

LA SALLE COLLEGE INTERNATIONAL, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND THELMA L. BADON, RESPONDENTS.

CA-G.R. SP No. 111415, January 29, 2010

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/cb945e1a0c0c/>

Court of Appeals

Before this Court is a Petition for Certiorari[1] under Rule 65 of the 1997 Revised Rules of Civil Procedure seeking to annul and set aside the decision[2] dated March 12, 2009 and Resolution[3] dated September 8, 2009 of the National Labor Relations Commission, Sixth Division, in NLRC LAC Case No. 04-001269-08, NLRC Case No. NCR-06-06119-07, entitled “Thelma Badon, Complainant- Appellant, versus La Salle College International/Dr. Norma Cruz, Respondents-Appellees”, the dispositive portions of which read:

March 12, 2009 Decision

“WHEREFORE, premises considered, judgment is hereby rendered finding the appeal impressed with merit. The decision of the Labor Arbiter dated October 31, 2007 is hereby VACATED and SET ASIDE. Accordingly, respondents-appellees Lasalle College International et al. are hereby found jointly and severally liable to pay complainant-appellant the amount of P1,067,958.33 representing her backwages and separation pay and 10% of such aggregate amount as attorney's fees. Attached is the computation prepared by this Commission and made an integral part of this Decision.

SO ORDERED.”

September 8, 2009 Resolution

“ACCORDINGLY, let the instant Motion for Reconsideration be, as it is hereby PARTIALLY GRANTED with respect to the personal liability of respondent-appellee Dr. Norma Cruz, and thus, she is hereby relieved thereof. The rest of the Decision of this Commission dated 24 September 2008 STANDS undisturbed.

No further motion of similar nature shall be entertained.

SO ORDERED.”

The facts are:

Private respondent Thelma L. Badon (Badon for brevity) was hired in July 2000 by petitioner La Salle College International (La Salle for brevity) as teacher/instructor. In May 2004, she was promoted as Program Director until May 2006 when Dr. Norma Cruz (Dr. Cruz for brevity) assumed directorship of the school. On January 2, 2007, private respondent Badon was made to sign an Employment Agreement[4] demoting her to the position of Program Coordinator.[5]

On the other hand, petitioner La Salle contended that private respondent Badon worked as part-time academic employee since July 2000 and her performance was less productive. To address this situation, and to give private respondent Badon a chance to prove her capability, Dr. Cruz asked her to work on a full-time basis beginning

January 2007. Private respondent Badon allegedly agreed to serve as Program Coordinator. However, after five (5) months of probationary employment, Dr. Cruz, upon consultation with her immediate superiors from the head office in Canada, decided to terminate her services due to her failure to meet the standards set forth in her Employment Agreement, specifically paragraphs 4 and 6 thereof as she was found creating rumors about the present administration, inciting other academic employees to criticize the policies of Dr. Cruz. Private respondent Badon's tenure as part-time employee has no bearing on her probationary employment as she failed to live-up to the standards set forth by petitioner La Salle for her to qualify as regular employee. Thus, on June 14, 2007, private respondent Badon was served a notice of termination. Aggrieved, private respondent Badon filed a complaint for illegal dismissal and other monetary claims before the Labor Arbiter.

The Labor Arbiter conducted a mandatory conference purposely to convince the parties to settle amicably, but the same proved futile. Hence, after the parties have filed their pleadings, the Labor Arbiter rendered a decision[6] dismissing the complaint for lack of merit.

On appeal, public respondent NLRC reversed the decision and petitioner La Salle and Dr. Cruz were found jointly and severally liable to private respondent Badon.

Petitioner La Salle and Dr. Cruz moved for the reconsideration of the aforementioned decision which was partially granted in the assailed resolution dated September 8, 2009 absolving Dr. Cruz from liability.

Undaunted, petitioner La Salle filed this petition assigning the following errors:

“THE HONORABLE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION WHEN IT RULED THAT HEREIN PRIVATE RESPONDENT WAS HIRED AS A REGULAR EMPLOYEE AND NOT ON A STATUS OF PROBATIONARY EMPLOYMENT.

THE HONORABLE PUBLIC RESPONDENT COMMITTED A GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT THERE IS NO JUST CAUSE IN THE TERMINATION OF EMPLOYMENT OF HEREIN PRIVATE RESPONDENT.

THE HONORABLE PUBLIC RESPONDENT GRIEVOUSLY ERRED WHEN IT AWARDED SEPARATION PAY, IN LIEU OF REINSTATEMENT, BACKWAGES, AND ATTORNEY'S FEES IN FAVOR OF HEREIN PRIVATE RESPONDENT.”[7]

The petition is devoid of merit.

It is petitioner La Salle's contention that private respondent Badon was not its regular employee but was hired on a probationary basis. To support its claim, petitioner La Salle argued that as part-time employee, private respondent Badon did not become a regular employee despite her seven (7) years of service therewith.

In her Comment[8] private respondent Badon did not deny having rendered a part-time job as faculty of petitioner La Salle from 2000 up to the time she was appointed as Program Coordinator in 2004 and Program Director in 2005. Granting *arguendo* that private respondent Badon's employment was probationary, nevertheless, it is settled that while probationary employees do not enjoy permanent status, they are entitled to the constitutional protection of security of tenure.[9]

This policy finds support in Article 281 of the Labor Code which mandates that:

“ARTICLE 281. Probationary Employment. — Probationary employment shall not exceed six (6) months from the date the employee started working, unless it is covered by an apprenticeship agreement stipulating a longer period. The service of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a

probationary period shall be considered a regular employee.”

From the aforequoted provision, a probationary employee has a limited tenure. However, he cannot, during such tenure, be removed except for cause provided by law. Where the cause of removal is poor performance, as in this case, the employer must cite the particular acts or instances thereof which fail to meet the reasonable standards for permanent employment.

As pointed out by public respondent NLRC, the Employment Agreement presented by petitioner La Salle to support its claim that private respondent Badon failed to qualify in accordance with the standards set forth therein is insufficient. What was presented was only a portion of the Employment Agreement which contains the Employee's Commitment to the school (paragraph 4) and the grounds for termination (paragraph 6). Said document did not state the standards which private respondent Badon should measure up to for her to qualify for permanent status. Petitioner La Salle's allegation of private respondent Badon's rumor mongering and inciting other employees to criticize the policies of the school administration may fall under the grounds for termination. But mere allegations without any evidence to support them are not enough.

The Manual of Regulations for Private Schools provides that the probationary period for teaching of academic personnel shall not be more than three (3) consecutive school years of satisfactory service for those in the elementary and secondary levels, six (6) consecutive semesters of satisfactory service for those in the tertiary and graduate levels, and nine (9) consecutive trimesters on collegiate courses offered on a trimester basis. These specified periods are the maximum allowed and that under certain conditions, regular status may be achieved in less time. The manual further provides that the normal teaching load of a fulltime instructor shall be eighteen hours a week.[10]

Private respondent Badon alleged that she worked for 24 to 36 hours a week. This is more than what the law prescribes and this was never refuted by petitioner La Salle. Truth is, she was even promoted twice, as Program Coordinator in 2004 and Program Director in 2005.

Likewise, private respondent Badon's impressive credentials did not escape this Court's notice and observation. Surely, she would have not lasted seven (7) years with petitioner La Salle if she did not meet the latter's standard. On this score, public respondent correctly ruled that private respondent Badon was a regular employee of petitioner La Salle and her termination was without just cause.

In addition to private respondent Badon's woes, she was dismissed without due process for she was not given ample opportunity to be heard and defend herself from the charges hurled against her. While she was given a termination letter on June 14, 2007, the effectivity of her dismissal was on June 16, 2007, barely two (2) days after her receipt thereof. Undoubtedly, it cannot be said to have complied with the requirements of due process nor a substantial compliance with the notice requirement of the law. Thus, private respondent Badon was whimsically dismissed.

In termination cases, the burden of proof rests upon the employer to show that the dismissal is for just and valid cause, failure to do so would necessarily mean that the dismissal was illegal.[11] Petitioner La Salle failed to discharge this burden.

Anent the award of separation pay and attorney's fees, it is a jurisprudentially embedded rule in illegal dismissal cases to award separation pay when reinstatement is no longer feasible due to strained relationship between the employer and employee. Similarly, under Article III of the Labor Code, ten percent (10%) of the total monetary award may be awarded by way of attorney's fees. The award of attorney's fees is also justifiable under Article 2208 (7) of the Civil Code, hence, public respondent NLRC did not commit grave abuse of discretion in awarding

the same.

WHEREFORE, premises considered, the assailed decision dated March 12, 2009 and resolution dated September 8, 2009 of public respondent NLRC in NLRC LAC Case No. 04-001269-08, NLRC Case No. NCR-06-06119-07 are hereby AFFIRMED.

SO ORDERED.

Dimaampao, and Lopez, JJ., concur.

- [1] Rollo, pp. 3-29
- [2] Rollo, pp. 31-38
- [3] Rollo, pp. 41-44
- [4] Rollo, pp. 56-58
- [5] Rollo, p. 32 (Decision of NLRC dated March 12, 2009)
- [6] Rollo, pp. 156-162
- [7] Rollo, pp. 14-15
- [8] Rollo, p. 265
- [9] Cebu Marine Beach Resort vs. NLRC, 414 SCRA 173
- [10] University of Sto. Tomas vs. NLRC, 182 SCRA 371
- [11] Solidbank Corp. vs. CA, 409 SCRA 554

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.