

SCHOOL OF THE HOLY SPIRIT OF QUEZON CITY AND/OR SR. CRIS PINA A. TOLENTINO, S.SP.S., PETITIONERS, VS. CORAZON P. TAGUAM, RESPONDENT.

G.R. No. 165565. July 14, 2008

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-165565/>

QUISUMBING, J.:

This petition assails the Decision[1] dated June 7, 2004 of the Court of Appeals in CA-G.R. SP No. 81480, which reversed the Resolution[2] dated September 20, 2002 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 031627-02. The NLRC had affirmed the Decision[3] dated March 26, 2002 of the Labor Arbiter dismissing respondent's complaint for illegal dismissal. This petition likewise assails the Resolution[4] dated September 30, 2004 of the Court of Appeals denying petitioners' motion for reconsideration.

The antecedent facts are as follows:

Respondent Corazon P. Taguam was the Class Adviser of Grade 5-Esmeralda of the petitioner, School of the Holy Spirit of Quezon City. On March 10, 2000, the class president, wrote a letter[5] to the grade school principal requesting permission to hold a year-end celebration at the school grounds. The principal authorized the activity and allowed the pupils to use the swimming pool. In this connection, respondent distributed the parent's/guardian's permit forms to the pupils.

Respondent admitted that Chiara Mae Federico's permit form[6] was unsigned. Nevertheless, she concluded that Chiara Mae was allowed by her mother to join the activity since her mother personally brought her to the school with her packed lunch and swimsuit.

Before the activity started, respondent warned the pupils who did not know how to swim to avoid the deeper area. However, while the pupils were swimming, two of them sneaked out. Respondent went after them to verify where they were going.

Unfortunately, while respondent was away, Chiara Mae drowned. When respondent returned, the maintenance man was already administering cardiopulmonary resuscitation on Chiara Mae. She was still alive when respondent rushed her to the General Malvar Hospital where she was pronounced dead on arrival.

On May 23, 2000, petitioners issued a Notice of Administrative Charge[7] to respondent for alleged gross negligence and required her to submit her written explanation. Thereafter, petitioners conducted a clarificatory hearing which respondent attended. Respondent also submitted her Affidavit of Explanation. [8]

On July 31, 2000, petitioners dismissed respondent on the ground of gross negligence resulting to loss of trust and confidence.[9] Meanwhile, Chiara Mae's parents filed a P7 Million damage suit against petitioners and respondent, among others. They also filed against respondent a criminal complaint for reckless imprudence resulting in homicide.

On July 25, 2001, respondent in turn filed a complaint[10] against the school and/or Sr. Crispina Tolentino for illegal dismissal, with a prayer for reinstatement with full backwages and other money claims, damages and attorney's fees.

In dismissing the complaint, the Labor Arbiter declared that respondent was validly terminated for gross neglect of duty. He opined that Chiara Mae drowned because respondent had left the pupils without any adult supervision. He also noted that the absence of adequate facilities should have alerted respondent before allowing the pupils to use the swimming pool. The Labor Arbiter further concluded that although respondent's negligence was not habitual, the same warranted her dismissal since death resulted therefrom.

Respondent appealed to the NLRC which, however, affirmed the dismissal of the complaint.

Aggrieved, respondent instituted a petition for certiorari before the Court of Appeals, which ruled in her favor. The appellate court observed that there was insufficient proof that respondent's negligence was both gross and habitual. The Court of Appeals disposed, thus:

WHEREFORE, ... the Court hereby GRANTS the petition. The assailed September 20, 2002 Resolution of the National Labor Relations Commission entitled *Corazon Taguam vs. School of the Holy Spirit and/or Sister Crispina Tolentino*[,] NLRC NCR Case No. 00-07-03877-01[,] NLRC NCR CA No. 031627-02 is hereby REVERSED and SET ASIDE, and a new one is hereby ENTERED directing the private respondent the School of the Holy Spirit to:

(1)

Pay the petitioner full backwages, plus all other benefits, bonuses and general increases to which she would have been normally entitled, had she not been dismissed and had she not been forced to stop working computed up to the finality of this decision;

(2)

Pay the petitioner separation pay equivalent to one (1) month for every year of service in addition to full backwages;

(3)

Pay the petitioner an amount equivalent to 10% of the judgment award as attorney's fees;

(4)

Pay the cost of this suit.

SO ORDERED.[11]

In this petition, petitioners contend that the Court of Appeals erred in:

... REVERSING AND SETTING ASIDE THE DECISION AND RESOLUTION OF THE NATIONAL LABOR RELATIONS COMMISSION AFFIRMING THE DECISION OF THE LABOR ARBITER DISMISSING THE COMPLAINT FOR LACK OF MERIT.[12]

Simply stated, the sole issue presented for our resolution is whether respondent's dismissal on the ground of gross

negligence resulting to loss of trust and confidence was valid.

The issue of whether a party is negligent is a question of fact. As a rule, the Supreme Court is not a trier of facts and this applies with greater force in labor cases.[13] However, where the issue is shrouded by a conflict of factual perception, we are constrained to review the factual findings of the Court of Appeals. In this case, the findings of facts of the appellate court contradict those of the Labor Arbiter and the NLRC. [14]

Under Article 282[15] of the Labor Code, gross and habitual neglect of duties is a valid ground for an employer to terminate an employee. Gross negligence implies a want or absence of or a failure to exercise slight care or diligence, or the entire absence of care. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them.[16] Habitual neglect implies repeated failure to perform one's duties for a period of time, depending upon the circumstances.[17]

Our perusal of the records leads us to conclude that respondent had been grossly negligent. First, it is undisputed that Chiara Mae's permit form was unsigned. Yet, respondent allowed her to join the activity because she assumed that Chiara Mae's mother has allowed her to join it by personally bringing her to the school with her packed lunch and swimsuit.

The purpose of a permit form is precisely to ensure that the parents have allowed their child to join the school activity involved. Respondent cannot simply ignore this by resorting to assumptions. Respondent admitted that she was around when Chiara Mae and her mother arrived. She could have requested the mother to sign the permit form before she left the school or at least called her up to obtain her conformity.

Second, it was respondent's responsibility as Class Adviser to supervise her class in all activities sanctioned by the school.[18] Thus, she should have coordinated with the school to ensure that proper safeguards, such as adequate first aid and sufficient adult personnel, were present during their activity. She should have been mindful of the fact that with the number of pupils involved, it would be impossible for her by herself alone to keep an eye on each one of them.

As it turned out, since respondent was the only adult present, majority of the pupils were left unsupervised when she followed the two pupils who sneaked out. In the light of the odds involved, respondent should have considered that those who sneaked out could not have left the school premises since there were guards manning the gates. The guards would not have allowed them to go out in their swimsuits and without any adult accompanying them. But those who stayed at the pool were put at greater risk, when she left them unattended by an adult.

Notably, respondent's negligence, although gross, was not habitual. In view of the considerable resultant damage, however, we are in agreement that the cause is sufficient to dismiss respondent. This is not the first time that we have departed from the requirements laid down by the law that neglect of duties must be both gross and habitual. In *Philippine Airlines, Inc. v. NLRC*, [19] we ruled that Philippine Airlines (PAL) cannot be legally compelled to continue with the employment of a person admittedly guilty of gross negligence in the performance of his duties although it was his first offense. In that case, we noted that a mere delay on PAL's flight schedule due to aircraft damage entails problems like hotel accommodations for its passengers, re-booking, the possibility of law suits, and payment of special landing fees not to mention the soaring costs of replacing aircraft parts.[20] In another case, *Fuentes v. National Labor Relations Commission*, [21] we held that it would be unfair to compel Philippine Banking Corporation to continue employing its bank teller. In that case, we observed that although the teller's infraction was not habitual, a substantial amount of money was lost. The deposit slip had already been validated prior to its loss and the amount reflected thereon is already considered as current liabilities in the bank's balance sheet.[22] Indeed, the sufficiency of the evidence as well as the resultant damage to the employer should be

considered in the dismissal of the employee. In this case, the damage went as far as claiming the life of a child.

As a result of gross negligence in the present case, petitioners lost its trust and confidence in respondent. Loss of trust and confidence to be a valid ground for dismissal must be based on a willful breach of trust and founded on clearly established facts. A breach is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.[23] Otherwise stated, it must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion; otherwise, the employee would eternally remain at the mercy of the employer. It should be genuine and not simulated; nor should it appear as a mere afterthought to justify earlier action taken in bad faith or a subterfuge for causes which are improper, illegal or unjustified. It has never been intended to afford an occasion for abuse because of its subjective nature. There must, therefore, be an actual breach of duty committed by the employee which must be established by substantial evidence.[24]

As a teacher who stands in loco parentis to her pupils, respondent should have made sure that the children were protected from all harm while in her company.[25] Respondent should have known that leaving the pupils in the swimming pool area all by themselves may result in an accident. A simple reminder "not to go to the deepest part of the pool"[26] was insufficient to cast away all the serious dangers that the situation presented to the children, especially when respondent knew that Chiara Mae cannot swim.[27] Dismally, respondent created an unsafe situation which exposed the lives of all the pupils concerned to real danger. This is a clear violation not only of the trust and confidence reposed on her by the parents of the pupils but of the school itself.

Finally, we note that based on the criminal complaint filed by Chiara Mae's parents, the Assistant City Prosecutor found probable cause to indict respondent for the crime of reckless imprudence resulting in homicide. The Assistant City Prosecutor held that respondent "should have foreseen the danger lurking in the waters." By leaving her pupils in the swimming pool, respondent displayed an "inexcusable lack of foresight and precaution." [28] While this finding is not controlling for purposes of the instant case, this only supports our conclusion that respondent has indeed been grossly negligent.

All told, there being a clear showing that respondent was culpable for gross negligence resulting to loss of trust and confidence, her dismissal was valid and legal. It was error for the Court of Appeals to reverse and set aside the resolution of the NLRC.

WHEREFORE, the petition is GRANTED. The assailed Decision dated June 7, 2004 of the Court of Appeals in CA-G.R. SP No. 81480 is SET ASIDE. The Resolution dated September 20, 2002 of the National Labor Relations Commission in NLRC NCR CA No. 031627-02 is REINSTATED. No pronouncement as to costs.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 23-34. Penned by Associate Justice Vicente Q. Roxas, with Associate Justices Romeo A. Brawner and Juan Q. Enriquez, Jr. concurring.

[2] Id. at 62-66.

[3] Records, pp. 171-192.

[4] Rollo, pp. 36-37. Penned by Associate Justice Vicente Q. Roxas, with Associate Justices Salvador J. Valdez, Jr. and Juan Q. Enriquez, Jr. concurring.

- [5] Records, p. 28.
- [6] CA rollo, p. 104.
- [7] Id. at 84-85.
- [8] Id. at 86-89.
- [9] Id. at 90-92.
- [10] Records, p. 2.
- [11] Rollo, p. 33.
- [12] Id. at 15.
- [13] *Tres Reyes v. Maxim's Tea House*, G.R. No. 140853, February 27, 2003, 398 SCRA 288, 298.
- [14] *Go v. Court of Appeals*, G.R. No. 158922, May 28, 2004, 430 SCRA 358, 365.
- [15] 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 the employee of the trust reposed in him by his employer or duly authorized representative;
 - (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
 - (e) Other causes analogous to the foregoing.
- [16] *Manila Memorial Park Cemetery, Inc. v. Panado*, G.R. No. 167118, June 15, 2006, 490 SCRA 751, 770.
- [17] *Premiere Development Bank v. Mantal*, G.R. No. 167716, March 23, 2006, 485 SCRA 234, 239.
- [18] Records, p. 104.
- [19] G.R. No. 82471, February 18, 1991, 194 SCRA 139.
- [20] Id. at 144.
- [21] No. L-75955, October 28, 1988, 166 SCRA 752.
- [22] Id. at 757-758.
- [23] *National Bookstore, Inc. v. Court of Appeals*, G.R. No. 146741, February 27, 2002, 378 SCRA 194, 202-203.
- [24] *Manila Memorial Park Cemetery, Inc. v. Panado*, supra note 16 at 768; *Dela Cruz v. National Labor Relations Commission*, G.R. No. 119536, February 17, 1997, 268 SCRA 458, 470.
- [25] *Ylarde v. Aquino*, No. L-33722, July 29, 1988, 163 SCRA 697, 704.
- [26] CA rollo, p. 87.

[27] Id.

[28] Records, pp. 85-86.

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.