AMA COMPUTER COLLEGE-EAST RIZAL, AMABLE C. AGUILUZ AND ANTHONY JESUS R. VINCE CRUZ, PETITIONERS, VS. ALLAN RAYMOND R. IGNACIO, RESPONDENT.

G.R. No. 178520. June 23, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking to set aside the Decision[1] dated 22 December 2006 and the Resolution[2] dated 4 June 2007 of the Court of Appeals in CA-G.R. SP No. 67047. The Court of Appeals, in its assailed Decision, ruled that respondent Allan Raymond R. Ignacio was illegally dismissed by petitioners AMA Computer College, Inc. (AMACCI), Amable C. Aguiluz (Aguiluz) and Anthony Jesus R. Vince Cruz (Cruz), thus, reversing and setting aside the Resolution dated 8 December 2000 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 024664-2000, which affirmed the Decision dated 19 April 2000 of the Labor Arbiter in NLRC Case No. RAB-IV-10-11643-99-R. The appellate court denied in its assailed Resolution the Motion for Reconsideration of the petitioners.

The factual antecedents of this case are as follows:

Petitioner AMACCI is a corporation organized and existing under and by virtue of Philippine laws, engaged in the business of providing computer education, among other courses.[3] AMA Computer College-East Rizal (AMACC-ER) is one of its branches. Petitioners Aguiluz and Cruz are President and Human Resource Director, respectively, of petitioner AMACCI.

Respondent was first employed on 25 September 1998 at another branch of AMACCI, namely, AMA Computer College-Fairview (AMACC-FV), as Management Trainee (Maintenance Supervisor) with a monthly salary of P7,700.00.[4] Three months thereafter, on 29 December 1998, respondent was granted permanent status and his monthly salary was increased to P11,000.00.[5]

Upon the recommendation of AMACC-ER School Director/Chief Operating Officer (COO) Lydia Taganguin (Taganguin) to AMACCI Vice President for Human Resource Patrick Alain Azanza, respondent was transferred to AMACC-ER effective 16 August 1999. The transfer was made because of the pressing deadline brought about by the ISO 9000 Oplan of AMACCI. AMACC-ER was scheduled to be inspected for Certification by the International Organization for Standardization (ISO)[6] in the first week of September 1999.[7]

On his first day of transfer to AMACC-ER, respondent went to AMACCI Head Office to consult AMACCI Assistant Vice President for Construction, Engineer Noel Nobleza (Nobleza), on the renovation plan for the AMACC-ER school facilities. The renovation of the AMACC-ER school facilities was to be undertaken as part of the ISO 9000 Oplan. Nobleza told respondent that since the renovation was a major one, the latter needed to secure the approval of AMA Educational System (AMAES)[8] Vice President Zenaida Carpio (Carpio). Since Carpio was out of her office, Ignacio went ahead to consult AMACC-ER School Director/COO Taganguin, and

then to secure the approval of Mr. Joselito Domingo, owner of the JL Domingo Building in which the AMACC-ER school facilities were located. It was Taganguin who brought the renovation plan to Carpio, who approved the same. At around 5:30 p.m. of the same day, respondent conducted an emergency officers' meeting at AMACC-ER to discuss the approved renovation plan. Present at the said meeting were the two college deans and all the department heads of AMACC-ER.[9]

Respondent started demolishing the concrete partition wall of the computer laboratory on 18 August 1999. In the morning of the following day, the maintenance crew, following respondent's order, brought plywood to cover the unfinished door opening of the computer laboratory. Carpio and AMACCI Assistant Vice President Balon Panay (Panay) came to AMACC-ER to conduct an inspection.

However, on 25 August 1999, the Audit Department of AMACCI filed a complaint against respondent, charging him with "(t)hreatening to damage company property, negligence or failure to exercise adequate asset control measures within one's area of responsibility."

Respondent then received on 3 September 1999 a Memorandum[10] dated 2 September 1999 from petitioner Cruz, the AMACCI Human Resource Director, informing the former that a complaint was filed against him for inexcusable gross negligence resulting in serious damage to 35 computers and loss of class records/exams, and instructing him to submit his written explanation and evidence on that same day. Respondent was likewise placed on preventive suspension.[11]

In a Memorandum dated 6 September 1999, the Human Resource Department (HRD) of AMACCI reported:

> On September 03, 1999, respondent Mr. Allan Ignacio met with the committee members to air his side on the allegations lodged against him.
>
> - Statements of:
>
> 1.1 Allan Ignacio:
>
> .
>
> Before I was assigned at AMACC - East Rizal I was already informed of the problem in the building which needs to be renovated based on the copy of the building plan provided to us by the owner. Seeing that the renovation plan was signed by the VP for Education and the School Director, I decided to start with the demolition of the partition taking into serious consideration that I was given only a few days to comply with the deadline. I was then confident that I need not coordinate with anybody because on the evening prior to the demolition, Ms. Taganguin, the School Director called for a meeting to inform the concerned department heads about possible changes within the JL Domingo building. Thinking that the message was clear to everybody present during the meeting, I thought that the agenda is clearly implied; that I can already proceed with the demolition without seeking for another round of approval. Hence, I took it upon myself to start the following day because Ms. Taganguin attended the Corplan on that day.
>
> .
>
> I believe that I have taken into consideration the precautionary measures needed, hence, I put an asbestos sheet and a plywood to cover the computers inside the room.
>
> .
>
> The computer units did not sustain any damage. This can be attested by the certification issued by the IT Supervisor.
>
> 1.2. Elsie Tablisma:

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On August 18, 1999 the Maintenance Supervisor Allan Ignacio started to shatter the cemented wall partition of computer laboratory at the J.L. Domingo Building. The IT Department and the property department were not informed of the said demolition. This resulted to the exposure of thirty-five (35) computer units to possible loss and damages.

x x x x

1.3. Mr. Darwin Ramos:

On August 20, 1999 when I, together with Mr. Arnold Necio and Rupert Verdad conducted inventory of computers at the J.L. Building, we found out that part of the concrete wall of the laboratory was already demolished. We also discovered that the computers were not moved away from the falling debris coming from the concrete walls.

1.4. Mr. Arnulfo Necio:

At 8:30 today, August 20, 1999, we are supposed to conduct inventory of recently delivered computers to get the serial numbers. However, we found out the wall was demolished without our knowledge. There were trumps and maintenance personnel working inside the computer laboratory at that time, creating another hole for air conditioning unit. We noted that some of the computers have debris from the smashed cemented walling.

- Analysis of Facts Presented:

Based on the statements submitted, the committee hereby states the findings:

- That Mr. Allan Ignacio without seeking written approval to proceed, has ordered the start of the demolition project on August 18, 1999. Likewise, he did not inform the concerned departments of his move hence, the computer units were not properly secured.

- Respondent assumed that during the conduct of the meeting the evening before, all concerned employees have already understood what has been implied about the renovation.

- He did not coordinate his action with the proper channels and did not exercise due diligence before he started the demolition of the computer laboratory.

- His act could have caused the possible loss/damage of the computer units which were exposed.

x x x x

- Recommendation:

Taking the above findings into serious consideration, it is recommended that respondent Allan Ignacio be duly sanctioned for his offense. He has clearly violated Rule E Section 4 of the company code of conduct. The corresponding sanction for this is DISMISSAL.[12]

In accordance with the foregoing recommendation of the HRD of AMACCI, respondent was terminated from employment on 9 September 1999.[13]

On 27 October 1999, respondent filed with the NLRC a complaint for illegal dismissal, non-payment of salaries and wages, overtime pay, holiday pay and rest day damages against petitioners.[14] Respondent's complaint was docketed as NLRC Case No. RAB-IV-10-11643-99-R.

Petitioners denied that respondent was illegally dismissed. They contended that on 18 August 1999, barely eight

days after assuming the position of Maintenance Supervisor at AMACC-ER, respondent caused the demolition of a wall partition in the computer laboratory without the proper authorization from the departments concerned. The Information Technology (IT) Department was not informed of the demolition of the computer laboratory, causing the exposure of 35 computer units to loss and damages. Worse, after the demolition, respondent left the laboratory open and did not even cover the demolished wall, exposing the laboratory equipment and school records to possible theft. Indeed, school records were lost the next day due to the open wall partition.

Petitioners also alleged that respondent was charged with a very serious offense, i.e., damaging company property thru gross negligence, or threatening to damage company property either willfully or thru negligence, covered by letter (e) of No. 4, Rule IV Employee Conduct and Discipline.[15] The corresponding penalty for such an offense is dismissal, as provided for in the Disciplinary Actions of the Employees Manual.[16]

Petitioners further insisted that they complied with the requirements of procedural due process. The twin requirements of notice and hearing, which constitute essential elements of due process in cases of employee dismissal, were complied with. Petitioners gave respondent a first notice of investigation and the opportunity to be heard and to present evidence on his behalf on 3 September 1999 at 1:00 p.m. During the scheduled hearing, respondent was able to explain his position and submit his evidence. On 6 September 1999, the Investigating Committee ruled that respondent was guilty as charged and recommended that he be sanctioned and dismissed. Respondent was given the second notice, dated 9 September 1999, terminating his employment. Thus, both substantive and procedural due process were strictly complied with by petitioners.

In her Decision dated 19 April 2000 in NLRC Case No. RAB-IV-10-11643-99-R, Labor Arbiter Nieves De Castro held that respondent was legally dismissed. The Labor Arbiter found that there was substantive ground to justify respondent's dismissal:

> There is no doubt that [herein petitioners'] evidence is substantial. We are more than convinced that [herein respondent] committed a very serious offense of demolishing without permission from the management the wall partition of the computer laboratory. Worse, after the demolition, [respondent] left the laboratory open which resulted in the loss of class records.
>
> Yet, [respondent] had the temerity to tell that the safekeeping of documents was not part of his duties as Maintenance Supervisor. This, to our mind demonstrates the reprehensible character of the [respondent]. He knew fully well that it was his unauthorized demolition of the wall partition and leaving it open thereafter which lead to the loss of school records. Moreover, he did not even bother to explain why he caused the demolition of the wall partition on his own without permission or even the courtesy of notice to the management. We should not loss (sic) sight of the fact that [respondent] is a supervisor and not an ordinary laborer whose lapses may be more easily condoned. His is not a mere lapse but a serious misconduct.
>
> Aside from this serious misconduct, the subsequent act of leaving the laboratory open exposing the computers and documents to loss and damage constitutes gross negligence. True enough, class records were lost the next day due to the open wall partition.
>
> Said negligence is not as simple as [respondent] would like to make it appear. Student's scholastic records is the very meat of an education institution's business. Organized filing and safekeeping thereof makes the school a reputable one.
>
> x x x x
>
> However, he committed more serious offenses which could no longer be pardoned by the management.[17]

The Labor Arbiter also ruled that petitioners complied with procedural due process in respondent's dismissal:

> Now, on the procedural aspect of termination of employment, time and again, the Supreme Court repeatedly held that a trial type hearing is not a must. When complainant was given the opportunity to submit written explanation, he did not submit. Then, during the scheduled hearings at the company level, he was able to present his side. This is due process, the essence of which is simply the opportunity to be heard. What the law and jurisprudence prohibits is absolute absence of the opportunity to be heard.[18]

At the end, the Labor Arbiter declared:

> In fine, there is no illegal dismissal to speak of.
>
> PREMISED CONSIDERED, all the claims for damages resulting from the dismissal, i.e., medical expenses, refund of tuition fees, reimbursement for tools and equipment, moral and exemplary damages must necessarily fail, there being no bad faith or illegality on the part of the management in effecting the dismissal.
>
> WHEREFORE, this complaint is hereby DISMISSED for lack of merit.[19]

Respondent appealed the afore-quoted Decision of the Labor Arbiter to the NLRC. His appeal was docketed as NLRC NCR CA No. 024664-2000. On 8 December 2000, the NLRC issued a Resolution[20] dismissing respondent's appeal as it found no cogent reason to modify and reverse the factual findings of the Labor Arbiter. Respondent's motion for reconsideration was denied by the NLRC in a Resolution[21] dated 23 July 2001.

Refusing to give up, respondent filed with the Court of Appeals, a Petition for Certiorari, under Rule 65 of the Revised Rules of Court, docketed as CA-G.R. SP No. 67047. The Court of Appeals rendered its Decision dated 22 December 2006, finding that respondent was illegally dismissed. According to the appellate court, it cannot consider respondent's transgression as serious misconduct when his actuation was not willful and deliberate, there appearing to be no intention on his part to cause damage. And although the Court of Appeals adjudged that respondent was guilty of negligence, it was not gross or habitual as would warrant the dismissal of respondent. The dispositive portion of the 22 December 2006 Decision of the appellate court thus reads --

> WHEREFORE, the petition is GRANTED and the Decision of Labor Arbiter Nieves De Castro and the Resolutions of the National Labor Relation Commission dated December 8, 2000 and July 23, 2001 are REVERSED and SET ASIDE and a new judgment is hereby entered:
>
> Herein [herein petitioner AMACCI] is hereby ordered to pay [herein respondent] separation pay equivalent to one month for every year of service to be reckoned from the end of his thirty-day suspension up to the finality of this decision, in addition to his full back wages allowances and other benefits. No costs.[22]

Petitioners' Motion for Reconsideration was denied by the appellate court in a Resolution dated 4 June 2007.

Petitioners are now before this Court raising the following issues —

> STATEMENT OF THE ISSUES
>
> THE HONORABLE COURT OF APPEALS ERRED IN DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL REVIEW.
>
> THE HONORABLE COURT OF APPEALS ERRED IN MAKING ITS OWN FINDINGS OF FACTS CONTRARY TO WHAT THE LABOR ARBITER AND THE NATIONAL LABOR RELATIONS COMMISSION ADMITTED IN THE PROCEEDINGS BEFORE THEIR RESPECTIVE OFFICES.
>
> THE HONORABLE COURT OF APPEALS ERRED IN REFUSING TO ADMIT AS SUBSTANTIAL THE PIECES OF EVIDENCE SUBMITTED BY THE PETITIONERS FOR NOT HAVING BEEN MADE UNDER OATH.
>
> THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THE DISMISSAL OF RESPONDENT

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> AS ILLEGAL AND IN STATING THAT THE GROUND UPON WHICH RESPONDENT WAS DISMISSED CANNOT BE CONSIDERED AS SERIOUS MISCONDUCT.[23]

The Petition is not meritorious.

At the outset, the Court must address petitioners' argument that the Court of Appeals went beyond its jurisdiction when it re-evaluated the findings of fact of the Labor Arbiter, as affirmed by the NLRC.[24]

The general rule, no doubt, is that findings of fact of an administrative agency, which has acquired expertise in the particular field of its endeavor, are accorded great weight on appeal. The rule is not absolute and admits of certain well-recognized exceptions, however. Thus, when the findings of fact of the Labor Arbiter and the NLRC are not supported by substantial evidence or their judgment was based on a misapprehension of facts, the appellate court may make an independent evaluation of the facts of the case, which procedure the Court of Appeals adopted in this case.[25] Moreover, where the party's contention appears to be clearly tenable, or where the broader interest of justice and public policy so requires, the court may, in a certiorari proceeding, correct the error committed. The Court of Appeals, in view of its expanded jurisdiction over labor cases elevated to it through a petition for certiorari such as in this case, may look into the records of the case and re-examine the questioned findings if it considers the same to be necessary to arrive at a just decision.[26]

Hence, the Court of Appeals was acting within its jurisdiction when, on certiorari, it did not merely adopt the factual findings of the Labor Arbiter and the NLRC and, instead, made its own findings, which were contrary to the former.

The Court then proceeds to discuss its own jurisdiction in reviewing findings of fact in a petition for review, under Rule 45 of the Revised Rules of Court. In Medina v. Asistio,[27] this Court already extensively explained that:

> It is not the function of this Court to analyze or weigh such evidence all over again. Our jurisdiction is limited to reviewing errors of law that may have been committed by the lower court. (Nicolas et al., v. CA, 154 SCRA 635 [1987]; Tiongco v. de la Merced, 58 SCRA 89 [1974]).
>
> It is a well-settled rule in this jurisdiction that only questions of law may be raised in a petition for [review on] certiorari under Rule 45 of the Rules of Court, this Court being bound by the findings of fact made by the Court of Appeals. The rule, however, is not without exception. Thus, findings of fact by the Court of Appeals may be passed upon and reviewed by this Court in the following instances, x x x:
>
> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures (Joaquin v. Navarro, 93 Phil. 257 [1953]); (2) When the inference made is manifestly mistaken, absurd or impossible (Luna v. Linatok, 74 Phil. 15 [1942]); (3) Where there is a grave abuse of discretion (Buyco v. People, 95 Phil. 453 [1955]); (4) When the judgment is based on a misapprehension of facts (Cruz v. Sosing, L-4875, Nov. 27, 1953); (5) When the findings of fact are conflicting (Casica v. Villaseca, L-9590 Ap. 30, 1957; unrep.);** (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee (Evangelista v. Alto Surety and Insurance Co., 103 Phil. 401 [1958]); (7) The findings of the Court of Appeals are contrary to those of the trial court (Garcia v. Court of Appeals, 33 SCRA 622 [1970]; Sacay v. Sandiganbayan, 142 SCRA 593 [1986]); (8) When the findings of fact are conclusions without citation of specific evidence on which they are based (Ibid.,); (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents (Ibid.,); and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record (Salazar v. Gutierrez, 33 SCRA 242 [1970]). (Emphasis ours.)

The exception, rather than the general rule, applies in the present case. When the findings of fact of the Court of Appeals are contrary to those of the trial court or an administrative body exercising quasi-judicial functions, such as the NLRC, this Court must make its own factual findings.[28]

In termination cases, the burden of proof rests on the employer to show that the dismissal is for just cause. When there is no showing of a clear, valid and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal and the burden is on the employer to prove that the termination was for a valid or authorized cause.[29]

And the quantum of proof which the employer must discharge is substantial evidence. An employee's dismissal due to serious misconduct must be supported by substantial evidence. Substantial evidence is that amount of relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds, equally reasonable, might conceivably opine otherwise. [30]

Therefore, the Court reviews the case records herein to determine whether petitioner AMACCI was able to prove by substantial evidence that respondent was legally dismissed.

The minimum standards of due process in all cases of termination of employment are prescribed under Article 277(b) of the Labor Code, to wit:

> Art. 277. Miscellaneous Provisions.
>
> x 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 cause 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.[31] (Emphasis supplied.)

It is implemented by Rule XXIII of the Implementing Rules of Book V of the Labor Code, which provides:

> Section 2. Standards of due process; requirements of notice. - x x x.
>
> 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. x x x.

The most basic of tenets in employee termination cases is that no worker shall be dismissed from employment without the observance of substantive and procedural due process. Substantive due process means that the ground upon which the dismissal is based is one of the just or authorized causes enumerated in the Labor Code. Procedural due process, on the other hand, requires that an employee be apprised of the charge against him, given reasonable time to answer the same, allowed ample opportunity to be heard and defend himself, and assisted by a representative if the employee so desires.[32] The employee must be furnished two written notices: the first notice apprises the employee of the particular acts or omissions for which his dismissal is sought, and the second is a subsequent notice which informs the employee of the employer's decision to dismiss him.[33]

Hence, under the Labor Code, there are twin requirements to justify a valid dismissal from employment: (a) the

dismissal must be for any of the causes provided in Article 282 of the Labor Code (substantive aspect) and (b) the employee must be given an opportunity to be heard and to defend himself (procedural aspect).[34]

We first hew our attention to the issue of whether or not respondent was accorded procedural due process. Respondent claims in his position paper[35] that he received a formal notice of investigation for negligence due to failure to exercise adequate asset control measures within one's area of responsibility on 31 August 1999 at 9:51 a.m. and the hearing was scheduled and held immediately the next day on 1 September 1999 at 10:00 a.m. Another formal notice of investigation for serious damage of company property and loss of class records/exams was served on respondent on 3 September 1999 at 7:45 a.m. while the hearing was scheduled and held on the same day 3 September 1999 at 1:00 p.m. On 9 September 1999, respondent was given a notice of termination.

The essence of the due process requirement being a mere opportunity to be heard, we agree with the Court of Appeals that although respondent was given a limited time to explain his side and present evidence, he, however, was able to refute the findings of petitioner. Hence, the chance afforded to respondent, although limited, is a clear opportunity to be heard on the issue at hand.[36] What the law abhors and prohibits is the absolute absence of the opportunity to be heard.[37]

We now turn our attention to the issue of whether or not there was just cause for the termination of respondent from his employment.

The Labor Arbiter and the NLRC are one in finding that respondent was liable for serious misconduct which justifies his dismissal from office. Petitioner AMACCI terminated respondent's employment because of gross negligence resulting to the loss of important documents.[38]

The Labor Code provides that an employer may terminate the services of an employee for a just cause. Among the just causes in the Labor Code is serious misconduct. Misconduct is improper or wrong conduct. It is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment. The misconduct to be serious within the meaning of the Labor Code must be of such a grave and aggravated character and not merely trivial or unimportant. Such misconduct, however serious, must nevertheless be in connection with the employee's work to constitute just cause for his separation.[39]

In National Labor Relations Commission v. Salgarino,[40] the Court stressed that "[i]n order to constitute serious misconduct which will warrant the dismissal of an employee under paragraph (a) of Article 282 of the Labor Code, it is not sufficient that the act or conduct complained of has violated some established rules or policies. It is equally important and required that the act or conduct must have been performed with wrongful intent."

After a thorough examination of the records of the case, however, the Court finds that petitioner AMACCI miserably failed to prove by substantial evidence its charges against respondent. There is no showing at all that respondent's actions were motivated by a perverse and wrongful intent, as required by Article 282(a) of the Labor Code.

On the loss of school records, the complaint of AMACCI faculty member Ralp Tumulak was that four of his quizzes were lost due to the renovation undertaken in the AMACC-ER premises. The Court of Appeals dismissed this complaint as insufficient to justify the dismissal of respondent. We agree with the Court of Appeals. Under the Employee conduct and Discipline of AMACCI, loss of records is considered a light offense punishable by written reprimand.[41]

The next issue that needs to be resolved is whether or not the renovation of AMACC-ER premises was done by respondent without authority, which merits the supreme penalty of dismissal.

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The following instances support the conclusion of this Court that there was no just or authorized cause for respondent's dismissal:

1. The renovation undertaken by respondent was authorized under a renovation plan approved and signed on 16 August 1999 by AMAES Vice- President Carpio;

2. The AMACC-ER authorities were well aware of the ongoing renovation, as Carpio -- together with an AMACCI official, Assistant Vice- President Panay -- conducted an inspection of the school facilities on 19 August 1999, a day after the partition wall in the computer laboratory was demolished. The security guard log book contains the following entry on said date:

> "19 August 1999
>
> x x x x
>
> 0936 Arrival of MA'AM CARPIO & MA'AM
>
> BALON J. PANAY, AVP-for (sic) CONDUCT
>
> INSPECTION"

Petitioner AMACCI was unable to refute the inspection of the renovation site conducted by Carpio and Panay. The only rational reason for the conduct of such an inspection by said officials was to ensure that the renovations were being done properly and according to the approved plan. If Carpio and Panay had then noticed something amiss, they would have already brought it to the attention of AMACCI and AMACC-ER officials, especially, AMACC-ER School Director/COO Taganguin. There was nothing on record that would show that either Carpio or Panay made any unsavory observation during their inspection. In fact, after the said inspection, respondent was able to continue and complete the renovation of the computer laboratory.

3. On the evening prior to the demolition, Ms. Taganguin, the School Director called for a meeting to inform the concerned department heads about possible changes within the JL Domingo building, negating petitioners' charge that the renovation initiated by respondent was without authority.

4. Mr. Arnold Necio, Network (IT) Supervisor, issued a certification dated 23 August 1999 stating that the computers in the computer laboratory were randomly tested and found to be in good working condition; and

5. The security guard, on duty from the evening of 18 August 1999 to the early morning of 19 August 1999, wrote the following entry in the logbook on 19 August 1999: "NO DAMAGE NO LOSSES DURING 8 HOURS Tour of Duty."[42]

Considering the foregoing, the Court can only agree with the Court of Appeals that, even though respondent may be guilty of negligence for failing to take the necessary precautions to cover or remove the computers from the computer laboratory before the renovation, or to block or guard the wall opening to the computer laboratory, respondent's blunders did not constitute serious misconduct or willful disobedience as to justify the termination of his employment. To reiterate, for serious misconduct or willful disobedience, it is not sufficient that the act or conduct complained of has violated some established rules or policies; the act or conduct must have been performed with wrongful intent. There is absolute lack of proof herein of such wrongful intent on the part of respondent.

Respondent's actions, at their worse, reveal his negligence, but said negligence can hardly be deemed gross and habitual, as to constitute a just ground for his dismissal under Article 282(b) of the Labor Code.

Gross negligence under Article 282 of the Labor Code connotes want of care in the performance of one's duties,

while habitual neglect implies repeated failure to perform one's duties for a period of time, depending upon the circumstances.[43] Gross negligence has been defined as the want or absence of even slight care or diligence as to amount to a reckless disregard of the safety of person or property. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them.[44] To constitute a just cause for termination of employment, the neglect of duties must not only be gross but habitual as well. The single or isolated act of negligence does not constitute a just cause for the dismissal of the employee.[45]

Respondent, in the Petition at bar, exercised enough diligence in his renovation of the computer laboratory as to pass the inspection of two officials of petitioner AMACCI. Also, other than the incident at the computer laboratory, no other negligent act was attributed to respondent to establish habituality.

Moreover, the penalty of dismissal imposed on respondent is disproportionate to his offense. The magnitude of the infraction must be weighed and equated with the penalty prescribed and must be commensurate thereto, in view of the gravity of the penalty of dismissal or termination from the service. What is at stake here is not simply the job itself of the employee but also his regular income therefrom which is the means of livelihood of his family.[46]

Time and again, the Court has ruled that while an employer enjoys wide latitude of discretion in the promulgation of policies, rules and regulations on work-related activities of the employees, those directives, however, must always be fair and reasonable, and the corresponding penalties, when prescribed, must be commensurate to the offense involved and to the degree of the infraction.[47]

Finally, the Court notes that respondent impleaded in his complaint before the Labor Arbiter petitioners Aguiluz and Cruz, in their capacity as AMACCI officials. The Court of Appeals, after finding that respondent was illegally dismissed, did not make any pronouncement as to the liability of petitioners Aguiluz and Cruz.

Thus, it is necessary for this Court to clarify and explicitly declare that no liability for respondent's illegal dismissal should attach to petitioners Aguiluz and Cruz, and respondent's complaint as against them should be dismissed. Unless they have exceeded their authority, corporate officers are, as a general rule, not personally liable for their official acts, because a corporation, by legal fiction, has a personality separate and distinct from its officers, stockholders and members. It is true that as an exception, corporate directors and officers are solidarily held liable with the corporation, where terminations of employment are done with malice or in bad faith; but where there is an absence of evidence that said directors and officers acted with malice or bad faith, as in this case, the Court must exempt them from any personal liability for the employee's illegal dismissal.[48]

WHEREFORE, premises considered, the petition is DENIED. The Decision dated 22 December 2006 and Resolution dated 4 June 2007 of the Court of Appeals in CA-G.R. SP No. 67047 are AFFIRMED, with the CLARIFICATION/MODIFICATION that only petitioner AMA Computer Colleges, Inc. is held liable for the illegal dismissal of respondent Allan Raymond R. Ignacio, and the latter's complaint against petitioners Amable C. Aguiluz and Anthony Jesus R. Vince Cruz is DISMISSED. Costs against petitioner AMA Computer Colleges, Inc.

SO ORDERED.

Ynares-Santiago, Velasco, Jr., Nachura, and Peralta, JJ., concur.

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[1] Penned by Associate Justice Regalado E. Maambong with Associate Justices Marina L. Buzon and Japar B. Dimaampao, concurring. Rollo, pp. 33-57.

[2] Rollo, pp. 59-60.

[3] CA rollo, p. 23.

[4] Respondent actually began working for AMACC-FV earlier, on 13 April 1998. However, through a Memorandum dated 7 July 1998, AMACCI Vice President for Human Resource Patrick Azanza advised respondent that a complaint for gross dishonesty was filed against the latter, specifically charging him with: (1) non-disclosure of a pending criminal case; (2) favoring a supplier; and (3) falsification of his record. AMACCI claims that respondent's employment was terminated while respondent insists that he resigned from AMACC-FV as evidenced by the clearance dated 13 July 1998 duly signed by the various department heads and school officials of AMACC-FV. On 11 August 1998, respondent wrote AMA Educational System (AMAES) Senior President Karim Bangcola a letter, appealing for another chance to work at AMACC-FV, which was granted.

[5] CA rollo, p. 23.

[6] Developer and publisher of International Standards; http://www.iso.org/iso/home.htm.

[7] CA rollo, p. 24.

[8] The network of computer colleges under the name of AMA Computer College; http://www.amaes.edu.ph/history.asp.

[9] Rollo, pp. 40-41.

[10] Please be advised that a complaint for alleged inexcusable gross negligence resulting to serious damage of Company property (35 computers) and loss of class records/exams has been filed against you. We are furnishing you a copy of the complaint together with the annexes of said complaint.

You are hereby instructed to report to the office of the undersigned and submit your written explanation on or before September 3, 1999 at exactly 1:00 p.m. You are given the right to present your evidence in that said meeting. You are also given the right to confront the complainant and their witnesses.

Your failure to answer will be considered as a waiver of your aforesaid rights. In such instance, this office will rule on the basis of the evidence already submitted.

Meanwhile, you are hereby placed under preventive suspension.

For your strict compliance.

(SGD)ANTHONY JESUS VINCE CRUZ
Human Resource Director (Annex E, CA rollo.)

[11] CA rollo, p. 24.

[12] Rollo, pp. 69-70.

[13] The termination letter reads:

MR. ALLAN RAYMOND IGNACIO
Maintenance Supervisor

Dear Mr. Ignacio:

Please be informed that after a careful deliberation of the case filed against you, it was decided that you are guilty of Gross Negligence in the performance of your job resulting to the loss of important documents. In view of this,

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the Top Management has decided to terminate your services as Maintenance Supervisor effective immediately.

You are hereby instructed to report to the undersigned for further instructions. Please bear in mind that as a company policy you are required to accomplish your clearance and turn over all documents and responsibilities to the appropriate officers.

You are barred from entering the company premises unless with clearance from the HRD. (Id. at 71.)

[14] CA rollo, p. 21.

[15] Employees Conduct and Discipline; id. at 69.

[16] Employees Conduct and Discipline; id. at 67.

[17] Id. at 79-80.

[18] Id. at 80.

[19] Id.

[20] Id. at 83.

[21] Id. at 85.

[22] Id. at 55-56.

[23] Rollo, p. 198.

[24] Muaje-Tuazon v. Wenphil Corporation, G.R. No. 162447, 27 December 2006, 511 SCRA 521, 528-530.

[25] San Miguel Corporation v. Aballa, G.R. No. 149011, 28 June 2005, 461 SCRA 392, 415.

[26] Philippine Long Distance Telephone Company, Inc. v. Imperial, G.R. No. 149379, 15 June 2006, 490 SCRA 673, 685, citing Globe Telecom, Inc. v. Florendo-Flores, 438 Phil. 756, 764-765 (2002).

[27] G.R. No. 75450, 8 November 1990, 191 SCRA 218, 223-224.

[28] Cadiz v. Court of Appeals, G.R. No. 153784, 25 October 2005, 474 SCRA 232, 241.

[29] Cosep v. National Labor Relations Commission, 353 Phil. 148, 157-158 (1998).

[30] Philippine Commercial Industrial Bank v. Cabrera, G.R. No. 160368, 30 March 2005, 454 SCRA 792, 803.

[31] Suico v. National Labor Relations Commission, G.R. No. 146762, 30 January 2007, 513 SCRA 325, 340-341.

[32] Waterous Drug Corp. v. National Labor Relations Commission, 345 Phil. 983, 994 (1997).

[33] Concorde Hotel v. Court of Appeals, 414 Phil. 897, 908 (2001).

[34] Loadstar Shipping Company, Inc. v. Mesano, 455 Phil. 936, 942 (2003).

[35] CA rollo, p. 24.

[36] Rollo, p. 55.

[37] Casimiro v. Tandog, G.R. No. 146137, 8 June 2005, 459 SCRA 624, 631.

[38] Rollo, p. 71.

[39] Philippine Long Distance Co., v. The Late Romeo F. Bolso, G.R. No. 159701, 17 August 2007, 530 SCRA 550, 559-560.

[40] G.R. No. 164376, 31 July 2006, 497 SCRA 361, 375-376.

[41] Annex C; rollo, pp. 62-67.

[42] CA rollo, pp. 191-192.

[43] Poseidon Fishing v. National Labor Relations Commission, G.R. No. 168052, 20 February 2006, 482 SCRA 717, 733.

[44] Metro Transit Organization, Inc. v. National Labor Relations Commission, 331 Phil. 633, 641 (1996).

[45] Premiere Development Bank v. Mantal, G.R. No. 167716, 23 March 2006, 485 SCRA 234, 239-240.

[46] St. Michael's Institute v. Santos, 422 Phil. 723, 736 (2001).

[47] VH Manufacturing Inc. v. National Labor Relations Commission, 379 Phil. 444, 451 (2000).

[48] Price v. Innodata Phils., Inc., G.R. No. 178505, 30 September 2008, 567 SCRA 269, 289-290.

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