Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

3M PHILIPPINES, INC., Petitioner,	**G.R. No. 248941**
	Members:
-versus-	PERLAS-BERNABE, *J.*, *Chairperson,* GESMUNDO, LAZARO-JAVIER, LOPEZ, and ROSARIO,* *JJ.*
LAURO D. YUSECO, Respondent.	Promulgated: 09 NOV 2020

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DECISION

LAZARO-JAVIER, *J.*:

The Case

This petition for review on *certiorari*[1] seeks to reverse and set aside the following dispositions of the Court of Appeals in CA-G.R. SP No. 149264:

1. Decision[2] dated January 18, 2019 which reversed the decision of the National Labor Relations Commission (NLRC) and declared respondent Lauro D. Yuseco to have been illegally dismissed; and

* Designated as additional member per S.O. No. 2797 dated November 5, 2020.

1 *Rollo* [Vol. 1], pp. 3-44.

2 Penned by now Supreme Court Associate Justice Samuel H. Gaerlan and concurred in by Associate Justice Celia C. Librea-Leagogo and Associate Justice Pablito A. Perez, *id.* at 51-66.

2. Resolution[3] dated August 14, 2019 which denied petitioner 3M Philippines, Inc.'s motion for reconsideration.

Antecedents

Respondent filed a complaint against petitioner for illegal dismissal, non-payment of salary and service incentive leave, separation pay, and damages.

Respondent's Position[4]

Respondent started working with petitioner in 1997. He was the company's Country Business Leader when he got terminated in 2015. He was paid a monthly salary of ₱271,000.00. He had a flexible work schedule but often rendered more than eight (8) hours of work a day.

On November 25, 2015, around 12 o'clock noon, petitioner's Managing Director, Anthony J. Bolzan (Bolzan) called him to a meeting for an undisclosed agenda. When he went to Bolzan's office, Human Resource Manager Maria Theresa Chiongbian (Chiongbian) was also there. He got surprised when he was asked to conform to an agreement in which the company was supposedly accepting his so called request to avail of a separation package, effective January 1, 2016. He was also asked to sign a waiver and quitclaim. He refused, hence, Bolzan instructed him not to report for work anymore.

The next day, he was shocked to learn that Bolzan had announced through electronic mail to all the employees of the company that he would already be pursuing other opportunities outside of petitioner. This untruthful and malicious announcement got him embarrassed and humiliated before his co-workers, friends, clients, and relatives. With the help of his counsel, he demanded an explanation of Bolzan's announcement.

On December 1, 2015, he received a letter from the Human Resource Department informing him that his position as Country Business Leader would be considered redundant as of January 1, 2016. He was also asked to indicate his *conforme* to the letter.

Meantime, during a conference with petitioner, the latter offered him a separation package of ₱5,254,402.12. His counter offer was a separation package equivalent to his salary for twenty-five (25) years or the length of time he would have served had he not been illegally terminated.

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3 *Id.* at 69-70.

4 *Id.* at 369-377.

On January 1, 2016, he was no longer allowed to enter petitioner's premises. Worse, on January 21, 2016, he received a letter from petitioner demanding the return of company properties in his possession.

Petitioner's Position[5]

Petitioner is a subsidiary of 3M Company (3M), an American multinational conglomerate corporation engaged in the manufacture and distribution of products such as adhesives, abrasives, laminates, passive fire protection, dental and medical products, electronic materials, car care products, and optical films. 3M operates in more than sixty-five (65) countries, including the Philippines.

Initially, its marketing and sales arm was divided into several Business Groups, each headed by Country Business Leader. Each Group was further divided into divisions, each headed by a division head. In 2015, it decided to align its business model with some of the other 3M subsidiaries in South East Asian regions in order to enhance its marketing and sales capabilities. Accordingly, from being a "Business Group" organization, it shifted to being a "Market Focused" organization. It, thereafter, implemented a series of changes in its marketing and sales arm.

One of the changes was the merger of the Industrial Business Group headed by respondent and the Safety & Graphics Business Group headed by Country Business Leader Tommee Lopez (Lopez) into the new Industrial & Safety Market Center to be headed by only one (1) Country Business Leader. For this position, it was a toss between respondent and Lopez.

After a thorough evaluation of their qualifications, work experience, and performance ratings over the past three (3) years, it eventually chose Lopez over respondent. It took into account Lopez's broad work experience traversing both Industrial Division and Safety & Graphics Division. In contrast, respondent's work experience was only confined to the Industrial Division. Also, Lopez had higher performance ratings over the past three (3) years compared to respondent.

But it did not at once terminate respondent's employment on ground of redundancy. It tried to look for other available position for respondent within the company but its effort failed. Thus, in the end, it was constrained to terminate respondent's employment on ground of redundancy effective January 1, 2016.

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5 *Id.* at 152-181.

On November 25, 2015, Chiongbian and Bolzan met with respondent to inform him of this decision. Chiongbian explained to respondent that because he was being let go on ground of redundancy, the company would pay him appropriate separation pay. Also, considering his position and tenure, the company came up with a special separation package giving him more than what the law requires, thus:

(1) ₱5,173,825.21 as separation pay;
(2) ₱80,576.91 as retirement plan;
(3) ₱1,880,000.00 as additional pay out in consideration of his long service in the company;
(4) Two (2) years extension of his health coverage which included executive check-up, hospitalization, and outpatient reimbursements; and
(5) Two (2) years worth of life insurance coverage.

Chiongbian and Bolzan also reminded respondent that per company practice, the separation of high-ranking officers should be announced through electronic mail to the entire organization. Respondent acknowledged this company practice but requested that he be allowed first to personally inform his team, to which Chiongbian and Bolzan acceded. Meantime, to give respondent time to find a new employment before his actual separation on January 1, 2016, Bolzan gave him an option not to report for work anymore until the day of his actual separation.

After the meeting, respondent approached Chiongbian to clarify some details about his separation pay, particularly its tax implications and whether he still ought to file vacation leave should he chose not to report to office anymore. On that day, too, respondent and Chiongbian exchanged text messages on what respondent should do before his actual separation and what to tell his team.

After informing his team of his separation, respondent gave the go signal to Chiongbian to make the online announcement which the company did on November 26, 2015.

On December 1, 2015, Chiongbian served respondent a formal Notice of Separation due to redundancy. Respondent's additional pay-out was also increased from the gross value of ₱1,880,000.00 to ₱2,350,000.00 to cover his tax liability.

By then, however, respondent had a change of heart. He refused to acknowledge receipt of the notice and to undergo the clearance process to facilitate the release of his separation package.

Meanwhile, it sent a notice to the Department of Labor and Employment (DOLE) of the separation of respondent and another employee due to redundancy. It thus came as a surprise when it learned that respondent had sued for illegal dismissal.

The Labor Arbiter's Ruling

By Decision dated April 22, 2016,[6] Labor Arbiter Pablo A. Gajardo, Jr. (Labor Arbiter Gajardo, Jr.), ruled in favor of respondent, *viz.*:

> **WHEREFORE**, premises considered, judgment is hereby rendered declaring respondents guilty of illegal dismissal. Accordingly, respondents are ordered to pay jointly and severally complainant as follows:
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> | | | |
> |---|---|---|
> | 1. | Separation pay (till promulgation only) | P5,173,825.21 |
> | 2. | Full backwages (benefits not included and till promulgation only) | P1,100,345.55 |
> | 3. | Moral damages | P1,000,000.00 |
> | 4. | Exemplary damages | P 500,000.00 |
> | 5. | 10% [a]ttorney's [f]ees | P 777,417.07 |
>
> All other claims are dismissed for lack of merit.
>
> SO ORDERED.[7]

Labor Arbiter Gajardo, Jr. held that petitioner's redundancy program was arbitrary, and its implementation, tainted with bad faith. It was a mere afterthought to justify respondent's termination. Petitioner's November 25, 2015 and December 1, 2015 letters were contradictory. The first said that petitioner was accepting respondent's request for a separation package; while the second stated that respondent was being terminated due to redundancy. This inconsistency indicated petitioner's bad faith in effecting its so-called redundancy program.

Labor Arbiter Gajardo, Jr. also held that petitioner had no fair and reasonable criteria in ascertaining which positions were to be declared redundant. It was clear that the criterion used for determining who to retain between respondent and Lopez was pre-determined to favor Lopez. Bolzan was the one who promoted Lopez as Country Business Leader and gave the

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6 *Id.* at 411-425.
7 *Id.* at 424-425.

performance ratings to respondent and Lopez. Clearly, Bolzan favored Lopez over respondent. Also, petitioner failed to present proof that there was indeed a merger between the Industrial Business Group and Safety & Graphics Business Group. It was obvious though that only respondent's position was declared redundant.

The NLRC's Ruling

On petitioner's appeal, the NLRC reversed through its Decision[8] dated October 21, 2016, to wit:

> **WHEREFORE**, premises considered, this instant appeal is hereby **GRANTED**.
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> The Decision of the Labor Arbiter dated April 22, 2016 is **REVERSED** and **SET ASIDE** and a new one is entered **DISMISSING** the complaint for lack of merit.
>
> **SO ORDERED**.[9]

The NLRC held that respondent's separation was due to redundancy which was carried out only after a serious study. It was foolhardy for petitioner to think of redundancy on the spur of the moment and make drastic changes to its organization without regard to its viability and profitability just so it could get rid of respondent. Petitioner decided to reorganize in order to enhance its marketing and sales capability. The changes were inspired by business performances and organizational structures of other 3M subsidiaries in other parts of the South East Asia.

In choosing Lopez over respondent as head of the new group, petitioner considered the work experience and performance ratings of Lopez and respondent. Records showed that Lopez not only had work experience in safety and graphics operations, but also in petitioner's industrial operations having been part of its Industrial Group from 1997 to 2005. Lopez even worked in the company's Electronics and Energy Business Group. Respondent's employment records, on the other hand, showed that he only had work experience in the industrial operations of the company. Respondent's stint in marketing and sales was also relatively shorter than Lopez's. Their respective performance ratings over the past three (3) years yielded a higher rating for Lopez.

In the implementation of its redundancy program, petitioner complied with the notice requirement, giving respondent and the DOLE separate

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8 Penned by Commissioner Erlinda T. Agus and concurred in by Presiding Commissioner Gregorio O. Bilog III, *id.* [Vol. 2], pp. 517-547.

9 *Id.* at 546.

notices one (1) month before its intended implementation. Petitioner also offered a special separation package to respondent.

Contrary to Labor Arbiter Gajardo, Jr.'s findings, the November 25, 2015 and December 1, 2015 letters were not contradictory when read together and in light of what was discussed during the meeting on November 25, 2015. In any case, both letters specifically stated that respondent's separation was due to redundancy.

Lastly, it cannot be said that respondent was not informed of his separation and the reasons therefor prior to the company-wide announcement. The exchange of text messages between respondent and Chiongbian clearly established the fact that the former was already informed of his separation due to redundancy. He even sought advice from Chiongbian on the next steps he should take and a clarification regarding his separation benefits. Respondent never refuted this communication between him and Chiongbian.

Respondent's motion for reconsideration was denied per Resolution[10] dated December 20, 2016.

Proceedings Before the Court of Appeals

Respondent's Position

Respondent charged the NLRC with grave abuse of discretion amounting to lack or excess of jurisdiction when it relied heavily on the text messages between him and Chiongbian from whom he sought advice on what he should do if he opted to accept the company's offer, which by the way Bolzan was already pressuring him to accept. His act of filing the complaint for illegal dismissal effectively repudiated his alleged acceptance of the company's offer.[11]

The November 25, 2015 and the December 1, 2015 letters were suspiciously different. In the former, it was made to appear that he had agreed to avail of the separation package, but in the latter, he was already being terminated on ground of redundancy. Worse, the November 25, 2015 letter which Bolzan already signed was also accompanied by a waiver and quitclaim indicating the company's desire to terminate his employment.[12]

Bolzan had clear intent to terminate his employment. Bolzan harped on his 2014 "poor" rating. In his nineteen (19) years of service, however, it was only in 2014 that he got rated as a "poor" performer. And it was

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10 *Id.* at 597-599.
11 *Id.* [Vol. 1], pp. 78-79.
12 *Id.* at 79-80.

Bolzan, then only a new managing director, who gave him that rating. His performance as Country Business Leader should not have been compared to that of Lopez because the latter was promoted as Country Business Leader only in 2015. Before that, Lopez was a mere Division Head of the Industrial Business Group in charge of only a few divisions way below the number of divisions he was handling. There were, therefore, no practical bases to compare the two (2) of them.[13]

In the merger of the Industrial Business Group and the Safety & Graphics Business Group, petitioner had a preconceived intent to ease him out.[14] In any case, petitioner failed to prove the existence of a valid redundancy program. Petitioner merely informed him that his position was declared redundant without actually proving that redundancy did exist.[15]

In sum, he was terminated from employment without any valid ground. He did not voluntarily avail of or accept any separation package. Also, he did not forge any agreement with the company after he received the second letter because they could not agree on the separation package.[16]

Petitioner's Position

Resort to redundancy is a management prerogative consistently recognized by the Supreme Court. It has been held that whenever an employer decides to reorganize its departments and impose on the employees of one department the duties performed by the employees in another department, the services of the latter may be validly terminated on ground of redundancy.[17]

Petitioner had valid business reasons to merge the Safety & Graphics Business Department and the Industrial Business Department. This shift would improve the efficiency of its operations, enhance its sales and marketing capabilities, and align the company's business in the Philippines with the market growth opportunity in international market.[18]

Contrary to respondent's allegations, the two (2) letters complemented each other. The first letter was presented to respondent after the company had explained to him about the company's restructuring and its effects on him. The second letter, on the other hand, was a mere confirmation of what was discussed during the November 25, 2015 meeting. Too, while respondent was presented with copy of the release waiver and quitclaim during the meeting held on November 25, 2015, he was never asked to sign the same right then and there. These documents were merely presented to

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13 *Id.* at 81.
14 *Id.* at 82.
15 *Id.* at 83-84.
16 *Id.* at 84-85.
17 *Id.* [Vol. 2], p. 621.
18 *Id.* at 622-623.

him for purposes of discussion. Respondent was never forced or intimidated by the company. In fact, he was given every chance to review the documents, which he did. He even negotiated for additional pay out with Chiongbian right after the meeting.[19]

Petitioner complied with all the requirements for its redundancy program. It adopted reasonable criteria for determining who between respondent and Lopez should stay and should go. The company looked into their relevant work experience and their recent performance ratings. Since the merger concerned the Safety & Graphics Business and the Industrial Business Groups, petitioner needed someone with experience on both fields. Respondent only had experience in the Industrial Business; Lopez, on the other hand, had experience in both fields. Lopez also had higher performance rating than respondent over the past three (3) years.[20]

Further, the abolition of respondent's position was done in good faith. As stated, petitioner's decision to change its market approach justified the organizational restructure.[21]

Respondent's termination was done in accordance with the procedural requirements under the Labor Code, *i.e.*, it sent a written notice to the DOLE regarding the termination of respondent's employment due to redundancy at least one (1) month before the intended date, and approved a generous separation package for him. In order to give respondent ample time to seek new employment, he was no longer required to report for work with pay until the effectivity of his retrenchment.[22] It cannot be said, therefore, that the termination of respondent's employment was done arbitrarily.[23]

The Court of Appeals' Ruling

On respondent's petition for certiorari, the Court of Appeals reversed by its assailed Decision[24] dated January 18, 2019, *viz.*:

> **WHEREFORE**, premises considered, the petition is **GRANTED**. The Decision and Resolution (dated 21 October 2016 and 20 December 2016, respectively) of the National Labor Relations Commission – Second Division are **SET ASIDE**. In lieu thereof, a new decision is hereby entered declaring petitioner Lauro D. Yuseco's dismissal as **ILLEGAL**. Accordingly, private respondent 3M Philippines, Inc. is directed to **reinstate** petitioner without loss of seniority rights and other privileges, **with full backwages** inclusive of allowances and other benefits, computed from the time he was dismissed on 1 January 2016 up to actual reinstatement.

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19 *Id.* at 633.
20 *Id.* [Vol. 2], pp. 626-631.
21 *Id.*
22 *Id.* at 634-636.
23 *Id.* at 625.
24 Penned by now Supreme Court Associate Justice Samuel H. Gaerlan and concurred in by Associate Justice Celia C. Librea-Leagogo and Associate Justice Pablito A. Perez, *id.* [Vol. 1], pp. 51-66.

> However, if reinstatement is no longer feasible or practical, petitioner is entitled to **separation pay**, the amount of which is subject to the proper determination of the LA.
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> In either case, petitioner is entitled to the payment of **attorney's fees** in an amount equivalent to ten percent (10%) of his monetary awards.
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> Lastly, petitioner's total monetary awards shall earn legal interest at the rate of six percent (6%) *per annum* from finality of this Decision until full satisfaction.
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> **SO ORDERED**.[25]

The Court of Appeals held that in case of termination due to redundancy, it is not enough for the company to merely declare that it had become overmanned. It must produce adequate proof of such redundancy to justify the dismissal of the affected employees. In respondent's case, however, there was no proof of the redundancy other than Chongbian's affidavit. Although the same explained the reasons for the abolition of respondent's position, this affidavit alone cannot be considered adequate proof of redundancy. Petitioner should have submitted supporting documents of the company's purported decision to adopt a new business and marketing approach.[26]

Petitioner's motion for reconsideration was denied per Resolution[27] dated August 14, 2019.

The Present Petition

Petitioner now seeks affirmative relief from the Court and prays that the dispositions of the Court of Appeals be reversed and set aside.

Petitioner reiterates its arguments below and additionally argues that Chiongbian's affidavit in fact discussed in detail the rationale underlying its redundancy program and the reorganization of its various business groups.[28]

Contrary to the Court of Appeals' ruling, the redundancy program may be proved by evidence other than just a presentation of new staffing patterns or feasibility studies and proposals. In several instances, the Supreme Court declared the admissible affidavits as adequate proof of redundancy. As head of the company's Human Resource Department, Chiongbian has personal knowledge of the circumstances surrounding the redundancy and respondent's employment.

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25 *Id.* at 65-66.
26 *Id.* at 64.
27 *Id.* at 69-70.
28 *Id.* at 21.

Respondent was well aware of petitioner's redundancy program as shown by the exchange of communications between Chiongbian and the former and the Notice of Separation sent to him and the DOLE. Petitioner also took pains to explain to respondent the company's decision to reorganize and its effect on him.[29]

Respondent, on the other hand, insists that he was illegally dismissed. His communication with Chiongbian should not be interpreted to mean he was consenting to his alleged termination on ground of redundancy. He merely exchanged text messages with Chiongbian seeking the latter's advice on what to do in case he opted to accept petitioner's separation package which Bolzan at that time was already pressing him to accept. Deep inside him though, he could not accept the insults and harassment, especially those coming from Bolzan. The pressure being exerted on him to accept petitioner's offer was reinforced by the first letter, together with the attached waiver and quitclaim. It all amounted to forced resignation or illegal dismissal.[30]

Petitioner, together with Bolzan, simply concocted a way to ease him out. The fact of redundancy was not even sufficiently proven. He was, therefore, illegally dismissed, hence, he is entitled to his money claims. Bolzan should also be held solidarily liable with the company for his illegal termination from employment.[31]

Issue

Was respondent legally dismissed on ground of redundancy?

Ruling

The Court is not a trier of facts, hence, only questions of law may be raised in a petition for review on *certiorari* under Rule 45. It is not the Court's function to analyze or weigh evidence all over again in view of the corollary legal precept that factual findings of the lower tribunals are conclusive and binding on this Court, especially when the same carry the full concurrence of the Court of Appeals. As an exception, however, the Court may resolve factual issues presented before it, as in this case, when the findings of the Court of Appeals and the labor arbiter, on one hand, are contrary to those of the NLRC, on the other.[32]

Both Labor Arbiter Gajardo, Jr. and the Court of Appeals held that petitioner failed to prove the existence of redundancy as ground for the

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29 *Id.* at 25-26.
30 *Id.* [Vol. 2], pp. 736-738.
31 *Id.* at 739-745.
32 *See Status Maritime Corporation, et al. v. Sps. Delalamon*, 740 Phil. 175, 189 (2014).

termination of respondent's employment. In contrast, the NLRC held that respondent's employment was validly terminated on ground of redundancy.

Redundancy is one of the authorized causes for the termination of employment provided for in Article 298[33] of the Labor Code, as amended:

> **Article 298**. *Closure of Establishment and Reduction of Personnel*. - The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

Redundancy exists when the service capability of the workforce is in excess of what is reasonably needed to meet the demands of the business enterprise. A position is redundant where it had become superfluous. Superfluity of a position or positions may be the outcome of a number of factors such as over-hiring of workers, decrease in volume of business, or dropping a particular product line or service activity previously manufactured or undertaken by the enterprise.[34]

A valid redundancy program must comply with the following requisites: (a) written notice served on both the employees and the DOLE at least one (1) month prior to the intended date of termination of employment; (b) payment of separation pay equivalent to at least one (1) month pay for every year of service; (c) good faith in abolishing the redundant positions; and (d) fair and reasonable criteria in ascertaining what positions are to be declared redundant and accordingly abolished, taking into consideration such factors as (i) preferred status; (ii) efficiency; and (iii) seniority, among others.[35]

The Court of Appeals held that the third (3rd) requisite – good faith – was lacking in this case, hence, the redundancy program and respondent's termination by reason thereof were both invalid. It stressed that aside from Chiongbian's affidavit, petitioner did not present any other

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33 Former Article 283 of the Labor Code, as renumbered under DOLE's Department Advisory No. 1, Series of 2015.

34 *See Soriano, Jr. v. NLRC, et al.*, 550 Phil. 111, 126 (2007).

35 *See Philippine National Bank v. Dalmacio*, 813 Phil. 127, 134, (2017).

proof to substantiate its claim that respondent's position had become redundant. Thus, petitioner "*failed to prove, by substantial evidence, the existence of redundancy.*"[36]

The Court does not agree.

Chiongbian's Affidavit[37] dated March 31, 2016, Supplemental Affidavit[38] dated April 7, 2016, and Supplemental Affidavit[39] dated June 30, 2016 bore petitioner's innovative thrust to enhance its marketing and sales capability by aligning its business model with some of the 3M subsidiaries in South East Asian Region. Toward this end, petitioner ought to merge its Industrial Business Group and the Safety & Graphics Business Group to maximize the capabilities and efficiency of the workforce and remove their overlapping of functions. The redundancy program had thus become an essential tool for this purpose, *viz.*:

> 3. In order to market and sell its products, the Company's marketing and sales arm was initially divided into Business Groups headed by a CBL. Each Business Group, in turn, is composed of major and minor Divisions headed by a Division Head. The number of these Divisions per Business Group varies depending on the number of product types a particular Business Group carries. x x x
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> 4. In 2015, the Company decided to align its business model like some 3M subsidiaries in the South East Asian Region so as to enhance its marketing and sales capabilities. This involved the adoption of a different business and marketing approach which focused more on the demands of the market. Accordingly, from being a "Business Group" organization, the Company shifted to being a "Market Focused" organization. In this regard, the Company conducted a series of changes in its marketing and sales arm.
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> 5. One of the changes effected by the Company was the integration/merging of the Industrial Business Group with the Safety & Graphics Business Group, headed by Mr. Tommee Lopez as CBL, in order to create a market focused group known as the Industrial & Safety Market Center. Notably, the integration/merging not only resulted in the reorganization of both groups, but also of the Divisions within each group.
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> 6. The aforesaid changes, regrettably, resulted to excess manpower and superfluity of certain positions. For instance, since the Industrial Business Group was integrated/merged with the Safety & Graphics Business Group to create a new group known as the Industrial & Safety Market Center, the Company would need only one (1) individual to head the same as the Market Leader and abolish the position of CBL. This meant that the Company had an excess group leader since only one (1) of the two (2) group leaders of the affected groups – Messrs. Yuseco and Lopez – will be chosen to become the Market Leader of the Industrial & Safety Market Center.[40]

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36 *Rollo* [Vol. 1], p. 64.
37 *Id.* at 182-185.
38 *Id.* at 216-222.
39 *Id.* at 493-495.
40 *Id.* at 182-183.

Too, petitioner submitted other documentary evidence showing that respondent's employment was terminated due to redundancy, *viz.*:

1) Letter dated November 25, 2015,[41] informing respondent the termination of his service due to redundancy:

> Payments are subject to normal taxes and standard wage withholdings, except for your vested retirement benefit, which will be tax-free since this will legally fall under the category of redundancy.

2) The draft Release Waiver and Quitclaim[42] and Separation Benefit Computation[43] presented to respondent during the November 25, 2015 meeting.

3) Letter[44] dated December 1, 2015 serving as the formal one (1) month notice to respondent of the impending termination of his service due to redundancy in accordance with Article 298 of the Labor Code, *viz.*:

> As discussed last 25 November 2015, in line with the Company's effort to align its organization with corporate business strategy, economically and operationally, and in the exercise of its management prerogative, the Company conducted a review of its organizational structure, which resulted, among others, in the abolition of your position, Country Business Leader for the Industrial Business Group, because of said local corporate restructuring and change of business direction, which included merging of the Industrial Business Group and the Safety & Graphics Business Group.
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> As such, your position is considered redundant effective 1 January 2016.

4) Letter[45] dated December 1, 2015 notifying the Director of the DOLE-NCR of respondent's impending termination from work, along with another employee, on ground of redundancy. The letter contained the reasons therefor. This letter was received by the DOLE-NCR as evidenced by the stamp mark receipt of said Office.

5) Print out of text messages between Chiongbian and respondent showing that the latter even sought advice from the former on the steps he should take regarding the impending termination of his service on ground of redundancy.[46] Notably, respondent never refuted these messages.

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41 *Id.* at 379.
42 *Id.* at 380-381.
43 *Id.* at 382.
44 *Id.* at 188.
45 *Id.* at 190-193.
46 *Id.* at 186-187.

Records show that the company called respondent to a meeting on November 25, 2015 precisely to inform him of this development, specifically the merger of the Industrial Business Group with the Safety & Graphics Business Groups, one of which he used to be the department head.[47]

On this score, ***Soriano v. NLRC, et al.***,[48] is apropos, thus:

> In upholding the legality of petitioner's dismissal from work, the NLRC relied on the documents submitted by the respondent PLDT showing compliance with the requirements above stated, to wit: 1) a letter notifying the Director of the DOLE-NCR of the impending termination from work of the petitioner by reason of redundancy and stating the grounds/reasons for the implementation of the redundancy program; 2) a letter apprising the petitioner of his dismissal from employment due to redundancy; 3) a receipt certifying that the petitioner had already received his separation pay from the respondent PLDT; 4) a release/waiver/quitclaim executed by the petitioner in favor of the respondent PLDT; and 5) **affidavits executed by the officers of the respondent PLDT explaining the reasons and necessities for the implementation of the redundancy program**. Petitioner failed to question, impeach or refute the existence, genuineness, and validity of these documents.
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> **It is clear that the foregoing documentary evidence constituted substantial evidence to support the findings of Labor Arbiter Lustria and the NLRC that petitioner's employment was terminated by respondent PLDT due to a valid or legal redundancy program since substantial evidence merely refers to that amount of evidence which a reasonable mind might accept as adequate to support a conclusion.**
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> Anent the second issue, petitioner contends that there was no substantial evidence showing that the position of Switchman had become redundant; that the affidavits of the respondent PLDT's officers have no probative value and should not have been considered by the NLRC because the said officers are not competent to testify on the technical aspects and effects of respondent PLDT's adoption of new technology; that the existence of redundancy was belied by the respondent PLDT's acts of employing outside plant personnel as Switchmen and Framemen, and of hiring contractual employees to perform the functions of Switchmen; and that the respondent PLDT did not present proof of the method and criteria it used in determining the Switchman to be terminated from work.
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> The records show that respondent PLDT had **sufficiently established the existence of redundancy** in the position of Switchman. In

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47 *Id.* at 183 and 216.

48 Supra note 34, at 122-123, 125-126, 129.

> his affidavit dated 27 September 1999, Roberto D. Lazam (Lazam), Senior Manager of GMM Network Surveillance Division of respondent PLDT, explained:
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> It is evident from the foregoing facts that respondent PLDT's utilization of high technology equipment in its operation such as computers and digital switches necessarily resulted in the reduction of the demand for the services of a Switchman since computers and digital switches can aptly perform the function of several Switchmen. Indubitably, the position of Switchman has become redundant.
>
> As to whether Lazam was competent to testify on the effects of respondent PLDT's adoption of new technology vis-à-vis the petitioner's position of Switchman, the records show that Lazam was highly qualified to do so. He is a licensed electrical engineer and has been employed by the respondent PLDT since 1971. He was a Senior Manager for Switching Division in several offices of the respondent PLDT, and had attended multiple training programs on Electronic Switching Systems in progressive countries. He was also a training instructor of Switchmen in the respondent's office. (Emphasis supplied)

In sum, petitioner sufficiently proved by substantial evidence that redundancy truly existed and its adoption and implementation conformed with the requirements of the law. As the NLRC aptly ruled:

> Based on the record of this case, We find that the separation of complainant from employment was due to redundancy which was carried out after a serious study. It is difficult to convince Us that the redundancy was thought out on the spur of the moment or only during the meeting of November 25, 2015. It would be foolhardy for the respondent company to have come out with a drastic change in its organization without regard to its viability and profitability, just to get rid of complainant. Precisely, in 2015, the company made a decision to enhance its marketing and sales capabilities, inspired by the business performance of some 3M subsidiaries in the South East Asian Region. The company focused more on the demands of the market. Thus, from being a "Business Group" organization, the company shifted to being a "Market Focused Organization." This led to a series of changes in its marketing and sales arms. One of the changes effected by the company was the integration/merging of the Industrial Business Group with the Safety and Graphics Business Group x x x.[49]

Respondent, however, alleges that petitioner's November 25, 2015 and December 1, 2015 letters to him bore inconsistent contents indicative of the company's scheme to easily oust him from his employment. In the first letter, he had supposedly agreed to avail of the separation package, but in the second letter, he was already being terminated on ground of redundancy.[50]

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49 *Id.* [Vol. 2], pp. 539-540.
50 *Id.* [Vol. 1], pp. 79-80.

Petitioner's argument is specious.

The NLRC correctly concluded that the November 25, 2015 and December 1, 2015 letter were actually complementary, not contradictory. The letters must be read together and in the context of what was discussed in the November 25, 2015 meeting between the parties, thus:

> x x x The November 25, 2015 [letter] showed the impending dismissal of complainant due to redundancy and the separation package available to complainant incident thereto. The third paragraph of the November 25, 2015 letter stated that "*Payments are subject to normal taxes and standard wage withholdings, except for your vested retirement benefit, which will be tax-free since this will legally fall under the category of redundancy*". Likewise, the first paragraph of the Release Waiver and Quitclaim given to complainant in tandem with the November 25, 2015 letter, stated that the separation package is "*part of redundancy effective January 1, 2016*".
>
> The December 1, 2015 letter made reference to the meeting held on November 25, 2015 as well as the separation package offered in the same letter of November 25, 2015. The letter dated December 1, 2015 informed complainant that "*as such, your position is considered redundant effective 1 January 2016.*" Thus, both letters referred to the redundancy of the position of complainant. x x x[51]

In fine, the alleged contradiction in the two (2) letters is more imagined than real.

As for the requirements of notice, separation pay, and fair and reasonable criteria, records bear petitioner's strict compliance.

Written Notice

As stated, petitioner sent respondent and the DOLE-NCR separate letters both dated December 1, 2015, informing them of respondent's termination from work effective January 1, 2016 on ground of redundancy.

> ***NOTICE TO RESPONDENT***
>
> Dear Larry,
>
> As discussed last 25 November 2015, in line with the Company's effort to align its organization with corporate business strategy, economically and operationally, and in the exercise of its management prerogative, the Company conducted a review of its organizational structure, which resulted, among others, in the abolition of your position, Country Business Leader for the Industrial Business Group, because of said local corporate

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[51] *Id.* [Vol. 2], pp. 544-545.

restructuring and change of business direction, which included merging of the Industrial Business Group and the Safety & Graphics Business Group.

As such, your position is considered redundant effective 1 January 2016.

During the same meeting on 25 November 2015, you were offered a special package as indicated in the letter dated 25 November 2015. The terms of this separation package is attached to this letter, for your reference. This offer complies with the separation pay requirement under the Philippine Labor Code.

The company will release your salary, separation pay and other payments due to you after you return all company properties and complete the exit clearance process. Upon receipt of these amounts, you will be asked to acknowledge their receipt and to execute a release, waiver and quitclaim in favor of the company.

x x x x x x x x x

NOTICE TO THE DOLE

x x x x x x x x x

In line with the Company's effort to align its organization with corporate business strategy, economically and operationally, and in the exercise of its management prerogative, the Company conducted a review of its organizational structure, which resulted, among others, in the abolition of the positions of Country Business Leader and Abrasives Systems Division Manager for the Industrial Business Group, because their positions have become superfluous.

In light of the foregoing, the Company will effect the separation of the incumbents, Lauro D. Yuseco and Jaime D. Comia, effective close of business hours on December 31, 2015 on the ground of redundancy under Article 283 of the Labor Code, as amended. They have been served 30-day advance notice. Also, please be advised that the affected employees [will] be paid their separation pay in accordance with the Labor Code, along with their accrued salaries and other benefits.

x x x x x x x x x

Separation Pay

Petitioner's Separation Benefit Computation for respondent totalled ₱5,254,402.12, an amount more than what is mandated by law. Petitioner has explained that the amount already covers the respondent's tax payments to the government. Again, respondent has not refuted this. Under this Separation Benefit Computation, respondent would receive the following:

(1) ₱5,173,825.21 as separation pay;
(2) ₱80,576.91 as retirement plan;

(3) ₱1,880,000.00 as additional pay out in consideration of his long service in the company;
(4) Two (2) years extension of his health coverage which included executive check up, hospitalization, and outpatient reimbursements; and
(5) Two (2) years worth of life insurance coverage.

Fair and Reasonable Criteria

Petitioner set the reasonable criteria for determining who between Lopez and respondent should head the newly created office which came about as a result of the merger. Petitioner posits that since there was a merger of two (2) groups or departments, Lopez's extensive and broader experience in the company's Safety & Graphics operations as well as its Industrial operations gave him a big edge over respondent whose experience was limited to Industrial operations only. Their respective employment histories[52] speaks volumes of this disparity.

Another. Their performance ratings also show that over the last three (3) years, Lopez had better ratings than respondent:[53]

Year	Respondent	Lopez
2015	2	3
2014	2	3
2013	3	4

Respondent though accuses the rater Bolzan of bias, and petitioner, of unfairly comparing his experience with that of Lopez, albeit the scopes or ranges of their assignments were allegedly different. Surely, these bare allegations cannot prevail over the records showing petitioner's reasonable assessment of the respective merits of Lopez and respondent. While it may be true that respondent had several awards and achievements over his nineteen (19) years of service in the company, the same is true for Lopez.[54]

All told, the Court holds that respondent's employment was validly terminated on ground of redundancy. Time and again, it has been ruled that an employer has no legal obligation to keep more employees than are necessary for the operation of its business.[55] In fact, even if a business is doing well, an employer can still validly dismiss an employee from the

52 *Id.* [Vol. 1], pp. 223-224.
53 *Id.* at 225-226, 30.
54 *Id.* at 496-500.
55 *Philippine National Bank v. Dalmacio*, supra note 35, at 134.

service due to redundancy if that employee's position has already become in excess of what the employer's enterprise requires.[56]

ACCORDINGLY, the petition is **GRANTED**. The Decision dated January 18, 2019 and Resolution dated August 14, 2019 of the Court of Appeals in CA-G.R. SP No. 149264 are **REVERSED** and **SET ASIDE**. The complaint of respondent Lauro D. Yuseco for illegal dismissal is **DISMISSED**.

Petitioner 3M Philippines, Inc. is **ORDERED** to **PAY** Lauro D. Yuseco his separation package in accordance with its Separation Benefit Computation as heretofore shown.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Chairperson

ALEXANDER G. GESMUNDO
Associate Justice

MARIO V. LOPEZ
Associate Justice

RICARDO R. ROSARIO
Associate Justice

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56 *Ocean East Agency Corporation v. Lopez*, 771 Phil. 179, 190 (2015).

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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the above Division Chairperson's Attestation, 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's Division.

DIOSDADO M. PERALTA
Chief Justice