

**UNIVERSITY OF MANILA, REPRESENTED BY EMILY DE LEON AS
PRESIDENT, DOING BUSINESS UNDER THE NAME AND STYLE
BENGUET PINES TOURIST INN, PETITIONER, VS. JOSEPHINE P.
PINERA, YOLANDA ...**

G.R. No. 227550. August 14, 2019

Ponente: J. REYES, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-227550/>

J. REYES, JR., J.:

This resolves the Petition for Review on Certiorari under Rule 45 of the Rules of Court from the August 24, 2015 Decision[1] and the October 10, 2016 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 127660, which respectively, reversed and set aside the Decision of the National Labor Relations Commission (NLRC) and denied petitioner's Motion for Reconsideration.

Petitioner University of Manila (petitioner) is an educational institution established by the Delos Santos Family. It is also engaged in the business of operating hotels and restaurants, which include among others, Benguet Pines Tourist Inn (BPTI).

Respondents Yolanda Calanza (Calanza), Josephine Pinera (Pinera) and Leonora P. Songalia (Songalia) were all hired by Atty. Ernesto Delos Santos (Atty. Delos Santos) and his mother Cordelia Delos Santos (Cordelia), to work in BPTI as receptionists and all-around employees, in 1984, 1993 and 1999, respectively. The late spouses Virgilio and Cordelia Delos Santos (spouses Delos Santos) were then the owners of the petitioner University. During the lifetime of the spouses Delos Santos, BPTI was under the management of Atty. Delos Santos. Upon the death of Cordelia, Dr. Emily De Leon (De Leon) became the current University President.

Sometime in December 2010, Calanza, who was then assigned as front desk clerk in BPTI, was verbally informed by the personnel of the petitioner that 25 booklets of unused official receipts (with No. 86251-87500) were allegedly missing. Petitioner insists that Calanza has custody over the booklets and was accountable for the loss. Calanza claims that she did not receive any written notice at all requiring her to explain the said missing booklets of official receipts.[3]

On January 19, 2011, petitioner released a letter-memorandum[4] signed by the petitioner's Chairman of the Board and Vice-President for Finance, Dr. Ma. Corazon Ramona Delos Santos (Delos Santos) concerning the reshuffling of BPTI employees allegedly "to avoid anomalies." The letter mentioned about the 25 missing unused booklets of official receipts and for this reason, reshuffling of the employees is necessary and only assigned personnel are allowed to work at BPTI. Respondents were informed about the said letter-memorandum.

On January 31, 2011, Calanza received a letter[5] from Delos Santos of her impending transfer to Manila. Due to her refusal to be transferred to Manila, Calanza was informed through a letter[6] dated March 3, 2011 that by virtue of a Board Resolution, her service was already terminated on the ground of insubordination.

Pinera, on the other hand, received a letter[7] from De Leon on June 15, 2011 requiring her to report for work in

the University of Manila within 48 hours from receipt of the letter. Due to Pinera's refusal to be transferred to Manila, petitioner stopped the payment of her salary from June 1-15, 2011. On June 22, 2011, security guards of the BPTI, upon instruction of De Leon went to see Pinera and asked for the keys of their room in BPTI.[8] When she refused, the guards destroyed the door knob of the locked room, stormed in, illegally removed Pinera's personal belongings and dumped them outside the room.[9]

Songalia, for her part received a letter[10] dated May 31, 2011, requiring her to explain why she was reporting to Dely's Inn, a small inn conveniently located at the back of BPTI and owned by Atty. Delos Santos. Another letter dated June 15, 2011[11] was sent to Songalia reiterating the order for her to report to the University of Manila. Just like Pinera, her salaries were also withheld starting June 15, 2011.

However, sometime in the end of July 2011, petitioner offered to give respondents Calanza, Pinera and Songalia their 13th month pay which were refused by all of them.

Aggrieved, respondents filed an illegal dismissal case against petitioner. On March 22, 2012, the Labor Arbiter rendered a Decision[12] in favor of respondents, ordering petitioner to pay respondents separation pay, full backwages and the deficiency in 13th month pay, in the total amount of P863,422.00.

Petitioner appealed the case to the NLRC. The NLRC found that there was no illegal dismissal to speak about. Respondents were dismissed on the ground of unlawful insubordination to the lawful order of petitioner for their refusal to transfer to Manila although the procedural due process was not observed. The dispositive portion of the NLRC's Resolution reads:

WHEREFORE, premises considered, the appeal is partly GRANTED and the Decision dated [22] March 2012 is ordered VACATED and SET ASIDE.

A new one is issued finding that complainant-appellee Calanza was validly dismissed but for failure to observe the notice requirement of the law, respondents-appellants are ordered to pay complainant-appellee Calanza nominal damages in the amount of P10,000.00. The complaint for illegal dismissal filed by complainants-appellees Pinera and Songalia are dismissed for lack of merit.

SO ORDERED.[13]

Respondents moved to reconsider but the NLRC denied its motion in a Resolution dated September 12, 2012.[14]

The adverse Decision of the NLRC prompted respondents to file a Petition for Certiorari with the CA, ascribing grave abuse of discretion on the part of NLRC in declaring that Calanza was validly dismissed on the ground of willful disobedience or loss of trust and in finding that Pinera and Songalia failed to establish the fact of their illegal dismissal.

In the appealed Decision dated August 24, 2015, the CA reversed the findings of the NLRC and reinstated that of the Labor Arbiter. It ruled that there was no just cause for the dismissal of respondents and that procedural due process was not observed. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the instant Petition for [Certiorari] is hereby GRANTED. Hence, the NLRC's dispositions on September 12, 2012 and July 9, 2012 are hereby SET ASIDE and we AFFIRM the Labor Arbiter's Decision on March 22, 2012.[15]

It appears that the CA debunked the NLRC's findings of breach of trust and confidence and insubordination or willful disobedience. The order given by petitioner is for the respondents to transfer their workplace from Baguio to Manila. The CA found that said transfer order was a retaliatory move or a punishment for the unproven transgressions committed by Calanza — for losing the 25 booklets of official receipts (causing the breach of trust

and confidence) and by Pinera and Songalia for allegedly working at Dely's Inn while employed with BPTI and for allowing Atty. Delos Santos to commit theft of supplies against BPTI. The Motion for Reconsideration was denied in a Resolution dated October 10, 2016.

Hence, petitioner filed the instant Petition arguing that the CA Decision is not in accord with law and/or jurisprudence and is based on misapprehension of facts, grounded on speculations or conjectures.[16]

Under the Labor Code, there are twin requirements to justify a valid dismissal from employment: (a) the dismissal must be for any of the causes provided in Article 282 of the Labor Code (substantive aspect); and (b) the employee must be given an opportunity to be heard and to defend himself (procedural aspect).[17] The onus of proving the validity of dismissal lies with the employer. Thus:

The burden of proof rests upon the employer to show that the disciplinary action was made for lawful cause or that the termination of employment was valid. In administrative and quasi-judicial proceedings, the quantum of evidence required is substantial evidence or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Thus, unsubstantiated suspicions, accusations, and conclusions of the employer do not provide legal justification for dismissing the employee. When in doubt, the case should be resolved in favor of labor pursuant to the social justice policy of our labor laws and the 1987 Constitution.[18]

As records would show, respondents were dismissed on the grounds of (a) willful breach of trust and confidence, specifically for losing the 25 booklets of unused official receipts during her duty as a front desk officer (for Calanza) and for working at Dely's Inn while employed with BPTI and for not reporting and tolerating the act of Atty. Delos Santos of getting supplies from BPTI; and (b) insubordination or willful disobedience of company rules specifically for not complying with petitioner's order for respondents to transfer workplace from Baguio to Manila.

A dismissal based on willful breach of trust or loss of trust and confidence entails the presence of two conditions.

First. Breach of trust and confidence must be premised on the fact that the employee concerned holds a position of trust and confidence, where greater trust is placed by management and from whom greater fidelity to duty is correspondingly expected.[19] The essence of the offense for which an employee is penalized is the betrayal of such trust.[20]

In the case of *Wesleyan University Phils. v. Reyes*,[21] employees vested with trust and confidence were divided into two classes: (a) the managerial employees; and (b) the fiduciary rank-and-file employees. As explained by the Court:

To the first class belong the managerial employees or those vested with the powers or prerogatives to lay down management policies and to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees or effectively recommend such managerial actions. The second class includes those who in the normal and routine exercise of their functions regularly handle significant amounts of money or property. Cashiers, auditors, and property custodians are some of the employees in the second class.[22]

Second. There must be some basis for the loss of trust and confidence. The employer must present clear and convincing proof of an actual breach of duty committed by the employee by establishing the facts and incidents upon which the loss of confidence in the employee may fairly be made to rest.[23] This means that "the employer must establish the existence of an act justifying the loss of trust and confidence." [24] Otherwise, employees will be left at the mercy of their employers.[25]

A more stringent degree of proof is required in terminating fiduciary rank-and-file employees. The Court explained in *Caoile v. National Labor Relations Commission*: [26]

[W]ith respect to rank-and-file personnel, loss of trust and confidence as ground for valid dismissal requires proof of involvement in the alleged events in question, and that mere uncorroborated assertions and accusations by the employer will not be sufficient. But, as regards a managerial employee, mere existence of a basis for believing that such employee has breached the trust of his employer would suffice for his dismissal. Hence, in the case of managerial employees, proof beyond reasonable doubt is not required, it being sufficient that there is some basis for such loss of confidence, such as when the employer has reasonable ground to believe that the employee concerned is responsible for the purported misconduct, and the nature of his participation therein renders him unworthy of the trust and confidence demanded by his position.

To determine whether Calanza falls within the first or second class of employees, the actual work that she performed, not her job title, must be considered.[27]

Petitioner averred that Calanza was an all-around in the small hotel that they operate. At the time the 25 booklets of unused official receipts were missing, respondent Calanza was the front desk clerk who is in-charge of the money being paid by hotel guests and for the properties of BPTI, including the said missing booklets of unused official receipts. Verily, Calanza is considered to belong to the fiduciary rank-and-file entrusted with the money and properties of BPTI.

While normally, the mere existence of the basis for believing that the managerial employee breached the trust reposed by the employer would suffice to justify a dismissal, we should desist from applying this norm against an employee who was not a managerial employee.[28] The employer must present a more stringent proof of the employee's actual breach of trust and her involvement in the incident pertaining to the missing unused booklets of official receipts.

Set against this guideline, we cannot hold as sufficient the evidence submitted by petitioner to establish Calanza's involvement on the missing booklets of unused official receipts. Said evidence consists of the affidavit of a certain Nieves G. Gomez (Gomez) who attested that the missing booklets of unused official receipts happened during the watch of Calanza. Apart from the fact that said affidavit is self-serving as Gomez works for BPTI, it was not adequately explained how the booklets of unused official receipts were kept, who handled them and whether there were other personnel who were involved in safekeeping the said receipts. There was uncertainty then if indeed Calanza has anything to do with the missing booklets of unused official receipts. In short, the affidavit failed to show how Calanza had willfully betrayed her employer's trust.

The same principle is true in the case of Pinera and Songalia. The willful breach of trust on their part was predicated on the petitioner's belief that they were working at Dely's Inn during working hours and that they consented to the stealing of electricity and water by Atty. Delos Santos from BPTI (for which the latter was now indicted for qualified theft) and allowed Atty. Delos Santos to pirate hotel guests and take supplies like soap, tissues, rice, etc. from BPTI to Dely's Inn. Again, the involvement of Pinera and Songalia in these alleged acts of theft by Atty. Delos Santos were not sufficiently established. It was likewise not adequately proven that Pinera and Songalia were working at Dely's Inn during office hours. They admitted that they were going to Dely's Inn only to help because it was just adjacent to BPTI, but never to work full-time. What was clear from the records is the apparent conflict between the owners and the members of the Board of Trustees and that said conflict has affected even the employees. Petitioner, through De Leon, has assumed that Pinera and Songalia had sided with Atty. Delos Santos, as he was the one who previously hired them.

Records likewise show that respondents were not accorded due process. There is procedural due process in termination of employment for just cause if the employer gives the employee two written notices and a hearing or opportunity to be heard if requested by the employee before terminating the employment.[29] Specifically, there should be a notice specifying the grounds for which dismissal is sought, a hearing or an opportunity to be heard,

and after hearing or opportunity to be heard, a notice of the decision to dismiss.[30]

Petitioner firmly grasped on its belief that it was Calanza who was responsible for the missing booklets of unused official receipts and verbally informed Calanza about it. She was not formally charged nor investigated before she was terminated. Verbal notice is not enough. She was not even furnished any written notice particularly stating the offense which she might have been charged with. As correctly concluded by the CA, Calanza was not given the opportunity to defend herself as she was not fully and correctly informed of the charges against her which petitioner intended to prove. She was simply and summarily served a notice of termination unmindful of her right to due process and security of tenure.

As to Pinera and Songalia, while they were made to explain why they were reporting to Dely's Inn, the due process requirement was not completely complied with. No hearing or conference was conducted in order for respondents to vent their side and that the second notice was not sent containing the decision to dismiss and the reasons that justify the dismissal.

Instead of complying with the notice requirement, Calanza was sent a letter ordering her to report to Manila to explain about the missing booklets of unused official receipts. When she failed, she was charged with insubordination and willful disobedience. Pinera and Songalia, on the other hand, were sent office orders/letters directing them to transfer workplace from Baguio to Manila. When they refused to be transferred, they were likewise charged with insubordination and willful disobedience.

In order for willful disobedience or insubordination to be a valid cause for dismissal, it necessitates the concurrence of at least two requisites, namely: (a) the employee's assailed conduct must have been willful, that is, characterized by a wrongful and perverse attitude; and (b) the order violated must have been reasonable, lawful, made known to the employee, and must pertain to the duties which he had been engaged to discharge.[31]

Here, the order alleged to be violated is the order to transfer workplace from Baguio to Manila. Petitioner justified the transfer as a legitimate business strategy in order to avert the continuous anomaly going on in the company. The anomaly referred to herein was the case of the missing booklets of unused official receipts being blamed against Calanza, and the allegations that all respondents were reporting to nearby Dely's Inn during office hours and their failure to report the alleged theft of supplies committed by Atty. Delos Santos.

While it is the prerogative of the management to transfer an employee from one office to another within the business establishment based on its assessment and perception of the employee's qualifications, aptitudes and competence, and in order to ascertain where he can function with maximum benefit to the company, this prerogative is not without limit.[32] As explained by the Court:

The managerial prerogative to transfer personnel must be exercised without grave abuse of discretion, bearing in mind the basic elements of justice and fair play. Having the right should not be confused with the manner in which that right is exercised. Thus, it cannot be used as a subterfuge by the employer to rid himself of an undesirable worker. In particular, the employer must be able to show that the transfer is not unreasonable, inconvenient or prejudicial to the employee; nor does it involve a demotion in rank or a diminution of his salaries, privileges and other benefits.[33] x x x

The transfer order, while in the guise of legitimate business prerogative, was issued with grave abuse of discretion.

First, it smacks of unreasonableness. As can be gleaned from the Letters[34] to respondents Pinera and Songalia both dated June 15, 2011, the directive indicates that the transfer must be done within 48 hours upon receipt of the letter, a herculean and inconvenient task for employees who have been working and who have established family

life in Baguio for a considerable length of time.

Second, it was issued without regard to due process. It was not sufficiently explained to them why they were being transferred. If the reason is because of the missing booklets of unused official receipts and their alleged moonlighting, then respondents were clearly not given an opportunity to explain their sides and to defend themselves.

Third, it was not shown that the transfer was work-related or would give maximum benefit to the company. The transfer order was silent as to what particular task will be given to respondents in the University considering that they have no definite tasks in the hotel.

After the transfer order, petitioner immediately withheld the respondents' salary, coerced and forcefully evicted them from their living quarters in BPTI, as shown by the photographs,[35] police blotters and certifications.[36]

The CA then has strong basis for its conclusion that the transfer was not prompted by legitimate business purpose, but merely a retaliatory move against the respondents — specifically for the alleged anomalous acts committed by them despite not having been proven by competent evidence and for allegedly siding with Atty. Delos Santos. Under such questionable circumstances, respondents had a valid reason to refuse the Manila transfer.

It is safe then to conclude that the allegation of insubordination on the part of respondents was merely a fabrication made by petitioner to justify respondents' dismissal from employment. It bears stressing that not every case of insubordination or willful disobedience by an employee of a lawful work-related order of the employer or its representative is reasonably penalized with dismissal.[37] There must be reasonable proportionality between, on the one hand, the willful disobedience by the employee and, on the other hand, the penalty imposed therefor.[38] Here, the act of respondents in defying the transfer order is justified because the transfer order itself was issued with grave abuse of discretion. Clearly, there was a notable disparity between the alleged insubordination and the penalty of dismissal meted out by petitioner.

The fundamental guarantees of security of tenure and due process dictate that no worker shall be dismissed except for just and authorized cause provided by law and after due process.[39] In the instant case, petitioner was not able to establish the existence of causes justifying the dismissal of respondents and the observance of due process in effecting the dismissal.

WHEREFORE, the instant Petition is DENIED. The questioned Decision dated August 24, 2015 and the Resolution dated October 10, 2016 of the Court of Appeals in CA-G.R. SP No. 127660 are AFFIRMED.

SO ORDERED.

Caguioa (Acting Chairperson),[***] Lazaro-Javier, and Zalameda, JJ., concur.
Carpio (Chairperson), J., on official leave.

[*] As shown in her Unified Multi-Purpose ID (rollo, p. 646), but also referred to as "Josephine P. Piñera" in some parts of the rollo.

[**] Also referred to as "Leonora P. Songalla" in some parts of the rollo.

[***] Per Special Order No. 2688 dated July 30, 2019.

[1] Penned by Associate Justice Eduardo B. Peralta, with Associate Justices Noel G. Tijam (now a retired Member of the Court) and Francisco P. Acosta, concurring; rollo , pp. 24-38.

- [2] Id. at 49-54.
- [3] Id. at 142.
- [4] Id. at 239.
- [5] Id. at 240.
- [6] Id. at 241.
- [7] Id. at 242.
- [8] Id. at 80.
- [9] Id.
- [10] Id. at 386.
- [11] Id. at 387.
- [12] Id. at 142-150.
- [13] Id. at 336.
- [14] Id. at 348.
- [15] Id. at 38.
- [16] Id. at 7.
- [17] Colegio de San Juan de Letran-Calamba v. Villas, 447 Phil. 692, 698 (2003).
- [18] Maula v. Ximex Delivery Express, Inc., 804 Phil. 365, 378 (2017).
- [19] Philippine Auto Components, Inc. v. Jumadla, 801 Phil. 170, 182 (2016).
- [20] Matis v. Manila Electric Co. , 795 Phil. 311, 322 (2016).
- [21] 740 Phil. 297, 311 (2014).
- [22] Lagahit v. Pacific Concord Container Lines, 778 Phil. 168, 185 (2016).
- [23] Id. at 186.
- [24] Bravo v. Urios College, 810 Phil. 603, 621 (2017).
- [25] Id.
- [26] Caoile v. National Labor Relations Commission, 359 Phil. 399, 406 (1998).
- [27] Lagahit v. Pacific Concord Container Lines, supra note 22, at 186.
- [28] Id.
- [29] Divine Word College of San Jose v . Aurelio, 548 Phil. 413, 426 (2007).
- [30] Id.
- [31] Sta. Isabel v. Perla Compañia De Seguros, Inc., 798 Phil. 165, 175 (2016).
- [32] Blue Dairy Corp. v. National Labor Relations Commission, 373 Phil. 179, 185-186 (1999).

[33] Id. at 186.

[34] Rollo, pp. 104 and 432.

[35] Id. at 107-110.

[36] Id. at 105-106.

[37] Gold City Integrated Port Services, Inc. (INPORT) v. National Labor Relations Commission, 267 Phil 863, 873 (1990).

[38] Id.

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

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.