



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**FLORDELIZA MARIA REYES-
RAYEL,**

Petitioner,

- versus -

**PHILIPPINE LUEN THAI
HOLDINGS, CORPORATION/
L&T INTERNATIONAL GROUP
PHILIPPINES, INC.,**

Respondents.

G.R. No. 174893

Present:

LEONARDO-DE CASTRO,*
Acting Chairperson.

BRION,**

DEL CASTILLO,

VILLARAMA, JR., *and*

PERLAS-BERNABE,*** *JJ.*

Promulgated:

11 JUL 2012

DECISION

DEL CASTILLO, J.:

The law is fair and just to both labor and management. Thus, while the Constitution accords an employee security of tenure, it abhors oppression to an employer who cannot be compelled to retain an employee whose continued employment would be patently inimical to its interest.

This Petition for Review on *Certiorari*¹ assails the July 18, 2006 Decision² of the Court of Appeals (CA) in CA-G.R. SP No. 86937, which (1) reversed the National Labor Relations Commission (NLRC) March 23, 2004 Resolution³ and in effect, its July 21, 2004⁴ Resolution as well, (2) declared

¹ Per Special Order No. 1226 dated May 30, 2012.

² Per Special Order No. 1247 dated June 29, 2012.

³ Per Special Order No. 1227 dated May 30, 2012.

⁴ *Rollo*, pp. 9-51.

⁵ *CA rollo*, Vol. II, pp. 1508-1523; penned by Associate Justice Rosmari D. Carandang and concurred in by Associate Justices Renato C. Dacudao and Menina Arevalo-Zenarosa.

⁶ *CA rollo*, Vol. I, pp. 87-95; penned by Presiding Commissioner Raul T. Aquino and concurred in by Commissioners Victoriano R. Calaycay and Angelita A. Gacutan.

petitioner Flordeliza Maria Reyes-Rayel's (petitioner) dismissal from employment valid, and (3) ordered respondents Philippine Luen Thai Holdings, Corp. (PLTHC)/L&T International Group Phils., Inc. (L&T) (respondents) to pay petitioner an amount equivalent to three months salary pursuant to the termination provision of the employment contract.

Factual Antecedents

In February 2000, PLTHC hired petitioner as Corporate Human Resources (CHR) Director for Manufacturing for its subsidiary/affiliate company, L&T. In the employment contract,⁵ petitioner was tasked to perform functions in relation to administration, recruitment, benefits, audit/compliance, policy development/structure, project plan, and such other works as may be assigned by her immediate superior, Frank Saucedo (Saucedo), PLTHC's Corporate Director for Human Resources.

On September 6, 2001, petitioner received a Prerequisite Notice⁶ from Saucedo and the Corporate Legal Counsel of PLTHC, Ma. Lorelie T. Edles (Edles), which reads:

This has reference to your failure to perform in accordance with management directives in various instances, which collectively have resulted in loss of confidence in your capability to promote the interests of the Company.

The most deleterious to the Company has been your pronouncements against the Human Resource Information System (HRIS) or HR2 Program, a corporate initiative that is at the core and is crucial to the enhancement of personnel management for the global operations of the Company. On numerous occasions, in the presence of colleagues and subordinates, you made statements that serve to undermine the Company's efforts at pursuing the HR2 Program. You ought to have realized that when leveled by an officer of your rank, no less than a Director of the Corporate Human Resources Division, such remarks are highly inflammatory and their negative impact is magnified.

⁴ Id. at 97-98.

⁵ Id. at 322-326.

⁶ Id. at 399.

Just as flagrant is your inability to incite collaboration and harmony within the Corporate Human Resources Division. Instead, colleagues and subordinates complain of your negative attitude towards the Company, its officers and people. You have established notoriety for your temper and have alienated most members of your division. You ought to have realized that when exhibited by an officer of your rank, no less than a Director of the Corporate Human Resources Division, poor interpersonal skills and the lack of moral suasion are extremely damaging.

The foregoing have, in fact, manifested in your own unsatisfactory performance rating, and in the departure of promising employees who could not work with you.

In view of the above, we afford you the opportunity to submit your written reply to this memorandum within forty-eight (48) hours from its receipt. Failure to so submit shall be construed as waiver of your right to be heard. Consequently, the Company shall immediately decide on this matter.

x x x x⁷

In petitioner's written response⁸ dated September 10, 2001, she explained that her alleged failure to perform management directives could be attributed to the lack of effective communication with her superiors due to malfunctioning email system. This caused her to miss certain directives coming from her superiors and likewise, for her superiors to overlook the reports she was submitting. She denied uttering negative comments about the HR2 Program and instead claimed to have intimated her support for it. She further denied causing disharmony in her division. Petitioner emphasized that in June 2001, she received a relatively good rating of 80.2% in her overall performance appraisal⁹ which meant that she displayed dependable work level performance as well as good corporate relationship with her superiors and subordinates.

In a Termination Notice¹⁰ dated September 12, 2001, respondents, through Saucedo and Edles, dismissed petitioner from the service for loss of confidence on her ability to promote the interests of the company. This led petitioner to file a

⁷ Id.

⁸ Id. at 419-420.

⁹ Id. at 385-392.

¹⁰ Id. at 421.

Complaint¹¹ for illegal dismissal, payment of separation pay, 13th month pay, moral and exemplary damages, attorney's fees, and other unpaid company benefits against respondents and its officers, namely, Saucedo, Edles and Willie Tan (Tan), the Executive Vice-President of PLTHC.

Proceedings before the Labor Arbiter

In her Position Paper,¹² petitioner argued that her dismissal was without valid or just cause and was effected without due process. According to her, the causes for her dismissal as stated in the Prerequisite Notice and Notice of Termination are not proper grounds for termination under the Labor Code and the same do not even pertain to any willful violation of the company's code of discipline or any other company policy. Even the alleged loss of confidence was not supported by any evidence of wrongdoing on her part. She likewise claimed that due process was not observed since she was not afforded a hearing, investigation and right to appeal as per company procedure for disciplining employees. Furthermore, respondents were guilty of violating the termination provision under the employment contract which stipulated that employment after probationary period shall be terminated by giving the employee a three-month notice in writing or by paying three months salary in lieu of notice. Petitioner also accused respondents of having acted in bad faith by subjecting her to public humiliation and embarrassment when she was ordered to immediately turn over the company car, vacate her office and remove all her belongings on the same day she received the termination notice, in full view of all the other employees.

Respondents, on the other hand, claimed that they have a wide discretion in dismissing petitioner as she was occupying a managerial position. They claimed in their Position Paper¹³ that petitioner's inefficiency and lackadaisical attitude in performing her work were just and valid grounds for termination. In the same

¹¹ Id. at 435-436.

¹² Id. at 367-378.

¹³ Id. at 327-344.

token, her gross and habitual neglect of duties were enough bases for respondents to lose all their confidence in petitioner's ability to perform her job satisfactorily. Also, petitioner was accorded due process as she was furnished with two notices - the first requiring her to explain why she should not be terminated, and the second apprising her of the management's decision to terminate her from employment.

Further in their Reply¹⁴ to petitioner's position paper, respondents enumerated the various instances which manifested petitioner's poor work attitude and dismal performance, to wit: 1) her failure to perform in accordance with management directives such as when she unreasonably delayed the hiring of a Human Rights and Compliance Manager; failed to establish communication with superiors and co-workers; failed to regularly update Saucedo of the progress of her work; requested for reimbursement of unauthorized expenditures; and, gave orders contrary to policy on the computation of legal and holiday pay; 2) her negative pronouncements against the company's program in the presence of colleagues and subordinates; 3) her inability to incite collaboration and harmony within her department; 4) her negative attitude towards the company, its officers and employees; and 5) her low performance appraisal rating which is unacceptable for a top level personnel like herself. Exchange of emails, affidavits and other documents were presented to provide proof of incidents which gave rise to these allegations. Respondents also asserted that the procedure laid down in the company's code of discipline, which provided for the mandatory requirements of notice, hearing/investigation and right to appeal, only applies to rank and file, supervisory, junior managerial and department managerial employees and not to petitioner, a CHR Director, who plays a key role in these termination proceedings. Further, the three-month notice for termination, as written in the employment contract, is only necessary when there is no just cause for the employee's dismissal and, therefore, not applicable to petitioner. Respondents then disputed petitioner's money claims and also sought the dropping of Saucedo, Edles and Tan from the complaint for not being real parties in interest.

¹⁴ Id. at 437-476.

In her rejoinder,¹⁵ petitioner stood firm on her conviction that she was dismissed without valid cause by presenting documentary evidence of her good performance. Further, she insisted that she was dismissed for reasons different from those mentioned in the Prerequisite Notice and Notice of Termination, both of which did not state gross and habitual neglect of duties as a ground. She also construed respondents' act of offering her a settlement or compensation right after her termination as their acknowledgement of the illegal act they committed against her. Moreover, petitioner argued that the company policies on procedural due process apply to all its employees, whether rank and file or managerial.

In a Decision¹⁶ dated October 21, 2002, the Labor Arbiter declared petitioner to have been illegally dismissed. It was held that petitioner cannot be charged with undermining the HR2 Program of the company since evidence was presented to show that she was already divested of duties relative to this program. Also, respondents' accusation that petitioner caused disharmony among colleagues and subordinates has no merit as there was ample proof that petitioner was in constant communication with her co-workers through official channels and email. Further, the Labor Arbiter theorized that petitioner's performance rating demonstrated a passing or satisfactory grade and therefore could not be a sufficient and legitimate basis to terminate her for loss of trust and confidence. Moreover, petitioner cannot be dismissed based merely on these vague offenses but only for specific offenses which, under the company's code of conduct, merit the penalty of outright dismissal. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring that complainant was illegally dismissed by respondent corporation, and the latter is hereby directed to reinstate complainant to her former position and pay her full backwages and benefits computed below, as follows:

- A. Backwages September 12, 2001 to October 21, 2002
1. Salaries and Wages
₱80,000 x 13.30 months = ₱1,064,000.00
 2. 13th month pay

¹⁵ Id. at 613-626.

¹⁶ Id. at 712-724; penned by Labor Arbiter Edgardo M. Madriaga.

	₱1,064,000.00 / 12	=	88,666.67
3. VL	₱80,000 / 26 x 10 days	=	<u>34,102.56</u>
			₱1,186,769.23
B. Attorney's Fees (10%)			<u>118,676.92</u>
			<u>₱1,305,446.15</u>

SO ORDERED.¹⁷

Proceedings before the National Labor Relations Commission

Respondents appealed to the NLRC.¹⁸ For her part, petitioner filed before the Labor Arbiter a Motion for Recomputation¹⁹ of the awards. This motion was, however, denied in an Order²⁰ dated March 17, 2003 on the ground that petitioner could challenge any disposition made only by way of an appeal within the reglementary period and not through a motion.

In a Decision²¹ dated August 20, 2003, the NLRC found merit in respondents' appeal. To the NLRC, respondents have sufficiently established the validity of petitioner's dismissal on the ground of loss of trust and confidence through the various emails, affidavits and other documents attached to the records. Specifically, respondents have proven that petitioner failed to recruit a Human Rights and Compliance Manager, ignored company policies, failed to effectively communicate with her superiors and subordinates, and displayed ineptitude in her work as a director and in her relationship with her co-workers. These showed that there exist enough bases for respondents to lose the trust they had reposed on petitioner, who, as a managerial employee, was expected to possess exemplary work attitude. The NLRC, however, noted that the employment contract specifically provided for payment of three months salary in lieu of the stipulated three-month notice in case of termination, thus:

¹⁷ Id. at 723-724.

¹⁸ See respondents' Memorandum on Partial Appeal, id. at 725-785.

¹⁹ Id. at 887-892.

²⁰ CA *rollo*, Vol. II, pp. 944-947.

²¹ Id. at 1066-1074; penned by Presiding Commissioner Raul T. Aquino and concurred in by Commissioners Victoriano R. Calaycay and Angelita A. Gacutan.

IN LIGHT OF THE FOREGOING PREMISES, the decision appealed from is hereby MODIFIED, to declare the dismissal of complainant legal but to order respondent[s] to pay complainant the sum of ₱240,000.00 representing three months salary as expressed in complainant's contract of employment. All other claims are DISMISSED for lack of merit.

SO ORDERED.²²

Petitioner filed a Motion for Reconsideration²³ which was granted by the NLRC. In a Resolution²⁴ dated March 23, 2004, the NLRC concluded that petitioner was not afforded due process as she was not given the opportunity to refute the charges against her through an investigation and an appeal at the company level. Thus, respondents failed to establish the truthfulness of the allegations against her as to support the validity of the dismissal. The NLRC also agreed with petitioner's claim that she was subjected to humiliation on the day of her termination. Consequently, the NLRC declared petitioner's dismissal as illegal and thus reinstated the Labor Arbiter's Decision with modification that respondents be ordered to pay petitioner separation pay in lieu of reinstatement due to the strained relation between the parties.

In a Resolution²⁵ dated July 21, 2004, the NLRC resolved to dismiss respondents' motion for reconsideration.

Proceedings before the Court of Appeals

Respondents thus filed with the CA a Petition for *Certiorari* with Urgent Motion for Issuance of Temporary Restraining Order (TRO) or Writ of Preliminary Injunction.²⁶ Petitioner then filed her Comment²⁷ thereto.

²² Id. at 1073-1074.

²³ Id. at 1075-1093.

²⁴ CA *rollo*, Vol. I, pp. 87-95.

²⁵ Id. at 97-98. In the said Resolution, the NLRC dismissed both the motions for reconsideration of respondents and petitioner although it was only the respondents who moved to reconsider the March 23, 2004 Resolution, as clarified by petitioner in a Manifestation and Motion for Clarification; CA *rollo*, Vol. II, pp. 1231-1232.

²⁶ CA *rollo*, Vol. I, pp. 2-85.

²⁷ CA *rollo*, Vol. II, pp. 1249-1277.

Subsequently, the CA denied respondents' prayer for TRO in a Resolution²⁸ dated February 15, 2005.

On July 18, 2006, the CA rendered a Decision²⁹ finding merit in the petition. The CA found sufficient evidence to support the dismissal of petitioner on the ground of loss of trust and confidence. It regarded petitioner's 80.2% performance rating as below par and hence, declared that she cannot merely rely on the same in holding on to her position as CHR Director, a highly sensitive and demanding post. Also, despite the opportunity to improve, petitioner continued to display poor work attitude, dismal performance and rancorous and abusive behavior towards co-workers as gleaned from the various emails and affidavits of her superiors and other employees. These circumstances, taken together, constitute sufficient cause for respondents to lose confidence in petitioner's ability to continue in her job and to promote the interest of the company.

Moreover, the CA did not subscribe to petitioner's allegation that she was denied due process. On the contrary, said court found that she was adequately notified of the charges against her through the show cause notice which clearly stated the instances that served as sufficient bases for the loss of trust and confidence, to wit: her failure to perform in accordance with management directives and her actions of undermining company goals and causing disharmony among her co-workers. After finding her written response to be unsatisfactory, petitioner was likewise properly notified of the company's decision to terminate her services. Clearly, respondents observed the requirements of procedural due process. Nevertheless, respondents, in effecting the dismissal, should have paid petitioner her salary for three months as provided for in the employment contract. For its failure to do so, the CA ordered respondents to pay petitioner three months salary in accordance with their contractual undertaking. The dispositive portion of the CA Decision states:

²⁸ Id. at 1356-1357.

²⁹ Id. at 1508-1523.

WHEREFORE, the Resolution of the National Labor Relations Commission dated March 23, 2004 is **REVERSED**. [Respondents] are hereby ordered to pay [petitioner] the amount corresponding to three [months] salary pursuant to the termination provision of the employment contract.

SO ORDERED.³⁰

Petitioner's Motion for Reconsideration³¹ was denied in the CA Resolution³² dated October 4, 2006.

Issues

Hence, the present petition raising the following issues:

I. WHETHER X X X THE COURT OF APPEALS COMMITTED AN ERROR WHEN IT REVERSED THE DECISION OF THE NLRC ON *CERTIORARI* DESPITE THE FACT THAT THE NLRC DID NOT COMMIT GRAVE ABUSE OF DISCRETION WHEN IT AFFIRMED THE FACTUAL FINDINGS OF THE LABOR ARBITER – THAT PETITIONER WAS ILLEGALLY DISMISSED FROM HER EMPLOYMENT BY RESPONDENTS.

II. WHETHER X X X THE ALLEGED VALID OR JUST CAUSE FOR TERMINATION OF PETITIONER FROM HER EMPLOYMENT WAS PROVEN AND ESTABLISHED BY SUBSTANTIAL EVIDENCE ON RECORD.

III. WHETHER X X X RESPONDENTS DEPRIVED PETITIONER OF HER RIGHT TO DUE PROCESS WHEN RESPONDENTS DISMISSED PETITIONER WITHOUT CONDUCTING ANY INVESTIGATION TO DETERMINE THE VERACITY AND TRUTHFULNESS OF THE ALLEGATIONS AGAINST PETITIONER IN VIOLATION OF RESPONDENTS' OWN COMPANY POLICIES.³³

Petitioner posits that there is no substantial evidence to establish valid grounds for her dismissal since various emails from her superiors illustrating her accomplishments and commendations, as well as her “good” overall performance rating negate loss of trust and confidence. She also insists that she was not

³⁰ *CA rollo*, Vol. II, p. 1522.

³¹ *Id.* at 1530-1557.

³² *Id.* at 1585-1586.

³³ *Rollo*, p. 23.

afforded due process at the company level. She claims that she was not properly informed of the offenses charged against her due to the vagueness of the terms written in the termination notices and that no investigation and hearing was conducted as required by company policy.

Our Ruling

The petition is devoid of merit. The Court finds no cogent reason to depart from the ruling of the CA that petitioner was validly dismissed.

There exists a valid ground for petitioner's termination from employment.

Jurisprudence provides that an employer has a distinct prerogative and wider latitude of discretion in dismissing a managerial personnel who performs functions which by their nature require the employer's full trust and confidence.³⁴ As distinguished from a rank and file personnel, mere existence of a basis for believing that a managerial employee has breached the trust of the employer justifies dismissal.³⁵ “[L]oss of confidence as a ground for dismissal does not require proof beyond reasonable doubt as the law requires only that there be at least some basis to justify it.”³⁶

Petitioner, in the present case, was L&T's CHR Director for Manufacturing. As such, she was directly responsible for managing her own departmental staff. It is therefore without question that the CHR Director for Manufacturing is a managerial position saddled with great responsibility. Because of this, petitioner must enjoy the full trust and confidence of her superiors. Not

³⁴ *Philippine Airlines, Inc. v. National Labor Relations Commission*, G.R. No. 123294, October 20, 2010, 634 SCRA 18, 36.

³⁵ *Caoile v. National Labor Relations Commission*, 359 Phil. 399, 406 (1998).

³⁶ *Filipinas Manufacturers Bank v. National Labor Relations Commission*, 261 Phil. 1009, 1015 (1990).

only that, she ought to know that she is “bound by more exacting work ethics,”³⁷ and should live up to this high standard of responsibility. However, petitioner delivered dismal performance and displayed poor work attitude which constitute sufficient reasons for an employer to terminate an employee on the ground of loss of trust and confidence. Respondents also impute upon petitioner gross negligence and incompetence which are likewise justifiable grounds for dismissal.³⁸ The burden of proving that the termination was for a valid cause lies on the employer.³⁹ Here, respondents were able to overcome this burden as the evidence presented clearly support the validity of petitioner’s dismissal.

First, records show that petitioner indeed unreasonably failed to effectively communicate with her immediate superior. There was an apparent neglect in her obligation to maintain constant communication with Saucedo in order to ensure that her work is up to par. This is evident from the various emails⁴⁰ showing that she failed to update Saucedo on the progress of her important assignments on several occasions. While petitioner explained in her written reply to the Prerequisite Notice that such failure to communicate was due to the company’s computer system breakdown, respondents however were able to negate this as they have shown that the computer virus which affected the company’s system only damaged some email addresses of certain employees which did not include that of Saucedo’s. On the other hand, petitioner failed to present any concrete proof that the said computer virus also damaged Saucedo’s email account as to effectively disrupt their regular communication. Moreover, we agree with respondents’ stance that petitioner could still reach Saucedo through other means of communication and should not completely rely on the web.

³⁷ *Community Rural Bank of San Isidro (N.E.), Inc. v. Paez*, G.R. No. 158707, November 27, 2006, 508 SCRA 245, 260.

³⁸ *Etcuban, Jr. v. Sulpicio Lines, Inc.*, 489 Phil. 483, 498 (2005).

³⁹ *Century Canning Corporation v. Court of Appeals*, G.R. No. 152894, August 17, 2007, 530 SCRA 501, 518.

⁴⁰ See Annex “12,” “15,” and “19” of Edles’s Affidavit, *CA rollo*, Vol. I., pp. 196, 199-201 and 218, respectively.

Second, the affidavits of petitioner's co-workers revealed her negative attitude and unprofessional behavior towards them and the company. In her affidavit,⁴¹ Agnes Suzette Pasustento, L&T's Manager for the Corporate Communications Department, attested to petitioner's "badmouthing" of Saucedá in one of their meetings abroad and of discussing with her about filing a labor case against the company. Also, in the affidavits of Rizza S. Esplana⁴² (Saucedá's Executive Assistant), Cynthia Yñiguez⁴³ (Corporate Human Resources Manager of an affiliate of L&T), and Ana Wilma Arreza⁴⁴ (Human Resources and Administration Division Manager of an affiliate of L&T), they narrated several instances which demonstrated petitioner's notoriously bad temper. They all described her to have an "irrational" behavior and "superior and condescending" attitude in the workplace. Unfortunately for petitioner, these sworn statements which notably remain uncontroverted and unrefuted, militate against her innocence and strengthen the adverse averments against her.⁴⁵ It is well to state that as a CHR Director tasked to efficiently manage the company's human resource team and practically being considered the "face" of the Human Resource, petitioner should exhibit utmost concern for her employer's interest. She should likewise establish not only credibility but also respect from co-workers which can only be attained if she demonstrates maturity and professionalism in the discharge of her duties. She is also expected to act as a role model who displays uprightness both in her own behavior and in her dealings with others.

The third and most important is petitioner's display of inefficiency and ineptitude in her job as a CHR Director. In the affidavit⁴⁶ of Ornida B. Calma, Chief Accountant of L&T's affiliate company, petitioner, on two occasions, gave wrong information regarding issues on leave and holiday pay which generated confusion among employees in the computation of salaries and wages. Due to the

⁴¹ Annex "20" of Edles's Affidavit, id. at 219-220.

⁴² Annex "22" of Edles's Affidavit, id. at 227.

⁴³ Annex "24" of Edles's Affidavit, id. at 233.

⁴⁴ Annex "25" of Edles's Affidavit, id. at 234.

⁴⁵ *House of Sara Lee v. Rey*, G.R. No. 149013, August 31, 2006, 500 SCRA 419, 437.

⁴⁶ Annex "2" of respondents' Sur-Rejoinder filed before the Labor Arbiter, CA *rollo*, Vol. I, p. 700.

nature of her functions, petitioner is expected to have strong working knowledge of labor laws and regulations to help shed light on issues and questions regarding the same instead of complicating them. Petitioner obviously failed in this respect. No wonder she received a less than par performance in her performance evaluation conducted in June 2001, contrary to her assertion that an 80.2% rating illustrates good and dependable work performance. As can be gleaned in the performance appraisal form, petitioner received deficient marks and low ratings on areas of problem solving and decision making, interpersonal relationships, planning and organization, project management and integrity notwithstanding an overall passing grade. As aptly remarked by the CA, these low marks revealed the “degree of [petitioner’s] work handicap” and should have served as a notice for her to improve on her job. However, she appeared complacent and remained lax in her duties and this naturally resulted to respondents’ loss of confidence in her managerial abilities.

Taking all these circumstances collectively, the Court is convinced that respondents have sufficient and valid reasons in terminating the services of petitioner as her continued employment would be patently inimical to respondents’ interest. An employer “has the right to regulate, according to its discretion and best judgment, all aspects of employment, including work assignment, working methods, processes to be followed, working regulations, transfer of employees, work supervision, lay-off of workers and the discipline, dismissal and recall of workers.”⁴⁷ “[S]o long as they are exercised in good faith for the advancement of the employer’s interest and not for the purpose of defeating or circumventing the rights of the employees under special laws or under valid agreements,”⁴⁸ the exercise of this management prerogative must be upheld.

Anent petitioner’s imputation of bad faith upon respondents, the same deserves no credence. That she was publicly embarrassed when she was coerced by

⁴⁷ *Jumud v. Hi-Flyer Food, Inc.*, G.R. No. 187887, September 7, 2011, 657 SCRA 288, 304.

⁴⁸ *Bank of the Philippine Islands v. Uy*, 505 Phil. 704, 717 (2005).

Sauceda and Edles to vacate her office, return the company car and take all her personal belongings on the day she was dismissed, are all mere allegations not substantiated by proof. And since it is hornbook rule that he who alleges must prove, we could not therefore conclude that her termination was tainted with any malice or bad faith without any sufficient basis to substantiate this bare allegation. Moreover, we are more inclined to believe that respondents' offer of settlement immediately after petitioner's termination was more of a generous offer of financial assistance rather than an indication of ill-motive on respondents' part.

Petitioner was accorded due process.

Petitioner insists that she was not properly apprised of the specific grounds for her termination as to give her a reasonable opportunity to explain. This is because the Prerequisite Notice and Notice of Termination did not mention any valid or authorized cause for dismissal but rather merely contained general allegations and vague terms.

We have examined the Prerequisite Notice and contrary to petitioner's assertion, find the same to be free from any ambiguity. The said notice properly advised petitioner to explain through a written response her failure to perform in accordance with management directives, which deficiency resulted in the company's loss of confidence in her capability to promote its interest. As correctly explained by the CA, the notice cited specific incidents from various instances which showed petitioner's "repeated failure to comply with work directives, her inclination to make negative remarks about company goals and her difficult personality," that have collectively contributed to the company's loss of trust and confidence in her. Indeed, these specified acts, in addition to her low performance rating, demonstrated petitioner's neglect of duty and incompetence which support the termination for loss of trust and confidence.

Neither can there be any denial of due process due to the absence of a hearing or investigation at the company level. It has been held in a plethora of cases that due process requirement is met when there is simply an opportunity to be heard and to explain one's side even if no hearing is conducted.⁴⁹ In the case of *Perez v. Philippine Telegraph and Telephone Company*,⁵⁰ this Court pronounced that an employee may be afforded ample opportunity to be heard by means of any method, verbal or written, whether in a hearing, conference or some other fair, just and reasonable way, in that:

x x x x

After receiving the first notice apprising him of the charges against him, the employee may submit a written explanation (which may be in the form of a letter, memorandum, affidavit or position paper) and offer evidence in support thereof, like relevant company records (such as his 201 file and daily time records) and the sworn statements of his witnesses. For this purpose, he may prepare his explanation personally or with the assistance of a representative or counsel. He may also ask the employer to provide him copy of records material to his defense. His written explanation may also include a request that a formal hearing or conference be held. In such a case, the conduct of a formal hearing or conference becomes mandatory, just as it is where there exist substantial evidentiary disputes or where company rules or practice requires an actual hearing as part of employment pretermination procedure. To this extent, we refine the decisions we have rendered so far on this point of law.

x x x x

In sum, the following are the guiding principles in connection with the hearing requirement in dismissal cases:

- (a) 'ample opportunity to be heard' means any meaningful opportunity (verbal or written) given to the employee to answer the charges against him and submit evidence in support of his defense, whether in a hearing, conference or some other fair, just and reasonable way.
- (b) a formal hearing or conference becomes mandatory only when requested by the employee in writing or substantial evidentiary disputes exist or a company rule or practice requires it, or when similar circumstances justify it.
- (c) the 'ample opportunity to be heard' standard in the Labor Code prevails over the 'hearing or conference' requirement in the implementing rules and regulations.⁵¹

⁴⁹ *Allied Banking Corp. v. Court of Appeals*, 461 Phil. 517, 539 (2003); *Adiong v. Court of Appeals*, 422 Phil. 713, 721 (2001); *Canete Jr. v. National Labor Relations Commission*, 374 Phil. 272, 281 (1999).

⁵⁰ G.R. No. 152048, April 7, 2009, 584 SCRA 110.

⁵¹ *Id.* at 126-127.

In this case, petitioner's written response to the Prerequisite Notice provided her with an avenue to explain and defend her side and thus served the purpose of due process. That there was no hearing, investigation or right to appeal, which petitioner opined to be a violation of company policies, is of no moment since the records is bereft of any showing that there is an existing company policy that requires these procedures with respect to the termination of a CHR Director like petitioner or that company practice calls for the same. There was also no request for a formal hearing on the part of petitioner.

As she was served with a notice apprising her of the charges against her, and also a subsequent notice informing her of the management's decision to terminate her services after respondents found her written response to the first notice unsatisfactory, petitioner was clearly afforded her right to due process.

WHEREFORE, the petition is **DENIED**. The assailed Decision dated July 18, 2006 of the Court of Appeals in CA-G.R. SP No. 86937 is **AFFIRMED**.

SO ORDERED.

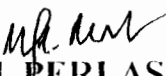

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


ARTURO D. BRION
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

