

**ASIAN INSTITUTE OF MANAGEMENT FACULTY ASSOCIATION,
PETITIONER, VS. ASIAN INSTITUTE OF MANAGEMENT, INC.,
RESPONDENT.**

G.R. No. 219025. September 09, 2020

Ponente: LEONEN, J.

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LEONEN, J.:

An employer has a wide latitude on how to conduct its business affairs per its discretion and judgment through its management prerogative. However, such a right should be exercised in accordance with duly constituted laws, justice, and fair play. Moreover, acts of an employer, although seemingly lawful, must be taken in consideration with the totality of its acts, including preceding and subsequent circumstances. The employer's right to management prerogative will not absolve it of liability if its acts are against the law or motivated by unlawful cause constituting unfair labor practices.

This Court resolves a Petition for Review on Certiorari[1] filed by A Institute of Management Faculty Association assailing the Decision[2] Resolution[3] of the Court of Appeals. The Court of Appeals affirmed the National Labor Relations Commission's (NLRC) Decision and held that Asian Institute of Management, Inc. is not guilty of unfair labor practice.[4]

Asian Institute of Management Faculty Association (AFA) is a labor organization registered with the Department of Labor and Employment. It was formed by faculty members of Asian Institute of Management (AIM) on October 14, 2004 to act as a collective body on behalf of its members for all matters concerning their rights and interests as employees.[5]

On September 6, 2005, AFA filed a Resolution asking AIM's management to recognize it as a legitimate labor organization.[6] AIM disregarded this, but the issue was elevated to AIM's Board of Trustees, headed by Mr. Washington Sycip (Sycip). The Board refused to recognize AFA for "philosophical, economic[,] and governance" considerations.[7]

On February 26, 2007 to March 3, 2007, AIM conducted a "Leadership Week" with its alumni and members of the Board of Trustees and Board of Governors as participants.[8] There, AFA, through the law firm of Yorac Arroyo Chua Caedo & Coronel, slipped a letter dated February 27, 2007 under the members of the Board of Trustees and Board of Governors' respective hotel room doors.[9] In the letter, AFA claimed that AIM failed to allocate a portion of the money received from the students' tuition fee increases to the salaries of the professors. It demanded AIM to pay them P984,137,921.20 worth of salary increases for the faculty and other employees.[10]

On March 8, 2007, AFA filed a Complaint for unfair labor practice against AIM. It prayed for actual, moral, and exemplary damages, as well as attorney's fees.[11]

On April 27, 2007, AIM issued Notices of Administrative Charges filed against AFA Chairman Dr. Victor Limlingan (Dr. Limlingan) and AFA President Professor Emmanuel Leyco[12] (Professor Leyco) charging them

with dysfunctional behavior, a grave offense under AIM's Policy Manual for Faculty. The administrative charge was due to the distribution of the February 27, 2007 letter which allegedly meant to disrupt Leadership Week and malign the school's reputation.[13]

On May 2, 2007, Dr. Limlingan and Professor Leyco submitted their joint explanation to AIM. A few days later, AFA filed the complaint for unfair labor practice subject of this Petition.[14]

AFA stated in its Position Paper that AIM's management abused and discriminated against its members, particularly: (1) President Francis Estrada; (2) Vice-President Victor Tan; and (3) Dean Victoria Licuanan, after registering as a labor organization with the Department of Labor and Employment on December 20, 2004.[15]

To prove AIM's alleged anti-union stance, AFA enumerated the following acts of harassment:

1)

Despite Prof. Jose Jesus Races (Prof. Roces) permanent status of employment, he was assigned fewer teaching loads and was merely given a 6-month employment contract. Thereafter, he filed a Complaint for Reinstatement.

2)

The Application for Full Scholarship filed by AFA's Secretary, Prof. Ma. Lisa Dacanay (Prof. Dacanay), was denied because she was a signatory of AFA's DOLE registration.

3)

AFA's Vice President Dr. Gloria Chan (VP Chan), was informed that her Application for Full Professorship, would be discussed first with the Board of Trustees due to AFA's previous registration with the DOLE. Upon the denial of her application, she was not allowed to appeal the Board's decision, contrary to the AIM's prevailing rules.

4)

Associate Dean Ricardo Lim (Assoc. Dean Lim) admitted and even confirmed in a meeting that Prof. Jacinto Gavino's (Prof. Gavino), research proposal was not acted upon by Dean Licuanan because of Prof. Gavino's membership with AFA.

5)

Prof. Felixberto Bustos (Prof. Bustos), who was both the President of the ACT Group as well as AIM's JBF Center for Banking and Finance, was accused of abusing his authority in relation to a program entered with the Bangko Sentral ng Pilipinas on February 25, 2004, known as Chartered Financial Analyst Review (BSP Program). Allegedly, Prof. Bustos diverted the BSP Program to the ACT Group instead of promoting AIM's interest by courting said program to the JBF Center.

6)

Dr. Eduardo Morato (Dr. Morato), Prof. Alejandrino Ferreria (Prof. Ferreria) and Prof. Herminia Coloma (Prof. Coloma), key figures in the formation of AFA, were allegedly subjects of an investigation for a case on grounds of conflict of interest. This information was mentioned in an email which the management circulated among faculty members.[16]

On May 17, 2007, AFA filed a Petition for Certification Election with the Department of Labor and Employment, which AIM subsequently opposed, claiming that the faculty members of AIM were managerial employees

prohibited from forming a union.[17]

On June 2008, the Labor Arbiter granted AFA's Complaint and held that AIM is guilty of unfair labor practice.[18] The dispositive portion of the Labor Arbiter's Decision reads:

WHEREFORE, premises considered, this Office finds respondent Asian Institute [of] Management, Inc. to be guilty of unfair labor practice under Article 248 (a) of the Labor Code, as amended.

SO ORDERED.[19]

AFA partially appealed the June 30, 2008 Decision on the award of damages and issuance of a cease and desist order. AIM appealed the Decision as well.[20]

The NLRC reversed and set aside the Labor Arbiter's findings. It found that the acts complained of were in the exercise of AIM's management prerogative.[21] The dispositive portion of the National Labor Relations Commission provides:

WHEREFORE, the decision dated 5 June 2008 is VACATED and SET ASIDE.

The complaint for unfair labor practice is DISMISSED for lack of merit.

SO ORDERED.[22]

Upon review on certiorari, the Court of Appeals affirmed the NLRC's Decision. To be considered unfair labor practice, the Court of Appeals explained that the acts committed must "violate the workers' right to organize." [23] However, there was no indication that AIM's actions in suspending or refusing to renew the contracts of any of its teachers led to "discrimination or harassment." [24] On the contrary, AIM's exercise of its management prerogative was in good faith. [25]

The dispositive portion of the assailed Decision reads:

WHEREFORE, the petition is DENIED. The Public Respondent's NLRC's December 18, 2008 Decision, and February 9, 2009 Resolution, in NLRC LAC Case No. 00-05-04524-07 are hereby AFFIRMED.

SO ORDERED.[26]

AFA then filed a Motion for Reconsideration, which the Court of Appeals denied in its June 16, 2015 Resolution. [27]

On August 24, 2015, AFA filed their Petition for Review on Certiorari [28] before this Court.

On October 21, 2015, this Court required respondent to comment on the Petition. [29]

After requesting for additional time to Comment twice, [30] respondents filed their Comment on January 25, 2016. [31]

On April 17, 2017, this Court required petitioner to file a reply to the comment on the petition. [32] Petitioners filed three motions for additional time to file a reply [33] before submitting its Reply on July 21, 2017. [34]

In its Petition for Review, petitioner argues that respondent's acts against it could not be considered management prerogative, as they were in bad faith and were clearly intended to harass and discriminate against petitioner, its officers, members, and organizers. [35] Moreover, it asserts that the totality of evidence it presented proves that respondent is guilty of unfair labor practice. [36]

In claiming that the Court of Appeals erred when it relied on the presumption of good faith, petitioner enumerated

respondent's numerous actions that demonstrated bad faith and malice.[37] Among these, petitioner claims that the Court of Appeals ignored Sycip's categorical statement in his March 21, 2006 letter, vehemently refusing to recognize petitioner's legal personality and the rights of its members for self-organization.[38]

Petitioner submits that the Court of Appeals erred in holding that respondent's opposition against its Petition for Certification Election does not equate to unfair labor practice.[39] Further, it claims that the Court of Appeals "should have sanctioned [respondent]" for violating Section 1, Rule VIII of Department of Labor and Employment Department Order No. 40-F-03, which mandates that in certification election proceedings, "the employer shall not be considered a party with a concomitant right to oppose a petition for certification election[.]"[40]

Petitioner also underscored that the Court of Appeals issued a January 8, 2013 Decision denying respondent's appeal in a separate petition it filed in its bid to cancel petitioner's Certificate of Registration. In this Decision, the Court of Appeals found respondent's Petition to be bereft of merit.[41]

Petitioner added that the Court of Appeals erred in disregarding the numerous complained acts of harassment and discrimination.[42]

In its Comment,[43] respondent asserts that petitioner merely rehashed the same matters already ruled upon by the Court of Appeals and the NLRC, which both absolved it of unfair labor practice.

Respondent claims that petitioner filed the complaint on unfair labor practice due to the administrative charges filed against Professor Leyco and Dr. Limlingan[44] and their eventual dismissal from respondent.[45]

Respondent further asserts that the Petition lacks the mandatory and jurisdictional requirements since the verification and certification against forum shopping attached was executed and notarized on August 20, 2015, four days earlier than the date of the Petition. Consequently, it asks that the petition be treated as an unsigned pleading.[46]

It also claimed that other than petitioner's allegations, there is no proof that respondent's actions were committed to deliberately harass and discriminate petitioner's officers and members.[47] It submitted that this was correctly found by the Court of Appeals in its assailed Decision and Resolution.[48] Instead, they offer that the acts cited by petitioner are either false, or legitimate acts of management prerogative.[49]

For this Court's resolution are the following issues: (1) whether or not respondent committed unfair labor practice; and (2) whether or not respondent is liable for damages.

The petition is meritorious.

I

It is a general rule that this Court is not a trier of facts. In reviewing a petition for review on certiorari under Rule 45, this Court is limited to determining whether the Court of Appeals was correct in finding the presence or absence of grave abuse of discretion and jurisdictional errors on the lower tribunal's part.[50] In *Meralco Industrial v. National Labor Relations Commission*,[51] it was held:

This Court is not a trier of facts. Well-settled is the rule that the jurisdiction of this Court in a petition for review on certiorari under Rule 45 of the Revised Rules of Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are completely devoid of support from the evidence on record, or the assailed judgment is based on a gross misapprehension of facts. Besides, factual findings of quasi-judicial agencies like the NLRC, when affirmed by the Court of Appeals, are conclusive upon the parties and binding on this Court.[52] (Citation omitted)

It is also a well-settled rule that the findings of the labor tribunals, when supported by substantial evidence, are afforded not only with respect but even finality, given their expertise in the matters within their jurisdiction. NLRC's findings are deemed generally conclusive once affirmed by the Court of Appeals.[53]

Nevertheless, jurisprudence has laid down several exceptions that will allow this Court to review the facts of the case.[54] Thus, when the petitioner alleges and adequately proves that there is "insufficient or insubstantial evidence on record to support the findings of the tribunal or court a quo," then this Court "may review factual issues raised in a petition under Rule 45 in the exercise of its discretionary appellate jurisdiction." [55]

II

The crux of this case is whether or not respondent's actions constitute unfair labor practice. This concept is defined in Article 247 of the Labor Code of the Philippines:

Article 258 [247]. Concept of unfair labor practice and procedure for prosecution thereof. — Unfair labor practices violate the constitutional right of workers and employees to self-organization, are inimical to the legitimate interests of both labor and management, including their right to bargain collectively and otherwise deal with each other in an atmosphere of freedom and mutual respect, disrupt industrial peace and hinder the promotion of healthy and stable labor-management relations. (Citation omitted)

Unfair labor practice cases follow the general rule that the one who alleges has the burden of proving it; thus, onus probandi lies with petitioner to substantiate its claims of unfair labor practice through substantial evidence.[56] Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." [57]

Here, both the NLRC and the Court of Appeals found that petitioner failed to prove its allegations, and that respondent did not commit unfair labor practice. Both held that respondent's actions were merely exercises of its right to management prerogative. The pertinent portion of the assailed Court of Appeals Decision reads:

The Supreme Court has ruled that the prohibited acts considered as unfair labor practice relate to the workers' right to self-organization and to the observance of the [Collective Bargaining Agreement]. It refers to "acts that violate the worker's right to organize." Without that element, the acts, even if unfair, are not unfair labor practice. Thus, an employer may only be held liable for unfair labor practice if it can be shown that his acts affect in whatever manner the right of his employees to self-organize.

The employer's right to conduct its business affairs, according to its own discretion and judgment, is well-organized. An employer has a free reign and enjoys wide latitude of discretion to regulate all aspects of employment, including the prerogative to instill discipline in its employees. This is a management prerogative, where the free will of management to conduct its own affairs to achieve its purpose takes form. The only criterion to guide the exercise of its management prerogative is that the policies, rules and regulations on work related activities of the employees must be fair and reasonable and the corresponding penalties, when prescribed, commensurate to the offense involved and to the degree of the infraction.

Here, there was a dearth of evidence showing, at the very least, that [respondent's] act, either in suspending some of its teacher-employees or refusing to renew their teaching loads, amounted to discrimination or harassment. On the contrary, prerogative, was not only proper, but was done in good faith.[58]

However, the Court of Appeals failed to consider that unfair labor practice not only involves acts that violate the right to self-organization, but also covers several acts enumerated in Article 259 of the Labor Code; thus:

Article 259. [248] Unfair Labor Practices of Employers. — It shall be unlawful for an employer to commit any of the following unfair labor practices:

(a)

To interfere with, restrain or coerce employees in the exercise of their right to self-organization;

(b)

To require as a condition of employment that a person or an employee shall not join a labor organization or shall withdraw from one to which he belongs;

(c)

To contract out services or functions being performed by union members when such will interfere with, restrain or coerce employees in the exercise of their right to self-organization;

(d)

To initiate, dominate, assist or otherwise interfere with the formation or administration of any labor organization, including the giving of financial or other support to it or its organizers or supporters;

(e)

To discriminate in regard to wages, hours of work and other terms and conditions of employment in order to encourage or discourage membership in any labor organization. Nothing in this Code or in any other law shall stop the parties from requiring membership in a recognized collective bargaining agent as a condition for employment, except those employees who are already members of another union at the time of the signing of the collective bargaining agreement. Employees of an appropriate bargaining unit who are not members of the recognized collective bargaining agent may be assessed a reasonable fee equivalent to the dues and other fees paid by members of the recognized collective bargaining agent, if such non-union members accept the benefits under the collective bargaining agreement: Provided, That the individual authorization required under Article 242, paragraph (o) of this Code shall not apply to the non- members of the recognized collective bargaining agent;

(f)

To dismiss, discharge or otherwise prejudice or discriminate against an employee for having given or being about to give testimony under this Code;

(g)

To violate the duty to bargain collectively as prescribed by this Code;

(h)

To pay negotiation or attorney's fees to the union or its officers or agents as part of the settlement of any issue in collective bargaining or any other dispute; or

(i)

To violate a collective bargaining agreement.

The provisions of the preceding paragraph notwithstanding, only the officers and agents of corporations, associations or partnerships who have actually participated in, authorized or ratified unfair labor practices shall be held criminally liable. (Citations omitted, emphasis supplied)

The law explicitly states that any act or practice that interferes or deters an employee from joining, participating, or assisting in the formation and administration of a labor organization constitutes unfair labor practice.

In *Insular Life Assurance Co., Ltd. Employees Association — NATU v. Insular Life Assurance Co. Ltd.*,^[59] this Court held that:

The test of whether an employer has interfered with and coerced employees within the meaning of subsection (a) (1) is whether the employer has engaged in conduct which it may reasonably be said tends to interfere with the free exercise of employees' rights under section 3 of the Act, and it is not necessary that there be direct evidence that any employee was in fact intimidated or coerced by statements of threats of the employer if there is a reasonable inference that anti-union conduct of the employer does have an adverse effect on self-organization and collective bargaining.^[60]

Respondent asserts that all its complained acts were done in good faith and exercised per their management prerogative. However, while respondent's actions may be considered as lawful acts, they should not be taken as singular, individual actions, but must be lumped together with prior or succeeding acts of respondent or its representatives. This is based on the Totality of Conduct Doctrine which states that "the culpability of an employer's remarks were to be evaluated not only on the basis of their implicit implications, but were to be appraised against the background of and in conjunction with collateral circumstances."^[61] This was demonstrated in *Insular Life Assurance, Co., Ltd. Employees Association – NATU, et al.*:

Besides, the letters, Exhibits A and B, should not be considered by themselves alone but should be read in the light of the preceding and subsequent circumstances surrounding them. The letters should be interpreted according to the "totality of conduct doctrine,"

Under this 'doctrine' expressions of opinion by an employer which, though innocent in themselves, frequently were held to be culpable because of the circumstances under which they were uttered, the history of the particular employer's labor relations or anti-union bias or because of their connection with an established collateral plan of coercion or interference.^[62]

Respondent's questioned acts, when taken in context with the dispute between its management and that of petitioner's, indicate interference. Petitioner enumerates numerous instances to demonstrate respondent's intention of deterring petitioner's formation and administration of labor organization. Moreover, the complained acts show respondent's continuous refusal to recognize petitioner as a labor organization. This is made apparent through the letter of Sycip, then-AIM Chairman of the Board of Trustees, replying to petitioner's letter seeking recognition as a formal labor organization. Sycip's March 21, 2006 letter states:

While the Board does not object to an association(s) formed by the Faculty to promote the personal and professional development of its members, it categorically objects to the establishment of a union/collective bargaining unit for a number of philosophical, economic and governance considerations. Management and I would be more than happy to discuss these with any member of the Faculty. Incidentally, these objections are also shared by the AIM Alumni Association (I believe you were provided a copy of their March 3, 2006 letter[.])^[63]

As mentioned in the letter, respondent's Alumni Association expressed its concerns against the unionizing of petitioner in its March 3, 2006 letter:

Accordingly, the board expressed, and would want to register its deep concern for the following reasons:

1. The apparent contradiction between a unionized Faculty and Graduate School of Management (especially one that purports to be a leading Asian Business School).
2. The conviction that it would be difficult, if not impossible to mobilize badly needed support from the alumni and business community (for recruitment, placement, grants and other types of financing) for a unionized AIM.

Recognizing the importance of alumni/ business support suggested by the Institute's Strategic Plan (where we

have been invited to participate[] we believe the unionization of AIM's Faculty would obviate much of our efforts to mobilize such support. We would very much appreciate your conveying our sentiments to the rest of the Board of Trustees.[64]

The Alumni Association's letter clearly objected to petitioner's intent to unionize, short of withdrawing their support to their alma mater if petitioner is successful in their endeavor for a union.

This sentiment was also shared by Wyeth, one of respondent's clients. This was conveyed in its March 28, 2006 Letter[65] stating:

- We believe AIM has best capability of providing us with required "institutional" education/training;

- However, we have a concern in principle:

....

c.

We, however, are aware of a deep division in AIM's faculty and/or constituency, where the threat of creation of a union or whatever guise of collective bargaining hangs painfully over the institution.

d.

We have a concern that our key people would be educated in an environment that would be divisive, or even non-optimal.

e.

Our concern is deepened by the experience of divisiveness, confrontation to the point of virtual enterprise paralysis as brought about by previous confrontations between Wyeth and its 3 unions. We've seen how debilitating, if not outright destructive these could be.[66]

Although these letters were not written by respondent, it cannot be denied that they played a role in influencing its decision. The correspondences demonstrate how the idea of a union looms over the heads of the institution and how it is treated, not as a tool to improve the working relationship between employer and employees, but as a threat to the institution's development and efficiency.

Thus, respondent's questioned actions towards petitioner's different officers and prominent personalities must not be taken individually. Instead, they must be taken in light of these statements by key members of respondent's management and administration, and vis-à-vis the preceding and subsequent attending circumstances, in accordance with the totality of conduct doctrine.

Respondent claims that the acts petitioner complained of were not unfair labor practices, but valid and legitimate exercises of management prerogative done in good faith.[67] We hold that this contention does not hold water.

Indeed, employers have a wide latitude on how to conduct their business affairs exercising their discretion and judgment. This was enunciated in *Philcom Employees Union v. Philippine Global Communications*:[68]

The Court has always respected a company's exercise of its prerogative to devise means to improve its operations. Thus, we have held that management is free to regulate, according to its own discretion and judgment, all aspects of employment, including hiring, work assignments, supervision and transfer of employees, working methods, time, place and manner of work.

This is so because the law on unfair labor practices is not intended to deprive employers of their fundamental right to prescribe and enforce such rules as they honestly believe to be necessary to the proper, productive and

profitable operation of their business.[69] (Citations omitted)

However, management prerogative should be exercised in accordance with justice and fair play.[70] *Philippine Airlines, Inc. v. Dawal*[71] discussed that the employer's right to management prerogative will not absolve it of liability if its acts are against the law or motivated by unlawful causes:

[Philippine Airlines'] claim of management prerogative does not automatically absolve it of liability. Management prerogative is not unbridled and limitless. Nor is it beyond this [C]ourt's scrutiny. Where abusive and oppressive, the alleged business decision must be tempered to safeguard the constitutional guarantee of providing "full protection to labor." Management prerogative cannot justify violation of law or the pursuit of any arbitrary or malicious motive.[72] (Citations omitted)

Below are instances which we deem invalid exercises of management prerogative, and constitute unfair labor practices.

For instance, the two-year delay on then-Vice Chairman Dr. Gloria Chan's (Dr. Chan) application for full professorship was unreasonably and purposely stretched out. Respondent claims that this is the ordinary process for an application for full professorship. On the other hand, petitioner asserts that respondent's two-year delay in addressing Dr. Chan's application for full-professorship, and its eventual denial, its anti-union stance.[73] This is confirmed in Dean Licuanan's e-mail in response to Dr. Chan's inquiry on the status of her application:

No, I am not seeking a policy against promotion of AFA members. What I specifically said is that I AM IN A QUANDARY AS TO HOW TO ACT IN LIGHT OF AFA REGISTERING AS A LABOR UNION WITH DOLE. . . . Being in a quandary I want to seek advice from others including the Trustees, since I genuinely do not know what to do.[74] (Citation omitted)

Respondent stresses that the delay was not done intentionally, since it takes several months to convene the Permanent Rank and Tenure Committee composed of 10 full professors for deliberations. However, records show that the deliberations on Dr. Chan's application took place two years after its submission.[75]

Respondent further underscores how two union members of the Permanent Rank and Tenure Committee voted to deny Dr. Chan's application, and that another union member, Professor Jacinto Gavino, was granted full professorship. Thus, it claims that there was no discrimination against union members.[76] Nevertheless, this Court notes that Dr. Chan was a more prominent figure in the union, and thus more susceptible to being a target of unfair labor practice to serve as an example to the other members of the labor organization.

Respondent's denial of Professor Dacanay's application for financial support was allegedly because her chosen PhD in Social Entrepreneurship was not a priority in a business school like respondent.[77] The Court of Appeals found this to be within respondent's rights, as financial assistance was neither a customary practice nor a demandable right.[78] However, we find that this justification is untenable since records show that another professor was approved of financial assistance for the same PhD course.

In addition, respondent's act of circulating an e-mail to all its faculty members on November 11, 2005, informing petitioner's President, Professor Herminia Coloma, and active members Dr. Eduardo Morato and Prof. Alejandrino Ferreria, that they will be subjected to an investigation for alleged acts of conflict of interest—only to not pursue the investigation without retracting its statement, displays respondent's intent to malign and discredit the officers and active members of the labor organization.[79]

Furthermore, the non-renewal of Professor Jesus Roces's (Professor Roces) and Professor Cecile Manikan's (Professor Manikan) contracts, both of whom are petitioner's tenured professors and active members, is likewise suspicious.[80] In the assailed decision, it was found that their termination was well-within respondent's right to

regulate the work assignments of its professors.[81]

As to Professor Roces, the Court of Appeals found that he was properly removed from his post since he garnered a unanimous vote for termination from the Permanent Rank and Tenure Committee, with two votes coming from two of petitioner's members.[82]

However, in the separate case of *Asian Institute of Management v. The National Labor Relations Commission and Jose Jesus F. Roces*,[83] the Court of Appeals affirmed the NLRC's finding that Professor Roces's termination was illegal for not following substantial and procedural due process.[84]

On respondent's removal of Professor Manikan from the faculty line up and its assignment of another professor to teach her class, the Court of Appeals found that it had nothing to do with her membership with petitioner, and was carried out since Professor Manikan's expertise was in the fields of arts, self-mastery, and spirituality, which were less demanded by the institution.[85]

However, we note that if the course she teaches was truly superfluous, her class should have been dissolved altogether instead of simply replacing the professor. Moreover, there is no truth to the assertion that the courses she taught were not in demand, as students of petitioner's institution formally filed a petition asking for Professor Manikan's reinstatement.[86] Similarly, members of the department that Professor Manikan was part of, the Center for Development Management, vehemently opposed respondent's action through a public statement in support of Professor Manikan.[87]

Another act of harassment was inserting a warning letter in the 201 file of Professor Leyco for allegedly "inciting students to take sides" in relation to Professor Manikan's case.[88] However, no investigation took place before this was indicated in the permanent file of Professor Leyco.[89]

Similarly, the one-year suspension without pay of Dr. Limlingan and Professor Leyco for their February 27, 2007 letter is a form of union busting. Respondent declared that their act was meant to disrupt Leadership Week and malign the school's reputation; thus, administratively penalizing them with the suspension without pay.[90]

However, the suspension was found to be illegal by the Court of Appeals in *Victor Limlingan, et al. v. National Labor Relations Commission, et al.* docketed as CA-G.R. SP. No. 106714. In the decision which has now reached finality, the Court of Appeals held that although Dr. Limlingan and Professor Leyco should have exercised more prudence in the circulation of their demands to the management, it cannot be considered dysfunctional behavior deserving of a year-long suspension.[91] Instead, Dr. Limlingan and Professor Leyco were meted with a formal reprimand.[92]

This Court agrees that the distribution of the February 27, 2007 letter, despite its discordant sentiments toward management, is not sufficient justification for their suspension based on dysfunctional behavior. We hold that respondent's act of suspending Dr. Limlingan and Professor Leyco was motivated by its anti-union stance.

Hence, this Court cannot agree with the Court of Appeals and the NLRC in absolving respondent of any liability. Respondent's actions, when taken together, are unfair labor practices. The Court of Appeals erred in finding that the acts were valid exercises of their management prerogative. While we respect employer's discretion in deciding what is best for their operations, this cannot be left unbridled and unchecked. Although respondent's actions may appear legal, we must determine whether these were discriminatory against union officers or its members. Since their actions are motivated by ill will, we find that their acts were unjust.

Aside from the discrimination petitioner's various officers and key members were subjected to, respondent made their antagonism towards the unionization of its institution patently clear through their continuous opposition to

formally recognize petitioner as a labor organization.

On May 17, 2007, petitioner filed a Petition for Certification Election with the Department of Labor and Employment. However, this was met with vehement opposition from respondent on the ground that petitioner's members are managerial employees, and thus, prohibited from forming a union.[93]

Unsatisfied with this, respondent filed a Petition for Cancellation of Certificate of Registration of petitioner on July 11, 2007. This was granted by the Department of Labor and Employment's Regional Director, but reversed by the Bureau of Labor Relations on appeal.[94] The same ruling was sustained by the Court of Appeals in *In Re: Petition for Cancellation of Certificate of Registration No. NCR-UR-12-4075-2004* issued to Asian Institute of Management Faculty Association (AIMFA).[95]

Respondent's contention that professors and faculty members cannot form a union because they are managerial employees is untenable. Article 212(m) of the Labor Code defines a managerial employee as "one who is vested with the powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees... [or to] effectively recommend such managerial actions[.]"

As respondent demonstrated through the years, it is respondent as the institution which controls the workload, courses, and subjects assigned to a faculty member. Moreover, respondent decides whether to amend, renew, or terminate a professor's contract altogether, leaving their faculty members at its mercy. All of these contradict its stand that the professors are managerial employees.

All told, applying the totality of conduct doctrine, it is apparent that respondent's acts amount to interference which constitutes unfair labor practices under Article 259(a) of the Labor Code of the Philippines.

Respondent is liable to pay moral and exemplary damages. Per *SONEDCO Workers Free Labor Union v. Universal Robina Corp.*: [96]

Unfair labor practices violate the constitutional rights of workers and employees to self-organization, are inimical to the legitimate interests of both labor and management, including their right to bargain collectively and otherwise deal with each other in an atmosphere of freedom and mutual respect; and disrupt industrial peace and hinder the promotion of healthy and stable labor-management relations. As the conscience of the government, it is the Courts sworn duty to ensure that none trifles with labor rights.

For this reason, we find it proper in this case to impose moral and exemplary damages on private respondent.[97] (Citation omitted)

This Court orders the payment of moral damages of P100,000.00 and exemplary damages of P200,000.00.

Thus, we find that the Court of Appeals' ruling cannot stand and must be reversed.

WHEREFORE, premises considered, the Petition is GRANTED. The February 4, 2014 Decision and June 16, 2015 Resolution in CA-G.R. SP No. 108497 of the Court of Appeals are REVERSED and SET ASIDE. Respondent Asian Institute of Management, Inc. is GUILTY of unfair labor practice under Article 259(a) of the Labor Code and is ORDERED to pay petitioner Asian Institute of Management Faculty Association moral damages in the amount of P100,000.00 and exemplary damages in the amount of P200,000.00.

SO ORDERED.

Gesmundo, Carandang, Zalameda, and Gaerlan, JJ., concur.

[1] Rollo, pp. 28-95.

[2] Id. at 100-A-112. The February 4, 2014 Decision docketed as CA-G.R. SP No. 108497 was penned by Associate Justice Noel G. Tijam (former member of this Court) and concurred in by Associate Justices Priscilla J. Baltazar-Padilla (former member of this Court) and Agnes Reyes-Carpio of the Seventh Division, Court of Appeals, Manila.

[3] Id. at 113-115. The June 16, 2015 Resolution docketed as CA-G.R. SP No. 108497 was penned by Associate Justice Noel G. Tijam (former member of this Court) and concurred in by Associate Justices Priscilla J. Baltazar-Padilla (former member of this Court) and Agnes Reyes-Carpio of the Former Seventh Division, Court of Appeals, Manila.

[4] Id. at 111.

[5] Id. at 31.

[6] Id. at 102.

[7] Id.

[8] Id. at 177.

[9] Id. at 10.

[10] Id. at 177.

[11] Id. at 101.

[12] Id.

[13] Id. at 1314.

[14] Id. at 177-178.

[15] Id. at 8.

[16] Id. at 101-102.

[17] Id. at 103.

[18] Id. at 104.

[19] Id. at 105.

[20] Id.

[21] Id. at 186-188.

[22] Id. at 189.

[23] Id. at 106.

[24] Id. at 107.

[25] Id.

[26] Id. at 111.

[27] Id. at 113-115.

[28] Id. at 28-95.

[29] Id. at 1288.

[30] Id. at 1289-1290 and 1295-1297.

[31] Id. at 1307-1350.

[32] Id. at 1687.

[33] Id. at 1688-1707.

[34] Id. at 1710-1735.

[35] Id. at 55.

[36] Id. at 56.

[37] Id. at 58.

[38] Id.

[39] Id. at 63.

[40] Id. at 64.

[41] Id.

[42] Id. at 67.

[43] Id. at 1307-1350.

[44] Id. at 1313.

[45] Id.

[46] Id. at 1317-1318.

[47] Id. at 1320.

[48] Id. at 1321.

[49] Id. at 1328.

[50] *Fuji Tekvision Network, Inc. v. Espiritu*, 749 Phil. 388, 415 (2014) [Per J. Leonen, Second Division].

[51] 572 Phil. 94-118 (2008) [Per J. Chico-Nazario, Third Division].

[52] Id. at 117.

[53] *Bankard, Inc. v. National Labor Relations Commission*, 705 Phil. 428, 436-437 (2013) [Per J. Mendoza, Third Division].

[54] *Pascual v. Burgos*, 776 Phil. 167-191 (2016) [Per J. Leonen, Second Division].

[55] Id.

[56] *UST Faculty Union v. University of Sto. Tomas*, 602 Phil. 1016, 1025 (2009) [Per J. Velasco, Jr. Second

Division].

[57] Standard Chartered Bank Employees Union (NUBE) v. Confesor, 476 Phil. 346, 367 (2004) [Per J. Callejo, Second Division].

[58] Rollo pp. 13-14.

[59] 147 Phil. 194 (1971) [Per J. Castro, En Banc].

[60] Id. at 208-209.

[61] Id. at 209.

[62] Id. at 209.

[63] Rollo, p. 284.

[64] Id. at 281.

[65] Id. at 282-283.

[66] Id.

[67] Id. at 1328.

[68] 527 Phil. 540 (2006) [Per J. Carpio, Third Division].

[69] Id. at 562-563.

[70] Julie's Bakeshop v Arnaiz, 682 Phil. 95, 111 (2012) [Per J. Del Castillo, First Division].

[71] 781 Phil. 474 (2016) [Per J. Leonen, Second Division].

[72] Id. at 501.

[73] Id. at 71.

[74] Rollo, p. 71.

[75] Id. at 710.

[76] Id. at p. 1330.

[77] Id. at p. 15.

[78] Id.

[79] Id. at 711.

[80] Id. at 712 and 718.

[81] Id. at 14 and 16.

[82] Id. at 14.

[83] Id. at 1109-1130.

[84] Id. at 1125.

[85] Id. at 16.

[86] Id. at 718.

[87] Id. at 719.

[88] Id. at 79.

[89] Id.

[90] Id. at 1314.

[91] Id. at 1162.

[92] Id. at 1165.

[93] Id. at 10.

[94] Id. at 1206.

[95] Id. at pp. 1203-1212.

[96] 796 Phil. 817-840 (2016)

[97] Id. at 839 citing *Nueve Ecija Electric Cooperative, Inc. v. National Labor Relations Commission*, 380 Phil. 44 (2000) [Per J. Quisumbing, Second Division].

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