

GT PRINTERS AND/OR TRINIDAD G. BARBA, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (4TH DIVISION) AND EDWIN RICARDO, RESPONDENTS.*G.R. No. 100749. April 24, 1992*

Ponente: GRINO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-100749/>**GRINO-AQUINO, J.:**

The private respondent, Edwin Ricardo, was employed in 1968 as an apprentice of GT Printers, a single proprietorship owned by Mrs. Trinidad Barba of East Capitol Site, Cebu City. Having gained enough experience and expertise in the printing business and after undergoing special schooling in Manila at company expense, Ricardo was promoted to the position of production manager of GT Printers. In 1978, he became general manager after the untimely demise of the owner's husband, who held that position. Ricardo earned a monthly basic salary of P1,680, an ECOLA of P485, representation allowance of P1,000 and on top of these, a three (3%) per cent share in the gross receipts of the business.

In February 1985, Ricardo's wife established Insta Printers, a rival printing press, with Edwin Ricardo himself as consultant and owner. Since the establishment of Insta Printers, Ricardo became a habitual absentee from his job at GT Printers. He neglected his duties and responsibilities, and became lax in directing and supervising the work force, resulting in numerous major printing errors and failure to meet printing specifications leading to the rejection of several job orders from regular customers.

Mrs. Barba noticed that Ricardo not only used GT Printers' bookcloth and other printing materials for his Insta Printers, but he also gave specific instructions to the production staff to give priority to book and magazine job orders for Insta Printers. Eventually, the regular customers of GT Printers were pirated by Insta Printers. Ricardo also manipulated price quotations during the canvassing of bids to favor his own outfit instead of GT Printers.

Because of those irregularities, GT Printers suspended Ricardo as general manager for 30 days. Effective June 18, 1986, Richard Barba was designated to take his place. Contracts concluded by respondent Ricardo thereafter were no longer honored. However, he continued to be a sales agent for GT Printers, hence, he continued to receive commissions. Notices of his investigation scheduled on July 24, 1986 and August 13, 1986 were sent to him but he did not appear at the investigation. He stopped reporting for work and soon after filed a complaint for illegal dismissal in the Regional Arbitration Branch No. VII of the Department of Labor and Employment in Cebu City, entitled "Edwin Ricardo vs. GT Printers and/or Trinidad G. Barba." (NLRC Case No. RAB-VII-0398-86.)

The case was heard by Labor Arbiter Bonifacio Tumanak who rendered a decision on January 4, 1990 finding that Ricardo was lawfully dismissed from employment. Nevertheless, the Labor Arbiter ordered the payment to him of separation pay equivalent to one-half month pay for every year of service (pp. 28-42, Rollo).

Ricardo appealed that decision to the NLRC which on April 18, 1991 (pp. 43-51, Rollo), set aside the labor arbiter's decision and entered a new one, finding Ricardo's dismissal illegal and ordering his reinstatement with backwages. However, aware that strained relations had developed between the parties, the Commission ordered

GT Printers to pay Ricardo backwages for three (3) years and separation pay of one month for every year of service in lieu of reinstatement.

GT Printers filed a motion for reconsideration but it was denied. Hence, this petition for review on certiorari, with a prayer for the issuance of a writ of preliminary injunction or temporary restraining order. On July 29, 1991, the Court issued a temporary restraining order upon petitioner's filing a P100,000 bond enjoining the respondents to desist from enforcing the NLRC decision during the pendency of this action.

The petition for review is premised on the petitioner's contention that grave abuse of discretion was committed by the NLRC -

1. in disregarding the labor arbiter's findings of fact;
2. in finding that Ricardo was denied due process before being dismissed on July 18, 1986;
3. in finding that Ricardo was dismissed without just cause; and
4. in reversing the decision of the labor arbiter and ordering Ricardo's reinstatement with payment of back wages and separation pay.

The petition has merit.

The twin requirements of a valid termination: due process and just cause - were met substantially for Ricardo was given ample opportunity to appear at the two scheduled investigations in order to present his side, but he chose to boycott the investigation. Even at the hearing before the Labor Arbiter, he waived, through counsel, the presentation and cross-examination of witnesses.

Due process does not necessarily mean or require a hearing, but simply an opportunity or right to be heard (*Hian vs. CTA*, 59 SCRA 110; *Azul vs. Castro*, 133 SCRA 271). The affidavits, testimonies and other documentary evidence presented by the petitioner stand uncontroverted and are therefore entitled to full credit. It is well-settled that this Court is not a trier of facts, so we defer to the superior opportunity of the lower courts or administrative bodies to test the credibility of the witnesses and to examine the authenticity of the documentary evidence directly before them (*Mapa vs. Arroyo*, 175 SCRA 76; *Dagupan Bus Co., Inc. vs. NLRC*; 191 SCRA 328).

The security of tenure accorded to labor under the Constitution does not embrace infractions of accepted company rules amounting to breach of trust and loss of confidence (*Rosello, Jr. vs. NLRC*, 190 SCRA 779). The right of an employer to dismiss a managerial employee for breach of trust and loss of confidence, as in this case, cannot be doubted. As a measure of self-preservation against acts inimical to its interests, an employer has the right to dismiss an employee found committing acts of dishonesty and disloyalty. The employer may not be compelled to continue to employ such a person whose continuance in the service would patently be inimical to his employer's interest (*Colgate Palmolive Phils. Inc. vs. Ople*, 163 SCRA 323). The dismissal of a dishonest employee is in the best interest not only of management but also of labor for the law never intended to impose an unjust situation on either labor or management (*Coca-Cola Bottlers Phils. Inc. vs. NLRC*, 172 SCRA 751).

Reinstatement would be ill-advised and incompatible with the labor arbiter's finding that "from those documentary evidences presented by respondent, it can be safely conclude [d] that x x x there exist visible conflict of interest amounting to willful breach of trust and confidence repose (sic) upon him by his employer, x x x as well as (b) habitual neglect of his duties x x x" (pp. 216-217, *Rollo*). The reinstatement of erring managers may not be ordered with the same ease and liberality as rank and file workers (*Pacific Cement Co., Inc. vs. NLRC*, 173 SCRA 192).

WHEREFORE, the assailed decision of the NLRC is hereby reversed and set aside. As the complainant (herein

private respondent), Edwin Ricardo, was lawfully dismissed for dishonesty and serious misconduct, his complaint for illegal dismissal is DISMISSED for lack of merit.

SO ORDERED.

Narvasa, C.J., Cruz, and Medialdea, JJ., concur.

Bellosillo, J., on leave.

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