the employee to enable him to prepare adequately for his defense, including legal representation. Consultations or conferences are not a substitute for the actual observance of notice and hearing.

Nonetheless, there is just cause to dismiss petitioners. The records show that petitioners deliberately violated the rules established by their employer as regards their applications for sickness benefits. They did not undergo any medical examination to justify their claims. They gave their SN Forms to Teresita Manalo to “secure” the signature of Dr. Rosales without submitting to Dr. Rosales for the required medical check-up. Dr. Rosales attested that his signature was forged by Manalo. Manalo admitted the falsification and claimed she did so upon the request of petitioners.

It is futile for petitioners to disclaim lack of knowledge or participation in the act of Manalo. They acquiesced to the act because they filed the falsified SN Forms to their office for submission to the

SSS, knowing fully well that Dr. Rosales could not have signed the SN Forms without their medical examination.

Petitioners further contend that the forged SN Forms are SSS documents and not part of company records, hence, they are not covered by Item No. 12 of the Schedule of Offenses and Penalties. They maintain that even if the SN Forms are considered company records, the penalty of dismissal is too harsh considering that the SSS and the management did not sustain monetary loss on account of the incident. Petitioners also allege that Manalo prevaricated their participation in the anomaly in connivance with private respondent to avoid payment of their separation pay. They point out that Manalo was not criminally charged by private respondent for forging Dr. Rosales' signature.

The contentions deserve scant consideration.

Article 282 of the Labor Code enumerates the just causes of dismissal, viz.:

- “(1) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- (2) Gross and habitual neglect by the employee of his duties;
- (3) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- (4) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
- (5) Other causes analogous to the foregoing.”

Petitioners cannot downgrade the seriousness of their offenses. They committed falsifications. These are crimes punished by the Revised Penal Code itself. Their commission constitutes serious misconduct. Nor can petitioners avoid liability by claiming that the SN Forms are

not company records but SSS documents. Their use is covered by Item No. 12 of the Schedule of Offenses and Penalties which provides “knowingly using falsified record or document.” Petitioners knew that the commission of this offense is punishable by dismissal in view of its seriousness. They cannot therefore complain of its harshness.

Finally, there is no scintilla of evidence to sustain petitioners’ wild charge that private respondent and Manalo conspired to fabricate the charge against them. The mere failure of private respondent to charge Manalo criminally does not establish petitioners’ claim. Moreover, Manalo has left the employment of private respondent.

IN VIEW WHEREOF, the present Petition is **DISMISSED**. Costs against petitioners.

SO ORDERED.

Regalado, J., (Chairman), Romero, Mendoza and Torres, Jr., JJ., concur.

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- [1] Docketed as NLRC Case No. RAB-10-2-4795-93-b, entitled “Felicidad Mirano, et al. vs. Grandoe Philippines Industries and Roberto Magnaye” and NLRC Case No. RAB-IV-4-4956-93B, entitled “Pacencia C. Valencia vs. Grandoe Philippines Industries and Roberto Magnaye.”
- [2] Anabelle Cipres, Lina Armedillo, Leoncia Calanog, Nelia Cipres, Estelita Malapitan, Niceta Malapitan, Shirley Mendoza, Editha Perez, Prisca Paglinawan, Erlinda Sajer, Cesar Malapitan, Zenaida Mirano, Nenita Bonsal, Veronica Faraoan, Rona De Guzman, Lucita Rosas Felicidad Mirano, and Pacencia Valencia.
- [3] Affidavit of Dr. Rosales, dated April 17, 1993, Rollo, pp. 97-99.
- [4] Rollo, pp. 97-99.
- [5] Ibid., p. 123.
- [6] Annex “E” of Petition, Rollo, pp. 133-158.
- [7] Penned by Commissioner Ireneo B. Bernardo, concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Joaquin A. Tanodra; see Rollo, pp. 203-213.
- [8] See Annexes “I” and “J”, Rollo, pp. 214-233.
- [9] Decision, dated June 26, 1995, Rollo, pp. 234-241.
- [10] Comsavings Bank vs. National Labor Relations Commission, et al., G.R. No. 98456, June 14, 1996.
- [11] Pizza Hut vs. National Labor Relations Commission, G.R. No. 117059, January 29, 1996, 252 SCRA 531.

- [12] Article 277 (b), Labor Code; Sections 2, 5 and 6, Rule XIV, Book V of the Implementing Rules and Regulations.
- [13] Rollo, p. 107.
- [14] Ibid., p. 95.
- [15] G.R. No. 102958, June 25, 1993, 223 SCRA 656.
- [16] G.R. No. 112203, December 13, 1994, 239 SCRA 167.

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