

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**J. WALTER THOMPSON CO. (PHIL.)  
and LYLE K. LITTLE,**  
*Petitioners,*

*-versus-*

**G.R. No. L-57895  
December 29, 1983**

**THE NATIONAL LABOR RELATIONS  
COMMISSION,                    ARBITRATION  
BRANCH NO. IV and RAUL L.  
CONTRERAS,**  
*Respondents.*

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**DECISION**

**AQUINO, J.:**

This is a Petition for *Certiorari* assailing the Decision of the National Labor Relations Commission that Raul L. Contreras, a managerial employee, was illegally dismissed by J. Walter Thompson Co. (Phil.) and is entitled to an award of P202,500 as actual damages. The question is whether Contreras was guilty of disloyalty and was justifiably dismissed on that ground before the expiration of his term of three years.

Contreras, an advertising man employed in the United States by International Playtex Company at \$22,000 per annum, exclusive of share in the profits, resigned from the company on June 3, 1974 to work in the Philippines for JWT Philippines. He arrived in Manila on July 15, 1974. His new employer allegedly spent P84,700 for his transfer to Manila (p. 53, Rollo).

Contreras contends that he was induced by JWT Philippines to work for a definite period of three years, and he cites the affidavit of Harold F. Clark, a vice-president of JWT New York, that Contreras would “be in Manila in the course of his employment for a period of three years” (p. 36, Rollo).

But this was denied by petitioner Lyle K. Little who averred that Contreras applied with JWT New York and that he accepted the new position at a much lower salary because his family was allegedly unhappy in the United States and that unless he returned here time would pass him by (p. 53, Rollo).

Contreras was assigned as an advertising account management supervisor of JWT Philippines at a salary of \$13,500 a year (p. 50, Rollo). As such, he was placed in direct charge of an account with two groups responsible to him. He was a part of the management staff.

After about six months, he noticed that the firm had reneged on its commitment of a written employment contract which its officials had promised before he enplaned for Manila. His annual salary was not increased on January 1, 1975 notwithstanding that Little, the president and chief executive officer of JWT Philippines, had expressed extreme satisfaction with his performance. He eventually received a 7% increase while the other members in his division received at least a 10% pay hike.

On August 29, 1975, Little convened a meeting of the management committee to look into reports that Contreras has been engaging in activities detrimental to the company. He asked Contreras to attend the meeting but the latter was on sick leave because of a painful attack of gout.

During that meeting, Wilfredo Ong, an account director in the firm, narrated how he was allegedly invited by Contreras to join him in the agency he was setting up. At the conclusion of the meeting, it was established that Contreras was putting up an advertising agency and that he tried to recruit JWT personnel.

The management committee reconvened two days later or on September 1. Contreras was present this time. Little informed him that the committee had evidence to prove that he has been “disloyal” to the company. He was asked to explain his side. Apparently dissatisfied with Contreras’ explanation, Little asked for his resignation. Contreras refused to resign. (Exh. 4-Q).

On September 3, 1975, in a letter to Contreras prepared by Little, JWT Philippines terminated his services for the reason that he was planning to open a competing advertising agency and, in connection therewith, had actually tried to persuade several of the key personnel of JWT Philippines to resign and join him in his proposed enterprise. He also attempted to take away business from the firm. As a consequence of those alleged acts of disloyalty, his employer lost confidence in him.

Little in his letter of September 11, 1975 (copy furnished Contreras) apprised the Director of Regional Office No. 4 of the Department of Labor of the dismissal of Contreras on September 5, because he planned to open a competing advertising agency and had asked some employees of JWT Philippines to join him in his proposed venture (p. 54, Rollo).

On October 6, 1975, Contreras filed a complaint with the Regional Office No. 4 against JWT Philippines and Little for illegal dismissal and damages aggregating P624,500 plus exemplary damages, attorney’s fees and expenses of litigation. There was an alternative prayer for reinstatement.

The Labor Arbiter in his decision dated November 17, 1977 held that Contreras was “unceremoniously dismissed without just and valid cause”. He ordered JWT Philippines and Little to pay solidarily Contreras, as actual damages, P202,500 (P7.50 x (\$13,500 x 2 years) equivalent to his compensation for the remaining two years of his

contractual service with JWT Philippines plus P57,375 as the difference between his salary at JWT and his salary at International Playtex Company and P50,000 as moral damages, or the total amount of P309,875.

On appeal to the NLRC, Commissioners Gabriel M. Gatchalian and Miguel B. Varela affirmed the findings of the Labor Arbiter but they reduced the award of damages in favor of Contreras from P309,875 to P202,500. They disallowed the award for the difference between Contreras' salary at JWT Philippines and his salary at International Playtex Company "for not being contractual in nature" and the moral damages which they believed were unwarranted "under both legal and environmental circumstances of the case."

Presiding Commissioner Guillermo C. Medina dissented. He voted to deny the award of P202,500 because JWT Philippines has proven by substantial evidence the just termination of Contreras' services.

It is manifest that the case has become highly controversial. We have viewed the case from all angles and endeavored to find a just and equitable solution to the controversy. There is no question that Contreras was hired for a three-year period but before its expiration his employer had lost confidence in him because of his supposed disloyalty.

Little in his letter of September 15, 1975 said that JWT Philippines never doubted the ability and technical competence of Contreras and that he was satisfied with Contreras' performance (p. 53, Rollo).

It is noteworthy that Contreras did not establish any competitive advertising agency immediately after his dismissal. He disclosed that he was financially exhausted by this protracted legal battle and that his dismissal caused a serious injury to his career and employment prospects.

We hold that as a measure of compassionate justice the award of P202,500 should be affirmed but the sum of P84,700, representing the transportation costs incurred by JWT Philippines in bringing his family and household effects to this country, should be deducted from that amount.

**WHEREFORE**, the NLRC judgment is modified by awarding to Raul L. Contreras the sum of P117,800 as his net separation pay for the remainder of the three year-period. No costs.

**SO ORDERED.**

**Concepcion, Jr., Guerrero, De Castro and Escolin, JJ., concur.**

**Makasiar, J., (Chairman) and Abad Santos, J., took no part.**