

SECOND DIVISION

[G.R. No. 118978, May 23, 1997]

**PHILIPPINE TELEGRAPH AND TELEPHONE COMPANY,*
PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION
AND GRACE DE GUZMAN, RESPONDENTS.
D E C I S I O N**

REGALADO, J.:

Seeking relief through the extraordinary writ of *certiorari*, petitioner Philippine Telegraph and Telephone Company (hereafter, PT&T) invokes the alleged concealment of civil status and defalcation of company funds as grounds to terminate the services of an employee. That employee, herein private respondent Grace de Guzman, contrarily argues that what really motivated PT&T to terminate her services was her having contracted marriage during her employment, which is prohibited by petitioner in its company policies. She thus claims that she was discriminated against in gross violation of law, such a proscription by an employer being outlawed by Article 136 of the Labor Code.

Grace de Guzman was initially hired by petitioner as a reliever, specifically as a "Supernumerary Project Worker," for a fixed period from November 21, 1990 until April 20, 1991 vice one C.F. Tenorio who went on maternity leave.^[1] Under the Reliever Agreement which she signed with petitioner company, her employment was to be immediately terminated upon expiration of the agreed period. Thereafter, from June 10, 1991 to July 1, 1991, and from July 19, 1991 to August 8, 1991, private respondent's services as reliever were again engaged by petitioner, this time in replacement of one Erlinda F. Dizon who went on leave during both periods.^[2] After August 8, 1991, and pursuant to their Reliever Agreement, her services were terminated.

On September 2, 1991, private respondent was once more asked to join petitioner company as a probationary employee, the probationary period to cover 150 days. In the job application form that was furnished her to be filled up for the purpose, she indicated in the portion for civil status therein that she was single although she had contracted marriage a few months earlier, that is, on May 26, 1991.^[3]

It now appears that private respondent had made the same representation in the two successive reliever agreements which she signed on June 10, 1991 and July 8, 1991. When petitioner supposedly learned about the same later, its branch supervisor in Baguio City, Delia M. Oficial, sent to private respondent a memorandum dated January 15, 1992 requiring her to explain the discrepancy. In that memorandum, she was reminded about the company's policy of not accepting married women for employment.^[4]

In her reply letter dated January 17, 1992, private respondent stated that she was not aware of PT&T's policy regarding married women at the time, and that all along

she had not deliberately hidden her true civil status.^[5] Petitioner nonetheless remained unconvinced by her explanations. Private respondent was dismissed from the company effective January 29, 1992,^[6] which she readily contested by initiating a complaint for illegal dismissal, coupled with a claim for non-payment of cost of living allowances (COLA), before the Regional Arbitration Branch of the National Labor Relations Commission in Baguio City.

At the preliminary conference conducted in connection therewith, private respondent volunteered the information, and this was incorporated in the stipulation of facts between the parties, that she had failed to remit the amount of P2,380.75 of her collections. She then executed a promissory note for that amount in favor of petitioner.^[7] All of these took place in a formal proceeding and with the agreement of the parties and/or their counsel.

On November 23, 1993, Labor Arbiter Irenarco R. Rimando handed down a decision declaring that private respondent, who had already gained the status of a regular employee, was illegally dismissed by petitioner. Her reinstatement, plus payment of the corresponding back wages and COLA, was correspondingly ordered, the labor arbiter being of the firmly expressed view that the ground relied upon by petitioner in dismissing private respondent was clearly insufficient, and that it was apparent that she had been discriminated against on account of her having contracted marriage in violation of company rules.

On appeal to the National Labor Relations Commission (NLRC), said public respondent upheld the labor arbiter and, in its decision dated April 29, 1994, it ruled that private respondent had indeed been the subject of an unjust and unlawful discrimination by her employer, PT&T. However, the decision of the labor arbiter was modified with the qualification that Grace de Guzman deserved to be suspended for three months in view of the dishonest nature of her acts which should not be condoned. In all other respects, the NLRC affirmed the decision of the labor arbiter, including the order for the reinstatement of private respondent in her employment with PT&T.

The subsequent motion for reconsideration filed by petitioner was rebuffed by respondent NLRC in its resolution of November 9, 1994, hence this special civil action assailing the aforesaid decisions of the labor arbiter and respondent NLRC, as well as the denial resolution of the latter.

1. Decreed in the Bible itself is the universal norm that women should be regarded with love and respect but, through the ages, men have responded to that injunction with indifference, on the hubristic conceit that women constitute the inferior sex. Nowhere has that prejudice against womankind been so pervasive as in the field of labor, especially on the matter of equal employment opportunities and standards. In the Philippine setting, women have traditionally been considered as falling within the vulnerable groups or types of workers who must be safeguarded with preventive and remedial social legislation against discriminatory and exploitative practices in hiring, training, benefits, promotion and retention.

The Constitution, cognizant of the disparity in rights between men and women in almost all phases of social and political life, provides a gamut of protective provisions. To cite a few of the primordial ones, Section 14, Article II^[8] on the

Declaration of Principles and State Policies, expressly recognizes the role of women in nation-building and commands the State to ensure, at all times, the fundamental equality before the law of women and men. Corollary thereto, Section 3 of Article XIII^[9] (the progenitor whereof dates back to both the 1935 and 1973 Constitution) pointedly requires the State to afford full protection to labor and to promote full employment and equality of employment opportunities for all, including an assurance of entitlement to tenurial security of all workers. Similarly, Section 14 of Article XIII^[10] mandates that the State shall protect working women through provisions for opportunities that would enable them to reach their full potential.

2. Corrective labor and social laws on gender inequality have emerged with more frequency in the years since the Labor Code was enacted on May 1, 1974 as Presidential Decree No. 442, largely due to our country's commitment as a signatory to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).^[11]

Principal among these laws are Republic Act No. 6727^[12] which explicitly prohibits discrimination against women with respect to terms and conditions of employment, promotion, and training opportunities; Republic Act No. 6955^[13] which bans the "mail-order-bride" practice for a fee and the export of female labor to countries that cannot guarantee protection to the rights of women workers; Republic Act No. 7192,^[14] also known as the "Women in Development and Nation Building Act," which affords women equal opportunities with men to act and to enter into contracts, and for appointment, admission, training, graduation, and commissioning in all military or similar schools of the Armed Forces of the Philippines and the Philippine National Police; Republic Act No. 7322^[15] increasing the maternity benefits granted to women in the private sector; Republic Act No. 7877^[16] which outlaws and punishes sexual harassment in the workplace and in the education and training environment; and Republic Act No. 8042,^[17] or the "Migrant Workers and Overseas Filipinos Act of 1995," which prescribes as a matter of policy, inter alia, the deployment of migrant workers, with emphasis on women, only in countries where their rights are secure. Likewise, it would not be amiss to point out that in the Family Code,^[18] women's rights in the field of civil law have been greatly enhanced and expanded.

In the Labor Code, provisions governing the rights of women workers are found in Articles 130 to 138 thereof. Article 130 involves the right against particular kinds of night work while Article 132 ensures the right of women to be provided with facilities and standards which the Secretary of Labor may establish to ensure their health and safety. For purposes of labor and social legislation, a woman working in a nightclub, cocktail lounge, massage clinic, bar or other similar establishments shall be considered as an employee under Article 138. Article 135, on the other hand, recognizes a woman's right against discrimination with respect to terms and conditions of employment on account simply of sex. Finally, and this brings us to the issue at hand, Article 136 explicitly prohibits discrimination merely by reason of the marriage of a female employee.

3. Acknowledged as paramount in the due process scheme is the constitutional guarantee of protection to labor and security of tenure. Thus, an employer is required, as a condition sine qua non prior to severance of the employment ties of an individual under his employ, to convincingly establish, through substantial

evidence, the existence of a valid and just cause in dispensing with the services of such employee, one's labor being regarded as constitutionally protected property.

On the other hand, it is recognized that regulation of manpower by the company falls within the so-called management prerogatives, which prescriptions encompass the matter of hiring, supervision of workers, work assignments, working methods and assignments, as well as regulations on the transfer of employees, lay-off of workers, and the discipline, dismissal, and recall of employees.^[19] As put in a case, an employer is free to regulate, according to his discretion and best business judgment, all aspects of employment, "from hiring to firing," except in cases of unlawful discrimination or those which may be provided by law.^[20]

In the case at bar, petitioner's policy of not accepting or considering as disqualified from work any woman worker who contracts marriage runs afoul of the test of, and the right against, discrimination, afforded all women workers by our labor laws and by no less than the Constitution. Contrary to petitioner's assertion that it dismissed private respondent from employment on account of her dishonesty, the record discloses clearly that her ties with the company were dissolved principally because of the company's policy that married women are not qualified for employment in PT&T, and not merely because of her supposed acts of dishonesty.

That it was so can easily be seen from the memorandum sent to private respondent by Delia M. Oficial, the branch supervisor of the company, with the reminder, in the words of the latter, that "you're fully aware that the company is not accepting married women employee (sic), as it was verbally instructed to you."^[21] Again, in the termination notice sent to her by the same branch supervisor, private respondent was made to understand that her severance from the service was not only by reason of her concealment of her married status but, over and on top of that, was her violation of the company's policy against marriage ("and even told you that married women employees are not applicable [sic] or accepted in our company.")^[22] Parenthetically, this seems to be the curious reason why it was made to appear in the initiatory pleadings that petitioner was represented in this case only by its said supervisor and not by its highest ranking officers who would otherwise be solidarily liable with the corporation.^[23]

Verily, private respondent's act of concealing the true nature of her status from PT&T could not be properly characterized as willful or in bad faith as she was moved to act the way she did mainly because she wanted to retain a permanent job in a stable company. In other words, she was practically forced by that very same illegal company policy into misrepresenting her civil status for fear of being disqualified from work. While loss of confidence is a just cause for termination of employment, it should not be simulated.^[24] It must rest on an actual breach of duty committed by the employee and not on the employer's caprices.^[25] Furthermore, it should never be used as a subterfuge for causes which are improper, illegal, or unjustified.^[26]

In the present controversy, petitioner's expostulations that it dismissed private respondent, not because the latter got married but because she concealed that fact, does have a hollow ring. Her concealment, so it is claimed, bespeaks dishonesty hence the consequent loss of confidence in her which justified her dismissal. Petitioner would asseverate, therefore, that while it has nothing against marriage, it

nonetheless takes umbrage over the concealment of that fact. This improbable reasoning, with interstitial distinctions, perturbs the Court since private respondent may well be minded to claim that the imputation of dishonesty should be the other way around.

Petitioner would have the Court believe that although private respondent defied its policy against its female employees contracting marriage, what could be an act of insubordination was inconsequential. What it submits as unforgivable is her concealment of that marriage yet, at the same time, declaring that marriage as a trivial matter to which it supposedly has no objection. In other words, PT&T says it gives its blessings to its female employees contracting marriage, despite the maternity leaves and other benefits it would consequently respond for and which obviously it would have wanted to avoid. If that employee confesses such fact of marriage, there will be no sanction; but if such employee conceals the same instead of proceeding to the confessional, she will be dismissed. This line of reasoning does not impress us as reflecting its true management policy or that we are being regaled with responsible advocacy.

This Court should be spared the *ennui* of strained reasoning and the *tedium* of propositions which confuse through less than candid arguments. Indeed, petitioner glosses over the fact that it was its unlawful policy against married women, both on the aspects of qualification and retention, which compelled private respondent to conceal her supervenient marriage. It was, however, that very policy alone which was the cause of private respondent's secretive conduct now complained of. It is then *apropos* to recall the familiar saying that he who is the cause of the cause is the cause of the evil caused.

Finally, petitioner's collateral insistence on the admission of private respondent that she supposedly misappropriated company funds, as an additional ground to dismiss her from employment, is somewhat insincere and self-serving. Concededly, private respondent admitted in the course of the proceedings that she failed to remit some of her collections, but that is an altogether different story. The fact is that she was dismissed solely because of her concealment of her marital status, and not on the basis of that supposed defalcation of company funds. That the labor arbiter would thus consider petitioner's submissions on this supposed dishonesty as a mere afterthought, just to bolster its case for dismissal, is a perceptive conclusion born of experience in labor cases. For, there was no showing that private respondent deliberately misappropriated the amount or whether her failure to remit the same was through negligence and, if so, whether the negligence was in nature simple or grave. In fact, it was merely agreed that private respondent execute a promissory note to refund the same, which she did, and the matter was deemed settled as a peripheral issue in the labor case.

Private respondent, it must be observed, had gained regular status at the time of her dismissal. When she was served her walking papers on January 29, 1992, she was about to complete the probationary period of 150 days as she was contracted as a probationary employee on September 2, 1991. That her dismissal would be effected just when her probationary period was winding down clearly raises the plausible conclusion that it was done in order to prevent her from earning security of tenure.^[27] On the other hand, her earlier stints with the company as reliever were undoubtedly those of a regular employee, even if the same were for fixed periods, as she performed activities which were essential or necessary in the usual trade and