

BROWN MADONNA PRESS INC., THADDEUS ANTHONY A. CABANGON, FORTUNE LIFE INSURANCE COMPANY (NOW FORTUNE GENERAL INSURANCE CORPORATION) AND/OR ANTONIO CABANGON CHUA, PETITIONERS, VS....

G.R. No. 200898. June 15, 2015

Ponente: BRION, J.

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BRION, J.:

Before the Court is the petition for review on certiorari,[1] filed by petitioners Brown Madonna Press, Inc. (BMPI), Thaddeus Anthony Cabangon (Cabangon), Fortune Life Insurance Company (now Fortune General Insurance Corporation) and/or Anthony Cabangon Chua (Cabangon Chua), to challenge the decision and resolution of the Court of Appeals (CA) in CA-G.R. SP No. 116539.

Factual Antecedents

This case sprung from respondent Rosario M. Casas's (Casas) parting of ways with BMPI as its Vice President for Finance and Administration on January 5, 2007. Casas claims she was forced to leave her work, while the BMPI management asserts that she requested a graceful exit from the company to avoid an administrative investigation. The facts leading to this dispute are outlined below.

On May 1, 1984, Casas was hired as an accounting clerk at Fortune General Insurance, a member of the ALC Group of Companies. She eventually rose from the ranks; on December 1, 2003, she was transferred to BMPI, another ALC member company, as its Vice President for Finance and Administration.[2]

On January 5, 2007, Casas met with Cabangon, BMPI's company president, and Victoria Nava (Nava), the Vice President for the Central Human Resource Department of the ALC Group of Companies. During the meeting, Casas was allegedly told not to report to work anymore starting January 8, 2007, upon the instructions of Cabangon-Chua, ALC's Chairman Emeritus. Casas claims that the reason for her abrupt dismissal was not disclosed to her, but she was promised a separation pay. She thus packed her things and left.[3]

BMPI, on the other hand, asserts that it was Casas who requested a graceful exit from the company during the January 5, 2007 meeting. The meeting was supposedly held to confront Casas about certain complaints against her, and about the growing rift between her and another company officer. BMPI asserts that Casas opted to leave the company to avoid an administrative investigation against her and to give her the chance to jumpstart her career outside the company. She succeeded in convincing Cabangon to grant her some form of financial assistance as they were friends.[4]

Casas no longer reported for work on January 8, 2007, and BMPI, for its part, started the processing of her clearance.[5] On May 17, 2007, Casas sent Cabangon-Chua a letter asking for the reconsideration of his decision to terminate her employment. Cabangon-Chua did not act on this letter.[6]

On July 20, 2007, Casas filed a complaint for illegal dismissal and for payment of separation pay, backwages, retirement benefits and attorney's fees before the Regional Arbitration Branch. The complaint was docketed as NLRC LAC 05-001892-08.[7]

The Labor Arbiter's Ruling

Labor Arbiter (LA) Fedriel S. Panganiban dismissed Casas' complaint for lack of merit, and ordered BMPI to reinstate her to her previous position without payment of backwages.[8]

The LA found that Casas was not dismissed from work; she instead abandoned her post. Citing *Chong Guan Trading Inc. v. NLRC*[9] and *Security & Credit Investigation, Inc. v. NLRC*,[10] the LA held that no illegal dismissal takes place when the employee has not been notified of his dismissal; in the absence of any positive and overt act of dismissal, the claim of illegal dismissal cannot be sustained.[11]

The LA noted that there was no written notice of Casas' dismissal, and that it was contrary to sound business practice to verbally terminate an employee facing investigation for reported irregularities; BMPI had every reason to retain Casas' services and to proceed with the investigation against her. Thus, the LA agreed with BMPI's contention that Casas left her work to pre-empt the investigation of complaints against her. Her act of packing her things on January 5, 2007, in fact, demonstrated that she no longer intended to return to work.[12]

Because no illegal dismissal took place, the LA refused to grant Casas her demanded backwages, separation pay and retirement benefit. Instead, the LA ordered BMPI to reinstate Casas so that a proper investigation may be conducted on the irregularities she allegedly committed.[13]

The NLRC's ruling

Casas appealed the LA's ruling with the National Labor Relations Commission (NLRC), which reversed the LA's finding that Casas had not been illegally dismissed.[14]

The NLRC found that Casas' dismissal had been sufficiently established by evidence on record. Contrary to the petitioners' allegations, these records show that Casas' services had been terminated by BMPI as she was issued a "Clearance and Quitclaim" document that clearly stated that she would "cease to be connected with the company at the close of office hours on January 16, 2007." This, along with BMPI's failure to respond to Casas' May 17, 2007 letter asking for the reconsideration of her termination, constitute positive and overt acts of dismissal.[15]

Casas' dismissal, according to the NLRC, was without just cause and did not have the benefit of due process. She was never accorded any hearing or even a show-cause notice, despite the serious allegations charged against her. Instead, the records show only the "Clearance and Quitclaim" document, which does not explain why her employment relationship with BMPI would cease. The NLRC also found that Cabangon and Cabangon-Chua acted with malice and bad faith in dismissing Casas, and thus held them jointly and severally liable with BMPI for payment of Casas' monetary award.[16]

The Court of Appeals' Decision

The Court of Appeals affirmed the NLRC's ruling, and held that it did not commit any grave abuse of discretion in finding that Casas had been illegally dismissed. The CA cited with approval the NLRC's ruling that Casas' dismissal was without cause and failed to comply with the procedural requirements of the law.[17]

The CA explained that Casas is presumed innocent until proven guilty of the charges against her. Since her alleged infractions had not been investigated, it followed that Casas was dismissed without cause. The CA also noted that BMPI failed to comply with the two written notices required prior to a lawful termination of an employee, and hence failed to comply with the procedural due process that the law requires.[18]

The present petition

BMPI, Cabangon and Cabangon-Chua assail the CA ruling through the present petition for review on certiorari,[19] based on the following arguments:

1)

Casas voluntarily left the company to preempt an administrative investigation against her, and to be able to jumpstart a new career.[20]

2)

The clearance and quitclaim document is a standard operating procedure for a person who has resigned or retired from the company for the protection of the employer. It establishes that the issue of employment severance has been settled beforehand. In fact, BMPI cited the clearance and quitclaim document to explain why Casas' last pay was temporarily withheld from her.[21]

3)

BMPI denied receipt of Casas's letter, and claimed that it did not issue any show cause order against Casas because she left the company to prevent an administrative investigation against her. Her voluntary exit also explains BMPI's non-compliance with the legal notice requirements.[22]

In her Comment/Opposition[23] to BMPI's petition, Casas maintained that the CA did not err in finding that she had been illegally dismissed from work. She emphasized that the quitclaim and clearance document unilaterally prepared by BMPI was evidence of their expectation to sever her employment,[24] and that BMPI failed to present any resignation letter from her to prove that she voluntarily left her work.[25] Lastly, Casas asserted that Cabangon compelled her to quit her job, in exchange for a retirement package. This package, however, was never granted to her, despite her compliance with her end of the agreement that she would no longer report to work after January 5, 2007.[26]

Issues

The parties' arguments present to us the sole issue of whether the Court of Appeals erred when it found no grave abuse of discretion in the NLRC's ruling that Casas had been illegally dismissed.

The Court's Ruling

The CA did not err in finding that the NLRC did not commit any grave abuse of discretion in its decision.

Mode of review in illegal dismissal cases

The present petition involves mixed questions of fact and law, with the core issue being one of fact. This issue - from which the other issues arise - relates to the nature of Casas' termination of employment relationship with BMPI. Did she voluntarily resign from, or abandon her work at, BMPI, or was she summarily dismissed by Cabangon?

This question of fact is an issue that we cannot resolve in a Rule 45 petition, except in the course of determining whether the CA correctly ruled in determining that the NLRC did not commit grave abuse of discretion. In other words, the question we ask in resolving the present case is not whether Casas abandoned her work or was illegally dismissed; instead, we ask whether the CA erred in not finding grave abuse of discretion in the NLRC's decision finding that Casas was dismissed from work.[27]

Should we find that Casas had indeed been summarily dismissed, the next question involves the nature of her

dismissal - did it comply with the procedural and substantial requirements of the law, or was it an illegal dismissal that should warrant the award to Casas of backwages and separation pay?

Keen awareness of the lens used to review this question is critical, given the jurisdiction of this Court and the nature of review employed in labor cases appealed to the Court under Rule 45. The Court, save for exceptional cases, is not a trier of facts; as a general rule, it resolves only questions of law. Additionally, the NLRC's decision is final and executory, and can be reviewed by the CA only when the NLRC committed a grave abuse of discretion amounting to a lack or excess of jurisdiction.[28]

Thus, the CA, in a Rule 65 petition assailing the NLRC's decision, examines whether the NLRC acted in such a "capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law." [29] This is in contrast with appeals reaching the CA through a Rule 45 petition, where it has more leeway in reviewing both questions of fact and of law, and where the appealed decision may be reversed because of an error in judgment.[30]

Once the CA decision reaches the Court through a Rule 45 petition, the question presented before us carries with it the mode of review applied when the case has been appealed before the CA. Although we are asked to determine whether the CA committed an error in judgment, we necessarily have to consider that the judgment made by the CA involves the question of determining grave abuse of discretion. Unlike other petitions for review on certiorari where we determine errors of law (and in exceptional cases, errors of fact), our appellate jurisdiction in labor cases involves the determination of whether there had been an error in finding grave abuse of discretion on the part of the NLRC.[31]

With these considerations in mind, the onus probandi in assailing a question of fact as determined by the NLRC and upheld by the CA becomes heavier. Not only must an exceptional circumstance allowing the Court to review a question of fact exist; it must also be shown that the NLRC's resolution of the factual issue must have been tainted with grave abuse of discretion, such that the CA erred in affirming it.

Indeed, the labor arbiter and the NLRC in the present case arrived at factual conclusions — the LA found that Casas had not been dismissed, but the NLRC reversed this finding. While the contradicting findings of the LA and the NLRC may be a ground to re-evaluate the factual question of whether Casas abandoned her work or had been dismissed, we find no reason to dispute the NLRC's conclusion.

The CA did not err in affirming the

NLRC's factual finding that Casas

had been dismissed from work

We support the CA in finding no grave abuse of discretion in the NLRC's factual conclusion that Casas had been dismissed from work.

In illegal dismissal cases, the employer has the burden of proving that the employee's dismissal was legal. However, to discharge this burden, the employee must first prove, by substantial evidence, that he had been dismissed from employment.[32]

The CA, in affirming the NLRC's conclusion that Casas had been dismissed, gave emphasis to the existence of two documents on record: first, the unsigned clearance and quitclaim document unilaterally prepared by BMPI, and second, the letter Casas sent to Cabangon-Chua, asking the latter to reconsider her termination.

These pieces of evidence sufficiently establish Casas' dismissal from the company.

The Clearance and Quitclaim document discloses that Casas would "cease to be connected with the company at the close of office on January 16, 2007." The document, which was even introduced as evidence by the petitioners, was prepared unilaterally at Cabangon's instructions. It shows the company's intent to sever its employment relationship with Casas. Considered together with the letter Casas sent Cabangon-Chua asking for her reinstatement on May 17, 2007, these documents back Casas's assertion that she was compelled to leave her job on January 5, 2007.

As their main defense, BMPI and Cabangon claim that they never dismissed Casas from work, and that she instead requested a graceful exit from the company.

We do not find any merit in the petitioners' contention.

Jurisprudence has established that employers interposing their employee's resignation as a defense from illegal dismissal cases have the burden of proving that the employee indeed voluntarily resigned.[33] Resignation — the formal pronouncement or relinquishment of a position or office — is the voluntary act of an employee compelled by personal reason(s) to disassociate himself from employment.[34] It is done with the intention of relinquishing an office, accompanied by the act manifesting this intent.[35]

In the present case, the petitioners allege that Casas asked for a graceful exit from the company to avoid an administrative investigation against her. They claim that Casas had grossly failed to manage and take control of BMPF's ex-deal assets, which caused the company serious losses. When Casas was confronted about these reports of mismanagement, she voluntarily resigned from office in exchange for separation pay.

In our view, the NLRC and CA correctly disregarded these allegations in concluding that Casas had been terminated from office.

First, the pieces of evidence that the petitioners submitted are insufficient to establish their claim. To prove that Casas voluntarily abandoned her work, the petitioners submitted affidavits from their employees, Domingo Almoninia, Jr. and Victoria C. Nava, who both testified to the events leading to a private conversation between Casas and Cabangon.

Domingo Almoninia, Jr., BMPI's former Chief Audit Executive, testified[36] that he had informed Cabangon of reports regarding Casas's mismanagement of BMPI's ex-deal assets on January 5, 2007. Casas, together with Vice President for Human Resources Victoria Nava, were then summoned to Cabangon's room. According to Almoninia, he witnessed Cabangon confront Casas regarding reports about her mismanagement and certain unauthorized transactions. In the course of the discussion, Cabangon allegedly told Casas that the reports against her would have to be investigated, and instructed her to settle her differences with a certain Mr. Tayag. Casas asked Cabangon if she was being dismissed, to which the latter answered in the negative. Both Almoninia and Nava were then asked to leave the room.

Nava, on the other hand, corroborated Almoninia's narration, and added insinuations that Casas had been having problems in the company.[37]

In considering their affidavits, we emphasize that neither Almoninia nor Nava were present in the private conversation that ensued between Cabangon and Casas, after the confrontation that they witnessed. This leaves Cabangon's claim that Casas asked for a graceful exit from the company uncorroborated; what stands is Casas' statement contradicting the claim that she had not been dismissed from her job.

Second, Cabangon failed to provide any documentary evidence supporting Casas' voluntary resignation. BMPI failed to show any resignation letter from Casas. The Clearance and Quitclaim document, which shows Casas'

severance from the company, does not contain her signature.[38] Neither was Casas given any return to work order, notice of infraction, or notice of termination, all of which could have supported BMPI's theory that Casas was never prevented from going back to work.

Third, Cabangon, Almoninia and Nava's testimonies show that Casas could have entertained the motive to resign from her work, but does not prove her intent to leave her office. Intent to relinquish one's office is determined from the acts of an employee before and after the alleged resignation. Casas' acts after allegedly resigning from work negate this intent: she wrote a letter asking Cabangon-Chua to reconsider her termination from office; she refused to sign the Clearance and Quitclaim document; and she filed an illegal dismissal case against her employers.

This conclusion brings us to the question of whether the CA erred in affirming the NLRC's conclusion that Casas had been illegally terminated from work.

The CA did not err in affirming the

NLRC's conclusion that Casas'

dismissal violated the procedural

requirements of the Labor Code

In ruling that Casas' dismissal had been contrary to law, both the CA and the NLRC emphasized that her sudden termination from office was without just cause and violated procedural due process.

According to the NLRC, despite the serious allegations that the BMPI lodged against Casas, it never asked her to explain her acts, and instead opted to sever its employment relations with her. On this basis alone, the NLRC concluded that Casas' dismissal had been illegal and non-compliant with procedural due process.[39]

The CA affirmed this conclusion by pointing out that Casas had been dismissed prior to any probe on her reported violation of company rules and regulations.[40]

In determining whether an employee's dismissal had been legal, the inquiry focuses on whether the dismissal violated his right to substantial and procedural due process. An employee's right not to be dismissed without just or authorized cause as provided by law, is covered by his right to substantial due process. Compliance with procedure provided in the Labor Code, on the other hand, constitutes the procedural due process right of an employee.[41]

The violation of either the substantial due process right or the procedural due process right of an employee produces different results. Termination without a just or authorized cause renders the dismissal invalid, and entitles the employee to reinstatement without loss of seniority rights and other privileges and full backwages, inclusive of allowances, and other benefits or their monetary equivalent computed from the time the compensation was not paid up to the time of actual reinstatement.

An employee's removal for just or authorized cause but without complying with the proper procedure, on the other hand, does not invalidate the dismissal. It obligates the erring employer to pay nominal damages to the employee, as penalty for not complying with the procedural requirements of due process.[42]

Thus, two separate inquiries must be made in resolving illegal dismissal cases: first, whether the dismissal had been made in accordance with the procedure set in the Labor Code; and second, whether the dismissal had been for just or authorized cause.

There can be no doubt that the procedural requirements had not been complied with in the present case: shortly

after a private conversation between Cabangon and Casas, Casas took her belongings from the office and left the building. As explained earlier, Casas's acts after this private conversation reveal that she had been summarily dismissed: Casas gave no resignation letter, refused to sign the Clearance and Quitclaim document that the company issued, and sent a letter asking for her reinstatement.

Notably, the private conversation that led to Casas's summary dismissal did not conform, in any way, to the procedural due process requirements embodied in Rule XIV of the Omnibus Rules Implementing the Labor Code, viz:

RULE XIV Termination of Employment

SECTION 1. Security of tenure and due process. — No workers shall be dismissed except for a just or authorized cause provided by law and after due process.

SECTION 2. Notice of dismissal. — Any employer who seeks to dismiss a worker shall furnish him a written notice stating the particular acts or omission constituting the grounds for his dismissal. In cases of abandonment of work, the notice shall be served at the worker's last known address.

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SECTION 5. Answer and hearing. — The worker may answer the allegations stated against him in the notice of dismissal within a reasonable period from receipt of such notice. The employer shall afford the worker ample opportunity to be heard and to defend himself with the assistance of his representative, if he so desires.

SECTION 6. Decision to dismiss. — The employer shall immediately notify a worker in writing of a decision to dismiss him stating clearly the reasons therefor.

Cabangon failed to show any written notice provided to Casas informing her of the charges against her, and neither had she been informed in writing of her dismissal and the reasons behind it.

Even assuming arguendo that Casas had indeed voluntarily abandoned her work - an uncorroborated claim by Cabangon - Cabangon had the duty to give Casas a written notice of the grounds leading to her dismissal.

Thus, Cabangon failed to comply with the two-notice requirement under the law, resulting in a violation of Casas's right to procedural due process. This conclusion leads us to the next query: whether her dismissal was for just cause.

The CA did not err in finding no

grave abuse of discretion in the

NLRC's decision to hold that

Casas had been dismissed

without just cause

According to the CA, Casas's dismissal had not been for just cause, because at the time she was dismissed, not one of the charges against her had been proven. Casas was, at the time of her dismissal, presumed innocent until proven guilty; thus, there existed no just cause to terminate her employment at the time she was summarily dismissed.[43]

In reaching this conclusion, the CA reviewed whether the NLRC acted with grave abuse of discretion in holding that Casas's dismissal had no just cause. The NLRC, in its decision, held that Casas's dismissal had not been for just cause because she was not even allowed to explain the supposed acts that had been inimical to BMPI's

interests.[44]

In affirming the NLRC's decision, the CA clarified the application of procedural and substantial due process in the present case: Casas had not been given the two-notice requirement in the law, and hence, her procedural due process rights had been violated. And because not one of the allegations against her had been proven at the time she was summarily dismissed, there existed no cause to terminate her services.

We find that the CA did not err in making this ruling.

To reiterate, the CA reviews the decision of the NLRC using the prism of grave abuse of discretion, and not through an appeal. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction. In other words, power is exercised in an arbitrary or despotic manner so patent or so gross that it amounts to an evasion of a positive duty or to a virtual refusal to act at all in contemplation of law.

Thus, for a decision to be in grave abuse of discretion, it should involve not just an error of law or an error of fact, but errors that are so patent or gross that the decision reached is a decision that had not been made in contemplation of law at all.

No such error exists in the present case.

We have, in the past, affirmed the NLRC in ruling that an employee's act not proven at the time he had been dismissed does not constitute just cause for his dismissal.[45] In other words, for an act to justify an employee's dismissal, it should have been proven, with substantial evidence,[46] at the time he was dismissed. Otherwise, the dismissal would not be for just cause.

This conclusion finds support in cases emphasizing that an unsubstantiated accusation will not ripen into a holding that there is just cause for dismissal.[47] A mere accusation of wrongdoing is not sufficient cause for a valid dismissal of an employee. The facts for which a dismissal is based should be backed by substantial evidence at the time the employee is dismissed, and not at the time his dismissal is being questioned before the courts.

In the present case, the petitioners allege that Casas had committed various infractions that would have warranted disciplinary action against her. At the time that Casas was dismissed, however, these alleged infractions were mere speculations. The present petition for review on certiorari admits this reality in two instances: first, in the body of the petition itself stating that at the time of the January 5, 2007 meeting, disciplinary proceedings had yet to be initiated against Casas and that the reports against her would still have to be verified;[48] and second, through its annexes,[49] which provided that the result of the investigation in the ex-deal assets that Casas allegedly mismanaged was produced only on February 17, 2007, or a full month after Casas' dismissal.

Thus, at the time Cabangon asked Casas to leave her employment, all he had as basis for Casas's dismissal were speculations. Worse, Cabangon's summary dismissal of Casas left her with little opportunity to adequately defend herself from the allegations against her.

In these lights, we support the CA in holding that Casas' summary dismissal had not been for just cause.

Just cause must be proven with

substantial evidence at the time

of dismissal

At its core, substantive due process guarantees a right to liberty that cannot be taken away or unduly constricted, except through valid causes provided in the law.[50]

The concepts of procedural and substantive due process had been carried over and applied to illegal dismissal cases, although notably, employers are not governmental bodies to which these rights usually refer. *Agabon v. NLRC*[51] described the due process required in dismissing employees as statutory - requirements that the law imposes on employers to comply with, in contrast to constitutional due process rights that guarantee against overreach from the government.

Although statutory in nature, the procedural and substantive due process requirements in illegal dismissal cases stem from the protection that the Constitution provides labor - the Constitution has tasked the State to promote the workers' security of tenure, humane conditions of work, and a living wage.[52] These guarantees, as well as a host of other rights and responsibilities,[53] find implementation through the Labor Code, which fleshed out the concept of security of tenure[54] as the continuance of regular employment until an employee's services are terminated because of just or authorized causes enumerated in the law.

Thus, despite the differences in origin and application between constitutional due process rights and the statutory requirements in the Labor Code, we have applied concepts implementing constitutional due process rights to the statutory due process requirements of the Labor Code. We did this in the present case, when we emphasized the need for substantial evidence to support the just cause for the employee's dismissal at the time her services were terminated. In the same way that the crime charged against an accused must first be proven before his or her right to liberty is taken away, or that a government employee's infraction must first be proven before the accused is deprived of the right to continue to hold office, so too, must just cause against an employee be proven before he or she may be deprived of a means of livelihood. Otherwise, the employee's right to substantive due process would be violated.

In these lights, and in order to give full effect to the embodiment of substantive due process in illegal dismissal cases, it is necessary to rule, that an employee, in this present case *Casas*, cannot be terminated from service without sufficient substantial evidence of the just cause that would merit her dismissal.

WHEREFORE, premises considered, the petition is DISMISSED, and the Court of Appeals decision in CA-G.R. SP No. 116539 is AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Mendoza, and Leonen, JJ., concur.

[1] *Rollo*, pp. 9-30.

[2] Court of Appeals Decision in CA-G.R. SP No. 116539 promulgated December 11, 2009, *id.* at 236.

[3] National Labor Relations Commission Decision in NLRC NCR Case No. 00-07-07706-07 promulgated July 31, 2009, *id.* at 145.

[4] *Petition for Review on Certiorari*, *id.* at 9-10.

[5] *See Clearance and Quitclaim*, *id.* at 62.

[6] National Labor Relations Commission Decision in NLRC NCR Case No. 00-07-07706-07 promulgated July 31, 2009, *id.* at; Court of Appeals Decision in CA-G.R. SP No. 116539 promulgated December 11, 2009, *id.* at 240.

[7] *Petition for Review on Certiorari*, *id.* at 12

- [8] Labor Arbiter's Decision in NLRC LAC 05-001892-08 promulgated February 29, 2008, id. at 93-103.
- [9] G.R. No. 81471, April 26, 1989, 172 SCRA 831.
- [10] G.R. No. 114316, January 26, 2001, 350 SCRA 357.
- [11] Labor Arbiter's Decision in NLRC LAC 05-001892-08 promulgated February 29, 2008, rollo, p. 100.
- [12] Labor Arbiter's Decision in NLRC LAC 05-001892-08 promulgated February 29, 2008, id. at 99-100.
- [13] Labor Arbiter's Decision in NLRC LAC 05-001892-08 promulgated February 29, 2008, id. at 102-103.
- [14] National Labor Relations Commission Decision in NLRC NCR Case No. 00-07-07706-07 promulgated July 31, 2009, id. at 143-150.
- [15] Id. at 146-147.
- [16] Id. at 146-148.
- [17] Court of Appeals Decision in CA-G.R. SP No. 116539 promulgated December 11, 2009, id. at 235-242.
- [18] Id. at 240-241.
- [19] Petition for Review on Certiorari, id. at 7-22.
- [20] Id. at 14
- [21] Id. at 15-17.
- [22] Id. at 20.
- [23] Comment, rollo, pp. 343-358.
- [24] Id. at 352-354.
- [25] Id. at 354-355.
- [26] Id. at 353.
- [27] *Montoya v. Trammed Manila Corporation*, G.R. No. 183329, August 27, 2009, 597 SCRA 334, 342-343.
- [28] Id. at 343.
- [29] *Jimenez v. People of the Philippines*, G.R. No. 209195, September 17, 2014.
- [30] *Supra* note 27, at 342-343.
- [31] *Career Philippines Ship Management Inc. v. Serna*, G.R. No. 172086, December 3, 2012, 686 SCRA 676, 683-684.
- [32] *Ledesma Jr. v. NLRC*, G.R. No. 174585, October 19, 2007, 562 SCRA 939, 951-952.
- [33] See, for instance, *Vicente v. Court of Appeals*, 557 Phil. 777, 785 (2007); *Mobile Protective & Detective Agency v. Ompad*, 497 Phil. 621, 634-635 (2005).
- [34] *San Miguel Properties v. Gucaban*, G.R. No. 153982, 18 July 2011, 654 SCRA 18, 28-29; *Star Paper Corporation v. Simbol*, 521 Phil. 363, 379 (2006).
- [35] *Vicente v. Court of Appeals*, 557 Phil. 777, 785 (2007); *Fortuny Garments v. Castro*, 514 Phil. 317, 323

(2005).

[36] Affidavit of Domingo R. Almoninia Jr. dated November 23, 2007, rollo, pp. 47-48.

[37] Affidavit of Victoria C. Nava dated November 29, 2007, id. at 49-51.

[38] Clearance and Quitclaim, id. at 62.

[39] National Labor Relations Commission Decision in NLRC NCR Case No. 00-07-07706-07 promulgated July 31, 2009, id. at 146-147.

[40] Court of Appeals Decision in CA-G.R. SP No. 116539 promulgated December 11, 2009, id. at 241.

[41] See *Deoferio v. Intel Technology Philippines Inc.*, G.R. No. 202996, June 18, 2014; *Sang-An v. Equator Knights Detective and Security Agency*, G.R. No. 173189, February 13, 2013, 690 SCRA 534, 542; *Bughaw, Jr. v. Treasure Island Industrial Corporation*, 573 Phil. 435, 448 (2008); *Agabon v. NLRC*, 485 Phil. 248, 284 (2004).

[42] *Agabon v. NLRC*, 485 Phil. 248, 285-287 (2004).

[43] Court of Appeals Decision in CA-G.R. SP No. 116539 promulgated December 11, 2009, rollo p. 241.

[44] National Labor Relations Commission Decision in NLRC NCR Case No. 00-07-07706-07 promulgated July 31, 2009, id. at 146-148.

[45] In *Gothong Lines Inc. v. NLRC*, 362 Phil. 502 (1999), the employer therein alleged, as one of the reasons for dismissing his employee Adolfo Lauron, that Lauron had been charged with the crime of arson. The Court, in concluding that Lauron had been illegally dismissed, held that he is presumed innocent until proven guilty of committing the crime, and that for the commission of the Crime of arson to be used to justify Lauron's termination, it should first be proven by substantial evidence.

[46] *Pili v. National Labor Relations Commission*, 217 SCRA 338, at 345, citing *Manila Electric Company v. NLRC*, 198 SCRA 681 (1991).

[47] *ALPS Transportation v. Rodriguez*, G.R. No. 186732, June 13, 2013 698 SCRA 423, 432-433.

[48] Petition for Review on Certiorari, rollo, pp. 19-20.

[49] Annex 3 - Reply pertaining to the Memorandum from the Central Audit Group Regarding "Over-Consumption and Shortages in Materials", id. at 52.

[50] Substantive due process inquires whether the government has sufficient justification for depriving a person of life, liberty, or property. *White Light Corporation v. City of Manila*, G.R. No. 122846, January 20, 2009, 576 SCRA 416, 435-436.

[51] 485 Phil. 248 (2004).

[52] Article XIII, Section 3, 1987 Constitution

[53] Section 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with the law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns to investments, and to expansion and growth

[54] Art. 279. Security of tenure. In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. (As amended by Section 34, Republic Act No. 6715, March 21, 1989)

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