

**DURBAN APARTMENTS CORPORATION DOING BUSINESS UNDER THE
TRADE NAME AND STYLE OF CITY GARDEN HOTEL-MAKATI,
REPRESENTED BY MR. FRANCISCO MACASIEB AS PRESIDENT,
PETITIONER, VS. MIGU...**

G.R. NO. 167136. December 14, 2005

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-167136/>

YNARES-SANTIAGO, J.:

This petition for review on certiorari[1] under Rule 45 of the Rules of Court seeks to annul and set aside the December 14, 2004 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 87716, and its January 31, 2005 Resolution[3] denying the motion for reconsideration.

The antecedent facts show that on February 16, 2000, petitioner City Garden Hotel-Makati hired respondent Miguel Geraldito R. Catacutan as Front Office Manager and designated him Acting Sales and Marketing Manager in January 2001.

Respondent alleges that sometime in the afternoon of January 30, 2001, he was summoned to the office of Francisco B. Macasieb, petitioner's President, and was confronted about his alleged dalliance with Michelle Uy, one of the hotel's Guest Service Coordinator, inside Room 1424 in the morning of January 27, 2001.

Respondent claims Macasieb accused him of immorality and dismissed him from the service without furnishing him with a copy of the report of the charges filed against him. There being no formal charges, no investigation and no notice of termination, respondent reported for work on February 1, 2001. However, he was not allowed to perform his usual duties but was instead angrily berated by Macasieb.[4]

Respondent alleges that he went back to the hotel the following day with his counsel but Macasieb was not around. Upon inquiry on the status of his employment with petitioner, he was told that only Macasieb can answer his query. Having failed to obtain a categorical answer regarding his employment, respondent filed a complaint for illegal dismissal, non-payment of wages, allowances, separation pay, leave benefits, 13[th] month pay, damages and attorney's fees.

Petitioner, on the other hand, insists that on January 26, 2001, respondent left his post in violation of the hotel's rules and regulations, and joined a drinking spree in a nearby bar with several of his off-duty colleagues. He returned to the hotel in an inebriated state at around 12:30 a.m. of January 27, 2001 and proceeded to rest in Room 1424.

At 5:00 a.m., Uy arrived in the hotel and went up to Room 1424. She was seen by Robert Gonzaga, a room boy, and Vicente Justimbaste, a roving guard. Uy left after some time. Later that morning, respondent came out of the room and checked the log book at the Security Office to see if Uy's visit was reported. As Front Office Manager and Acting Sales and Marketing Manager, respondent is not authorized to read and inspect the entries in the log book. At around 3:00 p.m., respondent was summoned to the office of the Chief Security Officer who apprised

him of the consequences of his actions and directed him to submit his explanation on the incident, but respondent failed to comply.

Uy did not report for work after the incident and eventually submitted her resignation effective January 31, 2001. Respondent on the other hand called up his immediate superior Arnold C. Tence[5] and expressed embarrassment about the incident and disclosed that he did not want to report for work anymore.[6]

Petitioner maintains that Tence advised respondent to report the following day and explain the incident in writing. Respondent showed up the next day and when confronted with the security report, he eventually admitted his infraction and asked for another chance. Macasieb however told respondent to resign effective the following day, January 31, 2001 and to endorse to the hotel's Human Resources Department all company property in his custody.

After due proceedings, Labor Arbiter Gaudencio P. Demaisip found that respondent did not resign because he even prayed for another chance.[7] That when he surrendered the company's properties in his custody, it did not signify an intention to resign.[8] Thus, the arbiter concluded that respondent was illegally dismissed.[9] The dispositive portion of the decision reads:

WHEREFORE, premises considered, respondent, Durban Apartments Corporation doing business under the style City Garden Hotel Makati is directed to pay the complainant his backwages and separation pay in the total amount of FIVE HUNDRED FORTY SIX THOUSAND TWO HUNDRED EIGHT FIVE PESOS AND 07/100 (546,285.07).

Likewise, respondent is directed to pay the complainant attorney's fees in the total amount of P54,628.51.

The rest of the claims are dismissed.

SO ORDERED.[10]

Petitioner appealed to the National Labor Relations Commission (NLRC) which rendered a Decision [11] the dispositive portion of which reads:

WHEREFORE, premises considered, the decision under review is, MODIFIED by DELETING the award of separation pay and REDUCING the award of attorney's fees in an amount equivalent to ten percent (10%) of the remaining adjudged monetary relief.

In all other respects, particularly on the matter of liability of Durban Apartments Corporation[12] for the monetary award, the same is hereby, AFFIRMED.

SO ORDERED.[13]

In so ruling, the NLRC found that there was just cause for terminating respondent's employment. He violated the company's policy when he went on a drinking spree during his tour of duty and worse, when he committed acts of intimacy with a fellow employee while inside the hotel's premises considering that he was married. However, the NLRC noted that respondent was not accorded due process when he was terminated.[14]

Petitioner's motion for reconsideration was denied[15] hence it appealed to the Court of Appeals which dismissed the same, thus:

The present petition, denominated as Petition for Review by Certiorari, is infirmed with deficiencies, to wit:

- The material portions of the record referred to in the petition (e.g. NLRC Resolution dated September 17, 2004, Decision of the Labor Arbiter dated July 11, 2003, respondent's Position Paper, transcripts of stenographic notes, Notice of Appeal, Opposition to the Memorandum of Appeal, etc.) are mere photocopies, in violation of Sec. 3, Rule 46 of the Rules of Court.

- No affidavit of service was attached to the petition as required under Sec. 13, Rule 13, *ibid*.

WHEREFORE, the petition at bar is hereby DISMISSED.

SO ORDERED. [16]

Petitioner moved for reconsideration but failed to cure the procedural deficiencies. Consequently, the appellate court denied[17] the motion.

Hence, the instant petition for review on certiorari alleging that:

THE COURT OF APPEALS WITH DUE RESPECT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT REFUSED TO CONSTRUE LIBERALLY SEC. 3, RULE 46 OF THE 1997 RULES OF CIVIL PROCEDURE IN THE FACE OF THE SERIOUS ERROR COMMITTED BY THE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION IN ITS DECISIONS DATED JULY 11, 2003 AND JUNE 29, 2004 UNDER THE FOLLOWING REASONS:

- The Honorable Commission gravely erred in not deleting the award of back wages and attorney's fees in view of the conclusion of the National Labor Relations Commission that the dismissal of private respondent was based on a just cause.
- The Honorable Commission gravely erred in concluding that thru its Labor Arbiter it has acquired jurisdiction over Durban Apartments corporation.
- The Honorable Commission gravely erred in directing Durban Apartments Corporation to pay private respondent back wages and attorney's fees since the former was not properly served of summons.
- The Honorable Commission gravely erred in applying the rules enunciated by the Supreme Court in the case of *Serrano v. NLRC*, 323 SCRA 445.[18]

The issues for resolution are: (1) Was petitioner denied due process with the Court of Appeals' dismissal of the petition on technical grounds' (2) Was there illegal dismissal?

We give due course to the petition.

Section 3, Rule 46 of the Rules of Court requires that the petition for certiorari shall be filed in seven clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

As found by the Court of Appeals, petitioner failed to attach, among others, the duplicate original or certified true copy of the assailed decisions of the NLRC and the Labor Arbiter, and the affidavit of service, which served as ground for the dismissal of the petition. The submission of the duplicate original or certified true copy of the judgment, order, resolution or ruling subject of a petition for certiorari is essential to determine whether the court, body or tribunal, which rendered the same, indeed, committed grave abuse of discretion. It is also to assure the appellate court that such copy is a faithful reproduction of the judgment, order, resolution or ruling subject of the petition.[19]

However, in the exercise of its equity jurisdiction, the Court may disregard procedural lapses so that a case may be resolved on its merits. Rules of procedure should promote, not defeat, substantial justice. Hence, the Court may opt to apply the Rules liberally to resolve substantial issues raised by the parties.[20]

It is well to remember that this Court, in not a few cases, has consistently held that cases shall be determined on the merits, after full opportunity to all parties for ventilation of their causes and defense, rather than on technicality or some procedural imperfections. In so doing, the ends of justice would be better served. The dismissal of cases purely on technical grounds is frowned upon and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very ends. Indeed, rules of procedure are mere tools designed to expedite the resolution of cases and other matters pending in court. A strict and rigid application of the rules that would result in technicalities that tend to frustrate rather than promote justice must be avoided.[21]

Having said that, we now proceed with the substantive issue: Was respondent illegally dismissed?

Petitioner claims there was no illegal dismissal but a voluntary resignation of the respondent. It insists that after his plea for another chance to serve the hotel was denied by Macasieb, respondent agreed to resign the next day. Respondent also readily surrendered all company property in his custody.

Respondent, by leaving his post and drinking with several co-employees during duty hours and returning to the hotel in a drunken state unquestionably committed an infraction which warrants his dismissal from the service. He aggravated his infraction when he entertained a female co-employee inside one of the hotel's rooms and when he inspected the entries in the security log book despite the company policy which prohibits the same.

While the law imposes many obligations on the employer such as providing just compensation to workers, observance of the procedural requirements of notice and hearing in the termination of employment, it also recognizes the right of the employer to expect from its workers not only good performance, adequate work and diligence, but also good conduct and loyalty. The employer may not be compelled to continue to employ such persons whose continuance in the service will patently be inimical to his interests.[22] The law protecting the rights of the laborer authorizes neither oppression nor self-destruction of the employer.[23]

The procedure for terminating an employee is found in Book VI, Rule I, Section 2(d) of the Omnibus Rules Implementing the Labor Code:

Standards of due process: requirements of notice. – In all cases of termination of employment, the following standards of due process shall be substantially observed:

I. For termination of employment based on just causes as defined in Article 282 of the Code:

- (a) A written notice served on the employee specifying the ground or grounds for termination, and giving to said employee reasonable opportunity within which to explain his side;
- (b) A hearing or conference during which the employee concerned, with the assistance of counsel if the employee so desires, is given opportunity to respond to the charge, present his evidence or rebut the evidence presented against him; and
- (c) 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.

In case of termination, the foregoing notices shall be served on the employee's last known address.[24]

Dismissals based on just causes contemplate acts or omissions attributable to the employee. Procedurally, if the dismissal is based on a just cause under Article 282, the employer must give the employee two written notices and a hearing or opportunity to be heard if requested by the employee before terminating the employment: a notice specifying the grounds for which dismissal is sought, a hearing or an opportunity to be heard and after hearing or opportunity to be heard, a notice of the decision to dismiss.[25]

Tence, petitioner's General Manager and immediate supervisor of respondent, admitted during cross examination their non-compliance with the notice requirement. Where the dismissal is for a just cause, as in the instant case, the lack of statutory due process should not nullify the dismissal, or render it illegal, or ineffectual. However, the employer should indemnify the employee for the violation of his statutory rights^[26] in the form of nominal damages. The amount of such damages is addressed to the sound discretion of the court, taking into account the relevant circumstances.^[27] In the case at bar, the amount of P30,000.00 as nominal damages is reasonable.

WHEREFORE, the dismissal of respondent for just cause is DECLARED VALID. Petitioner is ordered to PAY respondent P30,000.00 as nominal damages for violation of his statutory right to due process.

SO ORDERED.

Davide, Jr., C.J., Quisumbing, and Azcuna, JJ., concur.
Carpio, J., on official leave.

[1] Rollo, pp. 13-40.

[2] Id. at 180. Penned by Associate Justice Mariano C. del Castillo and concurred in by Associate Justices Romeo A. Brawner and Magdangal M. De Leon.

[3] Id. at 184.

[4] Id. at 75.

[5] Also referred to as Trence in the records.

[6] Rollo, p. 78.

[7] Id. at 82.

[8] Id. at 84.

[9] Id. at 85.

[10] Id. at 86.

[11] Id. at 119-140. Penned by Commissioner Raul T. Aquino and concurred in by Commissioner Angelita A. Gacutan.

[12] Doing business under the name and style of City Garden Hotel-Makati.

[13] Rollo, p. 147.

[14] Id. at 144-145.

[15] Id. at 159-160.

[16] Id. at 180.

[17] Id. at 184.

[18] Id. at 24.

[19] Quintano v. National Labor Relations Commission, G.R. No. 144517, December 13, 2004, 446 SCRA 193, 202-203.

[20] Security Bank Corporation v. Indiana Aerospace University, et al., G.R. No. 146197, June 27, 2005.

[21] Id. at 206.

[22] Agabon v. National Labor Relations Commission, G.R. No. 158693, November 17, 2004, 442 SCRA 573, 606-607.

[23] Id. at 614-615.

[24] Id. at 607.

[25] Id. at 608.

[26] Id. at 616.

[27] Id. at 617.

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.