

**MITSUBISHI MOTORS PHILS. CORPORATION, PETITIONER, VS.
ROLANDO SIMON AND CONSTANTINO AJERO, RESPONDENTS.***G.R. No. 164081. April 16, 2008*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-164081/>**TINGA, J.:**

In the instant petition, Mitsubishi Motor Philippines (petitioner) questions the Decision[1] and Resolution[2] dated 20 February 2004 and 14 June 2004, respectively, in CA GR SP NO 70704 entitled Rolando Simon and Constantino Ajero v. Mitsubishi Motor Phils. Corp. and National Labor Relations Commission wherein the Court of Appeals annulled and set aside the resolution and decision of the NLRC and instead ordered the reinstatement of respondents, or if reinstatement is not possible, the payment of separation pay to respondents.

The facts of the case follow.

Rolando Simon and Constantino Ajero (respondents) were employees of petitioner and members of the Hourly Union. Simon was designated as Union Chairman of the Rice Subsidy Sub-Committee[3] with Ajero as his Vice Chairman. On 29 May 1997, Rodolfo Siena (Siena), one of the accredited rice suppliers of petitioner complained to petitioner that respondents had extorted money from him in exchange for union protection for his rice store's continued accreditation in the rice subsidy program. In support of said allegation, Siena executed a Sinumpaang Salaysay,[4] wherein he detailed that he was approached by respondents who introduced themselves as newly elected union officers, and demanded that he pay them P50.00 per sack of rice given to petitioner's employees. Siena claimed that he was forced to give respondents P3,0000.00 after they threatened him that they would no longer get him as a rice supplier. He was also warned not to tell anyone about the incident.

Petitioner, through its Industrial Relations Department, issued a Notice of Disciplinary Charge with Preventive Suspension against respondents. Administrative hearings were conducted, after which respondents were found guilty of "'serious misconduct' and 'breach of trust' amounting to loss of confidence, under Article 282(a) and (c) of the Labor Code in relation to Par. E.(1) of the Company Rules and Regulation (CRR) for 'Commission of an Act which is considered a crime under the Republic of the Philippines' namely, 'Swindling or Estafa' (extortion) under Article 315(2)(a) and/or Article 318 (other deceits) of the Revised Penal Code." [5]

Respondents filed a case for illegal dismissal but their complaint was dismissed by the labor arbiter for lack of merit.[6] The dispositive portion of the decision reads:

WHEREFORE, the complaint for illegal dismissal is hereby DISMISSED for lack of merit. However, by way of compassionate justice, respondent is directed to extend financial assistance of P88,389.48 (P94.43 x 8 hrs. x 26 days x 9/2 to Rolando Simon and P69,580.16 (P86.43 x 8 hrs. x 26 days x 8/2 to Constantino Ajero.

SO ORDERED.[7]

Respondents appealed the decision to the National Labor Relations Commission (NLRC). Petitioner also filed an appeal insofar as the award of financial assistance to respondents is concerned. The NLRC affirmed the labor arbiter's decision, but it deleted the award of financial assistance, considering that respondents were dismissed for

cause on the ground of serious misconduct.[8] Respondents moved for the reconsideration of the decision but their motion was denied by the NLRC.[9]

Feeling aggrieved, respondents filed a petition for certiorari with the Court of Appeals, imputing grave abuse of discretion on the part of the NLRC. The Court of Appeals granted the petition, finding in the main that the labor tribunals did not properly appreciate the evidence presented before them. The Court of Appeals thus ordered:

WHEREFORE, based on the foregoing, the instant petition is hereby GRANTED. The assailed Resolution and Decision of the NLRC are hereby ANNULLED and SET ASIDE and a new judgment is hereby rendered ordering the private respondent to:

- (1) Reinstate petitioners to their former position without loss of seniority rights, and to pay full backwages computed from the time of their illegal dismissal to the time of actual reinstatement; and
- (2) Alternatively, if reinstatement is not possible, pay petitioners separation pay equivalent to one month's salary for every year of service.[10]

Petitioner moved for the reconsideration of the decision but to no avail.[11]

Before us, petitioner claims that the Court of Appeals erred in reversing the factual finding of the NLRC and the labor arbiter and in relying on the defense of alibi and the self-serving statements of respondents.

We find for the petitioner.

Under Rule 45 of the Rules of Court, only questions of law may be raised under a petition for review on certiorari. The Court, not being a trier of facts, is not wont to reexamine and reevaluate the evidence of the parties, whether testimonial or documentary. Moreover, the findings of facts of the Court of Appeals on appeal from the NLRC are, more often than not, given conclusive effect by the Court. The Court may delve into and resolve factual issues only in exceptional circumstances, as when the Court of Appeals has reached an erroneous conclusion based on arbitrary findings of fact; and when substantial justice so requires.[12] In the present case, the Court of Appeals overlooked the applicable laws and jurisprudence when it reached its conclusion.

The settled rule in administrative and quasi-judicial proceedings is that proof beyond reasonable doubt is not required in determining the legality of an employer's dismissal of an employee, and not even a preponderance of evidence is necessary as substantial evidence is considered sufficient.[13] Substantial evidence is more than a mere scintilla of evidence or relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds, equally reasonable, might conceivably opine otherwise.[14]

Petitioner alleges that respondents extorted money from Siena, one of the rice dealers contracted by the company to provide for its rice subsidy program. According to petitioner, said act is "a clear case of serious misconduct, fraud and willful breach of trust, and disloyalty to the Company as their employer" as it "sabotages the Company's Rice Subsidy Program and disrupts the efficient administration of services and benefits to employees." Thus, they claim that respondents betrayed not only the Company, but also the union members whom they had sworn to serve, reneging on their loyalty to the company, its visions and goals.[15] Petitioner based its conclusions on the sworn statements of Siena and his wife, as well as on the explanations and evidence presented by respondents. The labor arbiter and the NLRC, after finding the evidence presented by petitioner to be credible vis a vis respondents' general denial, ruled that respondents were not illegally dismissed.

On the other hand, the Court of Appeals, in reversing the findings of the labor tribunals, observed that the former did not take into account the affidavits of respondents' co-employees attesting to their presence in the company premises at the time of the alleged extortion and found the need for a graphology expert to verify Ajero's signature

in the receipt. It also noted that Siena's affidavit is replete with inconsistencies which cast doubts on the credibility of the accusation and should have been clarified by the labor tribunals. Finally, the appellate court mentioned that petitioner did not even present a police blotter or a copy of the criminal charges against respondents, "when the same are crucial, petitioners' [respondents] dismissal being grounded on their alleged commission of the crime that amounts to a violation of the company rules. On the other hand, petitioners were able to present certifications from various agencies attesting to the fact that they were never charged with the crime being imputed to them." [16]

In so doing, the Court of Appeals raised the degree of proof in administrative cases. Rather than mere substantial evidence, the appellate court seems to be looking for proof beyond reasonable doubt, or at the very least, a preponderance of evidence.

The Court of Appeals point to affidavits supposedly executed by respondent's co-employees, who claim that respondents were in their work stations when the extortion occurred. We checked the records of the case and discovered that the documents referred to are not affidavits, but mere handwritten letters. One of the letters [17] signed by fourteen (14) employees reads:

July 31, 1997

Para sa Kinauukulan:

Ito ay nagpapatunay na si Kasamang Rolando Simon ng 7210 w Canter chassis at halal na tagasuri ng Chrysler Philippine Labor Union ay nakasama naming sa loob ng Planta (m.M.P.C.) nuong Abril 14, 1997. Siya ay nakita naming mula alasais-imedya ng umaga 6:30 AM hanggang alasdos imedya ng hapon 2:30 PM.

Narito po ang aming mga pangalan at lagda.

(names and signatures of 14 persons follow).

Respondent Simon admitted that he was the one who prepared the above letter and solicited the signatures of his co-employees. [18]

The other "affidavit" is another handwritten document which states:

August 19, 1997

Ito po ay nagpapatunay na noong Abril 14, 1997 mula 6:00 ng umaga hanggang 2:34 ng hapon ako si Mr. Constantino Ajero ay pumasok at nasa loob ng planta sa nabanggit na oras at araw. Kalakip dito ang mga lagda ng aking mga kasamahan sa Aming Departamento 9210-B at ang time sheet na magpapatunay na ako ay nasa loob ng pagawaan ng MMPC.

Narito po ang mga lagda.

Dept. no. 9210-B

(Names and signatures of 19 persons follow)

We find these documents to be self-serving and as such cannot prevail over the positive assertions by Siena.

The Court of Appeals also point to the alleged inconsistencies in the affidavit of Siena, i.e.; that respondent Ajero signed the receipt but warned Siena not to tell anyone about the extorted money, which should have been clarified by the labor tribunals. It added that the "labor tribunals are required to utilize all necessary means to ascertain the truth considering that a worker's livelihood is at stake. We have read the affidavit referred to, and like the NLRC and the labor arbiter, we do not see the said inconsistencies. Moreover, the Court of Appeals seems to imply that

it was duty of the labor tribunals to make the case for respondents. In the first place, the labor arbiter had allowed the conduct of a formal trial on the merits, wherein both respondents testified. The hearings should have been the proper venue for respondents to strike down the alleged inconsistencies, but they failed to do so. A review of the transcripts of the hearings[19] shows that these inconsistencies were not passed upon by the parties, especially by respondents themselves.

Another point of contention made by the Court of Appeals is the lack of formal criminal charges against respondents, which it deems crucial to the administrative charges against them. Again, we disagree.

A criminal charge, much more a criminal conviction, is not necessary in order to charge administratively charge and erring employee. Time and again, we have held that the findings and conclusion in a labor case are not affected by the outcome of a criminal case. These two cases respectively require distinct and well delineated degrees of proof, [20] namely, proof beyond reasonable doubt in one and substantial evidence in the other.

Moreover, we find no need for the services of a graphology expert to prove that the signature appearing in the receipt is that of respondent Ajero. As we have previously stated, the burden of proof required in a labor case is not proof beyond reasonable doubt, but merely substantial evidence. Furthermore, while a graphology expert could tell whether the signature appearing in the receipt could be that of Ajero, it would still not be enough to dispel the extortion charges, that is the fact that he had demanded upon, and received money from Siena. Finally, it is settled the testimony of a handwriting expert is just an opinion and never conclusive. Courts and tribunals have the discretion whether to accept or overrule an such an expert's opinion.[21]

We find substantial evidence to support respondents' dismissal. True, the core of petitioner's decision to dismiss respondents is the statements of the spouses Siena. However, testimonies are to be weighed, not numbered; thus it has been said that a finding of guilt may be based on the uncorroborated testimony of a single witness when the tribunal finds such testimony positive and credible.[22]

These sworn statements of the spouses Siena are straightforward and uncomplicated. In the simplest of terms, they narrated how Mr. Siena was approached by respondents, the actual handing out of money, and the warning not to tell the incident to anyone. We see no reason to doubt their credibility, nor any motive for them to make up the story. They are not employees of petitioner; even respondents admitted that they could not think of any motive why Siena would accuse them of extortion.[23] The testimonies of persons not shown to be harboring any motive to depose falsely against an employee must be given due credence, particularly where no rational motive is shown why the employer would single out an employee for dismissal unless the latter were truly guilty.[24] And even where motive is established, the same does not put in doubt the positive identification of the accused.[25]

Respondent's denials and alibi fall flat in the face of the credible testimonies of the spouses Siena. They were positively identified by Siena to be the same persons who demanded and received the money. The claim that they could not have committed the extortion since they were at their workstations when the incident happened is a weak defense, easily debunked by the fact that the Antipolo Public Market where Siena's store is located can be reached in a short time from the company premises.[26] Even the certifications made by respondents' co-employees cannot help them get out of their predicament. In the first place, these are self-serving statements, having been prepared by respondents themselves. Second, said co-employees could not have monitored the comings and goings of respondents, and the latter could have easily left and returned to the workplace unnoticed since the Antipolo Public Market is only a few minutes away, as earlier discussed.

Respondents' acts constitute serious misconduct and willful breach of trust reposed by the employer, which are just causes for termination under the Labor Code.[27] For serious misconduct to exist, the act complained of should be corrupt or inspired by an intention to violate the law or a persistent disregard of well-known legal

rules.[28] On the other hand, in loss of trust and confidence, it must be shown that the employee concerned is responsible for the misconduct or infraction and that the nature of his participation therein rendered him absolutely unworthy of the trust and confidence demanded by his position.[29] Respondents demanded money from Siena, giving the impression that they had the authority to cause the termination of his contract should he not accommodate their demand. This amounts to fraud and extortion, and possible estafa under Art. 318 of the Revised Penal Code.[30] Under SMC rules,[31] the commission of an act which is considered a crime under the Republic of the Philippines, committed against the company or its employees is punishable by dismissal after administrative conviction. By their acts, they have betrayed not only SMC, but also their fellow union members who elected them to their positions. They have prejudiced SMC's rice subsidy program, and disrupted the efficient administration of the services and benefits to their fellow employees. Without a doubt, there is substantial evidence to support respondents' dismissal for cause.

The office of a petition for review under Rule 45 is to review the decision of the Court of Appeals, not the NLRC's,[32] or the labor arbiter's, for that matter. All told, we find the decision of the Court of Appeals not to be in accord with the applicable laws and jurisprudence in this case.

WHEREFORE, the petition is GRANTED and the Decision dated 20 February 2004 and Resolution dated 14 June 2004 of the Court of Appeals are hereby nullified and ASIDE. The Decision of the NLRC dated 31 January 2002 is REINSTATED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 55-64; Penned by Associate Justice Juan Q. Enriquez, Jr. with Associate Justices Roberto A. Barrios and Hakim S. Abdulwahid, concurring.

[2] Id. at 66.

[3] Petitioner's Rice Subsidy Program is administered by the Rice Subsidy Committee and Sub Committee. Under the program, petitioner's employees receive one sack of rice every two months

[4] Rollo, p. 67. Siena's wife also executed a Sinumpaang Salaysay dated 9 June 1997, stating that she was asked by her husband to prepare P3,000.00 and that the receipt for the said amount was signed by respondent Ajero, id. at 69.

[5] Termination letter dated 4 September 1997, Rollo, p. 106; Decision of petitioner to terminate respondents, id. at 86-105.

[6] Decision of Labor Arbiter Nieves V. De Castro dated 27 July 2000, id. at 174-181.

[7] Id. at 180-181.

[8] NLRC decision dated 31 January 2002, id. at 254-261. In ruling that respondents are not entitled to financial assistance, the NLRC cited the case of Nuez v. NLRC (239 SCRA 518), which held that " separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for cause other than serious misconduct or those reflecting on his moral character. xxx.

[9] Id. at 268.

[10] Id. at 63.

[11] The Court of Appeals denied the motion on 14 June 2004., id. at 64.

[12] Kwok v. Philippine Carpet Manufacturing Corporation, G.R. No. 149252, 28 April 2005, 457 SCRA 465, 475.

[13] Salvador v. Philippine Mining Service Corporation, G.R. No. 148766, 22 January 2003, 395 SCRA 729, 738.

[14] Salvador v. Philippine Mining Service Corporation, G.R. No. 148766, 22 January 2003, 395 SCRA 729, 738.

[15] Id. at 46.

[16] Id. at 62-63.

[17] NLRC records, p. 15.

[18] TSN, 20 August 1998, id. at 283.

[19] TSNs of the 7 August 1998 and 20 August 1998 hearings, id. at 192-226 and 236-285.

[20] Nicolas v. NLRC, G.R. No. 113948, 5 July 1996, 258 SCRA 250, 253.

[21] Ceballos v. Intestate Estate of the Late Emigdio Mercado, G.R. No. 155856, 28 May 2004, 430 SCRA 326.

[22] People v. Obello, G.R. No. 108772, 14 January 1998, 284 SCRA 79, 89.

[23] In the 7 August 1998 hearing, respondent Simon testified:

ATTY. GALLARDO

Do you know of any motive why Mr. Siena wrote that complaint against you?

WITNESS

I don't know, ma'm.

Yes, I really could not think of any motive that he has against me because I met him only one and we are only new acquaintances. (NLRC records, pp. 204-205.)

Respondent Ajero also testified that:

ATTY. GALLARDO

So in so far as your are concerned, there is no personal disagreement or no personal problem between you and Mr. Simon which could have provoked him to file a case against you?

WITNESS

No whatsoever. (NLRC records, pp. 223-224.)

[24] Philippine Airlines, Inc. v. NLRC, G.R. No. 126805, 16 March 2000, 328 SCRA 273.

[25] People v. Guillermo, G.R. No. 113787, 28 January 1999, 302 SCRA 257, 271.

[26] Petitioner estimates the time to be 10 minutes, one way, or about 20-25 minutes, back and forth (Company Decision dated 4 September 1997, Rollo, p. 105.); while respondent Simon stated that it would normally take 18-20 minutes (TSN, 20 August 198, NLRC records, p. 281.

[27] Art. 282. Termination by employer. - An employer may terminate an employment for any of the following causes:

- (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- (b) Gross and habitual neglect by the employee of his duties;
- (c) Fraud or willful breach by his employee or duly authorized representative;
- (d) Commission of a crime or offense by his employee or any immediate member of his family or his duly authorized representative; and
- (e) Other causes analogous to the foregoing.

[28] Francisco v. Cosico, A.M. No. CA-04-37, 16 March 2004, 425 SCRA 521, 525.

[29] Pioneer Texturizing Corp. v. NLRC., G.R. No. 118651, 16 October 1997, 280 SCRA 806,816.

[30] Art. 318. Other deceits. The penalty of arresto mayor and a fine of not less than the amount of the damage caused and not more than twice such amount shall be imposed upon any person who shall defraud or damage another by any other deceit not mentioned in the preceding articles of this chapter.

[31] NLRC records, p. 322.

[32] Floren Hotel v. NLRC, G.R. No. 155264, 06 May 2005, 458 SCRA 129, 147.

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