

DOLE PHILIPPINES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION) ALFREDO TARROZA, ROGELIO DE LA PEÑA AND LORETO TEJERO, RESPONDENTS.

G.R. No. 55413. July 25, 1983

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-55413/>

AQUINO, J.:

This special civil action of certiorari is about the dismissal of three tractor operators for qualified theft of crude oil.

Alfredo Tarroza, Rogelio de la Peña and Loreto Tejero were light-wheel tractor operators in the pineapple field of Dole Philippines, Inc. (Dolefil) in Polomolok, South Cotabato. Each of them received P1.78 per hour as salary.

On April 29, 1977, landguards of Dolefil spotted two drums containing crude oil in the farmlot of Inocencio Asibal in Polonabal, Polomolok which adjoins the pineapple field of Dolefil. They reported the matter to their superior who in turn alerted the police.

Asibal and his companion, Rogelio Odarve, were investigated by the police on May 1, 1977. In their separate sworn statements, Asibal and Odarve admitted having bought the crude oil from Tarroza, De la Peña, Tejero and two other employees of Dolefil.

Asibal stated that he purchased forty liters of crude oil for twenty pesos from Tarroza at three o'clock in the morning of April 23, 1977 and also forty liters for twenty pesos from Tejero at eight o'clock in the evening of April 25, 1977. Odarve swore that he bought from De la Peña twenty liters of crude oil worth ten pesos at about three o'clock in the afternoon of April 23, 1977. The pilferages were done by siphoning the diesel fuel from the tanks of the tractors operated by the aforementioned Dolefil employees.

Tarroza, De la Peña, Tejero and their two co-employees were charged with qualified theft in the municipal court of Polomolok (Criminal Cases Nos. 1916 to 1920). While those cases were pending or on May 12, 1977, Dolefil filed with the then Department of Labor, Regional Office No. XI in Davao City an application for clearance to terminate the employment of Tarroza, De la Peña, Tejero and their two co-employees for "stealing or dishonesty" (Rollo, p. 51). They were suspended effective May 13, 1977. They did not oppose said application.

On June 5, 1977 the said regional office granted Dolefil clearance to terminate the employment of its five employees without prejudice to their right to seek redress of their grievances under existing laws and decrees (Rollo, p. 52).

Eight months later or on February 10, 1978, the municipal court of Polomolok acquitted Tarroza, De la Peña and Tejero of qualified theft for lack of "evidence beyond reasonable doubt with which to convict" them. Asibal and Odarve were convicted as accessories to simple theft while the two other Dolefil employees were convicted of qualified theft.

After that decision, or on March 16, 1978, Tarroza, De la Peña and Tejero filed a complaint for illegal dismissal and for reinstatement with backwages against Dolefil. On October 17, 1978, the Labor Arbiter dismissed the complaint and declared as valid, lawful and for a just cause the termination from employment of Tarroza, De la Peña and Tejero. Said Labor Arbiter found the confessions of Asibal and Odarve as "sufficient evidence of the culpability" of the complainants for the purpose of their dismissal from Dolefil (Case No. 293).

Tarroza, De la Peña and Tejero appealed that decision to the National Labor Relations Commission. With their supplemental memorandum on appeal dated November 23, 1978 they submitted "affidavits of recantation" executed by Asibal and Odarve on November 6, 1978 (Rollo, pp. 119-120). Asibal and Odarve stated therein that they implicated Tarroza, De la Peña and Tejero in the qualified theft cases because they were promised exoneration by the investigating police officer.

On September 5, 1980 the NLRC set aside the decision of the Labor Arbiter and ordered the reinstatement with three years backwages of Tarroza, De la Peña and Tejero on the ground that Dolefil "failed to conduct its own investigation which it was duty-bound to undertake". On November 28, 1980 Dolefil filed the instant special civil action of certiorari.

We hold that Dolefil is justified in dismissing the three workers.

Under Article 283 of the Labor Code, an employer may terminate an employment for "serious misconduct" or for "fraud or willful breach by the employee of the trust reposed in him by his employer or representative".

Loss of confidence as a ground for dismissal does not entail proof beyond reasonable doubt of the employee's misconduct. It is enough that there be "some basis" for such loss of confidence or that "the employer has reasonable grounds to believe, if not to entertain the moral conviction that the employee concerned is responsible for the misconduct and that the nature of his participation therein rendered him absolutely unworthy of the trust and confidence demanded by his position" (Reyes vs. Zamora, L-46732, May 5, 1979, 90 SCRA 92, 111 and Galsim vs. PNB, L-23921, August 29, 1969, 29 SCRA 293).

The eventual conviction of an employee who is prosecuted for his misconduct is not indispensable to warrant his dismissal by his employer (Philippine Geothermal, Inc. vs. National Labor Relations Commission, et al., G.R. No. 55249-50, October 19, 1982, 117 SCRA 692, 695).

On the other hand, the acquittal of an employee in the criminal case filed against him by his employer does not also guarantee his reinstatement if the employer has lost confidence in him. In *Phil. Education Co., Inc. vs. Union of Phil. Education Employees and CIR*, 107 Phil. 1003, we held:

"The relation of employer and employee, specially where the employee has access to the employer's property in the form of articles and merchandise for sale, necessarily involves trust and confidence. If said merchandise are lost and said loss is reasonably attributed to said employee, and he is charged with theft, even if he is acquitted of the charge on reasonable doubt, when the employer has lost its confidence in him, it would be highly unfair to require said employer to continue employing him or to reinstate him, for in that case, the former might find it necessary for its protection to employ another person to watch and keep an eye on him. In such a case the employee, despite his acquittal is not entitled to reinstatement to his former position from which he was dismissed."

A company has the right to dismiss its erring employees if only as a measure of self-protection against acts inimical to its interest (*Manila Trading & Supply Co. vs. Zulueta*, 69 Phil. 485 and *International Hardwood and Veneer Co. of the Phil. vs. Leogardo*, G.R. No. 57429, October 28, 1982, 117 SCRA 967).

The rather belated "affidavits of recantation" executed by Asibal and Odarve cannot be considered as sufficient

basis for the reinstatement of the three private respondents herein. Said affidavits merely serve as explanations why Asibal and Odarve executed the sworn statements of May 1, 1977 wherein they pointed to Tarroza, De la Peña and Tejero as three of the five vendors of the crude oil found in Asibal's farmlot. Nowhere in said "affidavits of recantation" did Asibal and Odarve state that Tarroza, De la Peña and Tejero were not the persons from whom they bought the crude oil.

Dolefil is not duty-bound to conduct its own investigation regarding the theft of crude oil. After all, it immediately referred the matter to the police. The latter is presumed to have conducted its investigation in accordance with law. If the private respondents were not really involved in the theft, they themselves or the union to which they belong should have requested for such an investigation.

WHEREFORE, the decision of the National Labor Relations Commission is reversed and set aside and the dismissal of Alfredo Tarroza, Rogelio de la Peña and Loreto Tejero as tractor operators is hereby affirmed. No costs.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Guerrero, Abad Santos and Escolin, JJ., concur.
De Castro, J., on leave.

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.