

FIRST DIVISION

[G.R. NO. 153180, September 02, 2005]

**MANILA ELECTRIC COMPANY (MERALCO), PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION AND MANUEL H.
DELOS^[1] SANTOS, RESPONDENTS.**

DECISION

QUISUMBING, J.

For review on *certiorari* is the **Decision**,^[2] dated September 25, 2001, of the Court of Appeals in CA-G.R. SP No. 61445 affirming the **Resolution**^[3] dated April 26, 2000, of the National Labor Relations Commission (NLRC), which upheld the Decision^[4] dated July 12, 1999, of the Labor Arbiter finding private respondent's dismissal illegal and ordering his reinstatement with backwages. Likewise impugned is the Resolution^[5] dated April 29, 2002, of the Court of Appeals denying petitioner's motion for reconsideration of its assailed decision.

The antecedent facts, as summarized by the Court of Appeals, are as follows:

The petitioner Manila Electric Company (MERALCO) hired private respondent Manuel H. Delos Santos as a collector on December 6, 1978. On May 11, 1990, about twelve years later, he was terminated for allegedly misappropriating company funds while serving as accounts investigator.

The controversy started on August 6, 1988, when private respondent was assigned to collect the Found Connected Account (FC account), with Account No. 27533-1694-16 located at 3rd Road, De Mesa Compound, Ilaya, Alabang, Muntinlupa, Metro Manila in the name of Orlando De Guzman, whose electric service was disconnected.

Before the Labor Arbiter, private respondent alleged that on August 6, 1988 at 3:00 p.m., he collected and received from one Mrs. Vivien De Guzman, the sum of P2,510 as payment for electric bill and reconnection fee outstanding in the account of Orlando De Guzman. Respondent claimed he issued official receipt numbers 251258-87 and 251259-87, without counting the money tendered. When he submitted the duplicate copies of the receipts in the office, he discovered the payment was P30 short. Thus, he noted on the duplicate copies of the receipts, the word "cancelled," and on the control billing assigned sheet, "attended contacted Mrs." He further stated that at around 4:30 p.m. the same day, he went back to Mrs. De Guzman's house to return the insufficient payment. However, Mrs. De Guzman was not home and so he gave the money to the latter's housemaid, Victoria Arigoring.

In his pleadings, private respondent also alleged that sometime in 1988, a certain customer of petitioner, one Danilo Santos, had an overdue account because of

differential billing. Since the account was within his area, he went to said customer's place to collect the outstanding balance. He was informed that payment had been remitted to a certain Mr. Bernardo at petitioner's Alabang branch office. Thus, private respondent noted in the receipt that the amount had been so remitted to Mr. Bernardo.

Private respondent alleged that he likewise came to know of some reimbursements of petty cash involving another collection officer and that he was surprised to learn that he was thereafter implicated in several collection cases. On September 6, 1988, he was placed under preventive suspension and on September 8, 1988, was summoned by petitioner's legal service department regarding several complaints against him.

Meanwhile, sometime in January 1989, the electric service of Orlando De Guzman was disconnected. This prompted Mrs. De Guzman to file a complaint with petitioner's Alabang Branch claiming that she had already settled the account. The head of the branch referred the complaint to their internal audit division for investigation.

On March 3, 1989, the audit report found private respondent liable for misappropriation of funds. The report alleged that Mrs. De Guzman made a statement on April 3, 1989 before petitioner's legal services department that on August 6, 1988, she tendered her payment of the FC account to private respondent.

Thereafter, on April 8, 1989, a notice of investigation was served upon private respondent requesting him to appear before a formal administrative investigation to answer the charges against him. After private respondent and the administrative officer of the Alabang branch office had submitted their respective sworn statements, the committee issued a report finding private respondent guilty of misappropriation. Forthwith, on May 11, 1990, petitioner served on private respondent a notice of termination. Thus, the latter filed a complaint for illegal dismissal.

To support his claim, private respondent presented the sworn statement dated May 8, 1989, of Mrs. De Guzman attesting that private respondent came back to her house on the same day to return the insufficient payment. Mrs. De Guzman further stated that since she was not home at the time, it was her housemaid, Victoria Arigoring, who actually received the same. However, the housemaid unfortunately forgot to immediately surrender the money and only did so belatedly when she had returned from the province. Arigoring also executed a sworn statement dated November 14, 1995, corroborating the statement of Mrs. De Guzman. When presented as witness, Arigoring testified that private respondent indeed returned on the same day the money he collected from Mrs. De Guzman.

After hearing the parties, the Labor Arbiter ruled for private respondent, thus:

WHEREFORE, premises considered, judgment is hereby rendered declaring that the dismissal of the complainant, Manuel H. [D]elos Santos, by the respondent Manila Electric Company, was illegal and the respondent is hereby ordered to reinstate immediately the aforesaid employee to his former position or an equivalent position in the respondent company, without loss of seniority rights and other privileges.

Furthermore, the respondent is hereby ordered to pay the complainant the amount of SEVEN HUNDRED TWENTY-FOUR THOUSAND THREE HUNDRED FIFTY PESOS (P724,350.00), representing his backwages for the period from May 11, 1990 up to July 11, 1999, it being understood that the aforesaid amount of backwages awarded to the complainant under this Decision shall be subject to a further adjustment up to the reinstatement of the aforesaid employee.

Likewise, the respondent is ordered to pay the complainant attorney's fees equivalent to ten percent (10%) of the total monetary award.

The claims of the complainant for moral and exemplary damages against the respondent are hereby DISMISSED for lack of merit.^[6]

Aggrieved by the Labor Arbiter's decision, petitioner appealed to the NLRC. However, finding no merit in petitioner's arguments, the NLRC affirmed the assailed decision except with regard to the award of attorney's fees, which was deleted. Thus, decreed the NLRC:

WHEREFORE, in the light of the foregoing, the appealed Decision of Labor Arbiter Francisco A. Robles dated July 12, 1999 is hereby **AFFIRMED** *en toto*.

SO ORDERED.^[7]

The petitioner's motion for reconsideration was denied. On appeal, the Court of Appeals likewise found no reason to disturb the NLRC's resolution, which affirmed the decision of the Labor Arbiter. The appellate court dismissed the petition thus:

WHEREFORE, premises considered, and finding no grave abuse of discretion on the part of public respondent National Labor Relations Commission, the assailed resolutions of the NLRC are hereby **AFFIRMED**.

SO ORDERED.^[8]

Petitioner's motion for reconsideration of the said decision was likewise denied by the Court of Appeals for lack of merit. Undeterred, petitioner now comes to this Court on a petition for review on *certiorari* essentially raising the following issues:

(a) Whether the Honorable Court of Appeals erred in arriving at the conclusion that private respondent did not commit misappropriation, thereby rendering his dismissal unjustified and illegal; and

(b) Whether the Honorable Court of Appeals erred in affirming the award of attorney's fees in favor of private respondent.

The core issue is the validity of private respondent's dismissal by the petitioner. Petitioner insists the conclusion arrived at by the Court of Appeals that private respondent did not commit misappropriation of company funds is absurd in the light of two established facts. First, in view of the alleged return of the money to Mrs. De Guzman's housemaid, private respondent should have instinctively demanded the