

PEARL S. BUCK FOUNDATION, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION) AND RUBINI GOSIACO QUERIMIT, RESPONDENTS.

G.R. No. 80728. February 21, 1990

Ponente: GUTIERREZ JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-80728/>

GUTIERREZ JR., J.:

May a charitable institution legally dismiss a case worker from its employ on the ground of loss of trust and confidence resulting from the employee's having borrowed money from the mother of one of its wards who allegedly withdrew the amount from its trust fund?

The non-stock, non-profit institution, petitioner Pearl S. Buck Foundation, Inc., was organized under the laws of the State of Delaware, U.S.A. to extend financial, education and medical assistance to indigent "Amerasian" youth. It operates its programs through funds provided by individuals and church groups in the United States. The funds, which are accumulated in the petitioner's headquarters in Pennsylvania, are sent to its overseas offices once a month.

In the Philippines, after being placed in dollar accounts, the funds are transferred to peso accounts and classified whether for support, gifts and office. The accounts for support and gifts are later broken down into individual child level. Each child is entitled to \$7 a month for his support. The equivalent of said amount is placed in a trust fund exclusively for the benefit and use of the ward concerned. (Rollo, pp. 56-57)

Private respondent, Rubini Gosiaco Querimit, was first employed by the petitioner as a school teacher in its extension office in Olongapo City from May 2, 1974 to May 2, 1975. From May 3, 1975 up to her dismissal on April 30, 1985, she was a case worker, also in the Olongapo City branch. The last salary she received was P3,500 a month. (Rollo, p. 42) One of the wards assigned to Mrs. Querimit as such case worker was Richard Aliarte, Amerasian son of Andrea Aliarte.

It appears that in 1979, Mrs. Querimit borrowed P300.00 from Andrea Aliarte. It is not clear from the records when she paid said debt but on March 27, 1985, Mrs. Querimit once again borrowed P3,000.00 from Andrea Aliarte. On April 11, 1985, Andrea Aliarte requested assistance from petitioner for the collection of the P3,000.00 indebtedness. Mrs. Querimit paid the amount on April 15, 1985 allegedly only after the petitioner had exerted incessant pressure on her.

Thereafter, she received a letter dated April 23, 1985 from the petitioner's resident director, William McCabe, informing her that her services would be terminated effective April 30, 1985. On September 4, 1985, Mrs. Querimit filed in the National Labor Relations Commission (NLRC) in Manila, a complaint for illegal dismissal, underpayment, overtime pay and maternity benefits. (Rollo, p. 41)

During the hearing, it was established that Mrs. Querimit also borrowed from and never returned to the petitioner the following items: sewing machine, 24 trays, one "kadawa/talyasi", one airpot, several plastic glasses, paper

plates, plastic spoons and forks, assorted toys and two big basins. Except for the sewing machine which she allegedly borrowed several years earlier, the other items were borrowed by Mrs. Querimit on March 28, 1985, two days before her wedding day. (Rollo, p. 66)

After the parties submitted their respective position papers, the labor arbiter found that the "infractions committed by complainant constitute serious misconduct and willful disobedience of the lawful orders of respondent foundation in connection with his (sic) work and breach of trust resulting in the loss of trust and confidence under Article 283 of the Labor Code as amended." The labor arbiter added that Mrs. Querimit's actuations "might not be considered entirely unlawful, but immoral, taking into consideration the very nature of (her) position" and that she had "placed in doubt her integrity and trustworthiness, and adversely affected the fiduciary relationship between (her) as a case worker and respondent foundation and that of its superior officer." (Rollo, pp. 93-94) Accordingly, the labor arbiter dismissed the complaint for lack of merit.

On appeal, the Third Division of the NLRC found that herein petitioner did not comply with the requirements of procedural due process for having violated the "30-day period as required under Batas Pambansa Bilang 130"; that its main witness (Andrea Aliarte) made a "complete turnabout when she executed affidavits which in effect exonerated Mrs. Querimit; and that petitioners witnesses, being still in its employ, all made self-serving statements. The NLRC opined that borrowing money is not a ground for termination of employment under the Labor Code and that the loan is a "personal transaction" between Andrea Aliarte and Mrs. Querimit "the respondent not being a privy to (the) transaction and hence, had no cause to dismiss the complainant from her job more so that the loan had earlier been paid and settled." It held that it is "but just and equitable" for Mrs. Querimit to return the articles she had borrowed from the petitioner. (Rollo, pp. 37-38) Hence, the dispositive portion of the NLRC decision states:

"WHEREFORE, the decision appealed from is hereby REVERSED and a new one is rendered ordering respondent to reinstate complainant to her former or equivalent position with full backwages and fringe benefit from the time she was illegally dismissed up to the time of her actual reinstatement." (Rollo, p. 38.)

The petitioner filed a motion for reconsideration of the said decision. After it was denied, the petitioner filed the instant petition.

The petitioner describes the petition as "an appeal from the decision" of the NLRC as well as the resolution denying its motion for reconsideration. (Rollo, p. 6) The petition prays that an order be issued restraining the enforcement of the NLRC decision; that the "petition for review be given due course"; that, after due hearing, the NLRC decision be "vacated and set aside"; and that the Court grant it such further reliefs as may be just and equitable in the premises. (Rollo, p. 31) In enumerating "grounds for review", the petitioner alleges that the respondent Commission "erred" in: (a) admitting and giving credence to a much belated affidavit which was filed by the private respondent without its knowledge thereby depriving it of its fundamental right to procedural due process; (b) not holding that the money borrowed by the private respondent came from the trust fund; (c) concluding that the private respondent was not accorded procedural due process; (d) not finding that the "series of misdemeanors committed by the private respondent, when put together, constitute serious misconduct which, under Article 283 of the Labor Code is a just cause for dismissal", and (e) not holding that private respondent's claim for overtime pay and maternity benefits has no factual and legal basis. (Rollo, pp. 10-11).

The Court issued a temporary restraining order on December 9, 1987 enjoining public respondent from enforcing its decision. At the same time, the Court required the respondents to file their comments to the petition. In compliance, the Solicitor General, in behalf of the NLRC, filed a comment stating as one of the grounds for his prayer for the dismissal of the petition, the fact that a petition for review, as a mode of appeal, is not the proper remedy for the petitioner. (Rollo, p. 180) In reply thereto, the petitioner asserts that a "petition for review on

certiorari on a question of law" is a proper remedy, the other one being a "special civil action for certiorari." (Rollo, pp. 187-188) In its memorandum, the petitioner makes a preliminary statement to the effect that the instant petition is a special civil action for certiorari (Rollo, p. 236) but then it still insists that a petition for review on certiorari is a remedy available to it. (Rollo, p. 243)

The procedural misconception belaboring the petitioner and/or its counsel is surprising considering that it even filed a motion for a 3-day extension within which to file a "petition for review by way of certiorari." (Rollo, pp. 2-3) It should have known that Presidential Decree No. 1367 dated May 1, 1978 amended Article 223 of the Labor Code so that "the decision of the Commission shall be immediately executory, even pending appeal, unless stayed by an order of the Secretary of Labor for special reasons." The decision of the Secretary of Labor shall also be immediately executory unless the President of the Philippines assumes jurisdiction over the case when national interests are involved.

On May 29, 1978, Presidential Decree No. 1391 was issued "to insure speedy labor justice." It further delimited appeals to the NLRC. A provision of said decree states:

"5. Appeal from the NLRC to the Secretary of Labor under the present setup is hereby eliminated but the President of the Philippines may continue to exercise his powers under P.D. No. 442, as amended."

Section 7 of Rule II of the rules implementing P.D. No. 1391 provided that "(t)here shall henceforth be no appeal from such decisions of the Minister of Labor except as provided in PD 1367 and its implementing rules concerning appeals to the Prime Minister, and the decisions of the Commission en banc or any of its divisions shall be final and executory."

The present Labor Code with the latest amendments introduced by Republic Act No. 6715 simply states:

"Art. 223. Appeal.

xxx xxx xxx

The decision of the Commission shall be final and executory after ten (10) calendar days from receipt thereof by the parties."

xxx xxx xxx

Hence, the only way by which a labor case may reach the Supreme Court is through a petition for certiorari under Rule 65 of the Rules of Court alleging lack or excess of jurisdiction or grave abuse of discretion. (*Purefoods Corporation v. NLRC, et al.*, G.R. No. 78591, March 21, 1989) Such petition may be filed within a reasonable time from receipt of the resolution denying the motion for reconsideration of the NLRC decision.

If a petitioner files the motion for extension of time to file the petition usually filed by litigants in petitions for review on certiorari under Rule 45, then the Court assumes that the prayed for period by the petitioner's own act, becomes the reasonable period to file the special civil action. But in both instances, the yardstick to measure the timeliness of a petition for certiorari is the reasonableness of the length of time that the petitioner is allowed from receipt of the decision or resolution subject of the petition, to the time of its filing. (*Toledo v. Pardo*, 118 SCRA 566 [1982])

Notwithstanding the procedural roadblock imposed by the petitioner on itself, the instant petition shall be considered a special civil action for certiorari for reasons of justice and equity.

Shorn of side issues, the ultimate issue to be determined is whether or not the NLRC gravely abused its discretion in holding that borrowing money from the mother of the petitioner's ward does not constitute a just cause for

terminating Mrs. Querimit's employment and therefore, she must be reinstated thereto.

One factor that is material in the resolution of this case is the fact that there is no concrete evidence that the money borrowed by Mrs. Querimit is part of the trust fund for the support of Richard Aliarte. There is no showing in the records that Richard's mother had no other account with any other bank on one hand or that she had more than one account in one or several banks from which she withdrew the amount she lent to Mrs. Querimit on the other. However, there is likewise no showing that Andrea Aliarte had other sources of funds to enable her to lend out money. The fact that she had to depend on foreign charity to support her child shows that there is no other source for the money loaned except the trust fund. Moreover, since there can be no question that the act of Mrs. Querimit is improper to say the least, the burden of proof was upon her to show where the money she borrowed came from.

The degree of proof required labor cases is not as stringent as in other types of cases. If Andrea Aliarte indeed got the money from the trust fund of her son, then Mrs. Querimit violated the trust reposed on her by the petitioner and by the good Samaritans who support the petitioner's noble objectives. Having committed an apparent impropriety, a violation of trust, the burden of disproving this matter rested on Mrs. Querimit. Unfortunately, she failed to do so. There may have been no contractual rule of employment that the petitioner's employees should have no commercial and other dealings with parents of wards. We fail to see, however, how the NLRC, from the relationships involved and from the inherent nature of Mrs. Querimit's functions could arrive at the conclusion that the petitioner was a third person with respect to the transaction between Mrs. Querimit and Andrea Aliarte. The petitioner solicits or "begs" for money from abroad to support its wards. It cannot be a third person where that money is involved.

Borrowing money is neither dishonest, nor immoral, nor illegal, much less criminal. (*Medical Doctors, Inc., [Makati Medical Center] v. NLRC*, 136 SCRA 1 [1985]) However, said act becomes a serious misconduct that may justly be asserted as a ground for dismissal when reprehensible behavior such as the use of a trust relationship as a leverage for borrowing money is involved. A recipient of largesse may be so grateful that out of a sense of "utang na loob" she may lend money to an employee or relative of a benefactor believing that the loan would be paid anyway. In this case, the fact that Aliarte has retracted her complaint is of no moment. She loaned money to the respondent, not once but twice and there can be no other assumption where the money came from except from the trust funds intended for the ward.

The NLRC should have taken cognizance of the laudable purpose of the foundation's existence and the fact that it attains its aims through donations. It should have considered that a higher degree of prudence is required of the foundation's employees, the implementors of its programs, especially when it comes to financial matters affecting the petitioner's wards. In fact, it should have discarded as immaterial that the petitioner failed to present a written "standing office policy" enjoining its employees from getting interested in any way in its trust fund or having any dealings with relatives of wards. That is to be assumed. The very nature of the source of its existence and the aims it seeks to pursue require that its employees possess and function by a more strict ethical standard.

We are aware that in any country where due process is strictly observed and where social justice is a compelling constitutional principle, the petitioner must follow the laws which protect workers and uphold their security of tenure. However, we cannot compel it to retain employees who commit violations of trust relationships. There is moreover, the petitioner's contention that Mrs. Querimit in effect waived her right and cannot insist on a literally strict interpretation of procedural due process because she refused to submit herself to an investigation.

There is likewise no basis for the NLRC ruling that Mrs. Querimit should be reinstated with backwages. A close scrutiny of the record reveals that after filing her complaint for illegal dismissal, Mrs. Querimit executed an

affidavit (Rollo, pp. 42-44) which states:

"That since I am not interested to be reinstated to my employment by reason of the prejudicial and strained relations now existing between myself and the management of Pearl S. Buck Foundation, Inc., I am claiming separation pay for being illegally dismissed from employment to be computed from the date was employed up to the date I was illegally dismissed; x x x."

Said statement should have cautioned both the labor arbiter and the NLRC. The parties to a case should not be forced into a situation where a peaceful relationship is not feasible. As the petitioner appears to have lost its trust in private respondent, who in turn is not seeking reinstatement, it would be an act of oppression to compel them to return to the status quo ante.

WHEREFORE, the petition is hereby GRANTED. The assailed decision of the NLRC dated August 19, 1987 is REVERSED and SET ASIDE. The decision of the Labor Arbiter is REINSTATED.

SO ORDERED.

Feliciano, Bidin, and Cortes, JJ., concur.

Fernan, C.J., (Chairman), no part — counsel for private respondent related to my special assistant.

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.