

SIDEKICK FORCE INVESTIGATION AND SECURITY SERVICES, INC./DIRT FREE JANITORIAL & ALLIED SERVICES/GUARD FORCE SECURITY TRAINING CENTER AND RONALD BAHNI, PETITIONERS, VS. NATIONAL ...

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7b49d49c2490/>

GALAPATE-LAGUILLES, J:

Before Us is a Petition for Certiorari[1] seeking to nullify and set aside the September 26, 2012 Decision[2] rendered by the National Labor Relations Commission, First Division (NLRC) rendered in NLRC-LAC-No. 06-001830-12, NLRC Case No. RAB-CAR-11-0391-11, affirming the Labor Arbiter's Decision dated May 25, 2012,[3] as well as the February 28, 2013 Resolution[4] denying petitioners' Motion for Reconsideration.

The facts that preceded the filing of the Complaint[5] for Unfair Labor Practice, Illegal Dismissal, Illegal Suspension, Money Claims, Damages and Attorney's Fees are simple.

On June 7, 2007, Sidekick Force Investigation & Security Services, Inc. (Sidekick Force), where Ronald C. Bahni (Bahni) was the President and General Manager, hired Glicier A. Dulatre (Dulatre) as Operations Officer with a monthly salary of P20,560.00. Apart from the position he held at Sidekick Force, Dulatre was also designated as Training Officer/Instructor and Supervisor at Guard Force Security Training Center, Inc. and Dirt Free Janitorial and Allied Services, respectively, which appeared to be likewise owned by Bahni.

As a privilege adjunct to his position, Sidekick Force issued Dulatre a company vehicle with the condition that the same shall only be used in connection with the performance of his duties and not for personal and other purposes. However, on October 18, 2011, Bahni caught Dulatre using the company-issued car beyond the scope of his work and without authority from him. Thus, on October 19, 2011, Bahni issued Dulatre a Memorandum[6] directing him to explain in writing the unauthorized use of the company vehicle. On the same date, Dulatre complied with the Memorandum and explained the incident as follows:

Yesterday, October 18, 2011, as I was doing some field work, Ma'am Marivic texted me asking if I could accompany them at (sic) La Union to get their share of rice at San Fabian, Pangasinan. With (sic) respect to her as one of my superior officer, I replied to her request. We went to San Fabian with her mother [and] then after that[,] we fetch my wife at Aringay who went ahead to talk with my father about some family matters.[7]

Unfortunately, Bahni did not find the explanation acceptable and, consequently, he suspended Dulatre for forty-five (45) days from receipt of notice.[8] Also, on October 25, 2011, Bahni directed all the company-posted security guards not to course their transactions or communications to Dulatre but to the other supervisors, namely: SO Denver Ayodoc, SO Warren Dumay, SO Charlie Libag.[9] Further, he likewise informed their clients "that Mr. Glicier Dulatre is no longer connected with this agency and he is no longer authorized to transact, negotiate and collect payments for all and in behalf of Sidekick Force Inc." [10]

When Dulatre learned of the notices issued by Bahni, he filed the instant Complaint against Sidekick Force, Dirt

Free Janitorial and Allied Services, Guard Force Security Training Center and Bahni (collectively referred to as private respondents) before the Regional Arbitration Branch, Cordillera Administrative Region, of the National Labor Relations Commission on November 8, 2011, on the grounds of unfair labor practice, illegal dismissal and illegal suspension.

Meantime, on February 9, 2012, and while the case was pending, Bahni wrote to Pag-ibig Office in Baguio City alleging that the certifications pertaining to the monthly compensation he purportedly issued to Dulatre, Charlie Libag and John Palasico were forgeries as he never issued and signed the same; and that Dulatre “is no longer connected with our agency effective October 27, 2011.”[11]

In his Position Paper,[12] Dulatre maintained, in the main, that his dismissal was not in accordance with law as the same was not predicated on any just causes under the Labor Code. He argued that he cannot be dismissed based on the alleged unauthorized use of the company vehicle because he was already meted the penalty of suspension therefor. Moreover, Dulatre claimed that he was deprived of his right to due process since Bahni did not observe the two-notice rule in effecting his dismissal, to wit: first, he did not receive a written notice specifying the grounds for termination and giving him the opportunity to defend himself; and second, he did not receive a notice of termination. Dulatre likewise assailed the validity of his suspension citing Sections 8 and 9 of Rule XXIII, Book V of the Omnibus Rules Implementing the Labor Code, as amended by Department Order No. 9, Series of 1997.

In their Position Paper,[13] private respondents vehemently decried Dulatre's charges, alleging that the latter was not dismissed but merely suspended from work. They explained that the notice to their client that Dulatre was “no longer connected” with them was motivated by an act of self-preservation in order to prevent Dulatre from collecting payments from their clients during his period of suspension. This did not constitute as an evidence of dismissal as the same was not issued to Dulatre. Further, according to private respondents, the penalty of suspension imposed on Dulatre was justified as he willfully violated a company policy.

On May 25, 2012, Labor Arbiter Vito C. Bose rendered a Decision finding that Dulatre was illegally dismissed. He declared that notwithstanding the absence of a written notice of dismissal, private respondents' “act of rendering the continuous employment of an employee unfeasible xxx short of giving notice of terminations (sic) constitutes illegal dismissal.”[14] The fallo of the said Decision reads:

WHEREFORE, premises considered, a judgment is hereby rendered finding complainant to have been illegally dismissed from employment. Respondent Sidekick Force Investigation and Security Serices, Inc. and Ronald C. Bahni is therefore directed to pay jointly and severally the complainant the total amount of P394,112.80 representing his full backwages, separation pay, 13th month [pay], Holiday premium [pay], SILP and attorney's fees.

Other claims are denied for lack of merit.

SO ORDERED.[15]

The private respondents filed an appeal to the NLRC, this time insisting that Dulatre was validly dismissed, which was contrary to the stance they advanced before the Labor Arbiter that Dulatre was merely suspended. According to private respondents, the unauthorized use of the company vehicle and the forgery of Bahni's signature on the

certifications submitted to the Pag-ibig Office of Baguio City were just causes for dismissal.[16]

The NLRC, however, was not convinced by the vacillating arguments of the private respondents and rendered the assailed Decision[17] dated September 26, 2012, affirming the Labor Arbiter's findings that Dulatre was illegally dismissed from his job. The private respondents sought reconsideration but the same was likewise denied by the NLRC per Resolution[18] dated February 28, 2013. Hence, the present recourse which alleged the lone error that:

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION GRAVELY ERRED AND ABUSED ITS DISCRETION WHEN IT AFFIRMED THE DECISION OF THE EXECUTIVE LABOR ARBITER A QUO WHICH RULED THAT PRIVATE RESPONDENT GLICIER A. DULATRE WAS ILLEGALLY DISMISSED WHICH RENDERS THE AWARD OF BACKWAGES AND SEPARATION PAY TO BE BEREFT OF ANY BASIS.[19]

The petitioners, private respondents before the labor tribunals, posit that the findings of the Labor Arbiter and the NLRC are not supported with evidence; and that the said labor tribunals did not consider the serious offenses committed by Dulatre, i.e. unauthorized use of company property and forgery, as just causes for his dismissal.

The Petition is bereft of merit.

Article 277(b) of the Labor Code places on the employer the burden of proving that the dismissal of an employee was for a valid or authorized cause, whether the latter admits or does not admit the dismissal.[20] Otherwise, the dismissal is unjustified and, therefore, illegal. Indeed, a party alleging a critical fact must support his allegation with substantial evidence, for any decision based on unsubstantiated allegation cannot stand without offending due process.[21]

To effect a legal dismissal of an employee, the following elements must concur: (a) the dismissal must be for a valid cause and (b) the employee must be afforded due process. The notice requirement satisfies the legality of the manner of dismissal, which constitutes procedural due process while the cause of dismissal answers the legality of the act of dismissal which constitutes substantive due process.[22]

Here, there is no quibble that Dulatre was dismissed by the petitioners. The notices signifying that Dulatre was “no longer connected” with their companies that Bahni sent to their clients and the Pag-ibig Office in Baguio City eloquently demonstrate petitioners' intent to dismiss Dulatre. Petitioners' admission in their memorandum of appeal[23] and in this instant Petition[24] that indeed Dulatre was dismissed decisively settled this matter.

The sole question that needs resolution is whether the dismissal was valid. On this point, petitioners maintain that Dulatre's unauthorized use of the company vehicle as well as his forgery of Bahni's signature to obtain a loan from the Pag-ibig Funds are sufficient causes for termination.[25]

We do not agree with the importuning of the petitioners. It must be emphasized that Dulatre was already meted out a penalty of suspension for the alleged unauthorized use of the company car, thus, it cannot be utilized as a justification for his dismissal. To be sure, petitioners cannot impose upon Dulatre the two successive penalties of suspension and later dismissal for one and the same act. In *Filipro, Inc. v. The Honorable Minister Blas F. Ople*, [26] the Supreme Court ruled that past infractions for which the employee has suffered the corresponding penalty for each violation cannot be used as a justification for the employee's dismissal for that would penalize him twice for the same offense. These past infractions could only be considered as reasonable basis for supporting a dismissal to a subsequent similar offense. This, however, is not obtaining in this case.

As regards the allegation of forgery, suffice it to state that petitioners failed to substantiate their self-serving assertion. The only evidence they presented was the letter[27] dated February 9, 2012 that Bahni sent to the Pag-ibig Office in Baguio City, and whose signature therein was purportedly forged. The petitioners did not even conduct an inquiry regarding the matter to ascertain Dulatre's complicity to the alleged forgery. We are mindful that forgery may constitute fraud or serious misconduct under Article 282[28] of the Labor Code that warrant the ultimate penalty of dismissal. However, without substantial evidence proving the same, We hesitate to strike down the employee's right to labor.

At any rate, We scoured the records and We did not find anything that would indicate that petitioners dismissed Dulatre on this ground as this issue was raised only after the fact of dismissal. Bahni sent the said letter when the case before the Labor Arbiter was already pending resolution. The only reasonable conclusion drawn therefrom is that petitioners invoked forgery as a mere afterthought, designed to justify further Dulatre's dismissal.

In view of the foregoing, We rule that Dulatre was peremptorily dismissed absent any just causes. That petitioners hastily dismissed Dulatre was betrayed by the utter disregard of Dulatre's right to due process because he was not notified of the charges against him nor afforded the opportunity to be heard and to explain the same. We emphasize that in dismissing an employee, the employer is mandated to serve two notices to the employee concerned as outlined under Section 2(d) of Rule 1 of Book VI of the Omnibus Rules Implementing the Labor Code, viz:

xxx

(d) In all cases of termination of employment, the following standards of due process shall be substantially observed:

For termination of employment based on just causes as defined in Article 282 of the Labor Code:

(i) A written notice served on the employee specifying the ground or grounds for termination, and giving said employee reasonable opportunity within which to explain his side.

(ii) A hearing or conference during which the employee concerned, with the assistance of counsel if he so desires, is given opportunity to respond to the charge, present his evidence, or rebut the evidence presented against him; and

(iii) A written notice of termination served on the employee, indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination.

Simply stated, the employer must furnish the employee a written notice containing a statement of the cause for termination, and to afford the employee ample opportunity to be heard and defend himself with the assistance of his representative, if he so desires.[29] Also, the employee must be notified in writing of the decision dismissing

him, stating clearly the reasons therefor.[30] All these were not observed by the petitioners, thus, We approve the Labor Arbiter's ruling that an employee who was unjustly dismissed from work is entitled to payment of full backwages and separation pay in lieu of reinstatement,[31] as the circumstances obtaining in this case do not warrant reinstatement.

All told, We hereby find that the NLRC did not act with grave abuse of discretion when it affirmed the findings of the Labor Arbiter, declaring the dismissal of Dulatre as illegal. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction. It connotes exercise of power in an arbitrary or despotic manner that is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law.[32]

WHEREFORE, premises considered, the instant Petition for Certiorari is hereby DISMISSED for lack of merit.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Diamante, JJ., concur.

[1] Rollo, pp. 3-15.

[2] Id., pp. 118-125.

[3] Id., pp. 92-102

[4] Id., pp. 126-127.

[5] Id., p. 18.

[6] Id., p. 40.

[7] Id., p. 41.

[8] Memorandum dated October 21, 2011. Id., p. 42.

[9] Memorandum dated October 24, 2011. Id., p. 43.

[10] Letter dated October 25, 2011. Id., p. 43-A

[11] Letter dated February 9, 2012. Id., p. 86.

[12] Id., pp. 23-34.

[13] Id., pp. 57-69.

[14] Id., p. 96.

[15] Id., p. 102.

[16] Memorandum of Appeal. Id., pp. 105-106.

[17] Id., pp. 118-125.

[18] Id., pp. 126-127.

[19] Id., p. 7.

[20] AFI International Trading Corporation (Zamboanga Buying Station) and Celedonio Raymundo, Jr. v. Dennis

G. Lorenzo and Cecilio S. Sorsan, G.R. No. 173256, October 9, 2007.

[21] Macasero v. Southern Industrial Gases Philippines and/or Neil Lindsay, G.R. No. 178524, January 30, 2009.

[22] Lopez v. Alturas Group of Companies, et al., G.R. No. 191008, April 11, 2011.

[23] Rollo, p. 111.

[24] Id., pp. 11-12.

[25] Id., p. 11.

[26] G.R. No. 72129, February 7, 1990.

[27] Rollo, p. 86.

[28] ART. 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 his duly authorized representative; and

(e) Other causes analogous to the foregoing.

[29] Aquinas School v. Magnaye, 344 Phil. 145 (1997).

[30] Ibid.

[31] Rollo, pp. 98-99.

[32] Tagle v. Equitable PCI Bank, G.R. No. 172299, April 22, 2008.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.