Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

SYSTEMS AND PLAN INTEGRATOR AND DEVELOPMENT CORPORATION AND/OR ENGR. JULIETA CUNANAN, *Petitioners,*	**G.R. No. 217119**
	Present:
	PERLAS-BERNABE, *S.A.J.*,* HERNANDO, *Acting Chairperson*,** LAZARO-JAVIER,*** ZALAMEDA, and MARQUEZ, *JJ.*
- versus -	
MICHELLE ELVI C. BALLESTEROS, *Respondent.*	Promulgated: APR 25 2022

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DECISION

HERNANDO, *J.*:

This Petition for Review[1] under Rule 45 seeks the reversal of the June 26, 2014 Decision[2] and February 5, 2015 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 130935, which affirmed with modification the National Labor Relations Commission (NLRC) January 10, 2013 Decision,[4] declaring

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* On official leave.
** Per Special Order No. 2887 dated April 8, 2022.
*** Designated additional Member vice J. Rosario due to prior action in the CA per Raffle dated April 12, 2022; on official business per Special Order No. 2892 dated April 13, 2022.
1 *Rollo*, pp. 9-26.
2 Id. at 28-43. Penned by Associate Justice Amelita G. Tolentino and concurred in by Associate Justices Leoncia R. Dimagiba and Carmelita Salandanan Manahan.
3 Id. at 46-48. Penned by Associate Justice Carmelita Salandanan Manahan and concurred in by Associate Justices Ricardo R. Rosario (now a Member of the Court) and Leoncia R. Dimagiba.
4 CA *rollo*, pp. 31-42. Penned by Commissioner Numeriano D. Villena and concurred in by Presiding Commissioner Herminio V. Suelo and Commissioner Angelo Ang Palaña dissented.

respondent Michelle Elvi C. Ballesteros (Ballesteros) illegally dismissed by petitioner Systems and Plan Integrator and Development Corp. (SPID Corp.), and/or Engr. Julieta[5] Cunanan (Cunanan).

The Facts

The facts of the case, as lifted from the Labor Arbiter (LA) Decision,[6] are as follows:

Ballesteros started working for SPID Corp. on June 15, 2005 as a Customer Service Representative. She was eventually promoted to administrative staff with a basic salary of ₱9,900.00, Emergency Cost of Living Allowance (ECOLA) of ₱2,200.00, and transportation allowance of ₱1,000.00, totaling to ₱14,300.00.[7]

During the first week of February 2011, Kristine Castro (Castro), Personnel Officer of SPID Corp., talked to Ballesteros and told her that Cunanan, President and Chief Executive Officer (CEO) of SPID Corp., was asking for her resignation because she was pregnant, and was going to have two children to take care of. Castro even told Ballesteros that she was going to be terminated anyway so resignation would be a better option.[8]

Disturbed by this imposition, Ballesteros talked to Ronniel Cunanan (Cunanan), SPID Corp.'s Administration and Finance Officer, who confirmed that the company is indeed asking Ballesteros to tender her resignation, saying that although she did not have a bad record that would justify her termination, the company decided to terminate her for the same reasons given above.[9]

On March 25, 2011, Ballesteros gave birth and availed of the maternity leave. Sometime in April 2011, she went back to the office and told Castro that she did not want to resign. The following week, she returned and reiterated to Castro her decision not to resign. Castro offered Ballesteros two options: first, she resigns and the company will issue her a clear Certificate of Employment; or second, the company terminates her employment, and gives her salary for one month, and her 13th month pay. When Ballesteros asked again for the reason for her termination, Castro replied that she had received memoranda from the company, one each during the years 2008, 2009 and 2010, which Ballesteros vehemently protested to, as her superiors have always told her that she did not have a bad record during the five and a half years she was employed by the

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5 "Julie" in some parts of the record.
6 *Rollo*, pp. 186-194.
7 Id. at 186.
8 Id.
9 Id.

company. Castro told her that she would still be terminated, and she should wait for her impending termination notice.[10]

On May 31, 2011, while still on maternity leave, Ballesteros discovered that her salary for the period of May 15 to 31, 2011 was not deposited to her account even if her maternity leave was until June 21, 2011. Alarmed, she contacted Castro and found out that the company withheld her salary and would only be released if Ballesteros would process her SSS maternity benefits and tender her resignation letter. Still, Ballesteros refused to resign.[11]

On June 5, 2011, Ballesteros received a letter[12] from the company informing her of her termination from the service.

On the other hand, the company alleged that Ballesteros' employment was terminated based on her incompetence and inefficiency in the performance of duties. Also, SPID Corp. lost its confidence and trust in Ballesteros because of her continued neglect of duty and habitual absences and tardiness.[13] The company enumerated the following instances showing Ballesteros' incompetence and inefficiency:

(a) On July 7, 2008, Ballesteros was issued a memorandum[14] for habitual absences and for neglect of duty which adversely affected her work and for which she was sternly reminded that continued violation may result in suspension or termination;

(b) On February 11, 2009, Ballesteros was again admonished for not following company procedure in the preparation of deposit slips;[15]

(c) Her continued neglect of duty as a Customer Service Representative constrained the company to re-assign her to the Accounting Department;

(d) On September 24, 2010, Ballesteros was reprimanded for incurring a cash shortage due to her admitted lapses;

(e) There were other instances that Ballesteros incurred cash shortages; and

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[10] Id. at 187.
[11] Id.
[12] Id. at 160-161.
[13] Id. at 188.
[14] CA *rollo*, p. 78.
[15] Id. at 79.

(f) On February 21, 2011, the company issued a memorandum[16] to Ballesteros requiring her to explain in writing why she should not be terminated from employment, enumerating therein her violations.[17]

SPID Corp. alleged that Ballesteros refused to receive the February 21, 2011 memorandum, but instead requested to talk with Cunanan to plea for leniency considering her impending delivery. The memorandum was not a notice of termination, but a notice to explain in writing why Ballesteros should not be terminated.

SPID Corp. further alleged that Ballesteros offered to resign after she gives birth as a graceful exit from the company, and requested to be given a certificate of employment to find a new job. This offer was accepted by Cunanan, subject to the condition that Ballesteros submits a formal response to the memorandum to explain. However, Ballesteros failed to submit the explanation within the given period, thus, was deemed to have waived her right to due process.[18]

Thus, on January 16, 2012, Ballesteros filed a Complaint[19] for illegal dismissal, non-payment of wages, service incentive leave pay, 13th month pay, damages, and attorney's fees.

Ruling of the Labor Arbiter

In a Decision[20] dated June 5, 2012, the arbiter dismissed the complaint for lack of merit, ruling as follows:

> After a perusal of the evidence on hand, we rule that the version of the respondents deserves more credence than that of complainant. This can be gleaned from the various print-outs generated from the respondent company's biometric-based attendance system where it is shown that in 2010, complainant incurred 203 counts of tardiness/undertime and 4 counts of absences without leave, while in 2011, she incurred 52 counts of tardiness and 7 counts of absences without pay.
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> While complainant claims that the print-outs are self-serving with no probative value, we are convinced that the biometric-based system of recording employee attendance is tamper-proof and conclusive evidence of an employee's attendance record[s] since the entries therein are based on the employee's biometrics or finger print.
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16 Id. at 154.
17 Id.
18 *Rollo*, pp. 189-190.
19 Id. at 29-30.
20 Id. at 186-192.

However, while we find complainant's dismissal to be attended by just cause, there is no evidence on record showing that complainant was duly informed of the charges levelled against her and given the opportunity to answer the same. The claim of the respondents that complainant refused to receive the memorandum of February 21, 2011, thereby waiving her right to be heard will not suffice. What the respondents should have done was to send x x x the said memorandum by registered mail to complainant's last known address.

Given the foregoing circumstances, the lack of procedural due process should not nullify complainant's dismissal. The respondent company should, however, indemnify complainant for violating her statutory rights. Nominal damages in the sum of P20,000.00 is in order.

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WHEREFORE, premises considered, the complaint for illegal dismissal is hereby dismissed for lack of merit. However, the respondent company is hereby ordered to pay the complainant as follows:

1. P20,000.00 by way of nominal damages; and
2. P4,950.00 as proportionate 13th month pay for the year 2011.

All other claims are hereby dismissed for lack of basis.

SO ORDERED.[21]

Ruling of the National Labor Relations Commission

On appeal, the NLRC reversed the LA's ruling. The dispositive portion of the NLRC Decision reads thus:

WHEREFORE, premises considered, the appealed decision is set aside and a new one is hereby entered declaring the dismissal of the complainant illegal. As a consequence, respondent Systems and Plan Integrator and Development Corporation is ordered to reinstate complainant Michelle Elvi C. Ballesteros to her former position without the loss of seniority rights and to pay her backwages and other benefits, thus:

a) P233,730.48 representing backwages as of the date of this decision until she is actually reinstated in the service;
b) P25,000.00 representing moral damages and another P25,000.00 representing exemplary damages;
c) P20,000.00 representing nominal damages [as previously awarded by the Labor Arbiter];
d) P4,950.00 representing proportionate 13th month pay for 2011 [as previously awarded by the Labor Arbiter] and;
e) 10% of the recoverable amount representing attorney's fees.

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[21] Id. at 191-192.

SO ORDERED.[22]

SPID Corp.'s motion for reconsideration was denied in a Resolution[23] dated May 17, 2013.

Ruling of the Court of Appeals

The June 26, 2014 Decision[24] of the CA dismissed the company's case for lack of merit. The following are the relevant portions of the Decision as well as the dispositive portion:

> Based on the foregoing, the NLRC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that habitual leave of absences (gross habitual neglect of duty) in 2008; open and willful disobedience in 2009; and monetary shortage in 2010, resulting in the respondent company's loss of trust and confidence, were never substantiated. **In the absence of substantial evidence, the contentions of petitioners are self-serving and incapable of showing that the dismissal of the private respondent was justified.**
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> [As to the requirement of procedural due process], We disagree with the finding of both the Labor Arbiter and the NLRC that there is no evidence on record showing that the private respondent was duly informed of the charges leveled against her and that she was given the opportunity to answer the same.
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> We are convinced that the notice to explain (February 21, 2011 memorandum) was validly served upon the private respondent. Kristine Castro, Personnel Officer of petitioner SPIDC, indicated on the said notice that the private respondent "refused to receive because she wanted to talk to Mr. Ronniel Cunanan." Castro also executed an Affidavit dated April 24, 2012 attesting that she personally served the February 21, 2011 memorandum to the private respondent but the latter refused to receive it, but she (private respondent) got a copy anyway. The handwritten notation and Castro's affidavit are substantial pieces of evidence proving that the notice to explain was validly served upon the private respondent.
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> Accordingly, the requirement of procedural due process, particularly, the two-notice rule, was observed. Hence, there is no basis to award nominal damages in the amount of ₱20,000.00.

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[22] CA *rollo*, pp. 41-42.
[23] Id. at 46-48.
[24] *Rollo*, pp. 28-43.

> WHEREFORE, premises considered, the petition is DISMISSED for lack of merit. The assailed decision dated January 10, 2013 is AFFIRMED with modification that the award of nominal damages is deleted.
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> SO ORDERED.[25] (Emphasis supplied)

Thus, this Petition for Review on *Certiorari* which seeks to reverse and set aside the CA Decision, and for the termination from employment of Ballesteros to be declared legal.

Issue

The company raises the issue of whether or not Ballesteros was validly terminated from employment.

Our Ruling

The petition is unmeritorious.

At the outset, this Court emphasizes that the instant petition's issue directly pertains to the legality of Ballesteros' dismissal which, by the nature of the arguments of the parties, involves a calibration and re-evaluation of the evidence they presented, as well as a review of the factual findings of the LA, NLRC, and the CA. As a rule, the Court does not review questions of fact, but only questions of law in a petition for review on *certiorari* under Rule 45 of the Rules of Court, because this Court is not a trier of facts. It will not review the factual findings of the lower tribunals as these are generally binding and conclusive.[26] The exception is when the findings of the CA and the labor tribunals are contradictory.[27]

In this case, considering that the findings and rulings of the NLRC and the CA, on one hand, and those of the LA, on the other, are conflicting, the Court finds sufficient basis for a review of the factual matters in this case in conjunction with the questions of law involved.

Substantial Due Process: Just causes for a valid dismissal from employment

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[25] Id. at 38 and 41-42.

[26] *Rustan Commercial Corp. v. Raysag*, G.R. No. 219664, May 12, 2021, citing *Cavite Apparel, Inc. v. Marquez*, 703 Phil. 46, 53 (2013).

[27] Id.

For a dismissal from employment to be valid, it must be pursuant to either a just, or an authorized cause, under Articles 297,[28] 298,[29] or 299[30] of the Labor Code, as amended.[31] Furthermore, the burden of proving that the termination of an employee was for a just or authorized cause lies with the employer. If the employer fails to meet this burden, the dismissal is unjustified, thus, illegal.[32] To discharge this burden, the employer must present substantial evidence, or the amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion, and not based on mere surmises or conjectures.[33]

Here, the company dismissed Ballesteros based on three just causes: (a) habitual leaves of absence or gross habitual neglect of duty; (b) open and willful disobedience; and (c) money shortage, thus, loss of trust and confidence.[34]

Gross and Habitual Neglect of Duty

SPID Corp. dismissed Ballesteros based on gross neglect of duty because of her habitual leaves of absence, habitual tardiness, and undertime.

As to her habitual leaves of absence, the CA ruled that the company failed to present substantial evidence to prove that Ballesteros, indeed, was habitually absent, thus, neglected her duty. The CA found that Ballesteros only incurred 1.5 vacation leaves and 11 sick leaves from January 2008 to July 7, 2008, the period covered by the notice of termination, which were also deducted from her earned leave credits.[35]

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[28] Article 297. [282] *Termination by employer.* – An employer may terminate an employment for any of the following causes.
   a. Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
   b. Gross and habitual neglect by the employee of his duties;
   c. Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
   d. Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or duly authorized representatives; and
   e. Other causes analogous to the foregoing.

[29] Art. 298. [283] *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. x x x.

[30] Art. 299. [284] *Disease as ground for termination.* – An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health as well as to the health of his co-employees: x x x.

[31] *Noblado v. Alfonso*, 773 Phil. 271, 281 (2015).

[32] *Rustan Commercial Corp. v. Raysag*, supra.

[33] *Bicol Isarog Transport System, Inc. v. Relucio*, G.R. No. 234725, September 16, 2020.

[34] *Rollo*, p. 160.

[35] Id. at 36.

The Court agrees with the CA. *Robustan, Inc. v. Court of Appeals*[36] provides the standard for establishing gross neglect of duty as a just cause for terminating employment:

> Thus, under the Labor Code, to be a valid ground for dismissal, the negligence must be gross and habitual. Gross negligence has been defined as the want or absence of even slight care or diligence as to amount to a reckless disregard of the safety of the person or property. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them. Put differently, gross negligence is characterized by want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally with a conscious indifference to consequences insofar as other persons may be affected.[37]

The presentation of the certified true copies of Ballesteros' leave ledger does not sufficiently establish the required habituality of neglect that would merit her dismissal. For one, all the leaves she incurred were deducted from earned leave credits, meaning, credits she was entitled to over the course of her work.[38] This Court has held that only habitual absenteeism without leave constitutes gross negligence.[39] Secondly, such leaves were so few to be characterized as a reckless disregard for the safety of the company. It could not be said that she repeatedly neglected her duty for she was only absent for a total of 12.5 days over the period of six months and a week (January 2008 to July 7, 2008).

As to her habitual tardiness and undertime for the years of 2010 and 2011, the CA found that the company only charged Ballesteros in her notice of termination with habitual leaves of absence from January 2008 to July 7, 2008, not for the years 2010 and 2011.[40]

The rudimentary requirements of due process require that an employer dismissing an employee must furnish the latter with two written notices before the termination of employment can be effected: (1) the first notice apprises the employee of the particular acts or omissions for which the dismissal is sought; and (2) the second notice informs the employee of the employer's decision to dismiss him or her.[41] Case law has not been strict with this two-notice rule, however. Failure to observe or to prove compliance of the same would still

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[36] G.R. No. 223854, March 15, 2021.
[37] Id., citing *Anvil Ensembles Garment v. Court of Appeals*, 497 Phil. 205, 211-212 (2005).
[38] *Rollo*, p. 36.
[39] *Valiao v. Court of Appeals*, 479 Phil. 459, 469 (2004).
[40] *Rollo*, p. 38.
[41] *Rustan Commercial Corp. v. Raysag*, supra note 26.

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make the dismissal valid, as long as a just or authorized cause for dismissal exists, with the employer, however, being held liable for nominal damages.[42]

A perusal of the records of the case would show that the first notice, which is the "Notice to Explain Why [Ballesteros] Should Not be Terminated"[43] dated February 21, 2011, enumerated as Ballesteros' fourth offense "Habitual tardiness and undertime for more than one hour and more than ten days in a month for the last 6 months resulting to gross neglect of duty."[44] However, the second notice, which is the Notice of Termination[45] dated June 3, 2011, showed that the company failed to include the habitual tardiness and undertime of Ballesteros from 2010 to 2011.

Habitual tardiness alone is a just cause for termination.[46] Punctuality is a reasonable standard imposed on every employee, whether in government or private sector, whereas habitual tardiness is a serious offense that may very well constitute gross or habitual neglect of duty, a just cause to dismiss a regular employee.[47] Habitual tardiness manifests lack of initiative, diligence and discipline that are inimical to the employer's general productivity and business interest.[48]

Here, the Court finds that although habitual tardiness is a just cause for termination, the company failed again to substantiate Ballesteros' habitual tardiness and undertime, as the generated print-outs presented to the NLRC were mere photocopies and unauthenticated.[49] The Court had previously disregarded unsigned listings and computer printouts presented in evidence by the employer to prove its employee's absenteeism and tardiness, holding thus:

> In the case at bar, there is paucity of evidence to establish the charges of absenteeism and tardiness. We note that the employer company submitted mere handwritten listing and computer print-outs. The handwritten listing was not signed by the one who made the same. As regards the print-outs, while the listing was computer generated, the entries of time and other annotations were again handwritten and unsigned.
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> **We find that the handwritten listing and unsigned computer print-outs were unauthenticated and, hence, unreliable. Mere self-serving evidence of which the listing and print-outs are of that nature should be rejected as**

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42 Id., citing *Libcap Marketing Corp. v. Baquial*, 737 Phil. 349, 350 (2014).
43 *Rollo*, p. 154.
44 Id.
45 Id. at 160-161.
46 *Sy v. Neat, Inc.*, 821 Phil. 751, 773 (2017).
47 Id.
48 Id.
49 *Rollo*, p. 38.

evidence without any rational probative value even in administrative proceedings.[50] (Emphasis supplied)

Similarly, absent reliable and reasonable proof that Ballesteros was indeed habitually tardy, and habitually incurred undertime for more than 10 days in a month for six months, the Court cannot conclude that she is guilty of gross and habitual neglect of duty.

Open and Willful Disobedience

SPID Corp. agrues that Ballesteros' dismissal was due to her open and willful disobedience of company procedure in the preparation of deposit slips.

For willful disobedience to be a valid cause for dismissal, these two elements must concur: (1) the employee's assailed conduct must have been willful or intentional, the willfulness being characterized by "a wrongful and perverse attitude;" and (2) the order violated must have been reasonable, lawful, made known to the employee, and must pertain to the duties which he had been engaged to discharge.[51]

Again, the CA held that no substantial evidence would show that Ballesteros willfully violated the verbal instructions. There is lack of substantial evidence that would show that the company gave clear verbal instructions regarding the preparation of deposit slips. [52]

The Court agrees. The records show no proof that the company made known to Ballesteros instructions on preparation of deposit slips, except the February 11, 2009 Memorandum[53] reprimanding her for her negligence. Neither did the company present proof that Ballesteros' transgression was coupled with a wrongful intent, or a wrongful and perverse attitude, both very different from mere simple negligence, or a mere error in judgment. Again, the burden is on the employer to present substantial evidence, or the amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[54]

Even if the company presented proof of both the instruction, and Ballesteros' violation of the instruction, her failure "to text the [concerned]

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[50] *Career Philippines Shipmanagement, Inc. v. Godinez*, 819 Phil. 86, 114-115 (2017), citing *Asuncion v. National Labor Relations Commission*, 414 Phil. 329, 337 (2001).

[51] *Bookmedia Press, Inc. v. Sinajon*, G.R. No. 213009, July 17, 2019, citing *Gold City Integrated Port Services, Inc. v. National Labor Relations Commission*, 267 Phil. 863, 872 (1990).

[52] *Rollo*, p. 37.

[53] CA *rollo*, p. 74.

[54] *Bicol Isarog Transport System, Inc. v. Relucio*, supra note 33.

employee [regarding] their deposit slips while waiting for the scanner to be fixed"[55] cannot be said to be a product of a wrongful and perverse attitude. It was merely a momentary lapse of judgment on her part, rather than some design to circumvent the company's policy regarding deposit slips. The requirement of willfulness or wrongful intent in the appreciation of the aforementioned just causes, in turn, underscores the intent of the law to reserve only to the gravest infractions the ultimate penalty of dismissal. It is essential that the infraction committed by an employee is serious, not merely trivial, and be reflective of a certain degree of depravity or ineptitude on the employee's part, in order for the same to be a valid basis for the termination of his employment.[56]

Loss of Trust and Confidence

The last ground for Ballesteros' dismissal is loss of trust and confidence due to a monetary shortage amounting to ₱1,100.00.

Loss of trust and confidence may be a just case for termination of employment only upon proof that: (1) the dismissed employee occupied a position of trust and confidence; and (2) the dismissed employee committed "an act justifying the loss of trust and confidence."[57]

The first element was met because Ballesteros, an administrative officer at the time of her termination, held a position of trust and confidence. Her tasks included "answering/endorsement of telephone calls, preparation of deposit slips, handling of petty cash fund, front-lining duties, and other related tasks."[58] However, the second element, pertaining to the act that breached the company's trust and confidence, was never established in the NLRC and CA proceedings. For loss of trust and confidence to be a valid ground for dismissal, it must be substantial, and not arbitrary, whimsical, capricious, and concocted. It demands that a degree of severity attends the employee's breach of trust.[59]

The Court agrees with the CA that Ballesteros' monetary shortage in the amount of ₱1,100.00 cannot be considered substantial and severe, as to justify the company's loss of trust and confidence in her. Furthermore, not only did Ballesteros admit that she was negligent in not counting the money before returning the same, the amount was even deducted from her salary and returned to the company.[60] To dismiss Ballesteros over such an insignificant amount which she duly returned would amount to a clear injustice.

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55 CA *rollo*, p. 74.
56 *Bookmedia Press, Inc. and Brizuela v. Sinajon*, supra.
57 *Robustan, Inc. v. Court of Appeals*, G.R. No. 223854, March 15, 2021.
58 CA *rollo*, p. 60.
59 *Robustan, Inc. v. Court of Appeals*, supra, citing *Rivera v. Genesis Transport Services, Inc.*, 765 Phil. 544, 556-557 (2015).
60 CA *rollo*, p. 242.

Procedural Due Process

Finally, the Court agrees with the CA that the company exercised procedural due process in accordance with Philippine labor laws which was elaborated in the case of *Dela Rosa v. ABS-CBN Corporation*,[61] as follows:

> As a rule, the employer is required to furnish the employee with two (2) written notices before termination of employment can be effected: a first written notice that informs the employee of the particular acts or omissions for which his or her dismissal is sought, and a second written notice which informs the employee of the employer's decision to dismiss him. Anent the second notice, the written notice of termination should indicate that: (a) all circumstances involving the charge against the employees have been considered; and (b) grounds have been established to justify the severance of their employment.[62]

In this case, the Court agrees with the CA that two notices were validly served upon Ballesteros, despite the fact that she refused to receive the first notice "because she wanted to talk to Mr. Ronniel Cunanan."[63] The CA correctly found and held that:

> [T]he notice to explain (February 21, 2011 memorandum) was validly served upon the [Ballesteros]. Kristine Castro, Personnel Officer of [the company], indicated on the said notice that the private respondent "refused to receive because she wanted to talk to Mr. Ronniel Cunanan." Castro also executed an Affidavit dated April 24, 2012 attesting that she personally served the February 21, 2011 memorandum to [Ballesteros] but the latter refused to receive it, but she x x x got a copy anyway. The handwritten notation and Castro's affidavit are substantial pieces of evidence proving that the notice to explain was validly served upon [Ballesteros].
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> Accordingly, the requirement of procedural due process, particularly, the two-notice rule, was observed. Hence, there is no basis to award nominal damage in the amount of P20,000.00.[64]

WHEREFORE, the Petition for Review is hereby **DENIED**. The June 26, 2014 Decision and February 5, 2015 Resolution of the Court of Appeals in CA-G.R. SP No. 130935, which affirmed with modification the National Labor Relations Commission (NLRC) January 10, 2013 Decision declaring respondent Michelle Elvi C. Ballesteros (Ballesteros) illegally dismissed, are **AFFIRMED**. Petitioner Systems and Plan Integrator and Development Corporation is ordered to **REINSTATE** respondent Michelle Elvi C. Ballesteros to her former or equivalent position without the loss of seniority rights, and to **PAY** her backwages and other benefits reckoned from the time her salaries were withheld.

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[61] G.R. No. 242875, August 28, 2019.
[62] Id.
[63] *Rollo*, p. 154.
[64] Id. at 41-42.

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

On official leave.
ESTELA M. PERLAS-BERNABE
Senior Associate Justice

On official business.
AMY C. LAZARO-JAVIER
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

JOSE MIDAS P. MARQUEZ
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.

RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.

ALEXANDER G. GESMUNDO
Chief Justice