

KAREN L. QUIJADA PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (7TH DIVISION), JOSE G. GUTIERREZ – LABOR ARBITER REGIONAL ARBITRATION BRANCH VII NATIONAL LABOR RELATIONS C...

Ponente: LOPEZ, J.

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LOPEZ, J.:

Before us is a Special Civil Action for Certiorari under Rule 65 of the Rules of Court assailing the Decision[1] of the National Labor Relations Commission (7[th] Division) dated 29 November 2012, and its Resolution[2] on the Motion for Reconsideration filed by the Petitioner.

FACTS

Petitioner, Karen Quijada (hereinafter “Quijada”) was, prior to her dismissal from employment, a Vault Custodian of the private respondent, RD Pawnshop Inc. (hereinafter “RD”) assigned at the latter’s branch located at 189 Colon Street, Cebu City.

Private respondent RD is a private corporation duly existing under Philippine laws, engaged in the pawnshop business, with its principal place of business at Gov. M.C. Cuenco Avenue, Banilad, Cebu City. Private respondents Estela G. Villaner (hereinafter “Villaner”), Cielo V. Carao (hereinafter “Carao”), and Chernna Algar (hereinafter “Algar”) are some of RD’s officers.

The facts that bring us to this present controversy are as follows:

Petitioner’s version

Private respondent RD Pawnshop first hired petitioner Quijada on December 1994. She had continuous employment with it until 2012.

On 4 April 2012 at around 8:30 o’clock in the morning, RD Pawnshop conducted a surprise audit at its Colon Branch where Quijada was the vault custodian. Quijada was made to account for the cash in the vault as well as the pledged items that were placed on it.

To Quijada’s great shock and surprise, she was apprised by RD’s Financial Audit manager, Ms. Joanne Diesca (hereinafter “Diesca”), that there was a cash shortage of the money in the vault as compared to the branch’s daily Cash Report.

According to Quijada, she was in disbelief, since the previous day, she knew that the cash in the vault tallied with the balance of the branch’s daily Cash Report. She then tried to scour the contents of the vault and found some other bills of money that were not yet included in Diesca’s initial count.

After bringing the additional bills to Diesca’s attention, Petitioner Quijada tried to find her own personal records of her monetary responsibility with the cash in the vault. She was surprised that these records consisting of the previous day’s Cash Report/Daily Report, and her own personal record that she placed on her desk were already

missing.

Diesca then informed petitioner that after her subsequent count, there was a shortage of P202,000.00.

Aghast over the sudden and unexplained loss of such a huge amount of money from the vault, Quijada tried to go over the contents of the vault to find out whether or not there was still some money that might have escaped the auditor's notice. This attempt proved futile, and Quijada had no other choice but to remain at her table while the auditor and other employees of RD continued in their audit.

At around 4:30 o'clock in the afternoon of 4 April 2012, Diesca had the petitioner sign some documents regarding the discovery of the shortage of funds. Fearing for her employment, petitioner Quijada signed the same, as she was left without any recourse.

At around 7:30 o'clock in the evening, private respondent Villaner met with petitioner, and asked her in the vernacular: what she will do with the situation; if she had any money to settle the shortage, and whether she had any relative who could help her with the settling of the said amount. Quijada replied that she did not also know how the shortage of money had happened and that she would try to seek the help of her aunt.

A little while thereafter, private respondent Villaner served a copy of a demand letter[3] for the shortage of the missing funds.

According to petitioner, Villaner then coerced her to write a handwritten reply letter[4] or else she would be turned over to the police authorities and sent to jail. Petitioner then had no other choice but to comply.

At the same time, private respondent Villaner also served a copy of a letter[5] dated 4 April 2012 purporting to be a Notice of Preliminary Investigation on the complainant that placed petitioner under preventive suspension from 5 – 20 April 2012. The said letter also informed petitioner that the hearing regarding the investigation of the incident would be on 9 April 2012 at 1:30 o'clock in the afternoon at RD Pawnshop's Legal Department Head Office.

Believing that she would be given a chance to explain her side, petitioner Quijada was shocked to be told by Villaner to remain at the premises to await the police. Petitioner asked why there would be a need to have the police come when she already signed the documents that were presented to her. Villaner replied that that was what RD's higher management wanted. At around 10 o'clock in the evening on 4 April 2012, policemen from Police Station 5 located near the Carbon Market came to the branch and took petitioner to their station.

At the police station, petitioner was booked and detained. Private respondents Algar and Carao, together with auditor Diesca were the ones who effected their so-called "citizen's arrest"[6].

Petitioner Quijada was detained for seven (7) days, from 4 April 2012 up to 11 April 2012 because of the intervening long Holy Week and holiday of Araw ng Kagitingan on 9 April 2012. She was only released on 11 April 2012 by virtue of a Release Order[7] dated 11 April 2012.

According to petitioner, her unjustified and unwarranted detention prevented her from attending the scheduled hearing on 9 April 2012 and deprived her of her right to be heard.

On 17 April 2012, petitioner's father received a letter dated 16 April 2012 denominated as another Notice of Preliminary Investigation[8] stating that: petitioner was allegedly presumed to be responsible for the loss of the missing amount; and noted her non-explanation despite notice of the initial hearing (this despite the fact that private respondent Villaner visited petitioner at the Carbon Police Station and was aware that she was detained and would be unable to be physically present at the scheduled hearing on 9 April 2012); re-scheduled another hearing on 20 April 2012 at 9 o'clock in the morning at RD's Legal Department Head Office.

Petitioner was in a quandary as to how she could attend the second scheduled preliminary investigation on 20 April 2012 in view of the fact that she was already unceremoniously placed in jail by RD's officers as well as the further fact that per initial Notice of Preliminary Investigation[9] dated 4 April 2012 she was still on preventive suspension on that day.

On 21 April 2012, or a day after the period of preventive suspension, petitioner reported for work at RD's Colon branch. However, she was prevented from entering the premises by a messenger of RD who told her that he was instructed by management and had sent her another letter extending her period of suspension.

On 22 May 2012, petitioner received on the same day, a copy of the letter dated 16 April 2012[10], a copy of the Notice of Extension of Suspension[11] signed by private respondent Villaner. The Notice stated that the her suspension was extended from 21 April 2012 up to 4 May 2012; and a letter[12] dated 27 April 2012 from RD's Executive Vice-President, Mr. Rene Vicente F. Miguel that informed her of her termination from employment.

On 24 April 2012, petitioner filed a Complaint against the private respondents with Branch No. VII of the Regional Arbitration of the NLRC. This case was docketed at NLRC RAB-VII Case No. 04-0608-12. She filed it on the basis of her claim that the private respondents illegally and constructively dismissed her from her employment.

Private respondents' version.

On the other hand, private respondents aver the following version of the facts:

The case at bar stemmed from the results of the regular audit conducted by the auditors of RD Pawnshop on the cash and pledged items under the exclusive custody of petitioner Quijada.

The auditors uncovered a shortage of cash in the amount of P202,000.00. As a result of the audit report, the Assistant Vice President for Operations, Ms. Estela G. Villaner, issued a demand letter for the petitioner to produce the missing funds. However, instead of offering a justification, petitioner issued a written acknowledgment[13] of the loss and promised to reimburse the company of the missing funds within a period of one (1) month.

After giving all the opportunity to the petitioner to explain her side and produce or justify the loss of the substantial amount, the audit team leader in her best judgment to protect the interest of the company effected a citizen's arrest on the petitioner with the assistance of the Carbon Police Station.

The petitioner was sent with a Notice of Preliminary Investigation scheduled on 9 April 2012, but when she was not able to post bail for the criminal aspect of the case, another Preliminary Investigation was scheduled on 20 April 2012, to give petitioner enough time to sort out her criminal case and prepare for the scheduled investigation.

Relative thereto, the Cebu City Prosecutor's Office, conducted an inquest proceeding and thereafter filed a Qualified Theft case against the petitioner before RTC branch 16 docketed as criminal case no. CBU-95529.

On 27 April 2012, after the lapse of seven (7) days without the petitioner presenting herself during the scheduled investigation and without any reply as to her failure to attend the hearing, the company had no choice but to issue the termination order citing Dishonesty as the basis thereof.

Thereafter, petitioner filed a case with the National Labor Relations Commission RAB VII citing as causes of action: illegal suspension, illegal dismissal, non-payment of overtime, non-payment of holiday pay, non-payment of separation pay, attorney's fees, moral and exemplary damages. According to respondents, petitioner however did not specify the relief sought in the complaint. The mandatory conferences were conducted on the 10[th] and

17[th] of May 2012.

After the termination of the mandatory conferences having no settlement arrived between the parties, the Honorable Labor Arbiter ordered the parties to submit their respective Position Papers on 11 June 2012.

On 18 June 2012, the Honorable Acting Executive Labor Arbiter Jose G. Gutierrez of the National Labor Relations Commission, RAB VII rendered his Decision[14] dismissing the case of lack of merit. The dispositive portion of which reads:

WHEREFORE, the foregoing premises considered, judgment is hereby rendered DISMISSING this case for lack of merit.[15]

On 29 November 2012, the Honorable National Labor Relations Commission, 7[th] Division (NLRC – VII) rendered its Decision¹⁶ affirming the Decision of the Honorable Labor Arbiter rendered on 18 June 2012, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing premises, the Decision rendered by the Labor Arbiter on 18 June 2012 is hereby AFFIRMED.[17]

On 14 March 2013, petitioner filed her Motion for Reconsideration, which was subsequently denied by the NLRC in a Resolution[18] dated 27 March 2013.

Hence this Petition.

ISSUES

Petitioner assigns the following issues for our consideration:

I.

THE HONORABLE COMMISSION GRAVELY ABUSED ITS DISCRETION IN AFFIRMING THE LABOR ARBITER'S DECISION WHEN IT HELD THAT PETITIONER HAD EXCLUSIVE ACCESS TO THE MONEY IN THE VAULT.

II.

THE HONORABLE COMMISSION GRAVELY ABUSED ITS DISCRETION IN AFFIRMING THE LABOR ARBITER'S DECISION, WHEN IT HELD THAT PETITIONER WAS NOT DENIED HER RIGHT TO DUE PROCESS.

III.

THE HONORABLE COMMISSION GRAVELY ABUSED ITS DISCRETION IN DENYING PETITIONER'S MONETARY CLAIMS.

OUR RULING

The petition is bereft of merit. We are in agreement that Petitioner Quijada was validly dismissed from employment.

Access to the money in the vault.

Petitioner maintains that public respondent NLRC erroneously found that she had exclusive access to the money inside the vault. According to her, no evidence points to the conclusion that she had exclusive access to the missing funds. She also cries that the penalty of dismissal imposed upon her was too harsh.

Private respondents also points out that petitioner was the only vault custodian in the branch and as such, she was responsible for the safekeeping of the company's funds and pledged items. The duties and responsibilities were

thoroughly explained to her and she signified her conformity to the task. The amount involved is very substantial, comprising more than 40% of the total funds in the branch at the time of the discovery of the missing funds. For respondents, petitioner's act of feigning ignorance and not bothering to provide any plausible explanation as to the loss of the money shows her recklessness and total lack of concern for the welfare of the company and the trust and confidence reposed on her. They also point out that the Cebu City Prosecutor's Office even found probable cause to indict the Petitioner for the crime of Qualified Theft.

In this case, we note that the public respondent did not categorically rule that petitioner had exclusive access to the vault. Rather, the NLRC found that petitioner held a position of requiring utmost fidelity from her employer.

We agree with the NLRC.

Under Article 293 (formerly Article 279) of the Labor Code[19], an employer shall not terminate the services of an employee except only for a just or authorized cause. A dismissal not anchored on a just or authorized cause is considered illegal and it entitles the employee to reinstatement or in certain instances, separation pay in lieu thereof, as well as the payment thereof.

Article 296 (c) of the same Code codifies the just causes of termination, among which is the employer's loss of trust and confidence in its employee, the ground cited by RD Pawnshop in dismissing the petitioner.

Loss of trust and confidence will validate an employee's dismissal only upon compliance with certain requirements, namely: (1) the employee concerned must be holding a position of trust and confidence; an (2) there must be an act that would justify the loss of trust and confidence.[20]

In *Bristol Myers Squibb (Phils.), Inc. v. Baban*,[21] the Court discussed the requisites for a valid dismissal on the ground of loss of trust and confidence:

It is clear that Article 282(c) of the Labor Code allows an employer to terminate the services of an employee for loss of trust and confidence. The right of employers to dismiss employees by reason of the loss of trust and confidence is well established in jurisprudence.

The first requisite for dismissal on the ground of loss of trust and confidence is that the employee concerned must be one holding a position of trust and confidence. Verily, we must first determine if respondent holds such a position.

There are two (2) classes of positions of trust. The first class consists of managerial employees. They are defined as those vested with the powers or prerogatives to lay down management policies and to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees or effectively recommend such managerial actions. The second class consists of cashiers, auditors, property custodians, etc.

They are defined as those who in the normal and routine exercise of their functions, regularly handle significant amounts of money or property.

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The second requisite is that there must be an act that would justify the loss of trust and confidence. Loss of trust and confidence to be a valid cause for dismissal must be based on a willful breach of trust and founded on clearly established facts. The basis for the dismissal must be clearly and convincingly established but proof beyond reasonable doubt is not necessary.[22]

Thus, the first question to be addressed is whether Quijada held a position of trust and confidence. In previous cases, the following positions were classified under the second class of holders of positions of trust and confidence: a pharmaceutical company's district manager employed to handle pharmaceutical products for

distribution to medical practitioners and sale to drug outlets,[23] a bank manager,[24] and an employee tasked with purchasing supplies and equipment.[25] The position of a contract claims assistant tasked with monitoring enforcement of contracts involving large sums of money was also classified to be analogous to this second class of holders of positions of trust and confidence.[26] A service attendant, who was tasked to attend to dining guests, handle their bills and receive payments for transmittal to the cashier and was therefore involved in the handling of company funds, was also considered an employee occupying a position of trust and confidence.[27]

Petitioner Quijada was employed as the vault custodian of RD Pawnshop. The NLRC found that she was entrusted with the following functions:

1. Receive and release pledged items;
2. Act as a petty cash custodian;
3. Act as paymaster during the pay period;
4. Prepare and release cash to the cash teller, for daily transactions;
5. Perform such other duties and responsibilities as may be assigned to her;

We find no reason to doubt the findings of the public respondent since its findings were based on the fact that petitioner was entrusted with delicate matters that necessarily included the care and protection of her employer's property. Indeed, based on the standards set by previous jurisprudence, Quijada's position as vault custodian is analogous to the second class of positions of trust and confidence. Based on her job description, she, in the normal and routine exercise of her functions, regularly handles significant amounts of money or property.

Having addressed the nature of her position, the next question is whether the act complained of justified the loss of trust and confidence of Quijada's employer so as to constitute a valid cause for dismissal.

Loss of trust and confidence must spring from the voluntary or willful act, or by reason of some blameworthy act or omission on the part of the employee.[28] Here, the act that caused the loss of trust and confidence of RD in Quijada was the discovery of a shortage of cash in the amount of P202,000.00, which petitioner chose not to explain.

Based on the established facts and findings of the NLRC and the Labor Arbiter, during the cash count conducted by private respondent's internal audit department, the funds under her custody was short of P202,000.00. Petitioner however offered no single explanation despite the repeated notices given by RD. She merely, admitted the shortage, and offered to settle the amount involved in a month's time.

The foregoing is sufficient ground for the loss of trust and confidence of RD on petitioner. In fact, in dismissing a cashier on the ground of loss of confidence, jurisprudence tells us that it is sufficient that there is some basis for the same or that the employer has a reasonable ground to believe that the employee is responsible for the misconduct, thus making [her] unworthy of the trust and confidence reposed on [her].[29] If there is sufficient evidence to show that the employer has ample reason to distrust the employee, the labor tribunal cannot justly deny the employer the authority to dismiss [her].[30]

In this case, it was enough that RD had a reasonable ground to believe that petitioner was responsible for the shortage and that she was unworthy of the trust and confidence in her. To repeat, petitioner offered no explanation whatsoever as to the missing funds. In the words of the Supreme Court:

... As a rule this Court leans over backwards to help workers and employees continue in their employment. We have mitigated penalties imposed by management on erring employees and ordered employers to reinstate workers who have been punished enough through suspension. However, breach of trust and confidence and acts of dishonesty and infidelity in the handling of funds and properties are an entirely different matter.[31]

It is therefore immaterial that according to petitioner's unsubstantiated allegation, she was surprised by the discovery of the loss of funds. The fact remains that there was an undisputed shortage in the vault entrusted to her. At the very least, petitioner was negligent. Whatever it was, she failed to meet the degree of fidelity demanded of her. Her utter failure to give any explanation at all regarding the cash shortage gave RD sufficient reason to lose confidence in her. Indeed, it would be most unfair to require an employer to continue employing a person whom it reasonably believes is no longer capable of giving full and wholehearted trustworthiness in the stewardship of company funds.

Thus, we find no grave abuse of discretion on the part of public respondent NLRC.

Petitioner's reliance on Section 12 of Article III of the 1987 Constitution in undermining the admissibility of the evidence presented by the respondent is utterly mistaken.

In the case of *Manuel, et.al vs. NC Construction Supply*[32] the Supreme Court aptly ruled:

We also reject petitioners' argument that said admission is inadmissible as evidence against them under Section 12 Article III of the 1987 Constitution. The right to counsel under Section 12 of the Bill of Rights is meant to protect a suspect in a criminal case under custodial investigation. Custodial investigation is the stage where the police investigation is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect who had been taken into custody by the police to carry out a process of interrogation that lends itself to elicit incriminating statements. It is when questions are initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. The right to counsel attaches only upon the start of such investigation. Therefore, the exclusionary rule under paragraph (3) Section 12 of the Bill of Rights applies only to admission made in a criminal investigation but not to those made in an administrative investigation.

Petitioner's cry of a harsh penalty fails to persuade. The case of *Janssen Pharmaceutical*[33] is not in all fours with her predicament. In the said case and in similar other cases, the Supreme Court ruled in favor of the employee because the latter admitted the infractions, communicated with the employer, offered plausible explanations, or acted in good faith.[34] Here, petitioner merely admitted the loss of the money but proffered no explanation. Even the Cebu City prosecutor's office found probable cause to indict petitioner for the crime of Qualified Theft.

Petitioner was accorded procedural due process.

Petitioner argues that the public respondent erred in finding that the sending of notices to the petitioner already sufficed to satisfy the due process requirement. According to petitioner, RD scheduled the investigative hearing on 9 April 2012, while she was incarcerated, to prevent her from airing or presenting evidence on her behalf. For her, RD's belated attempt to re-schedule another hearing on 20 April 2012 was a feeble attempt to correct the initial deprivation of her right to due process since according to her, the second scheduled hearing was set on a day when the petitioner was still on preventive suspension.

Private respondent on the other hand maintains that the truth of the matter is, that when the respondents learned that Petitioner was still incarcerated and she has not obtained temporary liberty, it re-scheduled the Preliminary Investigation to 20 April 2012, to give time for the posting of bail bond and to prepare for the administrative investigation.

We find that that the evidence on record supports the defense of private respondents.

According to the NLRC:

In effecting petitioner's termination from employment based on loss of trust and confidence, petitioner was

duly notified of the charges against her and given the opportunity to be heard through the memoranda requiring her to submit a written explanation thereto. Administrative hearings were subsequently conducted, with complainant being made fully aware of them and her participation prompted, with the assistance of her counsel. However, she opted not to participate therein and/or explain her side of the controversy. Eventually, a termination letter was sent to her.[35]

We agree. The records reveal that petitioner was sent two Notices of Preliminary Investigation. The first Notice[36] asked petitioner to explain in writing. It also asked her to be present at the investigation on 9 April 2012. The second Notice[37] dated 16 April 2012, again asked petitioner to explain in writing why no administrative sanction should be meted on her. It also informed her that an investigation was going to be conducted in the morning of [20 April 2012]. The foregoing pieces of evidence buttress private respondent RD's averment that the company rescheduled the preliminary investigation to [20 April 2012] in order to give petitioner time to explain since she was still incarcerated on the first scheduled day of investigation.

It baffles us why petitioner neither submitted a written explanation nor did she participate in the rescheduled investigation, when as admitted by her, she was already released from incarceration on 11 April 2012. Petitioner in fact admitted that her father received the second Notice of Preliminary Investigation on 17 April 2012. Neither did the preventive suspension hinder her from explaining her side since the imposition of such did not ban her from attending the investigations. Crystal clear from the Notices sent to her is the invitation to attend the scheduled investigations.

Preventive suspension is not a penalty in itself. It is merely a measure of precaution so that the employee who is charged may be separated, for obvious reasons, from the scene of his alleged misfeasance while the same is being investigated.[38] The implementing rules of the Labor Code in fact allows the employer to place the worker concerned under preventive suspension if [her] continued employment poses a serious and imminent threat to the life or property of the employer or of his co-workers.[39]

Based on the foregoing, it is therefore very clear that petitioner was accorded procedural due process despite her non-participation. Due process is satisfied, not under the indispensability of an actual full-blown hearing, but by the mere opportunity to be heard.[40] She was given a notice of the charge against her, an ample opportunity to be heard, and a notice of termination.[41]

Money claims

Anent the foregoing, we find that petitioner's monetary claims deserve scant consideration. As aptly ruled by the public respondent NLRC:

Complainant's monetary claims are wanting in legal and factual basis. To note, it involves:

- 1) underpayment (relative to her alleged no noon break);
- 2) non-payment of overtime pay, holiday pay and separation pay;
- 3) moral and exemplary damages;
- 4) attorney's fees.

Notably, complainant did not anymore pursue her claims for underpayment and holiday pay in her appeal. Having abandoned the same, there is no plausible reason to disturb the findings of the then Acting Executive Labor Arbiter on the matter.

Anent her claims for separation pay, moral and exemplary damages, as well as attorney's fees, their legal standing are dependent on the merits of complainant's [herein petitioner] imputed illegal dismissal. With the finding that such dismissal is valid, these claims must fail for having no legal leg to stand on.

Lastly, the overtime pay claimed by [petitioner] is wanting in substantiation. Entitlement to overtime pay must first be established by proof that said overtime work was actually performed, before an employee may avail of said benefit.[42] It is a basic rule in evidence that each party must prove his affirmative allegations. So far, [petitioner] has not shown any concrete proof of the number of days and hours when she was suffered to work beyond eight (8) hours, to entitle her to overtime pay. Hence, such claim doesn't hold water.[43]

WHEREFORE, the Petition for Certiorari is DENIED. The Decision of Public Respondent NLRC, promulgated on 29 November 2012, and its Resolution on the Motion for Reconsideration, dated 27 March 2013, are AFFIRMED.

SO ORDERED.

Ingles, G.T. Chairperson., and Lagura-Yap, M.B., JJ., concur.

[1] Rollo, pp. 28-36

[2] Rollo, pp. 38-42

[3] Rollo, p.62

[4] Rollo, p.63

[5] Rollo, p.64

[6] Rollo, p.65

[7] Rollo, p.66

[8] Rollo, p.67

[9] Rollo, p.64

[10] Rollo, p.67

[11] Rollo, p.68

[12] Rollo, p.69

[13] Rollo, p.63

[14] Rollo, pp. 72-83

[15] Rollo, p.83

[16] Rollo, pp.28-36

[17] Rollo, p.35

[18] Rollo, pp.96-100

[19] Renumbered by Republic Act No. 10151 entitled "An Act Allowing the Employment of Night Workers, Thereby Repealing Articles 130 and 131 of Presidential Decree No. Four Hundred Forty-Two, As Amended, Otherwise Known as the Labor Code of the Philippines.

[20] Philippine Plaza Holdings, Inc. v. Ma. Flora M. Episcopo, G.R. No. 192826, February 27, 2013; Alvarez vs. Golden Tri Bloc Inc., G.R. No. 202158, September 25, 2013.

- [21] G.R. No. 167449, December 17, 2008.
- [22] Citations omitted; Emphases supplied.
- [23] Bristol Myers Squibb (Phils.), Inc. v. Baban, *supra*
- [24] Lopez v. Keppel Bank Philippines, Inc., G.R. No. 176800, September 5, 2011.
- [25] Santos v. Shing Hung Plastics, Co., Inc., G.R. No. 172306, September 29, 2008.
- [26] Abel v. Philex Mining Corporation, G.R. No. 178976, July 31, 2009.
- [27] Philippine Plaza Holdings, Inc. v. Episcope, G.R. No. 192826, February 27, 2013.
- [28] The Coca-Cola Export Corporation v. Gacayan, G.R. No. 149433, June 22, 2011; Bluer Than Blue Joint Ventures vs. Esteban, G.R. No. 192582, April 7, 2014.
- [29] Cañeda vs. Philippine Airlines, G.R. No. 152232, February 26, 2007.
- [30] *ibid*
- [31] San Miguel Corporation v. NLRC, 213 Phil. 168 (1984) cited in Cañeda vs. Philippine Airlines, G.R. No. 152232, February 26, 2007.
- [32] G.R. No. 127553, November 28, 1997.
- [33] *id...* G.R. No. 172528, February 26, 2008.
- [34] see Bluer Than Blue Joint Ventures vs. Esteban, G.R. No. 192582, April 7, 2014;
- [35] Rollo, p.35
- [36] Rollo, p.64
- [37] Rollo, p.67
- [38] Fidencia Y. Beja, Sr. vs. Court of Appeals, G.R. No. 97149, 31 March 1992; Globe-Mackay Cable and Radio Communication v. NLRC, 206 SCRA 701 (1992); Philippine Airlines vs. NLRC, G.R. No. 114307, July 8, 1998.
- [39] Sections 8 Rule XXIII, Implementing Book V of the Omnibus Rules Implementing the Labor Code:
- SEC. 8. Preventive suspension. – The employer may place the worker concerned under preventive suspension if his continued employment poses a serious and imminent threat to the life or property of the employer or of his co-workers.
- [40] Alcantara vs. PCIB, G.R. No. 151349, 20 October 2010.
- [41] New Puerto Commercial, et. al. vs. Lopez, et.al. G.R. No. 169999, 26 July 2010.
- [42] Lagatic vs. NLRC, G.R. No. 121004. January 28, 1998; Serrano vs. Galant Maritime Services, G.R. No. 167614, March 24, 2009.
- [43] Rollo, pp.41-42.

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