

## **QUIRICO LOPEZ, PETITIONER, VS. ALTURAS GROUP OF COMPANIES AND/OR MARLITO UY, RESPONDENTS.**

*G.R. No. 191008. April 11, 2011*

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-191008/>

---

### **CARPIO MORALES, J.:**

Quirico Lopez (petitioner) was hired by respondent Alturas Group of Companies in 1997 as truck driver. Ten years later or sometime in November 2007, he was dismissed after he was allegedly caught by respondent's security guard in the act of attempting to smuggle out of the company premises 60 kilos of scrap iron worth P840 aboard respondents' Isuzu Cargo Aluminum Van with Plate Number PHP 271 that was then assigned to him. When questioned, petitioner allegedly admitted to the security guard that he was taking out the scrap iron consisting of lift springs out of which he would make axes.

Petitioner, in compliance with the Show Cause Notice [1] dated December 5, 2007 issued by respondent company's Human Resource Department Manager, denied the allegations by a handwritten explanation written in the Visayan dialect.

Finding petitioner's explanation unsatisfactory, respondent company terminated his employment by Notice of Termination [2] effective December 14, 2007 on the grounds of loss of trust and confidence, and of violation of company rules and regulations. In issuing the Notice, respondent company also took into account the result of an investigation showing that petitioner had been smuggling out its cartons which he had sold, in conspiracy with one Maritess Alaba, for his own benefit to thus prompt it to file a criminal case for Qualified Theft [3] against him before the Regional Trial Court (RTC) of Bohol. It had in fact earlier filed another criminal case for Qualified Theft [4] against petitioner arising from the theft of the scrap iron.

Petitioner thereupon filed a complaint against respondent company for illegal dismissal and underpayment of wages. He claimed that the smuggling charge against him was fabricated to justify his illegal dismissal; that the filing of the charge came about after he reported the loss of the original copy of his pay slip, which report, he went on to claim, respondent company took to mean that he could use the pay slip as evidence for filing a complaint for violation of labor laws; and that on account of the immediately stated concern of respondent, it forced him into executing an affidavit that if the pay slip is eventually found, it could not be used in any proceedings between them.

By Decision [5] of June 30, 2008, the Labor Arbiter, holding that the pendency of the criminal case involving the scrap iron did not warrant the suspension of the proceedings before him, held that petitioner's dismissal was justified, for he, a truck driver, held a position of trust and confidence, and his act of stealing company property was a violation of the trust reposed upon him.

Respecting the charge of underpayment of wages, the Labor Arbiter noted that on the basis of the records, petitioner had been paid the correct wages and benefits mandated by law.

The Labor Arbiter accordingly dismissed petitioner's complaint.

On appeal, the National Labor Relations Commission's (NLRC) Fourth Division (Cebu City) set aside the Labor Arbiter's Decision by Decision [6] dated December 22, 2008, finding that respondent's evidence did not suffice to warrant the termination of petitioner's services; and that petitioner's alleged admission of taking the scrap iron was belied by his vehement denial, as even the security guard, one Gerardo Luega, who allegedly witnessed the asportation and before whom the alleged admission was made, did not even execute an affidavit in support thereof.

Citing *Salaw v. NLRC*, [7] the NLRC went on to hold that petitioner should have been afforded, or at least advised of the right to counsel. It thus held that "any evaluation which was based only on the explanation to the show-cause letter and any so-called investigation but without confrontation of the vital witnesses, do[es] not suffice."

Respondent company's motion for reconsideration was denied by Resolution [8] of April 30, 2009, hence, it appealed to the Court of Appeals.

By Report [9] of December 18, 2009, the appellate court reversed the NLRC ruling. It held that respondent company was justified in terminating petitioner's employment on the ground of loss of trust and confidence, his alleged act of smuggling out the scrap iron having been sufficiently established through the affidavits of Patrocinio Borja and Zalde Tare, supervisor and junior supervisor, respectively, of its Supermarket Motorpool.

The appellate court further held that "the evidence supporting the criminal charge, found after preliminary investigation are [sic] sufficient to show prima facie guilt, which constitutes just cause for [petitioner's dismissal] based on loss of trust and confidence"; and that petitioner's subsequent acquittal in the criminal case "did not automatically preclude a determination that he is guilty of acts inimical to the employer's interest resulting in loss of trust and confidence."

Albeit the appellate court found that petitioner's dismissal was for a just cause, it held that due process was not observed when respondent company failed to give him a chance to defend his side in a proper hearing. Following *Agabon v. NLRC*, [10] the appellate court thus ordered respondent to pay nominal damages of P30,000.

Thus the appellate court disposed:

WHEREFORE, in view of the foregoing, the Decision of the NLRC dated December 22, 2008 is hereby MODIFIED. Private respondent's dismissal from employment is upheld on the ground of loss of trust and confidence, a just cause for termination. However, for failure to comply fully with the procedural due process, petitioner is ORDERED to pay private respondent the amount of P30,000.00 as nominal damages. [11] (underscoring supplied)

Hence, the present petition for review on certiorari.

Dismissals have two facets: the legality of the act of dismissal, which constitutes substantive due process, and the legality of the manner of dismissal which constitutes procedural due process. [12]

As to substantive due process, the Court finds that respondent company's loss of trust and confidence arising from petitioner's smuggling out of the scrap iron, compounded by his past acts of unauthorized selling cartons belonging to respondent company, constituted just cause for terminating his services.

Loss of trust and confidence as a ground for dismissal of employees covers employees occupying a position of trust who are proven to have breached the trust and confidence reposed on them. Apropos is *Cruz v. Court of Appeals* [13] which explains the basis and quantum of evidence of loss of trust and confidence, viz:

In addition, the language of Article 282(c) of the Labor Code states that the loss of trust and confidence must be based on willful breach of the trust reposed in the employee by his employer. Such 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. Moreover, it must be based on substantial evidence and not on the employer's whims or caprices or suspicions otherwise, the employee would eternally remain at the mercy of the employer. Loss of confidence must not be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary. And, in order to constitute a just cause for dismissal, the act complained of must be work-related and shows that the employee concerned is unfit to continue working for the employer. In addition, loss of confidence as a just cause for termination of employment is premised on the fact that the employee concerned holds a position of responsibility, trust and confidence or that the employee concerned is entrusted with confidence with respect to delicate matters, such as the handling or care and protection of the property and assets of the employer. The betrayal of this trust is the essence of the offense for which an employee is penalized. (emphasis and underscoring supplied)

Petitioner, a driver assigned with a specific vehicle, was entrusted with the transportation of respondent company's goods and property, and consequently with its handling and protection, hence, even if he did not occupy a managerial position, he can be said to be holding a position of responsibility. As to his act—principal ground for his dismissal — his attempt to smuggle out the scrap iron belonging to respondent company, the same is undoubtedly work-related.

Respondent company's charge against petitioner was amply proven by substantial evidence consisting of the affidavits of various employees of respondent. Contrary to the NLRC's observation, the security guard who apprehended petitioner, Gerardo Luega, actually executed a statement [14] relative to the smuggling out of scrap iron, which was attached to, and served as basis for the filing of, the corresponding complaint for Qualified Theft. Petitioner's claim that he was framed up after he allegedly lost his pay slip to draw respondent company to suspect that he might file a labor complaint for underpayment does not inspire credence.

It is, however, with respect to the appellate court's finding that petitioner was not afforded procedural due process that the Court deviates from. Procedural due process has been defined as giving an opportunity to be heard before judgment is rendered. [15] In termination cases, *Perez v. Philippine Telegraph and Telephone Company*, [16] illuminates on the correct proceedings to be followed therein in order to comply with the due process requirement:

The above rulings are a clear recognition that the employer may provide an employee with ample opportunity to be heard and defend himself with the assistance of a representative or counsel in ways other than a formal hearing. The employee can be fully afforded a chance to respond to the charges against him, adduce his evidence or rebut the evidence against him through a wide array of methods, verbal or written.

After receiving the first notice apprising him of the charges against him, the employee may submit a written explanation (which may be in the form of a letter, memorandum, affidavit or position paper) and offer evidence in support thereof, like relevant company records (such as his 201 file and daily time records) and the sworn statements of his witnesses.

**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.