

## **SECOND DIVISION**

**[ G.R. No. 116473, September 12, 1997 ]**

**WILFREDO R. CAMUA, PETITIONER, VS. NATIONAL LABOR  
RELATIONS COMMISSION AND HERBERT S. DEE JR./HOOVEN  
PHILS. INC., RESPONDENTS.**

### **D E C I S I O N**

**MENDOZA, J.:**

This is a petition for certiorari to set aside the decision of the National Labor Relations Commission in NLRC NCR Case No. 00-01-00441-90, reversing the decision of the Labor Arbiter which found that petitioner had been illegally dismissed by private respondents.

The facts are as follows:

Private respondent Hooven Phil. Inc. is engaged in the manufacture of aluminum sections. Petitioner was first hired by it as a casual employee on November 18, 1986. On October 8, 1987, he was made a permanent employee, working as an anodizing aide. He was later transferred to the Quality Inspection Division and made a quality assurance inspector.

During the term of petitioner as quality assurance inspector, respondent company received during the period of April to October 1989, complaints from customers concerning the quality of products delivered by the company. On the basis of these complaints the company found petitioner to be grossly negligent and, possibly, even guilty of fraud.

Accordingly, on October 26, 1989, Edgardo S. Crisostomo recommended petitioner's dismissal on the ground of loss of trust and confidence. The recommendation was approved on October 27, 1989 by respondent Herbert S. Dee, Jr., but implementation of the order was put off because the company allegedly wanted to catch petitioner in flagrante delicto. However, the respondent company was frustrated in its attempt because petitioner allegedly learned about the plan. On November 30, 1989, petitioner was finally dismissed.

On January 23, 1990, petitioner filed this case for illegal dismissal and nonpayment of 13th month pay against private respondents. Respondent company paid petitioner Camua's 13th month pay on February 28, 1990. leaving as the sole issue petitioner's dismissal .

In a decision dated January 21, 1994 Labor Arbiter Melquiades Sol D. Del Rosario found petitioner to have been illegally dismissed. On appeal, however, the NLRC reversed the Labor Arbiter's decision. Hence, this petition for certiorari.

First. Petitioner contends that he was dismissed without due process of law. The law requires that before an employee may be dismissed two notices must be given to him by the employer, to wit: (1) notice apprising the employee of the particular acts or omission for which his dismissal is sought, and (2) notice informing the employee of the decision to dismiss him and the ground or grounds therefor.<sup>[1]</sup> In the case at bar, both the Labor Arbiter and the NLRC found that no written notice of the charges had been given to petitioner by the respondent company. With respect to the second notice required, private respondents claim that, on November 30, 1989, petitioner was informed of his dismissal by means of a written memorandum but petitioner refused to receive the notice. Private respondents could have sent such notice, however, by registered mail in order to have evidence of such notice to petitioner, but they did not do so.

There is thus no evidence to show that respondent company gave petitioner the required two notices before he was dismissed. Accordingly, in accordance with the well-settled rule,<sup>[2]</sup> private respondents should pay petitioner P1,000 as indemnity for violation of his right to due process.

Second. Private respondents contend that petitioner was guilty of gross negligence and possibly of fraud against the company. Therefore, they claim that petitioner was dismissed for just cause. In their reply filed in the NLRC they said Camua was an "incompetent employee and worse, may even be dishonest" and that Camua's incompetence was probably a "mere facade to hide his felonious acts."<sup>[3]</sup>

But the NLRC found petitioner guilty not of gross negligence but for dishonesty for having allegedly certified aluminum sections to be defective when the fact is that they were not products of the company. This is erroneous because the only evidence that respondent company had to support its allegation that petitioner was colluding with some customers to defraud the respondent Company were in the latter's own word "unconfirmed reports."<sup>[4]</sup> Private respondents said they were planning to catch the petitioner and his accomplices in flagrante delicto<sup>[5]</sup> but did not succeed because petitioner learned about the plan and so was able to take the necessary precaution. It is just as possible, however, that private respondents were not able to catch petitioner in flagrante delicto precisely because he was not involved in any wrongdoing.

The NLRC said in its decision:

The scheme, as presented by the respondents in that, the aluminum products of the respondent corporation like those of its competitors do not bear any trade mark or seal that would clearly identify them from other aluminum products; that the products delivered to the customers are quality products as certified by the complainant; that upon delivery, the customers will in turn reject the product but would actually return other substandard products. Hence, there is no way of determining with certainty the identity and other sources of these rejected products. Otherwise, if the product was indeed inspected and certified to as quality product before delivery by the complainant, then, We see no plausible reason for the complainant to declare it as substandard upon its return after the same was rejected by the customer.