

ROSEMARIE BALBA, PETITIONER, VS. PEAK DEVELOPMENT INC. AND MA. ISABEL VASQUEZ, RESPONDENTS.

G.R. NO. 148288. August 12, 2005

Ponente: AZCUNA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148288/>

AZCUNA, J.:

This is a petition for review under Rule 45 of the Rules of Court.

Subject of the petition is the Amended Decision of the Court of Appeals in CA-G.R. SP No. 57157 dated February 20, 2001,[1] and the Resolution of the same court, dated May 20, 2001, denying the motion for reconsideration.[2]

The case in the Court of Appeals (CA) was a petition for certiorari and prohibition under Rule 65 of the 1997 Rules of Civil Procedure seeking the nullification of the Decision of the National Labor Relations Commission (NLRC) dated July 20, 1999 in NLRC NCR CA No. 018421-99 (NLRC Case No. 05-03253-96), entitled "Rosemarie G. Balba v. Peak Development, Inc., et al." and its Resolution dated November 29, 1999 denying the motion for reconsideration.

The CA at first rendered a Decision, dated October 31, 2000,[3] but later amended and set it aside.

The facts are stated in the first Decision, thus:

The antecedents as graphically narrated in the decision of the Labor Arbiter dated July 30, 1998, follow:

In her amended complaint dated July 1, 1996, complainant charges the abovenamed respondents of illegal suspension, illegal dismissal, nonpayment of service incentive leave pay, 13th month pay, cash conversion of her vacation leave, and damages.

Both parties have common allegations anent the complainant's employment status. She was hired on January 20, 1994 as Systems Administration Personnel. Thus, her first assignment was to oversee the computerization of the respondent company's Finance Department.

In August, 1994, the Finance Officer was terminated. Complainant was formally appointed as Finance Officer in November, 1994. She was terminated on May 22, 1996.

The dispute between the parties incepted when sometime in October, 1995, complainant was assigned to conduct a study on the new law on expanded value added tax (E-VAT). Thus, she attended an E-VAT seminar at the expense of the respondent company. Until the law was implemented on January 1, 1996, complainant failed to submit her report. According to the respondents, since the first quarter report was due for submission on April 20, 1996, the complainant was reminded about her long delayed E-VAT [study].

Then, on February 9, 1996, a new Internal Auditor in the person of Chelita B. Icaro was hired. In a summary of audit findings (Exhs. "6", "6-1" up to "6-8") submitted by Ms. Icaro, she noted the following irregular accounting practices and control systems and procedures, to wit: that no subsidiary ledger cards were maintained for accounts payable; that amounts in words were not indicated on the check voucher; that the

preparation and submission of cash position report were delayed for almost two (2) days; that reconciliation of cash position report against cash balances in the bank is not being done; that deposits of checks, collection were late for clearing by two (2) days; that cash collections were used in payment of expenses or accounts payable; that there was failure to monitor Experience Refund from the insurance company, and the last refund received by the company was on February 26, 1996 which pertains to 1993, 1994 and 1995; that there is no account title "CASH ON HAND" in the Master Chart of Account; that Cash on Hand as of December 31, 1995 was erroneously recorded as deposits in transit; that OTHER INCOME' account was used as dumping account of all the reconciling amount in the Bank Reconciliation; that accounting entries made in the journal vouchers were not properly documented and not signed by the responsible staff; and that Perpetual Care Fund per audit shows a big difference as against per books of December 31, 1995.

According to the respondents, when the complainant's attention was called regarding the audit finding, instead of cooperating, complainant allegedly questioned Ms. Icaro's authority as Internal Auditor, and it was only upon the alleged intervention of the individual respondent that complainant began to implement the audit recommendation.

On April 17, 1996, a memorandum (Exh. "9" and Exh. "C") was issued by the individual respondent placing complainant under preventive suspension, and at the same time, requiring the complainant to explain why no disciplinary action should be taken against her for insubordination, negligence and incompetence, for the following cited acts or omissions, to wit:

- Failure to promptly implement and/or comment on the recommendation of the internal auditor despite clear instruction x x x;
- Failure to promptly produce appropriate studies required by management (E-VAT study);
- Implementation of clearly insufficient basic office procedure;
- Failure to follow general office policies and procedures.

Subsequently, another memorandum dated May 2, 1996 (Exh. "13") was issued requiring complainant to explain why despite being a managerial employee, she collected overtime pay for alleged overtime services rendered on April 3, 4 and 9, 1996.

To both memoranda, complainant submitted her written explanations. In her letter dated April 19, 1996 (Exh. "D" and Exh. "10") complainant in substance stated as follows: that except for some items as recommended by the Internal Auditor, all other recommendations were already implemented; that it was only on April 3, 1996 that she was assigned to take charge of the E-VAT study which was previously assigned to Mr. Emmanuel Angeles and Ms. Chelita Icaro, and as reported by her during the meeting on April 9, 1996, she already started with the E-VAT study; that she finally submitted her written opinion on E-VAT on April 16, 1996; that it has been a practice in the company that computations of sales proposals were done by her department and that her request for the hiring of additional personnel has been duly justified.

And in her written explanation dated May 13, 1996 (Exh. "G"), complainant states that she received the overtime pay in good faith under the impression that said payment was for meal/transportation allowance of P400.00 normally given to managerial employees rendering overtime work.

Finding the complainant's explanations as unsatisfactory, the individual respondent in a memorandum issued on May 20, 1996 (Exh. "H" and Exh. "16") terminated the complainant's services on the ground of loss of trust and confidence.

On the basis of the foregoing factual backdrop, this Arbitration Branch is called upon to resolve the issue of

whether or not the complainant's dismissal from employment was just and valid." (Pages 1 to 5, Decision, pages 40 to 44, Rollo)

After due consideration of the position papers submitted by the parties and the evidence adduced, the Labor Arbiter rendered a decision, the decretal portion of which provided, thus:

"WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered dismissing the complaint for illegal dismissal for lack of merit, and [on the] money claims, the respondent company is hereby ordered to pay complainant the sum of P7,500.00 as proportionate 13th month pay for 1996. All other money claims are denied for want of merit." (Pages, 7 and 8, Decision, pages 46 to 47, Rollo)

Unconvinced, complainant-private respondent appealed to the NLRC, which then resolved and disposed of the same in this wise, to wit:

"WHEREFORE, premises considered, the Appeal is hereby partially GRANTED. Accordingly, the Decision appealed from is hereby MODIFIED to the effect that complainant-appellant was illegally discharged; and that respondent-appellee Company is DIRECTED to pay her separation pay in lieu of reinstatement equivalent to one (1) - month pay for every year of service, one (1) - year backwages and attorney's fee equivalent to ten percent (10%) of her total award of labor standards benefits pursuant to Article III of the Labor Code, computed as follows:

1.

Separation pay:

Jan. 20, 1994 - May 22, 1996

P18,000.00 x 3 yrs.

P 54,000.00

2.

One year backwages

Basic: P18,000.00 x 12 mos.

13th month pay:[1/12] of P216,000

216,000.00

18,000.00

SIL:

P18,000 [÷] 30 days =

P600.00/day x 5 days

3,000.00

Total due for complainant

P291,300.00

3. Attorney's fees:

P3,000 x 10%

300.00

GRAND TOTAL

P291,300.00

As to all other aspects, the assailed Decision STANDS."(Pages 10 to 11, Resolution, pages 34 to 35, Rollo)

Aggrieved, petitioner instituted this petition anchored on the following justifications:

I

PUBLIC RESPONDENT NLRC THIRD DIVISION ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN PROMULGATING THE DECISION DATED 20 JULY 1999 AND THE RESOLUTION DATED 29 NOVEMBER 1999, THE SAME BEING IN CONTRAVENTION OF THE EXPRESS PROVISIONS OF THE LABOR CODE AND EXISTING JURISPRUDENCE ON THE JUST CAUSES FOR TERMINATION OF EMPLOYMENT.

II

THERE IS NO APPEAL, NOR ANY PLAIN, SPEEDY AND ADEQUATE REMEDY IN THE ORDINARY COURSE OF LAW."[4]

The Court of Appeals at first dismissed the petition, reasoning as follows:

We resolved to dismiss the petition.

First of all, it must be stressed that the sole office of a writ of certiorari is the correction of errors of jurisdiction and does not include correction of public respondent's evaluation of the evidence and factual findings thereon (*Building Care Corp. vs. NLRC*, 268 SCRA 686). Sadly, petitioner in the case would have us review the evaluation of the evidence and factual findings of the NLRC, as well as that of the Labor Arbiter. We find no cogent reason to do so. Findings of fact of administrative agencies and quasi-judicial bodies, which has acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only great respect but even finality (*Naguiat vs. NLRC*, 269 SCRA 564).

Secondly, in certiorari proceedings, judicial review does not go so far as to evaluate the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their determination, the inquiry being limited essentially to whether or not said public respondent had acted without or in excess of jurisdiction or with grave abuse of discretion (*Travelaire and Tours Corp. vs. NLRC*, 294 SCRA 505), and when the ground invoked in a civil action for certiorari is abuse of discretion, the abuse must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility (*Republic vs. Villarama, Jr.*, 278 SCRA 736).

In the case at bench, apart from the bare allegation of petitioner, there is nothing in the records of the case, much less the challenged decision and order which would indicate that indeed public respondent NLRC committed any grave abuse of discretion. Far from it, for what the decision of the NLRC shows is that it had judiciously addressed the issues raised before it rendered judgment and after due consideration of the evidence at hand. In an action for certiorari, the petitioner must prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of public respondent (*Solvic Industrial Corp. vs. NLRC*, 296 SCRA 432). Petitioner in this case has not proven such allegation of grave abuse of discretion on the part of NLRC.

WHEREFORE, foregoing premises considered, this petition is hereby DENIED DUE COURSE and accordingly ordered DISMISSED and the assailed decision and order of the public respondent National Labor Relations Commission AFFIRMED in toto, with costs to petitioner.

SO ORDERED."[5]

On a motion for reconsideration, the CA proceeded to review the factual findings of the NLRC, in view of its conflict with those of the Labor Arbiter (LA).

It then went on to make its ruling on the factual issues, as follows:

Mindful of such authoritative jurisprudence, and believing that the arguments of petitioners-movants are well-founded, it behooved Us to revisit and re-appreciate the findings and conclusion of the Labor Arbiter and We are convinced that indeed it was supported by substantial evidence and therefore should not have been disturbed by the NLRC. The findings and conclusions of the Labor Arbiter that the termination of private respondent's employment [was] due to gross and habitual negligence as defined under Article 282 of the Labor Code of the Philippines, were based on the following established facts, to wit:

1)

Failure to promptly implement efficient financial and accounting policies despite the prior recommendation of the internal auditor

2)

Failure to promptly submit appropriate studies required by management of the E-VAT law, and

3) Changing and accepting overtime pay without any basis or authority.

Specifically, We are in accord with the Labor Arbiter's disquisition on said matters, thus:

"This Arbitration Branch finds as formidable the evidence against the complainant which all but clearly points to her gross incompetence and inefficiency.

The audit findings alone unmasked her job capabilities. Not only that basic accounting practices were not followed but also financial systems and control measures were weak and for the entire period that complainant has been the head of the finance department covering a period of one and a half years, she failed to institute appropriate corrective measure until her lapses were brought to the surface by the Internal Auditor.

After the audit findings, the complainant did not take things in stride but instead she begrudge[d] the Internal Auditor. Her strong personal resentment against Ms. Icaro is reflected in the complainant's letter dated February 29, 1996 (Annex "D", Respondents), an indication that her cooperation with the Internal Auditor might not be expected. Not until the individual respondent in her capacity as President of the respondent company intervened in the already smoldering fireworks between the Internal Auditor and the complainant did the latter comply with the recommendations of the former.

Apart from the employment of clearly inefficient accounting and financial policies by the complainant, she had shown herself to be incapable of coming out with the expected E-VAT study in due time. She claims that she was not aware of what the respondents really wanted as an appropriate E-VAT study, giving the impression that she might have missed the point desired by the respondents in the expected E-VAT study. If that were the case, why had not complainant inquired from the individual respondent instead of letting several months to elapse until it was about time to submit the required quarterly report in April 1996. Complainant should have been candid with the respondents. This Arbitration Branch need not elaborate on the E-VAT study submitted by the complainant. *Res ipsa loquitur*, so to speak. Besides, complainant in her written explanation admitted that said study was but her opinion.

As a final straw, complainant knowing personally that she cannot collect overtime pay being a managerial employee did in fact collect from the company her overtime pay for three (3) days particularly on April 3, 4 and 9, 1996.

This Arbitration Branch finds that just and valid grounds exist to justify the dismissal of the complainant. In dismissal on account of loss of confidence, it is sufficient that there is some basis for the loss of trust or that the employer has reasonable grounds to believe that the employee is responsible for the misconduct which rendered him unworthy of the trust and confidence demanded of his position (*ComSavings Bank vs. NLRC*, 257 SCRA 307). (Decision, pp. 5-7; pp. 44-46, Rollo)

On the other hand, the decision of the NLRC overturning the findings and conclusion of the Labor Arbiter and concluding that private respondent was illegally dismissed are clearly contrary to the evidence adduced and therefore capriciously or arbitrarily made. To disagree and set aside the findings of the Labor Arbiter, the National Labor Relations Commission should state an acceptable cause therefor (*Coca-Cola Bottlers, Phils., Inc. vs. Hingpit*, 294 SCRA 594).

We are at a loss as to why the NLRC would rule that "clearly inefficient accounting and financial policies does not pass as a just and valid cause considering that respondents-appellees failed to show how complainants-appellants accounting in financial policies are inefficient by proving that they translated into description of company operations resulting into financial losses." (pp. 7 & 8, Decision NLRC, pp. 31-32, Rollo). The NLRC also ruled that while the E-VAT study of the private respondent shows poor, impractical and sometimes illegal recommendation bringing into fore a streak of incompetence in her, such, nevertheless, is not enough basis for petitioner to lose trust and confidence in her, and hence, dismiss her, considering that the infraction is not serious. (p. 8, last par. NLRC decision, p. 32 Rollo). Sadly, said pronouncements are contrary to existing jurisprudence on the matter.

As regards managerial employees, such as private respondent who was appointed as Finance Officer, tasked with the overall administration of the Finance Department of petitioner Peak Development, Inc., mere existence of a basis for believing that such employee has breached the trust of her employer would suffice for her dismissal. (*Caoile vs. NLRC*, 299 SCRA 76). If the NLRC was convinced that private respondent's study on the E-VAT brought into fore a streak of incompetence in her, then it should not have disturbed the findings of the Labor Arbiter. There was sufficient basis, as it was, for the loss of trust or that petitioner had reasonable ground to believe that the private respondent was responsible for such "streaks of incompetence" which rendered her unworthy of the trust and confidence demanded by her position (*Del Val vs. NLRC*, 296 SCRA 283).

It bears stressing that in proceedings before the Labor Arbiter, what is required is merely substantial evidence of such amount of relevant evidence which a "reasonable mind might accept as adequate to justify a conclusion (*Iriga Telephone Co., Inc. vs. NLRC*, 286 SCRA 600). Applying the aforecited jurisprudence to the case at bench, due to the proven facts of private respondents inefficiency and incompetence, it was reasonable for the Labor Arbiter to conclude that the former's dismissal was justified, based on loss of trust and confidence.[6]

Accordingly, the CA set aside its first Decision and entered a new one reversing the NLRC decision and reinstating and affirming in toto the LA's decision.[7]

Hence, this Petition.

Petitioner first argues that the CA erred in reversing the factual findings in the case instead of ruling only on "errors of jurisdiction," as befits a judgment in a special civil action for certiorari and prohibition.

The flaw in petitioner's reasoning lies in the failure to appreciate that it is sometimes necessary to delve into factual issues in order to resolve allegations of grave abuse of discretion as a ground for the special civil action of certiorari and prohibition.

Furthermore, the conflicting views of the LA and the NLRC on the factual issues or the insufficiency of the evidence supporting the respective allegations of the parties, warranted the review thereof by the CA, at the very least to determine the existence of grave abuse of discretion tantamount to lack or excess of jurisdiction.

Nevertheless, this Court agrees with petitioner that the CA erred in concluding that the NLRC committed grave abuse of discretion.

The facts, even as found by the LA, do not suffice at law to constitute grounds for dismissal.

As correctly pointed out by petitioner:

Petitioner was dismissed by respondents on alleged loss of trust and confidence. The Labor Arbiter upheld the dismissal, relying on 3 grounds:

1)

Petitioner's "clearly inefficient" accounting and financial policies

2)

Petitioner's failure to come out with the expected E-VAT study in due time

3)

Petitioner's act of charging overtime pay

The NLRC has declared that the grounds relied upon by the Labor Arbiter are insufficient grounds for dismissal.

"Clearly inefficient accounting and financial policies"

The NLRC was correct when it said that "clearly inefficient" accounting and financial policies "DO NOT PASS AS A JUST AND VALID CAUSE (for dismissal) CONSIDERING THAT RESPONDENTS HEREIN FAILED TO SHOW HOW SUCH ACCOUNTING AND FINANCIAL POLICIES ARE INEFFICIENT BY PROVING THAT THEY TRANSLATED INTO DISRUPTION OF COMPANY OPERATIONS RESULTING TO FINANCIAL LOSSES" (page 7, 8, Annex "F" emphasis supplied).

Inefficiency should have a factual basis. Inefficiency may be unmasked either by: (a) comparing it with efficiency or (b) by showing its effects on the company.

The Labor Arbiter had no bases in declaring that Petitioner's accounting and financial policies were "clearly inefficient." The Labor Arbiter's had no benchmark to compare the said policies with. When did a Labor Arbiter become an authority in accounting procedures? How could he declare that Petitioner was not following basic accounting procedures? What constitutes basic accounting procedures?

Did the "clearly inefficient accounting and financial policies" translates into financial losses? NO.

There is no finding that the "clearly inefficient policies" translated into financial losses or operating disruptions for respondents. In fact, Respondents herein never presented any evidence that Petitioner's policies had adverse effects on respondent company because no adverse effects were felt!

"Failure to come out with an E-VAT study"

Again, the NLRC was correct in saying that the failure to come out with such study is not enough basis for respondents herein to lose trust and confidence in petitioner because:

a)

Her failure to come out with the E-VAT study is not serious

b)

Petitioner did not act with malice nor in bad faith when she failed to come out with the E-VAT study

c)

Respondents did not suffer any material damage as a result of the Petitioner's failure to come out with an E-VAT study.

The Labor Arbiter's Decision (Annex "G") never cited proof that the petitioner's failure to come out with the E-VAT study had adverse consequences on respondents because the latter did not really suffer any damage!

It is worth stressing that Petitioner was tasked to make an E-VAT study in late 1995, the year the E-VAT was to be implemented for the first time. At that time, the Bureau of Internal Revenue (BIR) ha[d] yet to come out with the implementing rules of the E-VAT law. If the implementing agency of the E-VAT is still at a loss as to how to enforce the E-VAT, how could Petitioner be expected to come out with an E-VAT study?

Without the E-VAT implementing rules in place, Petitioner cannot be expected to come out with a decent E-VAT study.

Under such a context, a failure to come out with an E-VAT study can never amount to breach of trust or loss of confidence. IT IS NOT A MISCONDUCT.

"Charging overtime pay"

...

Petitioner was being faulted for the mere act of charging overtime pay.

In the first place, there is evidence that petitioner did not charge overtime pay.

The NLRC found out that managerial employees of respondent corporation were entitled to meal allowances when rendering overtime work, and that for accounting purposes, the meal allowance of managerial employees are lumped under "overtime pay." (page 8, NLRC Decision, Annex "F")

NOT ONE OF THE 3 GROUNDS FOR DISMISSAL AMOUNT TO MISCONDUCT. EVEN AGGREGATELY THE 3 GROUNDS DO NOT AMOUNT TO MISCONDUCT!

IF THERE IS NO MISCONDUCT, THERE CAN BE NO LOSS OF CONFIDENCE AND NO BREACH OF TRUST.[8]

In fine, the first Decision of the CA is the one in accord with law and jurisprudence.

WHEREFORE, the petition is GRANTED and the Amended Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 57157, dated February 20, 2001 and May 20, 2001, respectively, are hereby REVERSED and SET ASIDE and another one is entered sustaining the decision of the NLRC subject of the petition therein. No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

[1] Penned by Justice Jose L. Sabio, Jr., and concurred in by Justices Benaventura J. Guerrero and Eliezer R. de los Santos; Rollo, pp. 29-34

[2] Rollo, pp. 37-38.

[3] Id., at 45-58.

[4] CA Decision, Rollo, pp. 46-50.

[5] Id. at 50-51.

[6] CA Amended Decision, Rollo, pp. 30-33.

[7] Rollo, p. 34.

[8] Petition, Rollo, pp. 18-21.

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.