

ABERDEEN COURT, INC., AND RICHARD NG, PETITIONERS, VS. MATEO C. AGUSTIN JR., RESPONDENT.

G.R. NO. 149371. April 13, 2005

Ponente: AZCUNA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-149371/>

AZCUNA, J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, assailing the Decision of the Court of Appeals in CA-G.R. SP No. 60223, entitled "Mateo Agustin Jr. v. National Labor Relations Commission (First Division), Aberdeen Court, Inc. and Ricardo Ng," dated January 31, 2001, and the Resolution of August 10, 2001 denying the motion for reconsideration therein.

On September 16, 1996, Aberdeen Court, Inc. (Aberdeen), one of the petitioners, employed Mateo C. Agustin (Agustin), herein respondent, for the purpose of trouble shooting the electrical problems in said petitioner's establishment. Agustin was engaged on a six-month probationary basis. The employment contract provided, *inter alia*, that:

Should my performance be considered unsatisfactory at any time by management during my probationary period, I understand and agree that the management can terminate my services at any time, even before the termination of the agreed six-month period.[1]

On January 12 and 13, 1997 the personnel of Centigrade Industries, Inc. performed a reading of the exhaust air balancing at the fifth and sixth floors of Aberdeen's premises. Petitioners claim that Agustin was placed in charge of the undertaking. On the other hand, Agustin asserts that Engr. Abad merely requested him to accompany the aforesaid personnel to show the location of the exhaust air outlet at the fifth and sixth floors of the premises. He avers that:

The request of Engr. Abad is actually the responsibility of the company's mechanical engineers. Despite the fact that the request of Engr. Abad is not a part of his job since he is not a mechanical engineer and there were three (3) other mechanical engineers on duty in the company premises, petitioner [herein respondent], being a subordinate of Engr. Abad, obliged and accompanied the aforementioned personnel to the location. There were no other specific instructions from Engr. Abad to petitioner with respect to the conduct or actual reading to be made by the Centigrade personnel.

It must be noted that the reading of exhaust air balancing is under the category of heating, ventilating and air conditioning (HVAC) which are within the realm of field of work of mechanical engineers. Being an electrical engineer, petitioner obviously has no knowledge of the procedure and the equipment used by mechanical engineers in the conduct of the reading of the exhaust air balancing.[2]

After the Centigrade personnel finished their job, they submitted their report to Agustin. Petitioners allege that Agustin accepted and signed the report, without verifying its correctness. Engineer Abad later checked the work of the Centigrade employees only to find out that four rooms in the fifth floor and five rooms in the sixth floor were incorrectly done.[3] In contrast, Agustin states that after the report was handed to him, he took the same to

Engr. Abad, who he claims was responsible for evaluating and confirming the said report. Allegedly, instead of signing it himself, Engr. Abad directed respondent to sign it, giving the reason that Agustin was present when the reading was conducted. Respondent Agustin complied, but he now points out that his signature was not accompanied by any qualification that he accepted the report on behalf of Aberdeen. He claims that he signed merely to evidence that he received a copy of the report.[4]

The parties also differ on the occurrences two days after the signing of the report or on January 15, 1997. According to petitioners, Aberdeen management confronted Agustin with his failure to check the job and asked him to explain his side. Agustin allegedly ignored management and left the company, which made it impossible for Aberdeen to transmit any further notice to him.[5]

However, Agustin claims that:

On January 15, 1997 or two days after the report was submitted by Centigrade Industries, petitioner [herein respondent] was summarily dismissed. In the afternoon of that day, he received a telephone call from the personnel office of respondent company ordering him to report to that office after his tour of duty. At about seven p.m. at the personnel office, Ms. Lani Carlos of the Personnel Department, informed him that Aberdeen Court is terminating his services as electrical engineer. Petitioner was flabbergasted. Ms. Carlos then informed him that he could get his two (2) weeks salary in the amount of P4,000, more or less, on the condition that he will sign some documents which provides that the company has no more liability and that he is voluntarily resigning from Aberdeen Court. Aware of his rights, petitioner did not sign the offered documents. He was then hurriedly led to the door by Ms. Carlos.

The following day or on January 16, 1997, petitioner requested assistance from the Department of Labor and Employment (DOLE). A DOLE personnel told him to report for work since private respondents did not serve him a notice of termination. As instructed, petitioner reported for work on the same day. Upon arriving at the company premises, petitioner asked Ms. Carlos if he could still report for work but private respondent's personnel officer told him that he cannot do so.[6]

Within the same month of that year, respondent Agustin filed a complaint for illegal dismissal which was docketed as NLRC NCR Case No. 00-01-00466-97.

In an undated decision, the labor arbiter rendered judgment in favor of herein respondent, declaring that Agustin was illegally dismissed, thus:

WHEREFORE, judgment is hereby rendered:

- Ordering respondent ABERDEEN COURT, INC. to reinstate to his former position without loss of seniority rights complainant MATEO C. AGUSTIN, JR.
- Ordering respondent to pay to complainant backwages in the sum of PHP P175,933.33.[7]

Petitioners appealed the decision to the National Labor Relations Commission (NLRC). On February 29, 2000, the NLRC reversed the decision of the Labor Arbiter and held that Agustin had not been illegally dismissed, disposing thus:

WHEREFORE, for and on account of the reasons above-discussed, the decision appealed from is hereby reversed and set aside and a new one entered dismissing the complaint for lack of merit.[8]

From the NLRC decision, Agustin filed a petition for certiorari under Rule 65 of the Rules of Court with the Court of Appeals. The appellate court ruled in favor of Agustin and reasoned thus:

Constructive dismissal is defined as a quitting because continued employment is rendered impossible, unreasonable or unlikely, as an offer involving demotion in rank and a diminution in pay (Jarcia Machine Shop

and Auto Supply, Inc. vs. National Labor Relations Commission, 266 SCRA 97, 108). As there is no showing in the record of any circumstance to support the proposition that the petitioner was constructively dismissed, the private respondents correctly point out the flaw in the first ground proffered by the petitioner in support of his petition. Be that as it may, the petitioner's erroneous choice of terminology does not, to our mind, preclude a finding of illegal dismissal. Alongside the private respondents' contention that it was the petitioner who unceremoniously quit his employment after being confronted with his negligence, greater stock m[a]y be taken of the petitioner's immediate recourse for assistance from the Department of Labor and his subsequent filing of his complaint. The rule is settled that the immediate filing of a complaint for illegal dismissal is inconsistent with abandonment (Pampanga Sugar Development Company, Inc. vs. National Labor Relations Commission, 272 SCRA 737, 747) and, in such cases, the burden of proof to establish the validity of the dismissal of an employee lies on the employer (Gonpu Services Corporation vs. National Labor Relations Commission, 266 SCRA 657, 662). Rather than the employee who must prove its invalidity, it is the employer who should prove the validity of a dismissal. (Sanyo Travel Corporation vs. National Labor Relations Commission, 280 SCRA 129, 138) and failure to do so will result in a finding that the dismissal was unfounded (Reformist Union of R.B. Liner, Inc. vs. National Labor Relations Commissions, 266 SCRA 713, 726).

Our perusal of the record yielded no showing of satisfactory attempt on the part of the private respondents to prove the validity of the petitioner's dismissal. It bears emphasizing that, to be lawful, the employee's dismissal must comply with the following requirements (a) the dismissal must be for any of the causes provided in Article 292 of the Labor Code; and, (b) the employee must be given an opportunity to be heard and defend himself (Molato vs. National Labor Relations Commission, 266 SCRA 42, 45). The employer must first affirmatively show rationally adequate evidence that the dismissal was for a justifiable cause (Brahm Industries, Inc. vs. National Labor Relations Commission, 280 SCRA 828,838).

It is our considered view that the private respondents did not succeed in discharging the aforesaid onus. Against the petitioner's contention that exhaust air balancing is neither covered by his duties nor competence, there is no showing that the private respondents even attempted to prove the extent of the petitioner's technical responsibilities. Even assuming that the task properly pertained to the petitioner, an employee where, as in the case at bench, the offense appears to be the first committed by the employee, was devoid of malice and, more importantly, was not his sole responsibility (Tumbiga vs. National Labor Relations Commission, 274 SCRA 338, 348).

The fact that the petitioner was still in his probationary period of employment did not lessen the burden of proof the law imposes on the private respondents. Probationary employees are protected by the security of tenure provision of the Constitution and cannot, likewise, be removed from their position unless for cause (Pines City Educational Center vs. National Labor Relations Commission, 227 SCRA 655, 663). Article 281 of the Labor Code of the Philippines, as amended provides:

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

Aside from failing to show a just cause for the termination of the petitioner's services, the private respondents appear not to have even deigned to show such reasonable standards the petitioner's failure to measure up alongside which would have justified his dismissal from employment.

Neither did the private respondents successfully show their compliance with the second requirement for the validity of the termination of petitioner's employment. Their contention that it was the latter who abandoned his job cannot be taken at face value in view of the fact that an employee who forthwith takes steps to protest

his layoff cannot, by any logic, be said to have abandoned his work (Nazal vs. National Labor Relations Commission, 274 SCRA 350, 355). Even without the petitioner's affirmative allegation that he returned to his workplace after being so advised at the Department of Labor and Employment, we find the dearth of any notice of termination sent to the petitioner or, at the very least, his address in the respondent corporation's record derogatory of elementary requirements of due process. A valid dismissal presupposes not only the validity of its cause, but also the validity of the manner by which dismissal is done (Dela Cruz vs. National Labor Relations Commission, 277, SCRA 563, 573) and failure to prove the observance of due process - as in the case at bench - taints the dismissal (Aquinas School vs. Magnaye, 278 SCRA 602, 612).

Having been illegally dismissed from employment, the petitioner is - as initially ruled by the Labor Arbiter - entitled to reinstatement and backwages in accordance with the Labor Code of the Philippines (Magcalas vs. National Labor Relations Commission, 269 SCRA 453, 470).[9]

The dispositive portion of the aforesaid Decision of the Court of Appeals, dated January 31, 2001, states:

WHEREFORE, the instant petition is GRANTED and the assailed decision dated February 29, 2000 of the First Division of the National Labor Relations Commission is REVERSED and SET ASIDE. In lieu thereof, the undated decision of Labor Arbiter Celenito N. Daing rendered in NLRC NCR Case No. 00-01-00466-97 is REINSTATED. No costs.[10]

Petitioners filed a motion for reconsideration dated February 20, 2001, which the Court of Appeals denied in its Resolution of August 10, 2001.

Unsatisfied, petitioners filed the instant petition on August 29, 2001 and raised the following assignments of error:

- THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN REVERSING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION (ANNEX "E") WHOSE FINDING OF FACTS ARE BY LAW ACCORDED DUE RESPECT AND EVEN FINALITY, AFFIRMING THAT OF THE LABOR ARBITER. SUCH REVERSAL OF THE COMMISSION'S DECISION IS BASED ON SPECULATION.
- THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN NOT ENTERTAINING OR EVEN RESOLVING THE ISSUE POSED BY PETITIONERS THAT IT IS NOT FOR THE COURT TO REGULARIZE THE EMPLOYMENT OF A PROBATIONARY EMPLOYEE AND ASSUMING HIS DISMISSAL IS ILLEGAL HIS BACKWAGES SHOULD NOT GO BEYOND HIS PROBATIONARY EMPLOYMENT.
- AND ASSUMING THE REINSTATEMENT OF RESPONDENT IS LEGAL, HIS BACKWAGES SHOULD NOT GO BEYOND ONE (1) MONTH FROM SUBMISSION FOR DECISION (APRIL 30, 1997).[11]

Petitioners argue, as follows:

'It has been ruled that findings of fact of the NLRC, except where there is grave abuse of discretion committed by it, are conclusive on the Supreme Court.' National Union of Workers in Hotels, Restaurants and Allied Industries vs. National Labor Relations Commissions, 287 SCRA 192.

'Factual findings of the quasi-judicial agencies like the National Labor Relations Commission, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect but even finality.' Suarez vs. National Labor Relations Commission, 293 SCRA 496.

'Findings of fact of quasi-judicial bodies, like the National Labor Relations Commission, are accorded with respect, even finality, if supported by substantial evidence.' Travelaire & Tours Corporation vs. National Labor Relations Commission, 294 SCRA 505.[12]

Petitioners also contend that the Court of Appeals has no legal right to regularize the employment of a probationary employee without assessing the employee's performance. Petitioners claim that the Court of Appeals committed an error of law when it ordered the reinstatement of respondent beyond March 15, 1997, which is six (6) months from the time respondent commenced working. Petitioners contend that the reinstatement of Agustin beyond that date resulted in regularizing his employment.[13] Going further, petitioners quote the stipulation in the contract of probationary employment that respondent signed, earlier adverted to.[14]

Petitioners, finally, raise Article 281 of the Labor Code which reads, as follows:

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

It can be gleaned from Article 281 of the Labor Code that there are two grounds to legally terminate a probationary employee. It may be done either: a) for a just cause or b) when employee fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the start of the employment.

Petitioners say that Agustin was terminated because he failed to qualify as a regular employee. Petitioners, however, allegedly did not show that respondent was apprised of these reasonable standards at the start of the employment.

In *Servidad v. NLRC et al.*, [15] where effectively the probationary period was for one year, the Court stated:

If the nature of the job did actually necessitate at least one year for the employee to acquire the requisite training and experience, still, the same could not be a valid probationary employment as it falls short of the requirement of Article 281 of the Labor Code. It was not brought to light that the petitioner was duly informed at the start of his employment, of the reasonable standards under which he could qualify as a regular employee. The rudiments of due process demand that an employee should be apprised beforehand of the conditions of his employment and the basis for his advancement.

Similarly, in *Secon Philippines Ltd. v. NLRC*, [16] the dismissal of the employee was declared illegal by the Court because the employer did not prove that the employee was properly apprised of the standards of the job at the time of his engagement and, naturally, the employer could not show that the employee failed to meet such standards.

The Implementing Rules of the Labor Code in Book VI, Rule I, Section 6, also provides:

Probationary employment. -- There is probationary employment where the employee, upon his engagement, is made to undergo a trial period during which the employer determines his fitness to qualify for regular employment, based on reasonable standards made known to him at the time of engagement.

Probationary employment shall be governed by the following rules:

...

(c) The services of an employee who has been engaged on probationary basis may be terminated only for a just cause, when he fails to qualify as a regular employee in accordance with the reasonable standards prescribed by the employer.

(d) In all cases of probationary employment, the employer shall make known to the employee the standards under which he will qualify as a regular employee at the time of his engagement. Where no standards are made

known to the employee at that time, he shall be deemed a regular employee. [17]

The above rule, however, should not be used to exculpate a probationary employee who acts in a manner contrary to basic knowledge and common sense, in regard to which there is no need to spell out a policy or standard to be met. This is what the NLRC found to be the fact in this case. Said the NLRC:

It bears stressing that even if technically the reading of air exhaust balancing is not within the realm of expertise of the complainant, still it ought not to be missed that prudence and due diligence imposed upon him not to readily accept the report handed to him by the workers of Centigrade Industries. Required of the complainant was that he himself proceed to the work area, inquire from the workers as to any difficulties encountered, problems fixed and otherwise observe for himself the progress and/or condition/quality of the work performed.

As it is, We find it hard to believe that complainant would just have been made to sign the report to signify his presence. By saying so, complainant is inadvertently degrading himself from an electrical engineer to a mere watchdog. It is in this regard that We concur with the respondents that by his omission, lack of concern and grasp of basic knowledge and common sense, complainant has shown himself to be undeserving of continued employment from probationary employee to regular employee.[18]

Nevertheless, it appears that petitioners violated due process in the dismissal of respondent, by not affording him the required notice. As this Court held in *Agabon, et al. v. NLRC, et al.*, [19] an employer who dismisses an employee for just cause but does so without notice, is liable for nominal damages in the amount of P30,000.

WHEREFORE, the petition is partly GRANTED and the assailed Decision and Resolution of the Court of Appeals are MODIFIED in that respondent is declared dismissed for just cause but petitioners are ordered to pay him nominal damages in the amount of P30,000.

No costs.

SO ORDERED.

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

[1] Rollo, p.10.

[2] CA Rollo, p. 4.

[3] Rollo, p. 11.

[4] CA Rollo, pp. 4-5.

[5] Rollo, p. 11.

[6] CA Rollo, p. 5.

[7] Rollo, p. 52.

[8] Id. at 73.

[9] Id. at 39-42.

[10] Id. at 42-43.

[11] Id. at 14-15.

[12] Id. at 15-16.

[13] Id. at 12-13

[14] See, *infra*, p. 2.

[15] G.R. No. 128682, 18 March 1999, 305 SCRA 49, 55.

[16] G.R. No. 97399, 3 December 1999, 319 SCRA 685.

[17] D.O. No. 10, Series of 1997, effective June 22, 1997.

[18] Rollo, pp. 72-73.

[19] G.R. No. 158693, 17 November 2004.

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.