

STANDARD CHARTERED BANK EMPLOYEES UNION (SCBEU) – NATIONAL UNION OF BANK EMPLOYEES (NUBE), PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND STANDARD CHARTERED BANK, RESPO...

Ponente: CRUZ, J.

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CRUZ, J.:

THE CASE

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the Decision dated June 18, 2010[1] of the Fourth Division of the National Labor Relations Commission ("NLRC") in NLRC-LCC Case No. 07-000006-09 which declared the Notice of Strike filed by the petitioner as lacking basis in fact and law and the Decision dated November 19, 2010[2] denying reconsideration thereof.

THE ANTECEDENTS

Petitioner Standard Chartered Bank Employees Union - National Union of Bank Employees ("SCBEU-NUBE") is the certified sole and exclusive bargaining representative of all rank-and-file employees of Standard Chartered Bank.

Respondent Standard Chartered Bank ("SCB") is a banking institution duly organized and existing under and by virtue of the laws of England and duly licensed to engage in banking activities under Philippine laws with principal office at Standard Chartered Bank, 6788 Ayala Avenue, Makati City.

On March 13, 2009, SCBEU-NUBE filed a Notice of Strike against SCB before the National Conciliation and Mediation Board ("NCMB") docketed as NCMB-NCR-NS-03-024 on the ground of alleged acts of unfair labor practice, to wit: (1) harassment of union officer; (2) union busting and; (3) violation of the collective bargaining agreement ("CBA").

On March 23, 2009, SCBEU-NUBE filed a second Notice of Strike against SCB with the NCMB docketed as NCMB-NCR-NS-0330-09 on the ground of alleged acts of unfair labor practice, more specifically, the: (1) Harassment of union officer Julius Fuentes; (2) Non-implementation of a final and executory decision dated October 8, 2008 of the Supreme Court in G.R. No. 165550 which upheld the out-patient medicine reimbursements of employees of SCB as well as the maternity benefits of the spouses of male employees; (3) Union busting through illegal dismissal of union officer Rose Ann Mallo.

SCBEU-NUBE filed two motions, namely: (1) for the issuance of subpoena to require the appearance of the officers of SCB at the conciliation meetings[3] and; (2) to punish SCB for contempt arising from the illegal termination of union officer Julius Fuentes and union members Edgardo Palanca, Jr., Jose Osorio, Allen Silab, Liezel Villarosa[4].

On March 27, 2009, SCBEU-NUBE submitted the results of its strike balloting which shows that a majority of its members supports the strike.[5] After the determination that SCB is an industry indispensable to the national

interest pursuant to Section 22[6], RA 8791[7], the Secretary of the Department of Labor and Employment ("DOLE") certified the same for compulsory arbitration in accordance with Article 263 (g) of the Labor Code of the Philippines, as amended on April 3, 2009.[8]

SCBEU-NUBE filed a Supplemental Manifestation and Motion dated April 7, 2009 seeking the suspension of the effects of termination Edgardo Palanca, Jr., Jose Osorio, Allen Silab, Liezel Villarosa and their reinstatement, which was denied in an Order dated June 26, 2009[9].

Subsequently, the parties were called to a series of conferences to discuss the issues and seek the possibility of amicable settlement of the labor dispute which proved futile. After the parties submitted their respective position paper and other responsive pleadings, the NLRC rendered a decision in favor of SCB. In a Decision dated June 18, 2010, the NLRC declared the Notice of Strike as lacking in legal and factual basis.[10] The NLRC ruled that: (1) Under the law, there are only 2 grounds for calling a strike: bargaining deadlock and unfair labor practice; (2) The alleged acts committed by SCB do not fall under unfair labor practices; (3) The preventive suspension and subsequent termination of Julius Fuentes, the termination of Jose Osorio, Andre Ramiro and Cyril Santellices constitute valid exercise of management prerogative to discipline employees and impose punishment for gross and habitual negligence; (4) Rose Ann Mallo was validly dismissed on the ground of redundancy under Article 283[11] of the Labor Code of the Philippines; (5) These acts are not flagrant and/or malicious violations of the CBA economic provisions so as to amount to unfair labor practice, i.e.: (a) The non-granting of loans to Julius Fuentes, Anthony Morales and Janico Deocareza; (b) the hiring of agency/temporary personnel; (c) non-payment of out-patient and spousal maternity benefits despite a final and executory decision of the Supreme Court.

SCBEU-NUBE then filed a motion for reconsideration which was subsequently denied in a Decision dated November 19, 2010[12].

Aggrieved, the petitioner filed this petition, raising the issues,

THE ISSUES BEFORE US

I.

WHETHER OR NOT THE EMPLOYER COMMITTED UNFAIR LABOR PRACTICES;

II.

WHETHER OR NOT THE ASSAILED DECISIONS ARE TANTAMOUNT TO GRAVE ABUSE OF DISCRETION.

Petitioner maintains that SCB committed unfair labor practices. In particular, it claims that SCB interfered with the exercise by the union officers/members of their rights to self-organization and collective bargaining. Petitioner avers that the union officer and members acted on the show cause notices sent by the SCB by filing a grievance notice. SCB did not comply with the grievance procedure and thus committed unfair labor practice. Petitioner asseverates that there was no valid redundancy in the case of union officer Rose Ann Mallo because SCB continued to hire people for its Cebu branch and the superfluity of her services has not been established by SCB. Petitioner insists that the true reason behind her termination is the anti-union animus or bias by SCB. Petitioner emphasizes that the strike vote shows that a big majority of the members found that the SCB committed unfair labor practices. With respect to the disallowance of loan applications of union officer and members, petitioner points out that there is no evidence of Bangko Sentral ng Pilipinas rules or company rules stating that sub-standard performance is a ground to reject loan availments. Petitioner posits that there is no proof that the hiring of agency/temporary personnel was to temporarily relieve employees on maternity leave, replace services which are seasonal and cannot be performed by existing regular employees, substitute employees who are on

extended leave of absence, sick leave or leave without pay, on educational pursuit. SCB has not established the factual and legal impossibility of complying with the final and executory decision of the Supreme Court. Petitioner argues that the NLRC should have applied the "totality of conduct" doctrine, and, had this been applied, the totality of conduct of the SCB would demonstrate anti-union animus, bias or motive as can be gleaned from the following acts: (1) SCB's refusal to bargain over the grievances of union officer Fuentes and members Palanca, Silab, Villarosa, Osorio III, Ramiro and Santelices; (2) SCB's refusal to participate fully and promptly in the meetings called by the NCMB - NCR relative to the Notice of Strike; (3) SCB's gross violation of the CBA in refusing to comply with the Decision in SC G.R. No. 165550; (4) SCB's unsubstantiated claim of factual and legal impossibility relative to the Decision in SC G.R. No. 165550 constitutes further evidence of its anti-union animus, bias or motive; (5) The illegal preventive suspension of Union officer Fuentes, union members Palanca, Silab, Villarosa, Osorio III, Ramiro and Santelices; (6) SCB's illegal termination of Union officers Mallo and Fuentes, union members Palanca, Silab, Villarosa, Osorio III; (7) SCB terminated the employees to sow fear among strike voters and to bust the union; (8) SCB negotiated directly with Mallo instead of negotiating directly with the union which constitutes boulwarism, a form of unfair labor practice; (9) SCB deliberately failed to comply with Article III, Section 4 of the CBA on agency temporary personnel hiring; (10) The issuance of notices of termination pending conciliation-mediation of the labor dispute impeded and violated the duty to bargain collectively in good faith. Petitioner insists that SCB has been performing well, thus there is no basis for the termination of its employees. Based on the foregoing, petitioner concluded that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction.

In its Comment[13] respondent argues that the petition must be dismissed outright for failure to attach clearly legible duplicate original or certified true copy of the judgment, order, resolution and such material portions of the record in violation of Section 3, Rule 46 of the Rules of Court in relation to Rule 65 of the Rules of Court. SCB maintains that the petitioner's 2 notices of strike do not constitute lawful grounds for a valid strike under the law. Respondent claims that the alleged acts of harassment against Julius Fuentes do not constitute unfair labor practice because SCB was simply exercising its management prerogative to impose disciplinary action against erring employees. SCB claims that the alleged violation of the CBA provisions is not a valid subject of a notice of strike. The denial of the loan applications of some of the employees of SCB was based on its Staff Loan Policy which states that the bank may at its sole discretion deny the loan application of any employee who is underperforming. SCB denies having violated the CBA when it hired temporary and/or casual employees because the Memorandum of Agreement between the bank and the union expressly allows the former to do so. Respondent asseverates that the dismissal of Rose Ann Mallo, Julius Fuentes, Edgardo Panaca, Jr., Jon Osorio III, Allen Silab and Lizel Villarosa are valid and based on just and/or authorized causes under the law and does not amount to union busting. Article 248 of the Labor Code of the Philippines enumerates the acts of unfair labor practices. As such, there can be no implied unfair labor practice or ULP by analogy. The dismissal and separation from employment of the subject employees constitute valid exercise of the bank's management prerogatives: (1) Mallo was validly separated from service on the ground of redundancy which is an authorized cause for termination of employment under Article 283 of the Labor Code of the Philippines; (2) Fuentes, Palanca, Osorio, Silab and Villarosa were validly dismissed from employment on the grounds of gross inefficiency and gross and habitual neglect of duties which are just causes for termination of employment under Article 282 of the Labor Code of the Philippines; (3) In terminating the employment of Mallo, Fuentes, Palanca, Osorio, Silab and Villarosa, SCB never restrained, coerced or interfered with the workers' right to self-organization; (4) SCB neither committed unfair labor practice nor gross violation of the CBA when it allegedly failed to satisfy the judgment award of the Supreme Court in G.R. No. 165550 entitled "Standard Chartered Bank vs. Court of Appeals and Standard Chartered Bank Employees Union" because there is no health care insurance provider in the Philippines that is willing to cover the benefit of 100% outpatient medical reimbursement of prescription drugs.

OUR RULING

The petition lacks merit.

It has been said often enough that for the extraordinary remedy of certiorari to lie by reason of grave abuse of discretion, the abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined or to act at all, in contemplation of law. The judgment must be rendered in a capricious, whimsical, arbitrary or despotic manner by reason of passion, prejudice or personal hostility.

An examination of the assailed decisions of the public respondent reveals that its findings were supported by substantial evidence on record. Absent any clear showing of abuse, arbitrariness or capriciousness, the findings of fact by the NLRC, especially when supported by substantial evidence, as in this case, are binding and conclusive upon Us. Thus, there exists no cogent reason for us to deviate from the challenged decisions.

A strike may legally be held because of either or both: (1) a collective bargaining deadlock and/or; (2) an unfair labor practice ("ULP"). A strike not based on any of these two causes is necessarily tainted with illegality.

In the present case, SCBEU-NUBE filed two (2) notices of strike on the ground of ULP.

We affirm the finding of the NLRC that the acts enumerated by SCBEU-NUBE do not constitute ULP so as to support petitioner's strike.

The concept of ULP is embodied in Article 257 (formerly Article 247) of the Labor Code[14]. In essence, ULP relates to the commission of acts that transgress the workers' right to organize. As specified in Articles 258 and 259 of the Labor Code, the prohibited acts must necessarily relate to the workers' right to self-organization [15] and to the observance of the CBA.

Nelson Culili vs. Eastern Telecommunications Philippines, Inc., et., al.[16], explains that:

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"In the past, we have ruled that 'unfair labor practice refers to 'acts that violate the workers' right to organize.' The prohibited acts are related to the workers' right to self-organization and to the observance of a CBA." We have likewise declared that "there should be no dispute that all the prohibited acts constituting unfair labor practice in essence relate to the workers' right to self-organization." Thus, an employer may only be held liable for unfair labor practice if it can be shown that his acts affect in whatever manner the right of his employees to self-organize."

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Absent the said vital elements, the acts complained, although seemingly unjust, would not constitute ULP.[17] It refers to "acts that violate the workers' right to organize." Without that element, the acts, even if unfair, are not ULP. An employer therefore may only be held liable for unfair labor practice if it can be shown that its acts affect in whatever manner the right of its employees to self-organize.[18]

The general principle is that the one who makes an allegation has the burden of proving it. While there are exceptions to this general rule, in ULP cases, the alleging party has the burden of proving the ULP; and in order to show that the employer committed ULP under the Labor Code, substantial evidence is required to support the claim.

Substantial evidence, then as now, is more than a mere scintilla of evidence. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise. Unfortunately, the SCBEU-NUBE, which had the burden of adducing substantial

evidence to support its allegations of ULP as its ground for the two notices of strike, failed to discharge such burden.

It is incumbent upon SCBEU-NUBE to establish that the acts complained of constitute ULP under Article 258[19] of the Labor Code of the Philippines.

We shall discuss the alleged acts of ULP in seriatim.

Contrary to the submission of SCBEU-NUBE, the denial of loan applications[20] of Julius Fuentes is not contrary to any provision of the CBA or company policy. It finds ample basis under the Staff Loan Policy of SCB which states, "The Bank may, at its sole discretion not grant a loan to an employee whose recent performance rating is 4 (Improvement Required) or 5 (Unacceptable Performance) or whose value rating is "D"[21]. As a matter of fact, Julius Fuentes himself acknowledged having been informed of the Staff Loan Policy in his Letter dated October 31, 2008[22] which explains his appeal for the grant of loan on the ground of "humanitarian reason". A perusal of the records reveals that he failed to garner acceptable ratings for the prior months/years during which his work output was evaluated meriting the denial of his loan applications. There is no basis therefore for the claim that the act of denial of loan application reflects anti-union animus or bias by SCB.

Petitioner claims that the hiring of agency/temporary personnel by SCB was in violation of Section 4, Article III of the CBA. This argument appears more illusory than real. A cursory reading of Section 4, Article III of the CBA in relation to the Memorandum of Agreement dated August 25, 2008 shows that SCB is not prohibited and as a matter of fact, authorized to hire or engage temporary or casual clerical personnel. Petitioner next insists that SCB has not presented proof to show that the hiring of agency/temporary personnel was to temporarily relieve employees on maternity leave, replace services which are seasonal and cannot be performed by existing regular employees, substitute employees who are on extended leave of absence, sick leave or leave without pay, on educational pursuit.

In *Alex Cootauco vs. MMS Phil. Maritime Services, Inc., et., al.*[23], it was ruled that, "a party alleging a critical fact must support his allegation with substantial evidence. Any decision based on unsubstantiated allegation cannot stand as it will offend due process". Simply put, SCBEU-NUBE has the burden of proving that the hiring of agency/temporary personnel was not for the purposes mentioned in the CBA and Memorandum of Agreement. Other than its bare allegations, petitioner has not presented an iota of proof that the hiring of agency/temporary personnel does not fall under any of the instances provided under the CBA and Memorandum of Agreement. Moreover, basic is the principle that good faith is presumed and he who alleges bad faith has the duty to prove the same. By imputing bad faith to the actuations of SCB in hiring agency/temporary personnel, SCBEU-NUBE has the burden of proof to present substantial evidence to support the allegation of unfair labor practice.

Petitioner also claims that the separation from employment of the union officers and members was done by SCB to interfere with the exercise of the employees' right to self-organization. After a careful examination of the records of the case, we rule that the SCB employees who happen to be union officers and members were validly terminated.

In the case of Rose Ann Mallo, she was validly terminated on the ground of redundancy which is an authorized cause for termination of employment under Article 297 [formerly Article 283[24]] of the Labor Code.

As elucidated in *Lenn Morales vs. Metropolitan Bank and Trust Company*[25],

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"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 when it is superfluous, and superfluity of

a position or positions could be the result of a number of factors, such as the overhiring of workers, a decrease in the volume of business or the dropping of a particular line or service previously manufactured or undertaken by the enterprise. 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."

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Primarily, employers resort to redundancy when the functions of an employee have already become superfluous or in excess of what the business requires. Thus, even if a business is doing well, an employer can still validly dismiss an employee from the service due to redundancy if that employee's position has already become in excess of what the employer's enterprise requires. For a valid implementation of a redundancy program, the employer must comply with the following requisites: (1) written notice served on both the employee and the DOLE at least one month prior to the intended date of termination; (2) payment of separation pay equivalent to at least one month pay or at least one month pay for every year of service, whichever is higher; (3) good faith in abolishing the redundant position; and (4) fair and reasonable criteria in ascertaining what positions are to be declared redundant.[26] All of these requirements have been satisfactorily complied with by SCB, to wit: (1) A written Notice of Termination dated September 25, 2008[27] was sent by SCB to Rose Ann Mallo one month prior to her termination on October 26, 2008 and a written Establishment Termination Report[28] sent by SCB to the DOLE one month prior to the intended date of termination; (2) Payment of hefty separation pay in the amount of P2,758,289.87[29] Philippine Currency which is over and above than that prescribed by law; (3) SCB was in good faith in implementing the redundancy and; (4) used a fair and reasonable criteria in ascertaining what positions are to be declared redundant as shown by the SCB Letter dated September 25, 2008[30] and Affidavit of Abigail del Rosario dated November 21, 2009[31]; The downturn in business led SCB to re-classify its Cebu branch as a small bank. It was constrained to implement a re-structuring of its Cebu branch to align its operations as a small bank; The key responsibilities of the position of IP Staff held by Mallo were incorporated into the functions of a Teller. The management has the prerogative to characterize an employee's services as no longer necessary or sustainable, and therefore properly terminable.

In the case of Julius Fuentes, Edgardo Palanca, Jr., Jose Osorio, Allen Silab, Liezel Villarosa, the records are replete with documents supporting the validity of their termination on the ground of gross and habitual neglect of duty which is a just cause for termination under Article 296 [formerly Article 282[32]] of the Labor Code. Procedural due process was likewise observed.

Century Iron Works, Inc. vs. Eleto Banas[33], explains gross and habitual neglect of duties in this wise,

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"Article 282 of the Labor Code provides that one of the just causes for terminating an employment is the employee's gross and habitual neglect of his duties. This cause includes gross inefficiency, negligence and carelessness. "Gross negligence connotes want or absence of or failure to exercise slight care or diligence, or the entire absence of care. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them. Fraud and willful neglect of duties imply bad faith of the employee in failing to perform his job, to the detriment of the employer and the latter's business. Habitual neglect, on the other hand, implies repeated failure to perform one's duties for a period of time, depending upon the circumstances."

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To our mind, the consistent dismal performance of Julius Fuentes, Edgardo Palanca, Jr., Jose Osorio, Allen Silab, Liezel Villarosa extending for from 2005 to 2008 is sufficient to hold them grossly and habitually negligent. The Standards-Based Individual Performance Form, Performance Plan Improvement, Individual Learning and Development Plan from 2005-2008 of these employees lay witness to their continued failure to meet the

objectives and the required performance standards as a team and business unit of SCB[34]. Their poor performance ratings spanning for over a long period of time during their employment merit their dismissal. SCB also complied with procedural due process as evident from the following: (1) Show Cause Notices[35] sent to Julius Fuentes, Edgardo Palanca, Jr., Jose Osorio, Allen Silab, Liezel Villarosa; (2) Administrative Hearing conducted on March 23, 2009[36]; (3) Notices of Termination[37] sent to Julius Fuentes, Edgardo Palanca, Jr., Jose Osorio, Allen Silab, Liezel Villarosa.

The determination of who to keep in employment and who to dismiss for cause is one of SCB's prerogatives. In *Sime Darby Pilipinas, Inc. vs. NLRC, Sime Darby Salaried Employees Association*[38], it was ruled that:

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"Every business enterprise endeavors to increase its profits. In the process, it may devise means to attain that goal. Even as the law is solicitous of the welfare of the employees, it must also protect the right of an employer to exercise what are clearly management prerogatives. Thus, management is free to regulate, according to its own discretion and judgment, all aspects of employment, including hiring, work assignments, working methods, time, place and manner of work, processes to be followed, supervision of workers, working regulations, transfer of employees, work supervision, lay off of workers and discipline, dismissal and recall of workers."

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Petitioner bewails SCB's failure to comply with the grievance procedure under Article XIV of their CBA. Suffice it to state that the termination of employment on the ground of redundancy and gross and habitual neglect of duties are not disputes involving the interpretation or the implementation of company personnel policies and CBA.

Petitioner finally contends that SCB's failure to provide factual and legal impossibility of compliance with the decision in SC G.R. No. 165550 reeks of anti-union animus, bias or motive.

Our examination of the records reveals that SCB exerted reasonable efforts to implement the decision of the Supreme Court. As a matter of fact, SCB consulted an independent third-party employee benefits consultancy firm to inquire if any health care insurance provider in the Philippines is willing to cover the benefit of an outpatient medical reimbursement plan. Certainly, this is indicative of SCB's willingness to comply with the decision of the Supreme Court. Unfortunately, the survey conducted by the consultancy firm reveals that none of the reputable insurers provide the insurance service requirements under the Order dated April 29, 2002 which renders it impossible for SCB to "continue with the outpatient benefit under the old insurance plan and carry it over to the new health care plan". This has been adequately established by the following documents: (1) Affidavit of Sam Meris[39] dated August 10, 2008[40]; (2) Letter of Sam Meris to SCB dated January 15, 2010[41] ; (3) Letters[42] sent by Sam Meris to various insurance providers; (4) Letters[43] sent by various insurance providers to Sam Meris.

In conclusion, we hold that the facts and the evidence did not establish even at least a rational basis why the petitioner would wield a strike based on alleged unfair labor practices. Furthermore, the acts complained of as unfair labor practices of SCB do not fall under any of the prohibited acts defined and enumerated under Article 258 of the Labor Code of the Philippines. It is not enough that the union believed that the employer committed acts of unfair labor practice when the circumstances clearly negate even a prima facie showing to warrant such a belief.

WHEREFORE, the petition is DISMISSED. The Decision dated June 18, 2010 and November 19, 2010 of the of the Fourth Division of the National Labor Relations Commission ("NLRC") in NLRC-LCC Case No.

07-000006-09 are AFFIRMED.

SO ORDERED.

Abdulwahid, (Chairperson), and Barza, JJ., concur.

[1] Rollo, pp. 43-57.

[2] Rollo, pp. 38-41.

[3] Rollo, pp. 548-549.

[4] Rollo, pp. 555-558.

[5] Rollo, pp. 552-554.

[6] SECTION 22. Strikes and Lockouts. — The banking industry is hereby declared as indispensable to the national interest and, notwithstanding the provisions of any law to the contrary, any strike or lockout involving banks, if unsettled after seven (7) calendar days shall be reported by the Bangko Sentral to the Secretary of Labor who may assume jurisdiction over the dispute or decide it or certify the same to the National Labor Relations Commission for compulsory arbitration. However, the President of the Philippines may at any time intervene and assume jurisdiction over such labor dispute in order to settle or terminate the same. (6-E)

[7] AN ACT PROVIDING FOR THE REGULATION OF THE ORGANIZATION AND OPERATIONS OF BANKS, QUASI-BANKS, TRUST ENTITIES AND FOR OTHER PURPOSES, Approved May 23, 2000.

[8] Rollo, pp. 83-88.

[9] Rollo, pp. 582-585.

[10] Rollo, pp. 43-57.

[11] ART. 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. 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.

[12] Rollo, pp. 38-41.

[13] Rollo, pp. 403-462.

[14] Article 257. Concept of unfair labor practice and procedure for prosecution thereof.—Unfair labor practices violate the constitutional right of workers and employees to self-organization, are inimical to the legitimate interests of both labor and management, including their right to bargain collectively and otherwise deal with each other in an atmosphere of freedom and mutual respect, disrupt industrial peace and hinder the promotion of

healthy and stable labor-management relations.

[15] T & H Shopfitters Corporation, et. al. vs. T & H Shopfitters Corporation/ Gin Queen Workers Union et., al., G.R. No. 191714, February 26, 2014.

[16] G.R. No. 165381, February 9, 2011.

[17] Minette Baptista, et. al., vs. Rosario Villanueva, et., al., G.R. No. 194709, July 31, 2013.

[18] Bankard, Inc. vs. NLRC, et., al., G.R. No. 171664, March 6, 2013.

[19] Formerly Article 248 of the Labor Code of the Philippines.

UNFAIR LABOR PRACTICES OF EMPLOYERS

Art. 248. Unfair labor practices of employers. It shall be unlawful for an employer to commit any of the following unfair labor practice:

- To interfere with, restrain or coerce employees in the exercise of their right to self-organization;
- To require as a condition of employment that a person or an employee shall not join a labor organization or shall withdraw from one to which he belongs;
- To contract out services or functions being performed by union members when such will interfere with, restrain or coerce employees in the exercise of their rights to self-organization;
- To initiate, dominate, assist or otherwise interfere with the formation or administration of any labor organization, including the giving of financial or other support to it or its organizers or supporters;
- To discriminate in regard to wages, hours of work and other terms and conditions of employment in order to encourage or discourage membership in any labor organization. Nothing in this Code or in any other law shall stop the parties from requiring membership in a recognized collective bargaining agent as a condition for employment, except those employees who are already members of another union at the time of the signing of the collective bargaining agreement. Employees of an appropriate bargaining unit who are not members of the recognized collective bargaining agent may be assessed a reasonable fee equivalent to the dues and other fees paid by members of the recognized collective bargaining agent, if such non-union members accept the benefits under the collective bargaining agreement: Provided, that the individual authorization required under Article 242, paragraph (o) of this Code shall not apply to the non-members of the recognized collective bargaining agent;
- To dismiss, discharge or otherwise prejudice or discriminate against an employee for having given or being about to give testimony under this Code;
- To violate the duty to bargain collectively as prescribed by this Code;
- To pay negotiation or attorney's fees to the union or its officers or agents as part of the settlement of any issue in collective bargaining or any other dispute; or
- To violate a collective bargaining agreement.

The provisions of the preceding paragraph notwithstanding, only the officers and agents of corporations, associations or partnerships who have actually participated in, authorized or ratified unfair labor practices shall be held criminally liable. (As amended by Batas Pambansa Bilang 130, August 21, 1981)

[20] Rollo, pp.110-125.

[21] Rollo, pp. 587-592.

[22] Rollo, p. 126.

[23] G.R. No. 184722, March 15, 2010.

[24] Art. 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. 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 under taking 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.

[25] G.R. No. 182475, November 21, 2012.

[26] SPI Technologies, Inc. and Lea Villanueva vs. Victoria Mapua, G.R. No. 191154 , April 7, 2014.

[27] Rollo, pp. 859-860.

[28] Rollo, pp. 861-862.

[29] Rollo, pp. 595-597.

[30] Rollo, p. 861.

[31] Rollo, pp. 815-818.

[32] Art. 282. Termination by employer. An employer may terminate an employment for any of the following causes:

- Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- Gross and habitual neglect by the employee of his duties;
- Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- 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 representatives; and
- Other causes analogous to the foregoing

[33] G.R. No. 184116, June 19, 2013.

[34] Rollo, pp.609-719.

[35] Rollo, pp. 721-730.

[36] See Notices of Administrative Hearing sent to the employees, Rollo, pp. 730-734.

[37] Rollo, pp. 735-744.

[38] G.R. No. 119205, April 15, 1998.

[39] Sam Meris is the Assistant Vice President of Aon Insurance and Reinsurance Brokers Philippines, Inc.

[40] Rollo, pp. 884-886.

[41] Rollo, pp.887.

[42] Rollo, pp. 889, 890, 893,895, 897,900.

[43] Rollo, pp. 888,891,892,894,896,898,899.

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