



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 8, 2020** which reads as follows:*

“G.R. No. 213300 (*Violeta R. Castro and Mark Joseph R. Magat v. Court of Appeals and Teachers Association of Pangasinan, Inc., represented by its President, Primo A. Mina*)

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court against the Decision¹ dated January 6, 2014 and the Resolution² dated April 23, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 130960. The CA found that the National Labor Relations Commission (NLRC) gravely abused its discretion in setting aside the Labor Arbiter’s (LA)’s finding that Violeta R. Castro (Violeta) and Adela R. Magat³ (Adela) were validly dismissed by the Teachers Association of Pangasinan, Inc. (TAP).

Violeta was employed by TAP as cashier-treasurer on August 5, 1974, and was one of their pioneer employees, while Adela, a younger sister of Violeta, was hired by TAP as bookkeeper on April 2, 1981.⁴

On November 25, 2011, Violeta and Adela, together with TAP’s General Manager, Rodolfo C. Tandoc (Tandoc), received a letter from TAP’s President, Primo A. Mina (Mina), requiring them to explain within 72 hours why they should not be dismissed for violation of Article 282, paragraphs a, b, and c⁵ of the Labor Code.⁶

- over – six (6) pages ...

108

¹ Penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justices Franchito N. Diamante and Zenaida T. Galapate-Laguilles, concurring; *rollo*, pp. 21-40.

² *Id.* at 42-46.

³ Adela R. Magat, who passed away during the pendency of her complaint with the Labor Arbiter, is substituted by her heirs, presently represented by Mark Joseph R. Magat, *id.* at 47.

⁴ *Id.* at 22.

⁵ Specifically, serious misconduct, gross and habitual neglect of duties, and fraud or willful breach of trust.

⁶ *Supra* note 4.

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The charges stemmed from their failure to render full account on the status of funds derived from fees collected in the encashment of checks, loan redemption fund and notarial fees in 2005 to 2010, as well as disbursements for items or projects that were not in the approved budget.⁷ Relative to this, Violeta, Adela and Tandoc were suspended for 10 days, or from November 27 to December 6, 2011.

Beforehand, or on September 16, 2011, the Board of Directors (Board) of TAP directed its Executive Committee (EXECOM) to look into the security of TAP's funds, financial management and lease contracts.⁸ After examining TAP's books of accounts and various financial documents, and interviewing concerned personnel, the EXECOM found that no receipts were issued for fees collected from check encashments or recorded as income in the books of account, the loan redemption fund and notarial fees were not recorded in the books of account, and that items and projects that were not in the budget approved by the Board had been inserted.⁹ From this, the EXECOM concluded that TAP's funds were not safe due to collusion among Violeta, Adela and Tandoc, and recommended that TAP engage the services of a certified public accountant to audit TAP's books, as well as a lawyer to advise the Board on its subsequent course of action.¹⁰ The EXECOM's report and recommendations were approved by the Board on November 12, 2011, after verification with Violeta and Adela yielded unsatisfactory responses.¹¹

In Violeta's and Adela's letter explanation¹² dated December 2, 2011, they denied the accusations for lack of basis and claimed that the EXECOM never audited the books and official receipts of TAP, and that the inserted project disbursements were upon the instructions of the association's president, Mina, whom they were merely following. Dissatisfied with the explanation, TAP dismissed Violeta and Adela from employment on December 8, 2011.¹³ As a result, Violeta and Adela filed with the NLRC the illegal dismissal complaints from which this petition originated.¹⁴

On October 15, 2012, Labor Arbiter Isagani Laurence G. Nicolas issued a Decision, disposing:

- over -

108

⁷ *Rollo*, p. 24.

⁸ *Id.* at 30.

⁹ *Id.* at 31.

¹⁰ *Id.* at 31-32.

¹¹ *Id.* at 48-50.

¹² *Id.* at 53-60.

¹³ *Id.* at 29.

¹⁴ *Id.* at 61-62.

mt

WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered declaring the herein complaint[s] **DISMISSED** for lack of merit.

[TAP] is hereby ordered to pay the corresponding proportionate 13th month pay for 2011 of [Castro and Adela] per herein attached computation.

*SO ORDERED.*¹⁵

On appeal, the NLRC agreed with the LA that procedural due process was accorded to Violeta and Adela, but disagreed that their infractions constitute serious misconduct to warrant their dismissal. In particular, the NLRC noted that between 2005 and 2010, Violeta and Adela were neither required to submit reports to the Board, nor disciplined for non-submission thereof. The NLRC found merit in Violeta's and Adela's explanation that they did not have separate reports on the amounts investigated as these were commingled with the funds of TAP that were used for loans to teachers. Furthermore, the NLRC opined that TAP failed to show that Violeta and Adela pocketed the unaccounted amounts. Thus, the dispositive portion of the NLRC's March 27, 2013 Resolution¹⁶ reads:

WHEREFORE, premises considered, the appeal is **PARTLY GRANTED** and the Decision in so far as the finding that [Violeta and Adela] were validly dismissed is ordered **VACATED** and **SET ASIDE**.

A new one is issued finding that [TAP is] guilty of illegal dismissal. Accordingly, [TAP is] ordered to pay in lieu of reinstatement[,] separation pay of one month for every year of service to [Violeta and Adela] in the amounts of [₱]668,217.03 and [₱]488,963.52 respectively[,] and limited backwages of six months amounting to [₱]102,802.62 and [₱]91,680.08 respectively.

The award of proportionate 13th month pay is **REINSTATED**.

*SO ORDERED.*¹⁷

Aggrieved by the reversal of the LA's ruling, TAP filed a Rule 65 petition¹⁸ before the CA, ultimately assailing the NLRC's conclusion that the grounds for Violeta and Adela's dismissal were not substantiated. Finding TAP's petition meritorious, the CA's January 6, 2014 Decision¹⁹ disposed:

- over -

108

¹⁵ Id. at 63.

¹⁶ Id. at 63-74.

¹⁷ Id. at 73.

¹⁸ Id. at 108-124.

¹⁹ Supra note 1.

mt

WHEREFORE, premises considered, the Petition is **GRANTED**. The Resolutions dated 27 March 2013 and 27 May 2013 of the National Labor Relations Commission (Third Division) in *NLRC SUB RAB I Case No. 7-02-0215-12*; *NLRC LAC NO. 01-000006-13* are **NULLIFIED**, and [the NLRC, Violeta, and Adela] and all person/s acting for and on their behalf are **ENJOINED** from enforcing the same. The Decision dated 15 October 2012 of Labor Arbiter Isagani Laurence G. Nicolas is hereby **REINSTATED**. No pronouncement as to costs.

SO ORDERED.²⁰

Recalling that proof beyond reasonable doubt is not required in dismissing an employee on the ground of loss of trust and confidence, the CA, in concluding that the NLRC gravely abused its discretion, pointed out that:

[A]s a general rule, employers are allowed a wider latitude of discretion in terminating the services of employees who perform functions by which their nature require the employer's full trust and confidence. Mere existence of basis for believing that the employee has breached the trust and confidence of the employer is sufficient and does not require proof beyond reasonable doubt. Thus, when an employee has been guilty of breach of trust or his employer has ample reason to distrust him, a labor tribunal cannot deny the employer the authority to dismiss him.²¹

Violeta's and Adela's motion for reconsideration was denied by the CA on April 23, 2014, which resolution was received by them on May 12, 2014.²² As a recourse, Violeta and Adela's heirs, represented by Mark Joseph R. Magat, filed the instant Rule 65 petition on July 11, 2014.²³

It bears mentioning at this juncture that this petition for *certiorari* is a wrong remedy against a decision and resolution of the CA granting a petition for *certiorari* from an adverse ruling of the NLRC. Instead, "petitioner should have filed an appeal by petition for review on *certiorari* under Rule 45, not a petition for *certiorari* under Rule 65, in this Court. Where the rules prescribe a particular remedy for the vindication of rights, such remedy should be availed of."²⁴ We have even emphasized that "[t]his holds true even if the error ascribed

- over -

108

²⁰ *Rollo*, pp. 37-38.

²¹ *Philippine Plaza Holdings, Inc. v. Episcope*, 705 Phil. 210, 218 (2013), citing *Bristol Myers Squibb (Phils.) Inc. v. Barban*, 594 Phil. 610, 631-632 (2008).

²² *Rollo*, p. 5.

²³ *Id.* at 9-19.

²⁴ *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission*, 716 Phil. 500, 512 (2013).

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to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law x x x.”²⁵

Given that the period to file a petition for review on *certiorari* under Rule 45, or a timely motion for the extension thereof, is only 15 days from receipt of the judgment, final order or resolution sought to be appealed, and this petition was filed 60 days from receipt of the CA resolution denying reconsideration or on July 11, 2014, then this case had already attained finality with the CA.²⁶

Even if we were to overlook the procedural error, the petition still fails. The NLRC gravely abused its discretion when it took lightly the EXECOM’s findings on the irregularities imputed against Violeta and Adela as TAP’s fiduciary employees. It is sufficient that at the time that they were dismissed from employment, TAP had substantial grounds for loss of trust and confidence based on the EXECOM’s internal investigation and the lack of a satisfactory or persuasive explanation for the irregularities, prior to the decision to terminate the employment of Violeta and Adela. It is oft-repeated in labor cases that “only substantial evidence is required in order to support a finding that an employer’s trust and confidence accorded to its employee had been breached.”²⁷

Again, “proof beyond reasonable doubt is not needed to justify the loss as long as the employer has reasonable ground to believe that the employee is responsible for the misconduct and his participation therein renders him unworthy of the trust and confidence demanded of his position.”²⁸

In sum, there appears no reversible error in the CA’s exercise of its *certiorari* jurisdiction. At any rate, petitioners availed of the wrong remedy, for which reason, the present petition was filed out of time and the Court failed to acquire appellate jurisdiction over the same.

WHEREFORE, the present petition is **DENIED**.

- over -

108

²⁵ *Cuevas v. Atty. Macatangay*, 806 Phil. 325, 336 (2017).

²⁶ *Supra* note 22.

²⁷ *Philippine Plaza Holdings, Inc. v. Episcope*, *supra* note 21, at 219.

²⁸ *Distribution & Control Products, Inc. v. Jeffrey Santos*, G.R. No. 212616, July 10, 2017.

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SO ORDERED.”

Very truly yours,

LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

108

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