

MANILA WATER COMPANY, PETITIONER, VS. CARLITO DEL ROSARIO, RESPONDENT.

G.R. No. 188747. January 29, 2014

Ponente: PEREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-188747/>

PEREZ, J.:

This is a Petition for Review on Certiorari[1] filed pursuant to Rule 45 of the Revised Rules of Court, assailing the 31 March 2009 Decision[2] rendered by the Fifth Division of the Court of Appeals in CA-G.R. SP No. 92583. In its assailed decision, the appellate court: (1) reversed as grave abuse of discretion the Resolution of the National Labor Relations Commission (NLRC) which dismissed the petition of Manila Water Company (Manila Water) on technical grounds; and (2) proceeded to affirm with modification the ruling of the Labor Arbiter. Manila Water was ordered to pay respondent Carlito Del Rosario (Del Rosario) separation pay to be computed from 1 August 1997 up to June 2000.

In a Resolution[3] dated 7 July 2009, the appellate court refused to reconsider its earlier decision.

The Facts

On 22 October 1979, Del Rosario was employed as Instrument Technician by Metropolitan Waterworks and Sewerage System (MWSS). Sometime in 1996, MWSS was reorganized pursuant to Republic Act No. 8041 or the National Water Crisis Act of 1995, and its implementing guidelines - Executive Order No. 286. Because of the reorganization, Manila Water absorbed some employees of MWSS including Del Rosario. On 1 August 1997, Del Rosario officially became an employee of Manila Water.

Sometime in May 2000, Manila Water discovered that 24 water meters were missing in its stockroom. Upon initial investigation, it appeared that Del Rosario and his co-employee, a certain Danilo Manguera, were involved in the pilferage and the sale of water meters to the company's contractor. Consequently, Manila Water issued a Memorandum dated 23 June 2000, directing Del Rosario to explain in writing within 72 hours why he should not be dealt with administratively for the loss of the said water meters.[4] In his letter-explanation,[5] Del Rosario confessed his involvement in the act charged and pleaded for forgiveness, promising not to commit similar acts in the future.

On 29 June 2000, Manila Water conducted a hearing to afford Del Rosario the opportunity to personally defend himself and to explain and clarify his defenses to the charge against him. During the formal investigation Del Rosario was found responsible for the loss of the water meters and therefore liable for violating Section 11.1 of the Company's Code of Conduct.[6] Manila Water proceeded to dismiss Del Rosario from employment on 3 July 2000.[7]

This prompted Del Rosario to file an action for illegal dismissal claiming that his severance from employment is without just cause. In his Position Paper submitted before the labor officer, Del Rosario averred that his admission to the misconduct charged was not voluntary but was coerced by the company. Such admission therefore, made

without the assistance of a counsel, could not be made basis in terminating his employment.

Refuting the allegations of Del Rosario, Manila Water pointed out that he was indeed involved in the taking of the water meters from the company's stock room and of selling these to a private contractor for personal gain. Invoking Section 11.1 of the Company's Code of Conduct, Manila Water averred that such act of stealing the company's property is punishable by dismissal. The company invited the attention of this Court to the fact that Del Rosario himself confessed his involvement to the loss of the water meters not only in his letter-explanation, but also during the formal investigation, and in both instances, pleaded for his employer's forgiveness.[8]

After weighing the positions taken by the opposing parties, including the evidence adduced in support of their respective cases, the Labor Arbiter issued a Decision[9] dated 30 May 2002 dismissing for lack of merit the complaint filed by Del Rosario who was, however, awarded separation pay. According to the Labor Arbiter, Del Rosario's length of service for 21 years, without previous derogatory record, warrants the award of separation pay. The decretal portion of the decision reads:

WHEREFORE, viewed from the foregoing, judgment is hereby rendered DISMISSING the complaint for illegal dismissal for lack of merit.

[Manila Water] is hereby ordered to pay complainant separation pay equivalent to one-half (1/2) month's salary for every year of service based on his basic salary (Php 11,244.00) at the time of his dismissal. This shall be computed from [1 August 1997] up to June 2000, the total amount of which is ONE HUNDRED EIGHTEEN THOUSAND SIXTY-TWO (Php 118,062.00) PESOS.[10]

In a Resolution[11] dated 30 September 2003, the NLRC dismissed the appeal interposed by Manila Water for its failure to append a certification against forum shopping in its Memorandum of Appeal.

Similarly ill-fated was Manila Water's Motion for Reconsideration which was denied by the NLRC in a Resolution[12] dated 28 April 2005.

On Certiorari, the Court of Appeals in its Decision dated 31 March 2009, reversed the NLRC Resolution and held that it committed a grave abuse of discretion when it dismissed Manila Water's appeal on mere technicality. The appellate court, however, proceeded to affirm the decision of the Labor Arbiter awarding separation pay to Del Rosario. Considering that Del Rosario rendered 21 years of service to the company without previous derogatory record, the appellate court considered the granting of separation pay by the labor officer justified. The fallo of the assailed Court of Appeals Decision reads:

WHEREFORE, the petition is partly granted. The assailed Resolutions dated September 30, 2003 and [April 28, 2005] of public respondent NLRC are set aside. The Decision dated May 30, 2002 of the [L]abor [A]rbiter is reinstated, subject to the modification that the computation of the award of separation pay [to] private respondent shall be counted from August 1, 1997 x x x up to June 2000.[13]

In a Resolution[14] dated 7 July 2009, the Court of Appeals refused to reconsider its earlier decision.

Unrelenting, Manila Water filed the instant Petition for Review on Certiorari assailing the foregoing Court of Appeals Decision and Resolution on the sole ground that:

THE [COURT OF APPEALS] SERIOUSLY ERRED IN ISSUING THE QUESTIONED DECISION AND RESOLUTION WHICH DIRECTLY CONTRAVENE BOOK VI, RULE 1, AND SECTION 7 OF THE OMNIBUS RULES IMPLEMENTING THE LABOR CODE AND PREVAILING JURISPRUDENCE WHICH CATEGORICALLY PROVIDE THAT AN EMPLOYEE SEPARATED FROM SERIOUS MISCONDUCT IS NOT ENTITLED TO TERMINATION (SEPARATION) PAY.[15]

The Court's Ruling

In the instant petition, Manila Water essentially questions the award of separation pay to respondent who was dismissed for stealing the company's property which amounted to gross misconduct. It argues that separation pay or financial assistance is not awarded to employees guilty of gross misconduct or for cause reflecting on his moral character.[16]

Del Rosario for his part maintains that there is no legal ground to justify his termination from employment. He insists that his admission pertaining to his involvement in the loss of the water meters was merely coerced by the company. Since his dismissal was without valid or just cause, Del Rosario avers that Manila Water is guilty of illegal dismissal rendering it liable for the payment of backwages and separation pay.[17]

It must be stressed at the outset that the correctness of the Labor Arbiter's pronouncement on the legality of Del Rosario's dismissal is no longer an issue and is beyond modification. While Manila Water timely appealed the ruling of the Labor Arbiter awarding separation pay to Del Rosario, the latter did not question the dismissal of his illegal termination case.[18] It is settled in our jurisprudence that a party who has not appealed cannot obtain from the appellate court any affirmative relief other than the ones granted in the appealed decision.[19] Due process prevents the grant of additional awards to parties who did not appeal.[20] Having said that, this Court will no longer dwell on the issue of whether or not Del Rosario was illegally dismissed from employment. Included in the closed aspect of the case is respondent's argument that the absence of his counsel when he admitted the charge against him diminished the evidentiary value of such admission. Nonetheless, it may be mentioned that the constitutional right to counsel is available only during custodial investigation. If the investigation is merely administrative conducted by the employer and not a criminal investigation, the admission made during such investigation may be used as evidence to justify dismissal.[21]

Our focus will be on the propriety of the award for separation pay.

As a general rule, an employee who has been dismissed for any of the just causes enumerated under Article 282[22] of the Labor Code is not entitled to a separation pay.[23] Section 7, Rule I, Book VI of the Omnibus Rules implementing the Labor Code provides:

Sec. 7. Termination of employment by employer. — The just causes for terminating the services of an employee shall be those provided in Article 282 of the Code. The separation from work of an employee for a just cause does not entitle him to the termination pay provided in the Code, without prejudice, however, to whatever rights, benefits and privileges he may have under the applicable individual or collective agreement with the employer or voluntary employer policy or practice.

In exceptional cases, however, the Court has granted separation pay to a legally dismissed employee as an act of "social justice" or on "equitable grounds." [24] In both instances, it is required that the dismissal (1) was not for serious misconduct; and (2) did not reflect on the moral character of the employee.[25]

In the leading case of *Philippine Long Distance Telephone Company v. NLRC*, [26] we laid down the rule that separation pay shall be allowed as a measure of social justice only in the instances where the employee is validly dismissed for causes other than serious misconduct reflecting his moral character. We clarified that:

We hold that henceforth separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Where the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever other name it is called, on the ground of social justice.

A contrary rule would, as the petitioner correctly argues, have the effect, of rewarding rather than punishing

the erring employee for his offense. And we do not agree that the punishment is his dismissal only and that the separation pay has nothing to do with the wrong he has committed. Of course it has. Indeed, if the employee who steals from the company is granted separation pay even as he is validly dismissed, it is not unlikely that he will commit a similar offense in his next employment because he thinks he can expect a like leniency if he is again found out. This kind of misplaced compassion is not going to do labor in general any good as it will encourage the infiltration of its ranks by those who do not deserve the protection and concern of the Constitution.

The policy of social justice is not intended to countenance wrongdoing simply because it is committed by the underprivileged. At best[,] it may mitigate the penalty but it certainly will not condone the offense. Compassion for the poor is an imperative of every humane society but only when the recipient is not a rascal claiming an undeserved privilege. Social justice cannot be permitted to be refuge of scoundrels any more than can equity be an impediment to the punishment of the guilty. Those who invoke social justice may do so only if their hands are clean and their motives blameless and not simply because they happen to be poor. This great policy of our Constitution is not meant for the protection of those who have proved they are not worthy of it, like the workers who have tainted the cause of labor with the blemishes of their own character.[27]

In the subsequent case of *Toyota Motor Phils. Corp. Workers Association (TMPCWA) v. National Labor Relations Commission*,[28] we expanded the exclusions and elucidated that separation pay shall be allowed as a measure of social justice only in instances where the employee is validly dismissed for causes other than serious misconduct, willful disobedience, gross and habitual neglect of duty, fraud or willful breach of trust, commission of a crime against the employer or his family, or those reflecting on his moral character. In the same case, we instructed the labor officials that they must be most judicious and circumspect in awarding separation pay or financial assistance as the constitutional policy to provide full protection to labor is not meant to be an instrument to oppress the employers.[29] The commitment of the court to the cause of the labor should not embarrass us from sustaining the employers when they are right, as here. In fine, we should be more cautious in awarding financial assistance to the undeserving and those who are unworthy of liberality of the law.[30]

Guided by the foregoing rules, we have carefully treaded the path of compassionate justice in the subsequent cases so as not to slip and favor labor at the expense of management.

In *Tirazona v. Phillippine EDS Techno-Service, Inc. (PET, Inc.)*,[31] we denied the award of separation pay to an employee who was dismissed from employment due to loss of trust and confidence.

While [this] Court commiserates with the plight of Tirazona, who has recently manifested that she has since been suffering from her poor health condition, the Court cannot grant her plea for the award of financial benefits based solely on this unfortunate circumstance. For all its conceded merit, equity is available only in the absence of law and not as its replacement. Equity as an exceptional extenuating circumstance does not favor, nor may it be used to reward, the indolent or the wrongdoer for that matter. This Court will not allow a party, in guise of equity, to benefit from its own fault.[32] (Emphasis supplied).

The attendant circumstances in the present case considered, we are constrained to deny Del Rosario separation pay since the admitted cause of his dismissal amounts to serious misconduct. He is not only responsible for the loss of the water meters in flagrant violation of the company's policy but his act is in utter disregard of his partnership with his employer in the pursuit of mutual benefits.

In the recent case of *Daabay v. Coca-Cola Bottlers*,[33] this Court reiterated our ruling in *Toyota* and disallowed the payment of separation pay to an employee who was found guilty of stealing the company's property. We repeated that an award of separation pay in such an instance is misplaced compassion for the undeserving who may find their way back and weaken the fiber of labor.

That Del Rosario rendered 21 years of service to the company will not save the day for him. To this case, *Central Pangasinan Electric Cooperative, Inc. v. National Labor Relations Commission* is on all fours, thus:

Although long years of service might generally be considered for the award of separation benefits or some form of financial assistance to mitigate the effects of termination, this case is not the appropriate instance for generosity under the Labor Code nor under our prior decisions. The fact that private respondent served petitioner for more than twenty years with no negative record prior to his dismissal, in our view of this case, does not call for such award of benefits, since his violation reflects a regrettable lack of loyalty and worse, betrayal of the company. If an employee's length of service is to be regarded as a justification for moderating the penalty of dismissal, such gesture will actually become a prize for disloyalty, distorting the meaning of social justice and undermining the efforts of labor to cleanse its ranks of undesirables.[34] (Emphasis supplied).

Indubitably, the appellate court erred in awarding separation pay to Del Rosario without taking into consideration that the transgression he committed constitutes a serious offense. The grant of separation pay to a dismissed employee is determined by the cause of the dismissal. The years of service may determine how much separation pay may be awarded. It is, however, not the reason why such pay should be granted at all.

In sum, we hold that the award of separation pay or any other kind of financial assistance to Del Rosario, under the nomenclature of compassionate justice, is not warranted in the instant case. A contrary rule would have the effect of rewarding rather than punishing an erring employee, disturbing the noble concept of social justice.

WHEREFORE, premises considered, the petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals are hereby REVERSED and SET ASIDE.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, Perez, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 3-19.

[2] Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Remedios A. Salazar-Fernando and Apolinario D. Brusuelas, Jr., concurring. Id. at 25-36.

[3] Id. at 38.

[4] Id. at 39.

[5] Id. at 40.

[6] Id. at 42.

[7] Id. at 43.

[8] Id. at 44-48.

[9] Id. at 77-81.

[10] Id. at 81.

[11] Id. at 108-109.

[12] Id. at 115-121.

[13] Id. at 35-36.

[14] Id. at 38.

[15] Id. at 11.

[16] Id. at 3-19.

[17] Id. at 177-179.

[18] Id. at 108-109.

[19] Unilever Philippines, Inc. v. Rivera, G.R. No. 201701, 3 June 3013.

As an exception, he may assign an error where the purpose is to maintain the judgment on other grounds, but he cannot seek modification or reversal of the judgment or affirmative relief unless he has also appealed or filed a separate action. See *Aklan College, Inc. v. Enero*, G.R. No. 178309, 27 January 2009, 577 SCRA 64, 80.

[20] *Daabay v. Coca-Cola Bottlers Phils., Inc.*, G.R. No. 199890, 19 August 2013.

[21] *Manuel v. N.C. Construction Supply*, 346 Phil. 1014, 1024 (1997).

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

- Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- Gross and habitual neglect by the employee of his duties;
- Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- 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
- Other causes analogous to the foregoing.

[23] *Central Pangasinan Electric Cooperative, Inc. v. National Labor Relations Commission*, 555 Phil. 134, 138-139 (2007).

[24] *Unilever Philippines v. Rivera*, supra note 19.

[25] Id.

[26] 247 Phil. 641 (1988).

[27] Id. at 649-650.

[28] 562 Phil. 759 (2007).

[29] Id. at 810-811.

[30] Id.

[31] G.R. No. 169712, 20 January 2009, 576 SCRA 625.

[32] Id. at 633.

[33] Supra note 20.

[34] Supra note 23 at 139-140.

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.