

DIAMOND MOTORS CORPORATION, PETITIONER, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION AND AGRIPIÑO C. CADAÑO, RESPONDENTS.

G.R. No. 151981. December 01, 2003

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-151981/>

YNARES-SANTIAGO, J.:

This is a petition for review of the decision of the Court of Appeals in CA-G.R. SP No. 63143,[1] which affirmed the decision and resolution[2] of the National Labor Relations Commission dated October 27, 2000 and December 28, 2001, respectively.

The facts are as follows:

Petitioner Diamond Motors Corporation hired respondent Agripino C. Cadao on May 17, 1989 and subsequently appointed him Special Accounts Manager in 1993 with a fixed monthly salary excluding commission for every car sold. His tasks included the promotion and sale of Mitsubishi vehicles to precisely listed corporate clients on fleet basis. Units purchased by fleet sale are usually lower by an average amount of P5,000.00 than those bought on retail. The transactions are usually done through letters of intent or purchase orders submitted by the client.[3]

TAPE, Inc. is one of petitioner's clients on a fleet sale basis. On July 1, 1994, its purchasing officer and Executive Secretary to the President, Esper Reate, sent a letter of intent to respondent confirming an order for one unit of a 1994 Mitsubishi Lancer EL at P363,000.00, to be registered in the name of Ruth Racela. On July 28, 1994, two other letters of the same tenor were sent to the respondent confirming the orders for two Mitsubishi Lancer GLI 1300 to be registered in the names of Josefina Antonio and Federico de Joya, respectively.[4]

TAPE, Inc. subsequently sent Purchase Order No. 001508 to petitioner for the three units amounting to P1,213,000.00. Petitioner investigated the said transaction through its Finance and Insurance Operations Manager, Ms. Santa T. Vargas. The latter found out that, with the exception of Ruth Racela, the two other customers were not employees of TAPE, Inc. or its sister corporation, M-Zet. Therefore, the production companies manifested that they will not pay for the purchase orders.

The report further noted that P.O. No. 001508 was 84 sheets ahead from the purchase order then in use, P.O. No. 001424; and that Esper Reate was not the authorized signatory for the purchases considering that only Mr. Antonio Tuviera as the President of TAPE, Inc., or, in his absence, Ms. Leslie Dionisio, AVP for Administration, can sign for them.

On September 3, 1994, respondent received a memorandum dated August 31, 1994 from petitioner, asking him to explain the misrepresentation he committed in favor of the three customers. In addition, he was accused by petitioner of dishonesty and deceit in the conduct of said sale.

Respondent, on the same day, submitted his written explanation in answer to the allegations. On September 8, 1994, petitioner terminated the services of respondent.

On February 2, 1995, private respondent filed a complaint for illegal dismissal with prayer for the payment of earned salary, commission and other accrued benefits against the petitioner before the National Labor Relations Commission. On April 2, 1998, the Labor Arbiter dismissed the complaint for lack of merit.

Aggrieved, private respondent appealed to the National Labor Relations Commission which reversed the decision of the Labor Arbiter and declared his dismissal illegal. Respondent was awarded separation pay plus backwages. Petitioner filed a motion for reconsideration but the same was denied.

Petitioner filed a petition for review with the Court of Appeals,[5] contending that the NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it reversed the decision of the Labor Arbiter. Petitioner maintained that respondent's dismissal was for a valid cause pursuant to Article 282 of the Labor Code and jurisprudence; and that because of his misrepresentation and deception it suffered losses in the total sum of P115,000.00 corresponding to the differences between the regular and fleet prices of the units sold.

The Appellate Court dismissed the petition and affirmed the decision of the NLRC. Hence, this petition for review raising the following errors:

- THAT THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT, PETITIONER FAILED TO SUBSTANTIATE ITS CLAIM OF DISHONESTY AND LOSS OF CONFIDENCE AGAINST PRIVATE RESPONDENT AGRIPINO CADAQ;
- THAT SAID DECISION OF THE HONORABLE COURT OF APPEALS AND THE NATIONAL LABOR RELATIONS COMMISSION WERE PREMISED IN THE ABSENCE OF EVIDENCE BUT SUCH FINDINGS ARE CONTRADICTED BY THE EVIDENCE ON RECORD; AND THAT THE SAME HAVE BEEN MADE WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION OR IN EXCESS OF JURISDICTION;
- THAT THE PUBLIC RESPONDENT FAILED TO OBSERVE THE PRINCIPLE OF STARE DECISIS;
- WHAT KIND OF EVIDENCE IS REQUIRED TO PROVE THE GUILT OF AN EMPLOYEE IN LABOR CASES? IS IT MERE PREPONDERANCE OF EVIDENCE OR PROOF BEYOND REASONABLE DOUBT?[6]

We find merit in the petition.

A disharmony between the factual findings of the Labor Arbiter and the National Labor Relations Commission opens the door to a review thereof by this Court.[7] Factual findings of administrative agencies are not infallible and will be set aside when they fail the test of arbitrariness. Moreover, when the findings of the National Labor Relations Commission contradict those of the labor arbiter, this Court, in the exercise of its equity jurisdiction, may look into the records of the case and reexamine the questioned findings.[8]

In the case at bar, we find that private respondent was not illegally dismissed. In his decision, the Labor Arbiter ruled that based on the evidence adduced by the parties, respondent knowingly violated company rules and regulations. There was also a clear taint of deceit on his part when he passed off what was otherwise a retail sale as a fleet sale.[9]

Indeed, respondent cannot deny that at the time he was negotiating what he claimed to be a fleet sale to TAPE, Inc., he already knew that the would-be end users are not employees of TAPE, Inc. This is shown by Check Voucher No. 004297 dated August 15, 1994 issued by M-ZET in favor of Ruth Racela, two days ahead of the Purchase Order issued by TAPE, Inc. on August 17, 1994,[10] which means that before TAPE, Inc. prepared and issued the purchase order, respondent already knew that Ruth Racela was an M-ZET employee, otherwise the latter would not have prepared and issued the corresponding check if there was no assurance of a fleet sale by him

to the company.[11]

We reiterate the rule under Article 282(c) of the Labor Code, which states that an employer can terminate the employment of the employee concerned for "fraud or willful breach by an employee of the trust reposed in him by his employer or duly authorized representative." The loss of trust and confidence must be based on the willful breach of the trust reposed in the employee by his employer. Ordinary breach will not suffice. A breach of trust is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.[12]

Moreover, we have laid down the guidelines for the application of the doctrine of loss of confidence in the case of *Concorde Hotel v. Court of Appeals*,[13] i.e., (a) the loss of confidence should not be simulated; (b) it should not be used as a subterfuge for causes which are improper, illegal or unjustified; (c) it should not be arbitrarily asserted in the face of overwhelming evidence to the contrary; and (d) it must be genuine, not a mere afterthought to justify earlier action taken in bad faith.

Respondent claims that at the time of the purchase, there was a promotional program by petitioner on its units so that the promotional price of the same were as follows:

UNIT

Regular Price

Promotional Price

Mitsubishi EL 1300

P 396, 000.00

P 363, 000.00

Mitsubishi Gli 1300

465, 000.00

425, 000.00

Mitsubishi GLXi

521, 000.00

486, 000.00[14]

He maintains that it was the promotional price that he quoted to the buyers and which the latter paid to petitioner without any further discount as in fleet sales; hence, no disadvantage was caused to petitioner since the promotional price is open to any client.[15]

We are not persuaded.

The fact that petitioner failed to show it suffered losses in revenue as a consequence of private respondent's questioned act is immaterial. The fact that respondent attempted to deprive petitioner of its lawful revenue is tantamount to fraud against the company, which warrants dismissal from the service.[16]

Finally, we hold that the Court of Appeals erred in declaring that there was nothing in the letters of intent, purchase orders and checks submitted which would lead petitioner to doubt or suspect that said documents were accomplished through fraud. In the first place, the same were signed by TAPE Inc.'s Purchasing Officer and

Executive Secretary to the President Ms. Esper Reate, who is not an authorized signatory. It is only Mr. Antonio Tuviera, TAPE Inc. President, or in his absence, Ms. Leslie Dionisio, its Assistant Vice President for Administration, who can duly sign.

Secondly, respondent was not able to explain the use of a purchase order not belonging to the series currently in use at the time the transaction took place.

In fine, we find that the foregoing constitute substantial evidence to support the conclusion that respondent's dismissal was just and legal. Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.^[17] The evidence relied upon by the Court of Appeals in affirming the NLRC's decision failed to establish the fact that respondent was illegally dismissed.

WHEREFORE, in view of the foregoing, the instant petition for review is GRANTED. The Decision of the Court of Appeals dated October 18, 2001 and the Resolution dated January 25, 2002 in CA-G.R. SP No. 63143 which affirmed the decision and resolution of the National Labor Relations Commission dated October 27, 2000 and December 28, 2001, respectively are REVERSED and SET ASIDE. The decision dated April 2, 1998 of Labor Arbiter Jose G. De Vera in NLRC-NCR Case No. 00-02-01363-95, dismissing respondent's complaint for illegal dismissal for lack of merit, is REINSTATED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Carpio, and Azcuna, JJ., concur.

[1] CA Rollo, p. 168; penned by Associate Justice Eliezer R. de los Santos, concurred in by Associate Justices Godardo A. Jacinto and Bernardo P. Abesamis.

[2] Records, pp. 15-20; penned by Commissioner Victoriano R. Calaycay, concurred in by Commissioners Raul T. Aquino and Angelita A. Gacutan.

[3] Rollo, pp. 28-29.

[4] Id., pp. 29-30.

[5] Petition docketed as CA-G.R. SP No. 63143.

[6] Rollo, pp. 10-11.

[7] *Asuncion v. National Labor Relations Commission*, G.R. No. 129329, 31 July 2001, 362 SCRA 56.

[8] *Aklan Electric Cooperative, Incorporated v. National Labor Relations Commission*, G.R. No. 121439, 25 January 2000, 323 SCRA 258.

[9] CA Rollo, p. 30.

[10] Id., pp. 29-31.

[11] Id.

[12] *Gonzalez v. National Labor Relations Commission*, G.R. No. 131653, 26 March 2001, 355 SCRA 195.

[13] G.R. No. 144089, 9 August 2001, 362 SCRA 583.

[14] CA Rollo, p. 43.

[15] Id.

[16] Philippine Airlines, Inc. v. National Labor Relations Commission, G.R. No. 126805, 16 March 2000, 328 SCRA 273.

[17] Aklan Electric Cooperative, *supra*.

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.