

## SECOND DIVISION

[ G.R. No. 155502, June 18, 2009 ]

**SARABIA OPTICAL AND VIVIAN SARABIA-ONG, PETITIONERS,  
VS. JEANET B. CAMACHO, RESPONDENT.**

### DECISION

**QUISUMBING, J.:**

This is an appeal from the Decision<sup>[1]</sup> dated September 30, 2002 of the Court of Appeals in CA-G.R. SP No. 58803 affirming the Decision<sup>[2]</sup> dated October 11, 1999 of the National Labor Relations Commission in NLRC NCR CA Case No. 016418-98. The NLRC had affirmed the Decision<sup>[3]</sup> dated September 22, 1997 of the Labor Arbiter in NLRC NCR Case No. 03-02049-96-A which declared Camacho's dismissal from her employment illegal.

Petitioner Sarabia Optical is a single proprietorship engaged in the optical business and is owned and managed by petitioner Vivian Sarabia-Ong. Respondent Jeanet B. Camacho was the branch manager of Sarabia Optical-SM Megamall at the time of her dismissal on March 9, 1995.

Sarabia-Ong claimed that during the inventory of consigned products in the SM Megamall Branch in August 1994, she was advised that twelve (12) pieces of Rayban™ eyewear were missing. Since Camacho could not explain the missing stocks, Camacho suggested that the costs thereof be deducted from her salary and that of her personnel.

On February 15, 1995, Sarabia-Ong received a phone call from an employee of the SM Megamall Branch informing her of an anomaly in the branch. In a one-on-one conference with the branch personnel, she learned that almost all of them were aware of the anomaly and they pointed to Camacho as its mastermind. They revealed that instead of reporting the income derived from the sale of screws, solutions, and other miscellaneous items from September to November 1994, Camacho divided it among the branch personnel. They added that Camacho devised the practice to cover for the deductions in their salaries due to the missing Rayban™ eyewear.

On March 3, 1995, Sarabia-Ong conducted an investigation and asked Camacho to explain her side. On March 8, 1995, Camacho was dismissed effective March 9, 1995 on the ground of loss of trust and confidence.<sup>[4]</sup>

Camacho filed a complaint for illegal dismissal, illegal deduction, separation pay, and attorney's fees. She claimed that sometime in 1994, Sarabia-Ong requested her to cooperate in fabricating a case against three old employees of the SM Megamall Branch to justify their dismissal. She refused to cooperate and offered to resign provided she would be paid separation pay. Because of this, Sarabia-Ong fabricated

a case against her and accused her of not reporting the income derived from the sale of screws, solutions, and other miscellaneous items from September to November 1994.

In a Decision dated September 22, 1997, the Labor Arbiter ruled that petitioners failed to present material evidence that would support the charge against Camacho. *First*, petitioners failed to present an audit report showing the inventory of the screws, solutions, and other miscellaneous items at the time Camacho took over the management of the SM Megamall Branch and the number of stocks that were eventually sold. Neither were the sales invoices or purchase receipts presented. *Second*, petitioners did not show that they filed a complaint with the police authorities although the charge against Camacho amounted to qualified theft or *estafa*. *Third*, petitioners failed to prove that an administrative investigation was conducted since they did not present any written notice of the charge against Camacho and her purported answer thereto. The decretal portion of the decision reads:

CONFORMABLY WITH THE FOREGOING, judgment is hereby rendered finding complainant's dismissal to be illegal. Accordingly, complainant should be reinstated or if not feasible because of a strained employer-employee relationship then in lieu thereof, payment of separation pay at one (1) month per year of service, a fraction of six (6) months being considered as one whole year. In addition, complainant should be paid her backwages which as of August 31, 1997 has amounted to P232,030.00.

All other claims are dismissed for lack of merit.

SO ORDERED.<sup>[5]</sup>

Petitioners appealed to the NLRC which affirmed *in toto* the Labor Arbiter's finding of illegal dismissal.

Dissatisfied, petitioners elevated the matter to the Court of Appeals.

On September 30, 2002, the appellate court affirmed the NLRC decision. It agreed with the Labor Arbiter and the NLRC that the charge against Camacho was not satisfactorily proven. The Joint Affidavit<sup>[6]</sup> of Glenda Navarro, Evelyn Jasmin, and Roselle Cosep merely stated that Camacho used her position and authority and engaged them to carry out the anomaly. Petitioners also failed to submit any proof that they incurred losses from September to November 1994 due to the non-reporting of the sales. If the charge against Camacho was true, then petitioners should have filed the appropriate criminal complaint against her. Furthermore, petitioners failed to satisfy the requirements of due process before dismissing Camacho. Although a notice of termination was sent to Camacho, no written notice of the charge was given to her.

Petitioners now submit the following issues for our consideration:

I.

THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT