

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**PHILIPPINE REFINING CO., INC.,
*Petitioner,***

-versus-

**G.R. No. L-21871
September 27, 1966**

**RODOLFO GARCIA, EDILBERTO
MARCELO and THE COURT OF
APPEALS,**

Respondents.

X-----X

**RODOLFO GARCIA and EDILBERTO
MARCELO,**

Petitioners,

-versus-

G.R. No. L-21962

**PHILIPPINE REFINING CO., INC.,
*Respondent.***

X-----X

DECISION

REYES, J.:

The above-captioned cases are separate appeals from the Decision of the Court of Appeals, in its Case CA-G.R. No. 24501-R, reversing the judgment of the Court of First Instance of Manila, Branch XII, in its Civil Case No. 34933, and ordering the defendant Philippine Refining Company, Inc. to pay the plaintiffs Rodolfo Garcia and Edilberto Marcelo their termination pay, moral and exemplary damages, attorney's fees and costs.

Briefly stated, the findings of fact of the appellate court are the following:

The Philippine Refining Company, petitioner in case L-21871, had received reports of losses or shortages of finished products stored in its warehouse in Cristobal Street, Paco, Manila, more commonly called as the Yu Chu Bodega. Accordingly, it alerted its security guards.

On 8 July 1957, respondents herein Rodolfo Garcia and Edilberto Marcelo, who were employed as helpers in a company delivery truck driven by Luis Manalo, loaded the truck with empty cartons and "covo" liner to be taken, as usual, to the soapery department at Tanque Street. At the warehouse gate, their cargo was inspected by the company's finished products supervisor, Luis Smyth, and by two guards, Primo Gonzales and Felipe Santos. The inspection yielded nothing anomalous, so the truck was allowed to proceed; but the inspecting party boarded and accompanied the truck to its destination, with Smyth sitting beside the driver, Gonzales placing himself on the running board and Santos staying at the rear, together with respondents herein Garcia and Marcelo.

On 11 July 1957, the plaintiffs and driver Manalo were charged with frustrated qualified theft before the City Fiscal of Manila and, on the same date, they were suspended by the company for alleged "involvement in a theft of company property until court proceedings in connection with the case are terminated." But the criminal case was subsequently dismissed by the fiscal for insufficiency of evidence.

On 11 October 1957, driver Manalo was reinstated, but Garcia and Marcelo were not; they were dismissed, effective as of the date of

their suspension, on 11 July 1957. Thus, the dismissed workers filed suit in the Court of First Instance for reinstatement, back wages and damages. The trial court, after hearing, dismissed the case. The plaintiffs appealed.

The appellate court found untrue the evidence for the company that, on the particular trip, Rodolfo Garcia threw to the ground four boxes of toilet soap, one by one, warning guard Santos not to report the matter; but Santos, upon their arrival at the soapery, did report the matter to his superior, and the security guards went back to where the boxes were thrown out and recovered them.

In disbelieving the company's version, the Court of Appeals took into account the fact that the place where the boxes were allegedly thrown out was a public place, which made recovery remote; the boxes were big and their being thrown from the truck to the ground would have been noticed by passers-by and by superior Smyth and guard Gonzales, who were riding with the driver in front; the cargo was inspected before the departure of the truck and accompanied by armed guards; and the plaintiffs knew that they were being watched and could not have imprudently committed the act imputed to them.

The Court of Appeals, therefore, reversed the trial court's decision, awarded plaintiffs damages, attorney's fees, separation pay and costs, but refused to order their reinstatement. The judgment of reversal is now the subject of these separate appeals by the company (L-21871) and by the dismissed laborers (L-21962).

It is contended for the company that the Court of Appeals —

“Erred and gravely abused its discretion in awarding moral damages, the present action being one for alleged breach of contract and there being no proof whatever of fraud or bad faith on the part of petitioner.”

The premises for the assigned error are incorrect, first, because the action was not only for a breach of contract but also for malicious prosecution, and second, because there was proof of bad faith in the dismissal of the laborers. The company's bad faith lies in its act in suspending them ostensibly until the theft case would be terminated,

but actually dismissing them before the investigation by the fiscal had ended, and making their dismissal retroactive to the date of the pretended suspension. So that, even viewed from the standpoint of breach of contract of employment, as the company advocates (Brief, p. 10), the employer company would still stand liable for moral damages under the last sentence of Article 2220 of the Civil Code, “where the defendant acted fraudulently or in bad faith.”

But to put things aright, the appealed decision in fact predicated the grant of moral damages on the —

“Circumstances under which the plaintiffs were illegally dismissed, the nature of the charge for which they were repeatedly investigated by the officials of the company, the police department and the fiscal’s office; and the attendant embarrassment and humiliation to which they were unnecessarily exposed.”

While the appealed decision does not cite the particular provision of law under which it had the company liable for moral damages, yet the points upon which it predicated the award, when taken together, evidence anti-social and oppressive abuse by the company of its right to investigate and dismiss its employees. The company s conduct violated Article 1701, which prohibits acts of oppression by either capital or labor against the other, and Article 21 on human relations, the sanction of which, by way of moral damages, is provided for in Article 2219, No. 10, all of the Civil Code.

“Moral damages may be recovered in the following and analogous cases:

X X X

(10) Acts and actions referred to in articles 21, 26.”

“ART. 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.”

It is true, and it is not disputed, that the acquittal of an accused employee does not bar his dismissal from employment. In raising this issue the company plainly misinterpreted the decision of the Court of Appeals. That court cited the fact that the fiscal refused to file an information against the employees only as an additional reason why it did not choose to believe that the plaintiffs had stolen products of the company, as alleged by the latter.

The last two assignments of error presented by the appellant company are non-reviewable by this Court, as they pertain to questions of fact and credibility within the exclusive jurisdiction of the Court of Appeals.

On the other hand, the dismissed employees have appealed on the ground that, since the Court of Appeals found that their dismissal was “unjust, unreasonable and unlawful,” the Court of Appeals erred in not ordering their reinstatement and the payment of their back salaries.

In support of the above contention, the appellants-employees cited the case of Gutierrez vs. Bachrach Motors Co., L-11298, L-11586 and L-11603, 19 January 1959. While holding that an action for reinstatement should be filed within a reasonable time, the said case did not precisely uphold the right to reinstatement of an unjustifiably dismissed employee. Nor have these appellants cited any specific statutory provision.

On the contrary, Republic Act 1052, as amended by Republic Act 1787, impliedly recognizes the right of the employer to dismiss his employees (hired without definite period) whether for just cause, as therein defined or enumerated, or without it. If there be just cause, the employer is not required to serve any notice of discharge nor to disburse termination pay to the employee. If the dismissal be without just cause, the employer must serve timely notice to the employee; but if he fails to serve due notice, then, and only then, is the employer obliged to pay termination pay. Except where other applicable statutes provide differently, it is not the cause for the dismissal but the employer’s failure to serve notice upon the employee that renders the employer answerable to the employee for terminal pay.

The employer's right to dismiss his employee, however, differs from, and should not be confused with, the manner in which the right is exercised. The manner in which the company exercised its right to dismiss in the case at bar was abusive; hence, it is liable for moral damages, as previously discussed.

For the foregoing reasons, the appealed decision is hereby affirmed. Appellants shall bear their respective costs.

**Concepcion, C.J., Barrera, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez and Castro, JJ., concur.
Regala, J., took no part.**