

## SECOND DIVISION

[ G.R. No. 186019, March 29, 2010 ]

**WHITE DIAMOND TRADING CORPORATION AND/OR JERRY UY  
AND JESSIE UY, PETITIONERS, VS. NATIONAL LABOR  
RELATIONS COMMISSION, NORLITO ESCOTO, MARY GRACE  
PASTORIL AND MARIA MYRNA OMELA, RESPONDENTS.**

### DECISION

**BRION, J.:**

For resolution is the present Petition for Review on *Certiorari*<sup>[1]</sup> filed by petitioners White Diamond Trading Corporation and/or Jerry Uy and Jessie Uy. The petition seeks to nullify the Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> of the Court of Appeals (CA), promulgated on October 24, 2008 and January 14, 2009, respectively, in CA-G.R. SP No. 94137.<sup>[4]</sup>

### THE ANTECEDENTS

The background and facts are summarized below.

The petitioner White Diamond Trading Corporation (*the company*) is engaged in buying and selling second hand motor vehicles; Jerry Uy is its owner and Jessie Uy its President. The company employed Maria Myrna Omela (*Omela*) in 1999 as assistant secretary, Mary Jane Pastoril (*Pastoril*) in 2000 as secretary, and Norlito Escoto (*Escoto*) in 2001 as salesman.

On February 28, 2004, Escoto consummated the sale of a Toyota Town Ace to Teodoro Abejar Aquino (*Aquino*) for P200,000.00. Aquino tried but failed to haggle for a lower price. While the purchase price indicated in the original copy of the receipt issued to Aquino was P200,000.00, it was only P190,000.00 in the duplicate copy that remained with the company. The receipt was issued by Omela to Aquino after he gave Omela P200,000.00 in cash, which amount Aquino counted in the presence of Pastoril. Pastoril then took out the deed of sale and handed it to Aquino. The deed showed that the consideration for the sale to be P190,000.00.

On March 8, 2004, the company terminated the employment of Escoto, Omela and Pastoril. On March 10, 2004, the three employees filed a complaint for illegal dismissal against the company and its two top officers.

### THE COMPULSORY ARBITRATION PROCEEDINGS

Before the labor arbiter, the dismissed employees described themselves as hardworking with no derogatory record in the course of their employment. They were therefore surprised when their employer terminated their employment without conducting an investigation, on the accusation that they stole company funds. They

denied the accusation and alleged that on the day Aquino bought the Toyota Town Ace, he paid the purchase price of P200,000.00 to Omela who issued a receipt for that amount. Aquino then went to Escoto, who was then attending to the release of the vehicle, to ask for an additional discount. Escoto told Aquino that he would bring the matter up to Jessie Uy. Jessie Uy agreed to give the requested discount, but Aquino had already left the premises. Omela then reflected the correct amount of the purchase price in the duplicate receipt. When Escoto contacted Aquino on March 1, 2004, he told him that he (Escoto) had a refund of P10,000.00. Aquino collected the refund on March 8, 2004 and issued a receipt for that amount. By way of intervening development, on insistent questioning by their co-employee Neil Rodriguez (*Rodriguez*) on February 28, 2004, Escoto disclosed to Rodriguez that they would remit the P10,000.00 discount to Aquino. Rodriguez responded by asking that they keep the money for themselves (Escoto, Rodriguez, Omela, Pastoril and Bernie, another co-employee). Rodriguez even told Escoto that he was in dire need of money because he had been involved in a vehicular accident and had paid the victim a substantial amount as settlement. Escoto informed Rodriguez that the money was with Omela; thereafter, Escoto lent Rodriguez P1,000.00, an amount that Rodriguez had not yet paid. The complainants denied that they altered the phone number and address of Aquino, and argued that the receipt for P10,000.00 that Aquino issued belied the charge that they swindled the company. Based on this story, the complainants posited that their dismissal was without just cause.

For its part, the company alleged that in connection with the sale of the Toyota Town Ace on February 28, 2004, Rodriguez asked the manager how much the vehicle's selling price was; the manager replied that it was bought for P190,000.00. Rodriguez continued talking and at some point wondered why Pastoril and Omela gave him P1,000.00. At this point, the manager became suspicious and was prompted to look at the records of the sale; he even tried to contact Aquino by telephone, to no avail. The company then sent Rodriguez to Aquino's address on record, but there was no such person in the given address. On March 3, 2004, Rodriguez found out that the complainants had changed Aquino's phone number. The company found the correct information later and, upon contacting Aquino, recovered the original copy of the official receipt issued by Omela. According to Aquino, he paid P200,000.00 in cash to Omela but the duplicate copy indicated P190,000.00. The company further alleged that it summoned Escoto, Omela and Pastoril to shed light on the differing entries of the purchase price in the original and duplicate copies of the receipts. Omela and Pastoril appeared at the investigation conducted on March 6, 8 and 9, 2004, but Escoto could not be contacted at his given address. Omela and Pastoril initially denied that an anomaly took place, but later admitted that Escoto had planned and executed it and who had changed Aquino's address and phone number. On March 9, 2004, Omela and Pastoril were issued a memorandum terminating their services.

Labor Arbiter Ermita T. Abrasaldo-Cuyuca dismissed the complaint for lack of merit in her decision of September 30, 2004.<sup>[5]</sup> The arbiter found that Escoto, Omela and Pastoril defrauded the company through their concerted action. The labor arbiter found that they made it appear in the company records that Aquino bought the Toyota Town Ace for P190,000.00, but charged Aquino and issued him a receipt for P200,000.00. Except for the claim for service incentive leave, the labor arbiter denied the complainants' money claims for lack of supporting evidence.

On appeal, the National Labor Relations Commission (*NLRC*) affirmed the labor

arbiter's ruling with modification.<sup>[6]</sup> While the NLRC was convinced that the company had validly dismissed Escoto and Omela for having "effected the discrepancies in sales amount" of the Toyota Town Ace, it found that "no contributory act was shown from Pastoril who, in Aquino's *Sinumpaang Salaysay*, merely handed him the Deed of Sale." It therefore ruled that Pastoril's dismissal was without just cause. The NLRC also held that the company failed to accord Escoto and Omela the twin-notice requirement, noting that while the company conducted an administrative investigation, the questions posed to the complainants were not reduced to writing. Consequently, the NLRC awarded Escoto and Omela nominal damages of P10,000.00 each. To Pastoril, the NLRC awarded backwages and separation pay of one month's pay for every year of service in lieu of reinstatement, citing the evidently strained relations between him and the company as reason for the separation pay.

The NLRC denied the company's motion for reconsideration in its Resolution rendered on February 15, 2006,<sup>[7]</sup> paving the way for the elevation of the case to the CA through a Petition for Certiorari under Rule 65 of the Rules of Court.

### **THE CA DECISION**

On October 24, 2008, the CA promulgated its decision<sup>[8]</sup> dismissing the petition for lack of merit. It found that the NLRC did not commit any grave abuse of discretion in rendering the challenged rulings. The company sought but failed to secure a reconsideration of the CA decision; hence, the present petition.

### **THE PETITION**

The petition raises the **sole issue** of whether the CA erred in affirming the NLRC decision finding that Pastoril had been illegally dismissed and awarding her backwages and separation pay. The company and its principal officers question the appellate court's findings of facts, as well as the conclusions it derived from the facts. Specifically, they dispute the following conclusion of the CA:

x x x x

Notably, the record is bereft of any substantial proof that private respondent Pastoril conspired with private respondents Escoto and Omela and covered up the irregularity in the sale of the vehicle. It would be speculative to infer conspiracy on her part, when all that she did was to give the deed of sale to Aquino.<sup>[9]</sup>

x x x x

The company submits that contrary to the findings of the NLRC and the CA, Pastoril took part in the fraudulent transaction. It cites the following statement of Aquino in his *Sinumpaang Salaysay* in support of its position:

x x x x

Na, pinapunta na ako sa opisina para magbayad at doon ay ibinigay ko

kay **Ms. Myrna Omela** ang pera at niresibuhan niya ako ng P200,000.00 habang inilabas naman ni Mary Grace Pastoril ang Deed of Sale at pinapirmahan sa akin sabay ng abot ng gatepass sa akin.<sup>[10]</sup>

x x x x

The company points out that Pastoril, well-aware that the buyer had paid P200,000.00, placed the sum of P190,000.00 in the Deed of Sale. In a subsequent Sinumpaang Salaysay dated December 3, 2005,<sup>[11]</sup> Aquino deposed as follows:

x x x x

Pebrero 28, 2004 pagitan ng alas 9:00 hanggang 10:00 ng umaga, pumunta ako sa WHITE DIAMOND TRADING CORP. sa Valenzuela City, para bumili ng sasakyan. Ang nag-assist po sa akin ay Norlito Escoto o tinatawag nilang Lito.

Pagkatapos po naming magkasundo ni Lito sa halagang P200,000.00 na halaga ng binibili kong TOYOTA TOWN ACE, agad po niya akong pinapunta sa opisina para magbayad.

Pumasok ako sa loob ng opisina at sinabing babayaran ko na ang sasakyan sa halagang aming napagkasunduan at binigay ko kay Myrna Omela ang pera na kanyang binilang sa harapan naming ni Grace (Pastoril).

Pagkatapos pong bilangin ni Myrna ang pera at sinabing eksaktong P200,000.00 dali dali niya naming itong niresibuhan sa ganon din halaga. Agad agad din po pinapirmahan sa akin ni Grace ang deed of sale na siya ang naghanda. Habang si Lito naman ay dali daling pinalabas ang aking biniling sasakyan na hindi na nalinisan.

Maliit lang din po ang kanilang opisina sa katunayan isa lang itong container van, masikip at magkakatabi ang mga lamesa at upuan kaya imposibleng hindi nila alam ang mga nangyayari.

Pagkaraan ng mga ilang araw tumawag sila sa akin sa telepono at ako raw ay may discount na P10,000.00 na isasauli daw nila ito sa akin at nakiusap na pag may taong pumunta sa akin at gustong makita ang orihinal na resibo sabihin ko raw na ito ay nawala.

Marso 6, taon 2004. Sabado ng gabi. May taong pumunta sa aking bahay na nagngangalang Neil Rodriguez na nagpakilalang taga White Diamond, inutusan daw siya ng kanyang manager na mag imbestiga sa bentahan na naganap noong Pebrero 28, 2004. Ipinakita niya sa akin ang duplicate copy na nagsasaad ng pagkakabili ko sa van at ito nga ay P190,000.00 malinis at walang bahid ng bura. Dahil na rin sa ebidensyang ipinakita sa akin ni Neil ako'y kanyang nakumbinse at binigyan ko siya ng kopya ng orihinal na resibo ko.

Marso 7, taon 2004. Linggo ng umaga, magkakasama silang tatlo nila Lito, Myrna at Grace pumunta sa aming bahay at isinauli ang perang