

SECOND DIVISION

[G.R. No. 173921, February 24, 2016]

**PHILIPPINE AIRLINES, INC., PETITIONER, VS. ISAGANI DAWAL,
LORNA CONCEPCION, AND BONIFACIO SINOBAGO
RESPONDENTS.**

[G.R. No. 173952]

**ISAGANI DAWAL, LORNA CONCEPCION, AND BONIFACIO
SINOBAGO, PETITIONERS, VS. NATIONAL LABOR RELATIONS
COMMISSION, PHILIPPINE AIRLINES, INC., AVELINO L.
ZAPANTA, AND CESAR B. LAMBERTE, RESPONDENTS.**

DECISION

LEONEN, J.:

The employer has the burden of proving that the dismissal of its employees is with a valid and authorized cause. The employer's failure to discharge this burden makes the dismissal illegal.

This resolves consolidated Petitions for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure. The Petition^[1] docketed as G.R. No. 173921 was filed by Philippine Airlines, Inc. (PAL), while the Petition^[2] docketed as G.R. No. 173952 was filed by Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago (Dawal, et al.). Both Petitions are offshoots of the Court of Appeals Sixth Division's Decision in CA-G.R. SP No. 73030.^[3]

In its July 21, 2004 Decision,^[4] the Court of Appeals reinstated with modifications the Labor Arbiter's Decision dated September 7, 2001, and annulled and set aside the February 28, 2002 Decision^[5] and June 20, 2002 Resolution^[6] of the National Labor Relations Commission.^[7]

The Court of Appeals found that Dawal, et al. were illegally dismissed.^[8] It ordered PAL to reinstate Dawal, et al.^[9] to the equivalent of their former positions^[10] with full backwages.^[11] If there were no equivalent positions for Dawal, et al. to fill in, PAL was ordered to pay their full backwages^[12] on top of the separation pay already given.^[13]

In addition, the Court of Appeals directed PAL to pay attorney's fees equivalent to 10% of the total monetary award.^[14]

However, unlike the Labor Arbiter, the Court of Appeals found that PAL was not

guilty of unfair labor practice and reduced the award for moral and exemplary damages.^[15] The dispositive portion of the Decision reads as follows:

WHEREFORE, the instant petition is **GRANTED**. The assailed decision and resolution of the National Labor Relations Commission in NLRC NCR CN 30-12-14858-00 NLRC NCR CN 30-02-00842-01 CA No. 030195-01 are **ANNULLED** and **SET ASIDE**. The 07 September 2001 decision of Labor Arbiter Francisco A. Robles is hereby ordered **REINSTATED**, but insofar as the petitioners Isagani Dawal, Lorna Concepcion and Bonifacio Sinobago are considered, **WITH MODIFICATIONS**, to read:

"**WHEREFORE**, premises considered, judgment is hereby rendered in favor of herein complainants and against the respondents:

- (1) Ordering the respondents to reinstate immediately the herein complaints [sic] Isagani Dawal, Lorna Concepcion and Bonifacio Sinobago to positions equivalent to their former positions without loss of seniority rights and other benefits upon receipt of this Decision;
- (2) Ordering the respondents to pay herein complaints [sic] Isagani Dawal, Lorna Concepcion and Bonifacio Sinobago their full backwages, based on their last salary received, other privileges and benefits or their monetary equivalent, computed from the date of their dismissal on September 1, 2000 until their reinstatement; based on the last salary received by the said employees. As of July 31, 2001, complainants' backwages are in the amounts stated and specified below:
 - a. ISAGANI DAWAL -
P17,170.00 x 12 mos. from Sept. 1, 2000 up to July 31, 2001 = P206,040.00
 - b. LORNA CONCEPCION -
P22,540.00 x 12 mos. from Sept. 1, 2000 up to July 31, 2001 = P270,480.00
 - c. BONIFACIO SINOBAGO -
P21,675.00 x 12 mos. from Sept. 1, 2000 up to July 31, 2001-P260,100.00It should be stated and understood that the backwages of the complainants shall be subject to further computation up to the reinstatement of the said employees.
- (3) In the event that there are no equivalent positions to which the aforementioned complainants may be reinstated, the respondents are ordered to pay, in addition to the separation pay already paid to complainants Isagani Dawal, Lorna Concepcion and Bonifacio Sinobago, their full backwages, based on their last salary received, other privileges and benefits or their monetary equivalent, computed from their dismissal on 01

- September 2000 until their supposed actual reinstatement;
- (4) Ordering the respondents to pay the said complainants P50,000.00 each as moral damages and P10,000.00 each as exemplary damages; and
 - (5) Ordering the respondents to pay the said complainants attorney's fees equivalent to ten percent (10%) of their respective total monetary award.

All other claims are hereby dismissed."

SO ORDERED.^[16]

In its July 28, 2006 Resolution,^[17] the Court of Appeals Special Former Sixth Division denied PAL's Motion for Reconsideration and Dawal, et al.'s Motion for Partial Reconsideration.^[18]

On September 25, 2006, this court issued a temporary restraining order enjoining Dawal, et al. or their representatives from implementing the Court of Appeals' July 21, 2004 Decision.^[19]

PAL filed its Memorandum^[20] on April 23, 2008, while Dawal, et al. filed their Memorandum^[21] on May 5, 2008.

I

On September 1, 2000, PAL severed the employment of Isagani Dawal (Dawal), Lorna Concepcion (Concepcion), and Bonifacio Sinobago (Sinobago).^[22] Dawal served as Chief Storekeeper, Concepcion as Master Avionics Mechanic A, and Sinobago as Aircraft Master "A" Mechanic.^[23] Until their dismissal from work, they were regular rank-and-file employees of PAL and "bona fide members"^[24] of the Philippine Airlines Employees' Association (PALEA).^[25]

When PAL was privatized in 1993, the new owners acquired PAL's alleged aging^[26] fleet and overly manned workforce.^[27] PAL sought to expand its business through a five-year re-fleeting program.^[28] It began implementing the re-fleeting program in July 1993.^[29] In 1997, the Asian Financial Crisis devalued the peso against the dollar. PAL claims that this strained its financial resources. It counts its losses to P750 million in December 1997 alone.^[30]

In addition, the Airline Pilots Association of the Philippines^[31] staged a three-week strike on June 5, 1998.^[32] PAL claims that this caused the "further deterioration of [the company's] financial condition[.]"^[33] PAL implemented a massive retrenchment program on June 15, 1998.^[34]

On June 19, 1998, PAL filed for corporate rehabilitation before the Securities and Exchange Commission.^[35]

A year after, on February 18, 1999, PAL President and Chief Operating Officer Avelino L. Zapanta^[36] allegedly wrote to PALEA, informing the latter of the "new management's plan to sell"^[37] the Maintenance and Engineering Department.^[38]

On June 7, 1999, the Securities and Exchange Commission approved^[39] PAL's Amended and Restated Rehabilitation Plan (Rehabilitation Plan).^[40] The Rehabilitation Plan stated that PAL's "non-core activities . . . have the potential to be sold off."^[41] These included the Catering and the Maintenance and Engineering Departments.^[42]

On June 15, 1999, PAL allegedly met with PALEA, during which PAL President and Chief Operating Officer Avelino L. Zapanta promised that "all employees [would] be taken cared [sic] of."^[43] He also agreed to ensure that there would be no economic dislocation and diminution of benefits for the employees.^[44] He added that "job security [was] well[-]protected [and] that there [would] be a process of consultation between labor and management in the divestment of non-core business groups."^[45]

On February 2000,^[46] PALEA held a general election for its new officers.^[47] Headed by PALEA President Jose T. Peñas III, the newly proclaimed officers included Dawal as Secretary.^[48] However, the result of the election was contested.^[49] On March 24, 2000, the new union leadership informed PAL of the election result and requested a courtesy call visit.^[50] However, PAL refused to meet with them in light of pending election protests.^[51]

Meanwhile, Lufthansa Technik Philippines, Inc. (Lufthansa) expressed its desire to purchase PAL's Maintenance and Engineering Department.^[52] The Securities and Exchange Commission approved the sale to Lufthansa on March 24, 2000.^[53]

Under Article XXIV, Section 4 of the 1995-2000 PAL-PALEA Collective Bargaining Agreement^[54] and the Memorandum of Agreement^[55] dated November 2, 1996, "[i]n case PAL deems it necessary to reorganize its corporate structure for the viability of its operations by forming joint ventures and *spin-offs*, PAL shall do so only after proper consultation with PALEA *within 45 days before implementation* of said reorganization[.]"^[56]

No consultation meeting was held within 45 days prior to September 1, 2000.^[57] When PAL turned down the courtesy call visit of the newly elected PALEA officers, the latter refused to commence the consultation meeting "until PAL management respects"^[58] their alleged election.^[59]

To make up for this, PAL issued primers to "address questions regarding the spin-off."^[60] The primers stated that the spin-off aimed to reduce PAL's costs, improve its performance and efficiency, and pre-pay its creditors, among others.^[61] PAL also allegedly conducted *ugnayan* sessions with its employees to inform them of the spin-off.^[62]

According to Dawal, et al., PAL announced the planned spin-off informally and

belatedly, reaching them sometime in April 2000.^[63] PALEA members signed and executed Resolution No. 01-1, Series of 2000, rejecting the spin-off.^[64]

Under the spin-off program, the following PAL employees were to be "retrench[ed]"^[65] from work: those from the Maintenance and Engineering Department, and those from Logistics and Purchasing, Financial Services, and Information Services Departments doing purely maintenance and engineering-related tasks, whose work would be absorbed by Lufthansa.^[66]

After signing a Release, Waiver, and Quitclaim,^[67] Dawal, Concepcion, Sinobago, and other affected employees were given generous separation packages^[68] less their outstanding obligations or accountabilities.^[69] Dawal received P590,511.90, Concepcion received P588,575.75, and Sinobago received P411,539.98.^[70] PAL also offered work for the employees who were not absorbed by Lufthansa.^[71]

On July 20, 2000, PAL issued a Notice of Separation to all the affected employees, containing either of the following letters: (1) offer of new employment from Lufthansa, should it choose to hire the affected employees; or (2) PAL's offer of employment for a lower rank or job grade and for a lesser salary,^[72] should Lufthansa not choose to hire the affected employees.^[73]

On September 1, 2000, in light of the spin-off of PAL's Maintenance and Engineering Department and the scheduled start of operations of Lufthansa,^[74] all affected employees were relieved from their positions.^[75]

When PAL spun off the engineering and maintenance facilities, it also created a new engineering department, called the Technical Services Department, allegedly "in compliance with aviation regulations requiring airline companies to maintain an engineering department."^[76]

In a letter^[77] dated September 7, 2000,^[78] the (protested) new PALEA President Jose T. Peñas III submitted a list of economic and non-economic proposals for the renewal of the 1995 Collective Bargaining Agreement,^[79] which would expire on September 30, 2000.^[80]

PALEA and Dawal, et al. filed before the Labor Arbiter a Complaint^[81] dated January 31, 2001 for unfair labor practices and illegal dismissal.^[82] Their labor suit^[83] was consolidated with a similar complaint filed against PAL.^[84]

In his Decision^[85] dated September 7, 2001, Labor Arbiter Francisco A. Robles found PAL guilty of illegal dismissal.^[86] PAL was ordered to reinstate Dawal, et al. to their "former position[s] without loss of seniority rights and privileges and to pay them full backwages[.]"^[87] The Labor Arbiter also granted moral damages amounting to P200,000 and exemplary damages amounting to P100,000 for each of them, after finding that PAL was guilty of unfair labor practice, and attorney' fees.^[88]