

CECILIA B. LAPIRA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (2ND DIVISION), ASIAN MARITIME INSTITUTE OF MARITIME STUDIES (AIMS) AND ARLENE ABUID PADERANGA, RESPONDENTS.

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

Assailed in this Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure are the Resolutions issued by the Second Division of public respondent National Labor Relations Commission in NLRC LAC No. 03-001075-13, viz: (a) the Resolution[1] dated May 23, 2013, which reversed the Decision[2] dated February 8, 2013 of Labor Arbiter Remedios L.P. Marcos in NLRC NCR Case NO. 07-10075-12[3] which in turn granted petitioner Cecilia Lapira's Complaint for illegal dismissal; and (b) the Resolution[4] dated June 28, 2013 which denied her motion for reconsideration of the May 23, 2013 Resolution.

The Facts

Petitioner Cecilia Lapira ("Lapira") had been a regular faculty member of private respondent Asian Institute of Maritime Studies ("AIMS") for about fifteen (15) years.[5] Aside from being a faculty member, she also held various other positions in AIMS such as property management officer, lecturer, and Deputy for Administration Philippine Coast Guard Auxiliary Squadron, 129[th] Squadron.[6]

On November 2, 2011, Lapira received a Memorandum dated October 28, 2011 from Marites C. Avance ("Avance"), Director of the Human Resources Division ("HRD") of AIMS,[7] stating that she would be preventively suspended for thirty (30) days while under investigation for serious acts of misconduct.[8] This prompted Lapira to approach Commander Fernando P. Abuid ("Abuid"), the Vice President for Administration and source of the memorandum, to ask for a copy of the complaint lodged against her.[9]

On November 9, 2011, Lapira received another Memorandum from Avance, which charged her with an offense against integrity with a penalty of dismissal.[10] Lapira filed a written explanation concerning both memoranda, stating that she had never received any oral or written complaint from the students nor their parents, and denying having been involved in any offense related to money and integrity in her fifteen (15) years of service in AIMS.[11]

Later on, Lapira received a Memorandum dated January 24, 2012, suspending her for five (5) days effective immediately with a warning that a penalty of dismissal would be imposed if she would be proven guilty in the future of another offense regarding integrity.[12] Lapira suspected that the issuance of the Memorandum was just a plot concocted by private respondents to pave the way for her dismissal without circumventing the requirements of due process.[13] She further posited that she could not even recall any complaint filed by any student or parent against her, and that there was no formal investigation conducted by the appropriate body at AIMS.[14] Lapira added that she could only recall having been part of a meeting held on November 22, 2011 at the office of the HRD along with other officers of the school, during which she was directed to prepare five (5) instruction guides

for the Math and Drawing subjects, and three hundred (300) examination questionnaires.[15] According to her, except for the presence of the administration officers, no minutes of the meeting was recorded. She asserted that she was not notified during the meeting that she was under administrative investigation or that a complaint had been lodged against her.[16]

Aggrieved, Lapira approached Arlene Paderanga ("Paderanga"), AIMS' school president and individual respondent in this case. Paderanga supposedly informed her that there was no investigation conducted. Lapira argued that since there was no investigation, the suspension order of five (5) days was illegal. Paderanga refused to respond to such contention and just told Lapira that she will look into the matter.[17] Consequently, Ronel M. Gillesania ("Gillesania"), the Academic Director of AIMS, issued a Memorandum dated February 29, 2012 which required Lapira to submit a written explanation on the claims of some students regarding her improper conduct. Lapira tendered her written explanation.[18]

On June 4, 2012, a Notice of Resolution was issued by Avance (noted by Abuid) directing Lapira's immediate dismissal. Her salary as of the time of her dismissal was P28,160.00 per month.[19]

Private respondents, on the other hand, affirmed that they hired Lapira on June 16, 1997 as a part-time faculty member, and that she was assigned administrative duties which eventually earned her the status of being a monthly paid faculty member. They also acknowledged that Lapira received numerous awards during its Foundation Day celebrations,[20] and that she was granted regular employment status after she received her degree of Master of Arts in Education, Major in Educational Management, from the Pamantasan ng Lungsod ng Pasay in 2006.[21]

In May 2008, Lapira was linked to an incident known as the "Lemery Outing Investigation" while she was then the Head of Property Management Office. Despite the President's disapproval of the outing, according to private respondents, she still proceeded with the trip using the company vehicle and the personal vehicle of the Vice President for Administration without the latter's prior approval. For this, she was charged with grave abuse of discretion, neglect of duty, loss of trust and confidence and lack of foresight and judgment. The Human Resource and Development Office ("HRDO") investigated the incident and found Lapira guilty of the offense, and penalized her with a five-day suspension. Such incident became part of Lapira's record with AIMS.[22]

In November 2011, the HRDO was informed of another incident regarding unauthorized collection of payments from students, involving Lapira and another teacher, Engr. Danilo Patacsil ("Patacsil"), who were then both faculty members of the Marine Engineering Department. The HRDO conducted an investigation and issued a Memorandum to Lapira apprising her of the charge. In turn, Lapira sent a letter explanation dated November 17, 2011 addressed to the HRD Director. The HRDO then issued Lapira a Notice of Hearing scheduled on November 22, 2011.[23]

During the hearing, Lapira said that Patacsil was going to hold an off-campus training which required a fee from those who want to join. Lapira affirmed that she dealt with a student looking for Patacsil while he was out of the office. She advised the student that he could leave the payment with her and that she would issue an acknowledgment receipt. In short, she facilitated a transaction involving money in behalf of Patacsil. After reviewing the facts of Lapira's case, the Investigating Panel unanimously found that she failed to observe protocol in dealing with payments concerning trainings, taking into consideration her knowledge of the procedure of the school and the length of service she had rendered.[24]

In order to prevent any controversy, AIMS made it clear to its employees that no employee should directly transact with students in receiving payments and that all such payments must be coursed through the Finance Office. Since Lapira admitted that she facilitated a transaction with a student despite knowledge of the mentioned

protocol, she was ordered suspended for five (5) working days with a warning that any future infraction involving an offense related to integrity would necessitate the imposition of dismissal from service, if she would be adjudged guilty.[25] The Notice of Resolution dated January 24, 2012 was served and received by petitioner Lapira.[26]

On April 23, 2012, the HRDO received an endorsement from the Academic Director's Office to resolve and investigate new charges of unauthorized payment collection against Lapira. The allegation was based on a statement made by a student named Ace Joseph V. Manalo ("Manalo") through the Customer Concerns Form, which detailed that he paid P1,500.00 to pass the subject "Draw 222 L2" then being handled by Lapira. Manalo further identified Patacsil as the middleman who facilitated the transaction in Lapira's behalf. Despite the said payment, Manalo still failed the subject.[27]

Alexander S. Dimalaluan, the Quality Assurance Department Head who handles the processing of Customer Concerns Form,[28] confirmed the imputation against Lapira. The case was then forwarded to Gillesania, the Academic Director, as the personnel involved is under his office's jurisdiction. Gillesania conducted further inquiry and was able to gather written statements of other students who reported that they knew of the incident of unauthorized payments in exchange for a passing grade. Moreover, a review of a previous Summary Result of Exit Interview conducted for the graduating students of BS Marine Engineering revealed instances of unauthorized payment collection.[29]

On February 9, 2012 the Academic Director's Office sent a Memorandum to Lapira, requiring her to submit a written explanation with regard to the serious charges of unauthorized collection. She submitted her written explanations dated March 15, 2012 and April 12, 2012, denying all the accusations, but without submitting evidence to support her denial.[30]

In order to resolve the foregoing case, the Investigation Panel composed of the HRD Unit Head, the HRD Director, the Academic Director and the Vice President for Administration, was convened. Two (2) of the student-complainants willingly executed notarized affidavits to prove the truthfulness of their statements.[31] The identities of the student-complainants were protected to safeguard them against possible retaliation from Lapira and her colleagues who happen to be members of the faculty as well.[32] After a review of all documents and evidence presented, the Investigation Panel found Lapira guilty of giving grades to students not based solely on scholastic performance. Pursuant to the Manual of Regulations for Private Higher Education of 2008, such act constituted grave misconduct. Based on the AIMS Employee Handbook, offenses against integrity by committing an act that brings to question the positive values and morals of the employee to the detriment of the school's image would merit a penalty of dismissal.[33]

On June 4, 2012, the HRDO, guided by the decision of the Investigating Panel, issued to Lapira the Notice of Resolution and the Notice of Termination of Service. She accepted the Notice of Resolution but refused to sign the Notice of Termination of Service.[34]

On July 27, 2012, private respondent AIMS received a copy of the Summons to appear before Labor Arbiter Remedios L.P. Marcos for mandatory conciliation/mediation conference based on Lapira's Complaint.[35] As they failed to arrive at an amicable settlement, the Labor Arbiter required both parties to submit their respective Position Papers and other pleadings.

The Labor Arbiter's Decision

On February 8, 2013, the Labor Arbiter rendered a Decision in favor of Lapira, holding that AIMS failed to prove by substantial evidence that Lapira committed grave misconduct and unauthorized collection of payments. The dispositive portion of the Labor Arbiter's Decision states:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

- 1) Declaring complainant Cecilia B. Lapira to have been illegally dismissed from employment;
- 2) Ordering respondents Asian Institute of Maritime Studies and Arlene Abuid Paderanga to jointly and severally pay complainant Cecilia B. Lapira the following:
 - a) backwages from date of her illegal dismissal on June 4, 2012 up to finality of this decision, which is provisionally computed as of the date of this decision in the amount of P230,067.20; and
 - b) separation pay of one month pay for every year of service or in the amount of P450,560.00.

All other claims are dismissed for lack of merit.

SO ORDERED."[36]

Private respondents appealed the Decision of the Labor Arbiter with the National Labor Relations Commission ("NLRC"), seeking for its reversal.

The NLRC Decision

On May 23, 2013, the NLRC issued a Resolution which reversed the Decision of the Labor Arbiter and dismissed Lapira's complaint. It held that the affidavits submitted by the student-complainants are more credible and should be given more weight compared to the general denial of Lapira which was unsubstantiated by evidence. The NLRC added that Lapira could have presented an affidavit by Engr. Patacsil to refute the allegations of the student-complainants but she failed to do so. It further ruled that private respondents observed procedural due process before dismissing Lapira, because she was served with Memoranda informing her of the serious acts of misconduct imputed against her, given an opportunity to be heard, and issued with the Notice apprising her of the verdict of the school, as well as the Notice informing her of her dismissal. The dispositive portion of the Resolution states:

"WHEREFORE, premises considered, the Appeal is hereby GRANTED. The Decision dated February 8, 2013 is hereby REVERSED. The Complaint dated July 4, 2012 is hereby DISMISSED for lack of merit.

SO ORDERED."

[37]

Aggrieved by the Resolution of the NLRC, Lapira filed a Motion for Reconsideration, which was denied in a Resolution dated June 28, 2013. On September 3, 2013, Lapira filed this Petition for Certiorari, praying for the reversal of the assailed NLRC Resolutions and further seeking for her reinstatement without loss of seniority rights, and the award of backwages and other damages.

The Issues

In urging the grant of this Petition for Certiorari, Lapira raised these six (6) issues:

"I.

THAT THE HONORABLE PUBLIC RESPONDENT NLRC HAD COMMITTED PALPABLE ERROR, GRAVE ABUSE OF DISCRETION AND ARBITRARINESS WHEN IT MISAPPRECIATED AND MISAPPLIED THE FACTS AND PIECES OF EVIDENCE VIS-À-VIS THE LAW AND EXISTING JURISPRUDENCE ON THE MATTER WHEN IT REVERSED THE DECISION OF THE HONORABLE LABOR ARBITER A QUO AND DISMISSED THE COMPLAINT FOR ILLEGAL DISMISSAL.

II.

THAT THE DECISION OF THE HONORABLE PUBLIC RESPONDENT NLRC IN RULING THAT THE COMPLAINANT WAS CHARGED AND WAS FOUND GUILTY FOR GIVING A GRADE TO A STUDENT NOT BASED SOLELY ON SCHOLASTIC PERFORMANCE OR ACCEPTING MONEY IN

EXCHANGE FOR PASSING GRADES IS CLEARLY CONTRARY TO THE EVIDENCE ADDUCED BY THE PETITIONER AND IN FACT, IS TAINTED WITH PALPABLE ERROR, GRAVE ABUSE OF DISCRETION AND ARBITRARINESS.

III.

THAT THE DECISION OF THE HONORABLE PUBLIC RESPONDENT NLRC TO THE EFFECT THAT THE PRIVATE RESPONDENTS WERE ABLE TO PRESENT SUBSTANTIAL EVIDENCE IS TAINTED WITH PALPABLE ERROR, GRAVE ABUSE OF DISCRETION AND ARBITRARINESS.

IV.

THAT THE HONORABLE PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT THE PRIVATE RESPONDENTS HAVE OBSERVED THE PROCEDURAL DUE PROCESS IN DISMISSING THE HEREIN PETITIONER.

V.

THAT THE DECISION OF THE HONORABLE PUBLIC RESPONDENT NLRC DISMISSING PETITIONER'S ILLEGAL DISMISSAL CASE CONTRADICTS RELEVANT JURISPRUDENCE AND IT IS TAINTED WITH PALPABLE ERROR, GRAVE ABUSE OF DISCRETION AND ARBITRARINESS.

VI.

THAT THERE IS NO APPEAL OR ANY PLAIN SPEEDY AND ADEQUATE REMEDY IN THE ORDINARY COURSE OF LAW OTHER THAN THIS PETITION."[38]

The Court's Ruling

The instant petition is devoid of merit.

The general rule is that in the review of an NLRC decision through a special civil action for certiorari, the resolution is confined only to issues of jurisdiction and grave abuse of discretion on the part of the labor tribunals. It is, in short, not for the appellate court to re-examine conflicting evidence, reevaluate the credibility of witnesses nor substitute the findings of fact of an administrative tribunal which has gained expertise in its specialized field,[39] as these are clearly beyond the ambit of a certiorari petition[40] However, when the decisions of the Labor Arbiter and the NLRC contradict each other, and either of these decisions is not supported by substantial evidence that is found in the records,[41] as in the case at bar, the Court must of necessity examine the record and the evidence presented to determine which should be preferred as more conformable with the evidentiary facts.[42]

In illegal dismissal cases, the employer has the burden of proving that the dismissal is for a just or valid cause provided by law and that the employee is afforded an opportunity to be heard. The valid causes for termination of employment, on one hand, are enumerated under Article 282,[43] 283[44], and 294[45] of the Labor Code. "Opportunity to be heard," on the other hand, requires the employer to comply with the twin requirements of two notices and hearing. The first notice apprises the employee of the particular acts or omissions for which his dismissal is sought, while the second notice informs the employee of the employer's decision to dismiss him.[46] The requirement of a hearing is complied with as long as there was an opportunity to be heard, and not necessarily that an actual hearing was conducted.[47] In this case, private respondent complied with all the requisites for valid termination of Lapira's employment.

It is undisputed that Lapira was dismissed on the ground of serious misconduct, which is one of the just causes for termination of employment under Article 282 of the Labor Code, as amended.

Misconduct has been defined as improper or wrong conduct; it is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and

not mere error of judgment. The misconduct to be serious must be of such grave and aggravated character and not merely trivial and unimportant. Such misconduct, however serious, must nevertheless be in connection with the employee's work to constitute just cause for his separation.[48] For serious misconduct to be a just cause for dismissal of an employee, the following requisites must be established: (1) it must be serious; (2) it must relate to the performance of the employee's duties; and (3) it must show that the employee has become unfit to continue working for the employer. In the case at bar, We find that the NLRC correctly ruled that private respondents were able to prove by substantial evidence all the requisites for a valid termination of Lapira's employment.

With regard to the first requisite, her misconduct could be considered serious as it violated Section 107 of the Manual of Regulations for Private Higher Education (2008) promulgated by the Commission on Higher Education (CHED) which provides that: "The final grade or rating given to a student should be based solely on his scholastic performance in any subject/course..."[49] Indeed, accepting monetary consideration from students in exchange for a passing grade is reprehensible especially in an academic institution. More so, conniving with another teacher in the school to act as a middleman entails a higher degree of graveness of the offense because it reveals that there was actually a conspiracy, making clear the real intent of Lapira to be an instrument of corruption in the faculty.

As to the second requisite that the behavior must relate to the performance of the employee's duties, Lapira's act of accepting monetary consideration from her students to obtain a passing grade is directly related to her duties because she was their teacher in the subject DRAW 222 L2 (ME 22-C1). Because Lapira is a member of the faculty of the school, her misconduct woefully reflected on her values and integrity as a teacher.

The third requisite is also present in that Lapira has become unfit to continue working for AIMS. The gravity of the offense, aside from her previous disciplinary cases, warranted AIMS' decision to finally terminate her employment. If the administration of AIMS could no longer trust her with a teaching load and any of the essential duties in the school, AIMS should not be forced to retain her despite her long years of service. It is noteworthy that the incident involving the grant of a passing grade in exchange for money was not the first offense Lapira was found guilty of. She had been previously sanctioned for using a school vehicle without permission and for pushing through with an outing not approved by the management. She also admitted that she had accepted the payment of a student for a training program which was only supposed to be transacted with the Finance Office of AIMS. Finally, the cause of Lapira's dismissal in this case underscored her propensity for violating the school's principles and established protocol. In *Merin v. MRC*,[50] the Supreme Court ruled that in determining the sanction imposable on an employee, the employer may consider the former's past misconduct and previous infractions, thus:

"The totality of infractions or the number of violations committed during the period of employment shall be considered in determining the penalty to be imposed upon an erring employee. The offenses committed by petitioner should not be taken singly and separately. Fitness for continued employment cannot be compartmentalized into tight little cubicles of aspects of character, conduct and ability separate and independent of each other. While it may be true that petitioner was penalized for his previous infractions, this does not and should not mean that his employment record would be wiped clean of his infractions. After all, the record of an employee is a relevant consideration in determining the penalty that should be meted out since an employee's past misconduct and present behavior must be taken together in determining the proper imposable penalty. Despite the sanctions imposed upon petitioner, he continued to commit misconduct and exhibit undesirable behavior on board. Indeed, the employer cannot be compelled to retain a misbehaving employee, or one who is guilty of acts inimical to its interests. It has the right to dismiss such an employee if only as a measure of self-protection."

In light of Lapira's acts of serious misconduct, the totality of infractions doctrine warranted AIMS' decision to dismiss her from employment. Taken collectively, her actions reinforced the school's judgment, arrived at after

thorough investigation, that she was no longer fit to be part of the faculty and that AIMS can not be expected to maintain her in its employ despite her service of her previous penalties.

Equally settled is the rule that in illegal dismissal cases, the burden of proof is upon the employer to show that the employee's termination from service is for a just and valid cause. The employer's case succeeds or fails on the strength of its evidence and not on the weakness of that adduced by the employee, in keeping with the principle that the scales of justice should be tilted in favor of the latter in case of doubt in the evidence presented by them. Often described as more than a mere scintilla, the quantum of proof is substantial evidence which is understood as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other equally reasonable minds might conceivably opine otherwise. Failure of the employer to discharge the foregoing onus would mean that the dismissal is not justified and therefore illegal.[51] In the case at bar, We find that private respondents have proven by substantial evidence their charge of serious misconduct against Lapira.

As can be gleaned from the records, AIMS submitted the notarized affidavits of two of its students, Baybaya[52] and Manalo[53], which were both supported by other documents such as the results of the exit essays[54] and the Customer Concerns Forms.[55] There were also affidavits[56] by three other students all substantiating the imputations against Lapira. Taken together, these pieces of evidence corroborate the validity of the charge. As opposed to the absence of affidavits or sworn statements by Lapira's own witnesses, the evidence attached by AIMS made the dismissal of Lapira from service just and legal.

To constitute a valid dismissal, the law further requires that the employee must be accorded due process, basic of which is the opportunity to be heard and to defend himself.[57] The employer is duty bound under the Implementing Rules of the Labor Code to issue notices to the employee in order to fulfill the requirement of procedural due process. Section 2, Rule XXIII, Book V thereof provides:

"Section 2. Standard of due process: requirements of notice.

– In all cases of termination of employment, the following standards of due process shall be substantially observed.

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

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

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

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

xxx."[58]

In the case at bar, private respondents have complied with the procedural due process requirements in termination of employment.

It should be noted that only a month after the imposition of five-day suspension on Lapira or on February 29, 2012, AIMS received information of another possible infraction by Lapira, prompting it to issue to her a Memorandum titled ADO-12-19.[59] The notice informed her of the alarming allegations of improper conduct made by previous students on their Exit Essays/Interviews, and asked her to explain. This Memorandum was followed by another one—ADO 12-22[60]—which attached Customer Concerns Forms related to the offense. Since

these notices notified her that students were complaining about her improper conduct of accepting money for a passing grade, she was adequately apprised of the particular acts subject of investigation. Such could lead to her dismissal, especially when she was previously warned that if she would be found guilty of another offense relating to integrity she would already be dismissed.

Asked to submit her written explanation, she filed her written explanation[61] to the first Memorandum (ADO-12-19) on March 15, 2012 denying the charges, her answer to Memorandum ADO 12-22, and her explanation letter[62] dated April 12, 2012, questioning the accusations, especially with regard to why there was a middleman who received the money and why the charges were made known to her late.

Verily, Lapira was given an opportunity to be heard by AIMS, even if there was no formal hearing that was conducted on the complaint against her for accepting money for a passing grade, unlike her previous case regarding the unauthorized collection of payment for a training program. Be that as it may, the HRDO still summoned for an interview[63] in order to discuss the circumstances surrounding her case, and she even mentioned in a note she wrote on the Memorandum ADO-12-19 that these interviews were held.[64]

There is also no question that AIMS gave notice to Lapira informing her of her dismissal. On June 4, 2012, a Notice of Resolution[65] was released finding Lapira guilty of the charge of receiving payment in exchange for a passing grade. On the same day, a Notice of Termination of Service[66] was issued, finally dismissing her from AIMS.

Given that all the requisites for procedural due process have been satisfied as discussed above, the dismissal of Lapira was therefore legal and must be affirmed.

Corollarily, an employee who has been dismissed due to any of the just causes under Article 282 of the Labor Code is not entitled to a separation pay. Section 7, Rule I, Book VI of the Omnibus Rules Implementing the Labor Code provides:

"Sec. 7. Termination of employment by employer. – The just causes for terminating the services of an employee shall be those provided in Article 282 of the Code. The separation from work of an employee for a just cause does not entitle him to the termination pay provided in the Code, without prejudice, however, to whatever rights, benefits and privileges he may have under the applicable individual or collective agreement with the employer or voluntary employer policy or practice." [67]

Since Lapira was dismissed by AIMS due to a just cause and with due process, she is therefore not entitled to payment of separation pay and backwages. Concededly, the Supreme Court have granted separation pay to a legally dismissed employee based on "equitable grounds" or "social justice." In order to claim separation pay due to either equitable grounds or social justice, however, it is required that the dismissal "(1) was not for serious misconduct; and (2) did not reflect on the moral character of the employee." [68] No such compelling reasons obtains in this case. To stress, Lapira was dismissed due to her serious misconduct unbecoming of an employee who was expected to uphold the integrity of the school. In addition, her dismissal was rooted on her adverse moral character as it went against the tenet of integrity and honesty which is expected from no less than a teacher, who is supposed to be a role model to students.

Finally, in the context of petitions for certiorari like the one at bench, grave abuse of discretion is understood to be such capricious and whimsical exercise of jurisdiction as is equivalent to lack of jurisdiction.[69] It is tantamount to an evasion of a positive duty or to virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility.[70] Lapira has miserably failed to demonstrate the grave abuse of discretion she imputes against the NLRC in issuing the assailed resolutions.

WHEREFORE, premises considered, the instant petition is DISMISSED for lack of merit. The assailed Resolutions dated May 23, 2013 and June 28, 2013 of the public respondent National Labor Relations Commission in NLRC LAC No. 03-001075-13, STAND.

SO ORDERED.

Rosario, and Dimagiba, JJ., concur.

[1] Rollo, pp. 47-59.

[2] Id., pp. 28-43.

[3] Id., pp. 66-76.

[4] Id., pp. 61-62.

[5] Id., pp. 4, 6, 28.

[6] Id., pp. 4, 6-7, 28-29.

[7] Id., pp. 4, 7, 29.

[8] Id.

[9] Id.

[10] Id.

[11] Supra note 1, p. 29.

[12] Id., pp. 5, 7, 29.

[13] Id.

[14] Id.

[15] Id., pp. 8, 30.

[16] Id.

[17] Id.

[18] Id.

[19] Supra note 1, pp. 4-7, 31.

[20] Id., p. 31.

[21] Id.

[22] Id.

[23] Id., p. 31-32.

[24] Id., p. 32.

[25] Id.

[26] Id., pp. 5, 7, 29, 32.

[27] Id., p. 33.

[28] The procedure institutionalized by AIMS in addressing customer complaints

[29] Supra note 1, p. 33

[30] Id.

[31] Id., p. 33, 136-138, 180-182, 306-308.

[32] Id., p. 34.

[33] Id.

[34] Id.

[35] Id., p. 210.

[36] Id., pp. 42-43.

[37] Id., p. 57.

[38] Id., pp. 9-10.

[39] German Machineries Corporation vs. Endaya, G.R. No. 156810, November 25, 2004, citing ComSavings Bank vs. National Labor Relations Commission, 257 SCRA 307, 317

[40] Id.

[41] Id.; Mayon Hotel and Restaurant v. Adana, G.R. No. 157634, May 16, 2005, quoting Castillo v. National Labor Relations Commission, G.R. No. 104319, June 17, 1999 (308 SCRA 326).

[42] Samson vs. NLRC, G.R. No. 121035, April 12, 2000; Purefoods Corp., vs. NLRC, G.R. No. 172241, November 20, 2008.

[43] "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 representatives; and

(e) Other causes analogous to the foregoing."

[44] "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 [Department] 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 to 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."

[45] "ART. 284. Disease as ground for termination. – An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health as well as to the health of his co-employees: Provided, that he is paid separation pay equivalent to at least one (1) month salary or to one-half month salary for every year or service, whichever is greater, a fraction of at least six (6) months being considered as one (1) whole year."

[46] *New Puerto Commercial and Richar Lim vs. Rodel Lopez and Felix Gavan*, G.R. No. 169999, July 26, 2010

[47] *Ibid*

[48] *Samson vs. NLRC*, 386 Phil. 669 (2000).

[49] Commission on Higher Education (CHED) Manual of Regulations for Private Higher Education, 2008.

[50] *Eric Alvarez, substituted by Elizabeth Alvarez-Casarejos vs. Golden Tri Bloc, Inc. and Enrique Lee*, G.R. No. 202158, September 25, 2013, citing *Merin v. MRC*, G.R. No. 171790, October 17, 2008.

[51] *Blue Sky Trading Company, Inc. vs. Blas*, G.R. No. 190559, March 7, 2012.

[52] *Supra* note 1, pp. 138, 180, 306.

[53] *Id.*, pp. 136-137, 181-182, 307-308.

[54] *Id.*, pp. 89, 140, 176, 302.

[55] *Id.*, pp. 147, 177, 303.

[56] *Id.*, pp. 144-146.

[57] *ACD Investigation Security Agency, Inc. vs. Daquera*, 426 SCRA 494.

[58] Implementing Rules of Labor Code.

[59] *Supra* note 1, pp. 88-89, 139-140, 175-176, 301-302.

[60] *Id.*, pp. 142, 179.

[61] *Supra* note 1, pp. 90, 141.

[62] *Id.*, p. 143.

[63] *Supra* note 1., pp. 133-134, 183-184, 309-310.

[64] *Id.*, pp. 88-89, 139-140, 175-176, 301-302.

[65] *Supra* note 1, pp. 91, 132, 185, 311.

[66] *Id.*, pp. 131, 186, 312.

[67] Omnibus Rules Implementing the Labor Code of the Philippines.

[68] *Unilever Philippines, Inc. v. Rivera*, G.R. No. 201701, June 3, 2013, citing *Tirazona v. Philippine Eds*

Techno-Service Inc. (PWT, Inc.), G.R. No. 169712, January 20, 2009.

[69] Nepomuceno vs. Court of Appeals, 303 SCRA 679, 682

[70] J.L. Bernardo Construction vs. Court of Appeals, 324 SCRA 24, 34

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