

ROSARIO A. GATUS, PETITIONER, VS. QUALITY HOUSE, INC. AND CHRISTOPHER CHUA, RESPONDENTS.

G.R. No. 156766. April 16, 2009

Ponente: BRION, J.

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BRION, J.:

Assailed before this Court via a petition for review under Rule 45 of the Rules of Court are:

(a)

the Decision of the Court of Appeals (CA) promulgated on September 25, 2002[1] which reversed and set aside the decision of the National Labor Relations Commission (NLRC) promulgated on July 28, 1999[2]; and

(b)

the Resolution of the CA promulgated on January 15, 2003, which denied the motion for reconsideration of its September 25, 2002 Decision.[3]

THE FACTS

Petitioner Rosario A. Gatus (petitioner) started her employment as an assembler with respondent Quality House, Inc. (respondent company) on July 14, 1987. The respondent company placed her under preventive suspension on July 1, 1997 through a notice that partly stated: "In view of the incident that occurred yesterday, 30 June 1997, between 4:00 to 4:30 p.m. at Mapa Avenue, Sta. Mesa, Manila involving your husband, Ferdinand Gatus, yourself and your co-employee, Leonilo Echavez,[4] you are hereby given a preventive suspension starting today, 01 July 1997, to end on 08 July 1997, pending investigation of the case."[5]

The assailed decision narrated the June 30, 1997 incident as follows:

It appears that on June 30, 1997, Mr. Echavez [petitioner] and her husband and other employees of [respondent] corporation, namely, Nelia Burabo and Reynaldo Padayao, were in a waiting shed when [petitioner's] husband suddenly turned towards Echavez and mauled the latter. Echavez fell to the ground and sustained several bruises, soft tissue swelling and musculoskeletal pain, as shown by a medico-legal report (Rollo, p. 65) and Echavez' affidavit (Rollo, pp. 70-71). Witnesses executed affidavits stating that private respondent had instigated her husband by urging him: "Sige pa! sige pa!" [6]

The petitioner promptly submitted on the same date her explanation in response to the respondent company's July 1, 1997 notice.[7] She complained in Filipino that she was experiencing difficulties in her work, caused by her co-employees Shelly, Rene and Nilo Echavez, due to her trade union activities. She claimed that she was being harassed by the three, especially Nilo Echavez, because she did not join the Philippine Association of Free Labor Unions (PAFLU). She said she preferred to be an independent unionist. She narrated that the harassment and humiliation persisted to the point of becoming unbearable; she was left with no recourse but to tell her husband about her workplace problems. This made her husband mad.

The petitioner responded to the preventive suspension by filing, on July 7, 1997, a complaint for illegal suspension and damages against the respondents. In a memorandum dated July 9, 1997, the respondent company, through Director Carmelita C. Go, terminated the petitioner's employment.[8] The petitioner accordingly amended her complaint on September 10, 1997, to reflect her charges of unfair labor practice and illegal dismissal, with claims for moral and exemplary damages.

The petitioner reiterated before the labor arbiter her concerns about her workplace difficulties. She especially bewailed the discrimination against her by the respondents and by supervisor Leonilo Echavez on account of her active participation in the formation of the Quality House, Inc. Workers Union (an independent labor union) and her disaffiliation, together with other employees, from PAFLU. She reported her difficulties to her husband Ferdinand Gatus (Ferdinand), who promptly confronted Echavez; the confrontation led to the encounter between Ferdinand and Echavez when the latter was about to attack Ferdinand.[9]

The respondents' Reply narrated the infractions the petitioner committed during her employment that showed her continuing poor work attitude, and for which she received the penalties of reprimand and two suspensions. She was also transferred to another section when her work attitude turned from bad to worse. The last infraction was the June 30, 1997 incident when, at her instigation, her husband Ferdinand physically attacked Leonilo Echavez. The respondent company terminated her services when it found her explanation unsatisfactory. The termination was effective upon her receipt of the respondent company's memo dated July 9, 1997.[10]

Labor Arbiter Potenciano S. Cañizares, Jr. dismissed the complaint for lack of merit on March 25, 1998.[11] The arbiter found no substantial evidence that showed that the respondents committed unfair labor practice. He likewise found that the mauling incident that occurred outside, but adjacent to, the respondent company's premises was instigated by petitioner; that it was a work-related matter; and that her act of bringing her husband Ferdinand to physically assault her supervisor was worse than if she did the assault herself. The arbiter concluded that the petitioner's continued service with the company would be inimical to the employer's interest, and that her dismissal was for a just cause under Art. 282 of the Labor Code.

The petitioner appealed to the NLRC on April 30, 1998.[12] On July 28, 1999, the NLRC affirmed the labor arbiter's ruling, finding that the physical assault on Leonilo Echavez that the petitioner instigated constitutes a just cause for the termination of her employment.[13]

The petitioner moved for, and successfully secured, a reconsideration of the NLRC's decision.[14] The new NLRC ruling, promulgated on June 8, 2001,[15] referred the case to Labor Arbiter Luis D. Flores for review and hearing, with instructions to rely on Article 221 of the Labor Code if necessary.[16] On November 15, 2000, Arbiter Flores submitted a report recommending the petitioner's reinstatement, with full backwages and without loss of seniority rights. The NLRC found the report to be supported by the facts and the law and, on this basis, reversed its earlier decision. The respondents unsuccessfully moved for the reconsideration of the NLRC's reconsidered ruling, and thereafter sought relief from the CA by way of a petition for certiorari and prohibition under Rule 65 of the Rules of Court.

In view of the variance in the findings of fact of the labor arbiter with those of the NLRC, as well as the allegation of grave abuse of discretion, the CA opted to review the facts of the case, as an exception to the rule that factual findings of quasi-judicial agencies, like the NLRC, are accorded respect and finality, if supported by substantial evidence. On September 25, 2002, the CA promulgated the decision assailed in the present petition, ruling that the NLRC committed grave abuse of discretion amounting to lack of jurisdiction when it reinstated the petitioner and awarded her monetary benefits. The petitioner filed the present petition with this Court when the CA denied, on January 15, 2003, the motion for reconsideration she subsequently filed.[17]

THE PETITION

The petition is anchored on the following grounds --

1. the CA erred in reversing and setting aside the decision of the NLRC and reinstating that of the labor arbiter, contrary to the evidence and settled jurisprudence.
2. the CA erred in not resolving the doubt in the evidence presented by the employee and that of the employer in favor of the employee.

In a memorandum filed on August 13, 2003,[18] the petitioner claims that: the CA did not give any plausible or legal reason in upholding the findings of the labor arbiter and disregarding those of the NLRC - it merely brushed aside the NLRC's well-founded conclusions and adopted the factual findings of the labor arbiter; and, these findings of the labor arbiter rested solely on the respondents' naked assertions and self-serving statements, in marked contrast with the findings of the NLRC which are entitled to respect and finality because they are supported by substantial evidence. Citing *Sanyo Travel Corporation, et al. v. NLRC, et al.*,[19] the petitioner posits that the employer must prove the validity of a dismissal; it is not for the employee to prove its invalidity.

The petitioner further contends that the respondents failed to prove that her dismissal was for a just and valid cause; thus, her dismissal was illegal for contravening Article 277 (b)[20] of the Labor Code. She essentially questions the CA's finding that she instigated her husband's assault on her supervisor. Her alleged utterance of the words "sige pa, sige pa" was never proven; even the statements of her supervisor, Leonilo Echavez, regarding the incident (which the labor arbiter relied upon) were inconsistent. In fact, the affidavit which Echavez submitted to the Office of the Prosecutor did not state that she uttered the words "sige pa, sige pa"; thus, the Prosecutor's Office did not find sufficient evidence to conclude that she participated in the incident. The petitioner also claims that the CA wrongly adopted the labor arbiter's conclusion that her act of complaining to her husband about her supervisor constitutes an admission of her participation in the assault. She alleges that it is only natural for a wife to relate to her husband her workplace experiences, as she has no one to talk to except the person closest to her heart; this communication cannot thus be considered an act of instigation. The petitioner asserts that since doubts exist regarding the alleged instigation, such doubts should be resolved in her favor.

The petitioner also submits that the act attributed to her does not pertain to the performance of her duties, and is not an act that would render her unfit to continue working for the company.

Further, the petitioner faults the CA for citing her poor work attitude as an additional basis for dismissal and as a reason that militates against her retention in the company; she claimed that this cited reason is not true, is beside the point and an afterthought. She argues that her previous infractions may be used as a ground for dismissal only if they directly relate to the proximate cause of dismissal; this linkage was not shown in the present case.

Lastly, the petitioner claims that she was dismissed without prior administrative investigation that allowed her to confront her accusers and the witnesses against her; she was simply placed under preventive suspension and eventually dismissed from work without any hearing.

THE CASE FOR RESPONDENTS

In a memorandum filed on August 21, 2003,[21] the respondents raise the following issues -

- whether the petition distinctly sets forth questions of law;
- whether the findings of fact of the CA are conclusive;
- whether the appellate court erred in rendering the decisions subject of the petition; and

- whether the petitioner's termination from employment is valid.

On the first issue, the respondents claim that the petition is fatally defective because it did not raise questions of law, as required under Rule 45 of the Rules of Court. They contend that the petition calls for a re-evaluation and re-assessment of the evidence considered and passed upon by the appellate court.

The respondents see no need for the re-examination of the facts since the CA's findings of fact are conclusive on the Court and are supported by substantial evidence. To stress that the assailed CA rulings are supported by evidence, they point to the previous dismissals of the petitioner's complaint: first, by the labor arbiter in his March 25, 1998 decision[22] in NLRC-NCR Case No. 00-07-04771-97; second, by the NLRC's July 28, 1999 decision[23] and third, by the CA's decision[24] dated September 25, 2002, and resolution[25] dated January 15, 2003.

The respondents insist that the CA committed no error in reviewing the evidence presented. While the factual findings of the NLRC are generally conclusive and binding on the appellate courts, there were conflicting factual findings by the labor arbiter and by the NLRC, which necessitated a re-examination of the evidence.

OUR RULING

We find no merit in the petition. The CA correctly reversed the NLRC, thereby giving way to the labor arbiter's ruling that the petitioner was not illegally dismissed.

At the outset, we clarify that the petition properly raises both factual and legal questions. The variance in the factual findings below compels us to look at the evidence to settle the factual issues raised. The petition likewise raises the legal issue of whether the petitioner has been accorded due process.

The Evidentiary Issue

We concur with the CA that there is substantial evidence to support the conclusion that petitioner was dismissed for a just cause. We likewise conclude that no doubt exists in the evidence presented that would call for the application of the rule that doubts must be resolved in favor of the employee.[26]

Our own reading of the evidence tells us that the assault on supervisor Leonilo Echavez on June 30, 1997[27] did indeed take place; that the person who assaulted Echavez was Ferdinand Gatus, the petitioner's husband, is also beyond doubt. Thus, the real factual issue is reduced to the petitioner's connection with, or participation in, the assault on Echavez. If she did cause, motivate or participate in the attack, then the labor arbiter and the CA are correct in their conclusions; otherwise, we should uphold the NLRC's factual findings.

We find in the first place that the petitioner harbored a deep resentment against Nilo Echavez, which she reported to her husband Ferdinand. This report infuriated Ferdinand. The petitioner herself provided the basis for this conclusion when she stated in her June 30, 1997 explanation that:

Talagang guilty si Nilo na talagang pinahirapan ako sa trabaho. Hindi sa nagreklamo ako; talagang sinasadya nila dahil independent ako. Iyan ang talagang dahilan kaya nila ako ginaganun sa trabaho. Sinabi ko kay Rene noong Sabado dahil hindi ko na matiis ang ginagawa nila sa akin. Sabi ni Rene kayo ang nagsisimula eh. At saka sa trabaho nakikita ko si Shelly, Nelia at Nilo na nagtatawanan tapos nakatingin sa akin. Minsan nahuli ko si Nelia at Shelly na nahihirapan na raw ako. [sic] Kaya sinumbong ko si Nilo sa mister ko kaya nagalit.

More than providing for the motivation, the petitioner was at the scene of the attack and actively encouraged it. Thus, the CA concluded--

It is undisputed that private respondent's act of instigating her husband to inflict more violence ("Sige pa! Sige pa!") on her supervisor enraged and emboldened him. The incident was work-related having been brought about by respondent's constant complaints about perceived discrimination against her in the workplace. The fact that her husband, who was not an employee of the corporation, came to the waiting shed at the precise time that the unsuspecting supervisor Echavez was in the waiting shed supported Arbiter Cañizares' finding that the husband purposely went to the company's premises to confront the supervisor and thereafter to maul the latter.

The petitioner tried to downplay her involvement in the incident of June 30, 1997 with her denial that she urged her husband to continue hitting Echavez. She contended that she could not have uttered the exhortatory remarks "sige pa, sige pa" at the moment her husband was attacking Echavez, because Echavez himself did not mention it in his affidavit before the Prosecutor's Office. Echavez, however, referred to the petitioner's presence and participation in the Incident Report he filed with the respondent company.[28] He was corroborated on this point by two of the petitioner's co-employees, Nelia Burabo and Reynaldo Padayao, who witnessed the incident.[29] Significantly, the petitioner had nothing to say about the corroborating statements of Burabo and Padayao.

Under these facts, Ferdinand Gatus would not have acted as he did in the afternoon of June 30, 1997 had petitioner not worked him up into a sufficiently irate mood that led to the attack. In effect, petitioner pushed her husband to get back at Echavez for what the latter had done to her at the workplace. Beyond providing mere motivation, petitioner was even at the scene of the attack and actively prodded her husband to continue with the attack. This is a form of participation no less that led the CA to conclude that -

The mauling incident that resulted from the prodding of private respondent shows her to be unfit to continue working for her employer. Her admitted grievances translated into the concrete act of violence performed against her supervisor who represented her employer. Undoubtedly, her continued employment would cause undue strain in the workplace. Taken lightly, the incident would inspire the breakdown of respect and discipline among the workforce.

That the petitioner's transgression merits the penalty of dismissal is fully supported by our past rulings.[30] It is, at the very least, a serious misconduct of a grave and aggravated character that directly violated the personal security of another employee due to an employment-related cause. Thus, the disciplinary measure imposed is not a matter where the company and we should tread carefully and show administrative leniency.

The Due Process Issue

Similarly, the CA was correct when it concluded that the petitioner was not denied due process in the consideration of her dismissal. The petitioner insinuated in this regard that due process requires a formal hearing as an absolute requirement in employee dismissals.

The pertinent provision of the Labor Code on the matter of hearing is Article 277, which provides--

ART. 277. Miscellaneous provisions. - x x x (b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment. Any decision taken by the employer shall be without prejudice to the right of the worker to contest the validity or legality of his dismissal by filing a complaint with the regional branch of the National Labor Relations Commission. The burden of proving that the termination was for a valid or authorized cause shall rest on the employer. The Secretary of the Department

of Labor may suspend the effects of the termination pending resolution of the dispute in the event of a prima facie finding by the appropriate official of the Department of Labor and Employment before whom such dispute is pending that the termination may cause a serious labor dispute or is in implementation of a mass lay-off.

We note and stress once more for everyone's guidance that the law itself only requires "ample opportunity to be heard." The essence of this requirement as an element of due process in administrative proceedings is the chance to explain one's side. Jurisprudence has amply clarified that administrative due process cannot be fully equated with due process in the strict judicial sense,[31] and that there is no violation of due process even if no formal or actual hearing was conducted, provided a party is given a chance to explain his side. What is frowned upon is the denial of the opportunity to be heard.[32] We have decisively settled this issue in *Felix B. Perez and Amante G. Doria v. Philippine Telegraph and Telephone Company* and *Jose Luis Santiago*,[33] a decision penned by Mr. Justice Renato C. Corona, where we held:

Article 277(b) of the Labor Code provides that, in cases of termination for a just cause, an employee must be given "ample opportunity to be heard and to defend himself." Thus, the opportunity to be heard afforded by law to the employee is qualified by the word "ample" which ordinarily means "considerably more than adequate or sufficient." In this regard, the phrase "ample opportunity to be heard" can be reasonably interpreted as extensive enough to cover actual hearing or conference. To this extent, Section 2(d), Rule I of the Implementing Rules of Book VI of the Labor Code is in conformity with Article 277(b).

Nonetheless, Section 2(d), Rule I of the Implementing Rules of Book VI of the Labor Code should not be taken to mean an actual hearing or conference is a condition sine qua non for compliance with the due process requirement in termination of employment. The test for the fair procedure guaranteed under Article 277(b) cannot be whether there has been a formal pretermination confrontation between the employer and the employee. The "ample opportunity to be heard" standard is neither synonymous nor similar to a formal hearing. To confine the employee's right to be heard to a solitary form narrows down that right. It deprives him of other equally effective forms of adducing evidence in his defense. Certainly, such an exclusivist and absolutist interpretation is overly restrictive. The "very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation."

The standard for the hearing requirement, ample opportunity, is couched in general language revealing the legislative intent to give some degree of flexibility or adaptability to meet the peculiarities of a given situation. To continue it to a single rigid proceeding such as a formal hearing will defeat its spirit.

Significantly, Section 2(d), Rule I of the Implementing Rules of Book VI of the Labor Code itself provides that the so-called standards of due process outline therein shall be observed "substantially," not strictly. This is a recognition that while a formal hearing or conference is ideal, it is not an absolute, mandatory or exclusive avenue of due process.

An employee's right to be heard in termination cases under Article 277(b) as implemented by Section 2(d), Rule I of the Implementing Rules of Book VI of the Labor Code should be interpreted in broad strokes. It is satisfied not only by a formal face to face confrontation but by any meaningful opportunity to controvert the charges against him and to submit evidence in support thereof.

A hearing means that a party should be given a chance to adduce his evidence to support his side of the case and that the evidence should be taken into account in the adjudication of the controversy. "To be heard" does not mean verbal argumentation inasmuch as one may be heard just as effectively through written explanations, submissions or pleadings. Therefore, while the phrase "ample opportunity to be heard" may in fact include an actual hearing, it is not limited to a formal hearing only. In other words, the existence of an actual, formal "trial type" hearing, although preferred is not absolutely necessary to satisfy the employee's right to be heard.

In the present case, we significantly note that petitioner, after filing her explanation in response to the employer's July 1, 1997 memo, never asked for any clarificatory hearing during the plant-level proceedings. She also had ample opportunity to explain her side vis-à-vis the principal charge against her — her involvement in the incident of June 30, 1997. It is a matter of record that the petitioner lost no time in submitting the required explanation,[34] as she submitted it on the very same day that the memo was served on her.[35] The explanation, in Filipino, narrated among others the indifferent and discriminatory treatment she had been receiving from the group of Nilo Echavez, which she also told her husband who got mad. Taken together with the testimonies of other witnesses who gave their statements on how the petitioner encouraged her husband to attack Echavez (all of which were duly and seasonably disclosed), the petitioner cannot claim that the respondent company did not give her ample opportunity to be heard. All told, we are convinced that the respondent company acted based on a valid cause for dismissal and observed the required procedures in so acting.

On the previous infractions that the CA cited in justifying the petitioner's dismissal,[36] we note that the CA did not dismiss the petitioner on the basis of these previous infractions. These were cited, more than anything else, as background and supporting information, regarding the petitioner's work attitude: she had low regard for her job and would not hesitate to disrupt the workplace and her co-employees, as she had manifested in the June 30, 1997 incident. That these infractions do not have direct bearing on the proximate cause for her dismissal - the incident of June 30, 1997 - is not a valid argument, as they were not in fact cited as considerations directly related to the proximate cause; they merely served as gauges of her work attitude and her continued fitness to stay in the respondent company.

WHEREFORE, premises considered, we DENY the petition for lack of merit. Costs against the petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, and Tinga, JJ., concur.
Velasco, Jr., J., see concurring and dissenting opinions.

[1] Penned by Associate Justice Portia A. Hormachuelos, and concurred in by Associate Justice Elvi S. John Asuncion and Associate Justice Juan Q. Enriquez; rollo, pp. 51-57.

[2] Id., pp. 110-114.

[3] Id., p. 59.

[4] Also referred to as Nilo Echavez.

[5] Id., p. 60.

[6] Id., p. 52, par. 1.

[7] Id., p. 61.

[8] Id., p. 62.

[9] Supra note 6.

[10] Supra note 8.

[11] Rollo, pp. 95-101.

[12] Id., pp. 102-109.

[13] Id., pp. 110-114.

[14] Id., pp. 115-125.

[15] Id., pp. 127- 137.

[16] Art. 221 - Technical rules not binding and prior resort to amicable settlement. - In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts.

[17] Supra note 3.

[18] Rollo, pp. 171-202.

[19] G.R. No. 121449, October 2, 1997, 280 SCRA 129.

[20] x x x The burden of proving the termination was for a valid or authorized cause shall rest on the employer x x x.

[21] Rollo, pp. 205-237.

[22] Supra note 11.

[23] Supra note 13.

[24] Supra note 1.

[25] Supra note 3.

[26] Sy v. Court of Appeals, G.R. No. 142293, February 27, 2003, 398 SCRA 301.

[27] Supra note 5.

[28] Rollo, pp. 79-80; Annex "G," Respondents' Position Paper in NLRC-NCR-No. 00-07-04771-97.

[29] Id., pp. 80-89.

[30] Royo v. NLRC, G.R. No. 109609, May 8, 1996, 256 SCRA 639; Flores v. NLRC, G.R. No. 109362, May 15, 1996, 256 SCRA 735.

[31] Concerned Officials of MWSS v. Vasquez, G.R. No. 109113, January 25, 1995, 240 SCRA 502.

[32] Phil. Airlines, Inc. v. NLRC, G.R. No. 87353, July 3, 1991, 198 SCRA 748; see also Audion Electric Co. v. NLRC, G.R. No. 106648, June 19, 1999, 308 SCRA 341.

[33] G.R. No. 152048, March 31, 2009.

[34] Supra note 6.

[35] Supra note 4.

[36] Rollo, p. 198.

CONCURRING
and DISSENTING OPINIONS

VELASCO, JR., J.,

Insofar as the existence of a valid cause for the dismissal of petitioner Rosario Gatus is concerned, I concur with the ponencia of my esteemed colleague. I, however, would like to take exception to the conclusion that petitioner was not denied due process in the consideration of her dismissal, she having been given the opportunity to be heard when "the company asked her to explain her side vis-à-vis the principal charge against her--her involvement in the [mauling] incident of June 30, 1997." [1]

As can be gathered from the ponencia, on July 1, 1997, respondent company placed petitioner under preventive suspension pending an investigation on the June 30 incident referred to, where she allegedly urged her husband to continue hitting her co-employee, one Nilo Echavez. On the very day she received the preventive suspension notice, petitioner submitted her explanation. Following petitioner's filing of a complaint for illegal suspension--later amended to cover illegal dismissal--the company, via a memorandum of July 9, 1997, terminated petitioner's employment without a formal hearing.

My dissent revolves around only on this main issue: Was Gatus, before her dismissal, entitled to a formal hearing or conference as mandated by the Implementing Rules and Regulations (IRR) of Book V of the Labor Code?

The ponencia answered the poser in the negative. As there held, Article 277(b) of the Labor Code merely requires the employer to provide an employee with ample opportunity to be heard, which in turn means the chance to explain one's side. The ponencia would seem to suggest that Section 2(b), Rule XXIII of the IRR of V of the Code, [2] by requiring a formal hearing, went beyond the terms and provisions of the Labor Code.

With due respect, I beg to disagree with the ponencia's resolution of this issue for the following reasons:

(1) Art. 277(b) of the Labor Code provides that:

(b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment. Any decision taken by the employer shall be without prejudice to the right of the worker to contest the validity or legality of his dismissal xxx [before] the [NLRC]. The burden of proving that the termination was for a valid or authorized cause shall rest on the employer. (Emphasis supplied.)

As I articulated in my concurring and dissenting opinions in a similar case, [3] Art. 277(b) makes reference to according workers "ample opportunity to be heard and defend themselves," but without going into specifics as to what would constitute "ample opportunity." On the postulate, however, that all reasonable doubts in the interpretation of labor laws should be resolved in favor of labor, [4] the words "ample opportunity" should be given a liberal construction as would advance the rights of workers. Webster defines "ample" as "considerably more than adequate or sufficient; marked by more than adequate measure of strength, force, effectiveness or influence." [5] In the context of Art. 277(b) of the Code, "ample opportunity" connotes any kind of assistance that management must accord the employee to enable him to prepare adequately for his defense, including legal representation, [6] irresistibly suggesting that ample opportunity very well covers actual hearing or conference. To put it a bit differently, opportunity to be heard does not exclude an actual or formal hearing since such requirement would grant more than sufficient chance for an employee to be heard and adduce evidence. In this sense, the perceived discrepancy between Art. 277(b) and the IRR in question is more imagined than real and definitely not irreconcilable.

It is true that Art. 277(b) speaks only of ample opportunity to be heard, not "actual hearing." But as earlier discussed, if not implied, the requisite hearing is subsumed in the phrase "ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires." Even if the term "actual hearing" is not used in Art. 277(b), the same thing is true as regards the second written notice informing the employee of the employer's decision which is likewise unclear in said provision. Thus, the reality that Art. 277(b) does not expressly mention actual hearing is not, without more, a legal impediment for the Department of Labor and Employment (DOLE) Secretary issuing a rule (Sec. 2[d][ii], Rule I, Implementing Rules of Book VI of the Labor Code) implementing the provision that what really is contemplated is an actual hearing or conference. It cannot be overemphasized that the Secretary of Labor likewise issued a rule on the need for a second written notice on the decision rendered in illegal dismissal proceedings notwithstanding the glaring silence of Art. 277(b) on the need for a written notice of the employer's/management's decision.

(2) As earlier indicated and as Art. 4 of the Labor Code no less states, all doubts in the implementation and interpretation of the provisions of the Code, including its IRR, shall be resolved in favor of labor. Since the Code itself -invests the DOLE the quasi-legislative power to issue rules and regulations to set the standard guidelines for the realization of the provision, then the IRR should be liberally construed to favor workers. The IRR, being a result of such rule-making authority, has the force and effect of a statute. It bears to stress that Art. 277 of the Code granted the DOLE the authority to develop the guidelines to enforce the process. It is obviously pursuant to this mandate that the DOLE formulated the ensuing Rule I, Sec. 2(d) of the Implementing Rules of Book VI of the Labor Code prescribing due procedural standards in termination cases:

(d) In all cases of termination of employment, the following standards of due process shall be substantially observed:

For termination of employment based on just causes defined in Article 282 of the Labor Code:

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

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

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

The standards of due process embodied in Sec. 2(b), Rule XXIII, Implementing Rules of Book V of the Labor Code, and now in Sec. 2(d)(ii), Rule I, Implementing Rules of Books VI of the Labor Code, do not go beyond the terms of the Labor Code. If at all, the IRR assumes a clarificatory function, encapsulating, as it were, a rather abstract concept into a concrete idea. Indeed, under what adjudicatory setting can an employer best accord employees with an ample opportunity to be heard and defend themselves with the assistance of a representative than in a formal hearing or conference which the IRR provides? It is in that scenario that the playing field becomes even, where the employees are at least given a reasonable chance to respond to the charges made against them, present their evidence in chief, or rebut evidence in a formal hearing or conference. Therefore, in my humble opinion, there is no discrepancy between the law and the rules implementing the Labor Code.

(3) Denying the employees of their right to a hearing in a termination case would necessarily deny them the opportunity to belie the inculpatory allegations made in the first notice and prove their innocence, if that be the case. Notice can be taken of the limited opportunity given to the employees by the directive in the first written notice that embodies the charges. As it usually happens, the directive allows them, within a fixed limited period,

just to explain their side, a veritable show-cause routine, but without the right to present evidence. Moreover, a hearing gives employees a lead time to secure expert legal advice to brief him of his rights and obligations under, and the intricacies of, the law. A mere first notice is not adequate enough for employees to collate and sift evidence for their defense. Most often, the first notice merely serves as or is limited to a general notice which cites the company rules breached, without detailing the facts and circumstances relevant to the charges and without appending the pieces of supporting evidence. Lastly, the holding of an actual hearing will obviate the obnoxious practice of railroaded dismissals, as the employers would be compelled present convincing evidence to support the charges. In all, the advantages far outweigh the disadvantages in holding an actual hearing.

(4) On the practical viewpoint, a hearing affords both the employer and the employee the opportunity to address minor irritants and settle any misunderstanding via the use of alternative dispute resolution to avoid the filing of labor relation cases. It is important that a hearing is prescribed by the law since this is the most opportune time for discussing amicable settlement. Relations between the parties may still be cordial, and the likelihood of a compromise is high during the hearing stage. Once a termination order issues, the possibility of an amicable settlement is almost nil owing to the ill-feelings engendered by the dismissal proceedings. Thus, a hearing can most certainly assist the parties come up with an out-of-court settlement which would be less expensive, creating a "win-win" situation for them.

(5) Last, but not least, a liberal interpretation of Art. 277(b) of the Labor Code would hew with the prescription of Art. XIII of the Constitution on full protection to labor and the promotion of social justice, a basic postulate that "those who have less in life must have more in law." Social justice commands that the State, as *parens patriae*, and guardian of the general welfare of the people, afford protection to the needy and the less fortunate members of society, meaning the working class. This command becomes all the more urgent in labor cases where security of tenure is an integral issue. The Court said so in *Rance v. NLRC*, where we declared:

It is the policy of the state to assure the right of workers to "security of tenure" x x x. The guarantee is an act of social justice. When a person has no property, his job may possibly be his only possession or means of livelihood. Therefore, he should be protected against any arbitrary deprivation of his job. Article 280 of the Labor Code has construed security of tenure as meaning that "the employer shall not terminate the services of an employee except for a just cause or when authorized by" the code x x x. Dismissal is not justified for being arbitrary where the workers were denied due process x x x and a clear denial of due process, or constitutional right must be safeguarded against at all times.[7] x x x (Citations omitted.)

In the normal course of an employer-employee relationship, the latter is oftentimes on the disadvantage or inferior position. Without the mandatory requirement of a hearing, employees may be unjustly terminated from their work, effectively depriving them from their usual means of livelihood. One's right to his work is a property right well within the context of the constitutional guarantee[8] against depriving one of property without due process.

The Court, to be sure, has applied the imperatives of social justice even to instances of justifiable termination by granting equitable relief to the erring employees. We also termed social justice as "compassionate" justice.[9] As it were, poverty and gross inequality are among the underlying major problems of the country. Given this postulate, laws and procedures which have the aim of alleviating those problems should be liberally construed and interpreted in favor of the underprivileged. Thus, the Labor Code should receive a liberal interpretation as to attain its lofty purpose.[10] That should have been the case here.

[1] Ponencia, p. 11.

[2] Now only Sec. 2(d)(ii), Rule I, Implementing Rules of Book VI of the Labor Code remains, as amended by

Department Order No. 40-03, Series of 2003.

[3] *Perez v. PT &T*, G.R. No. 152048, April 7, 2008.

[4] *IPI v. Sec. of Labor*, G.R. Nos. 92181-83, January 9, 1992.

[5] Webster's Third New International Dictionary of the English Language Unabridged 74 (1993).

[6] *Balayan Colleges v. NLRC*, 255 SCRA 1; *Manebo v. NLRC*, 229 SCAD 240.

[7] No. L-68147, June 30, 1988, 163 SCRA 279, 284-285.

[8] *Batangas Laguna Tayabas Bus Co. v. Court of Appeals*, No. L-38482, June 18, 1976, 71 SCRA 470, 480.

[9] *Tanala, v. NLRC*, G.R. No. 116588, January 24, 1996, 252 SCRA 314.

[10] *Manahan v. Employees' Compensation Commission*, No. L-44899, April 22, 1981, 104 SCRA 198, 202.

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