

SAN MIGUEL CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND FRANCISCO DIVINAGRACIA, RESPONDENTS.

G.R. No. 88268. June 02, 1992

Ponente: NARVASA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-88268/>

NARVASA, C.J.:

The basic facts from which the controversy at bar has arisen are not in dispute. They are summarized in the challenged decision of the respondent National Labor Relations Commission (NLRC) of November 25, 1988 as follows:

1. Francisco Divinagracia “started working with ** (San Miguel Corporation) on November 16, 1977 as accounting clerk. On July 24, 1982 he held the position of Regional Cashier of Bacolod Beer Region with basic monthly salary of P2,200. His job entailed the receiving of cash remittances from route salesmen, preparing vouchers for disbursement and keeping funds inside the vault.”
2. “On January 31, 1985 at 5:00 in the afternoon, complainant sought and was granted permission by the Regional Accountant (Remus Banogon) to leave the office to attend to a personal matter (to buy some milk for his infant child). When he returned to the office after an hour, he proceeded to work and discovered a shortage of P10,004.56. He relayed the matter to the security guard and to his supervisor, the Regional Accountant, the following morning. Together with the General Accounting Clerk, complainant and the Regional Accountant counted and reviewed the transactions of the previous day but could not account for the shortage. This matter was reported to the Operations Manager.”
3. “Due to this incident complainant was grounded and an investigation ensued. After the investigation, ** (the employer, San Miguel Corporation) demanded payment of the shortage from ** (Divinagracia). On May 31, 1985 ** (the latter) was dismissed. ** (He later) instituted ** an action on December 23, 1985 for illegal dismissal.”

Divinagracia’s action resulted in a judgment by the Labor Arbiter dated March 29, 1980. The Arbiter concluded that Divinagracia had indeed been illegally dismissed and directed his reinstatement with full back wages. The Arbiter believed Divinagracia’s claim that “he formally turned over the funds to the Regional Accountant (Remus Banogon) before he took a temporary leave of absence on January 31, 1985;” that when he returned an hour or so later, “the Accountant had (already) left the office;” and that since “the latter had duplicate keys to the cashier’s (Divinagracia’s) booth and knew the combination of the vault safe,” Banogon was as likely a suspect as he (Divinagracia) himself was, yet Banogon was never investigated, much less disciplined.

On appeal by San Miguel Corporation, the NLRC sustained the Arbiter’s conclusion that Divinagracia’s employment had in truth been unlawfully terminated. It however modified the Arbiter’s judgment by directing that the reinstatement of Divinagracia thereby decreed be “without backwages for he is not totally blameless.”

Nullification of this decision of the NLRC, rendered on November 25, 1988, is what is sought in this special civil

action initiated in this Court by San Miguel Corporation (SMC). SMC contends that the following findings in that decision were arrived at with grave abuse of discretion, to wit:

- 1) there had been a formal turn-over of funds from Divinagracia to his immediate superior -- Regional Accountant Remus Banogon -- at the time that, with the latter's permission, Divinagracia went out of his office on a personal errand;
- 2) Banogon might have taken some of the money left by Divinagracia in the vault inside his booth, since Banogon had duplicate keys to that booth and knew the combination of the vault; and
- 3) the testimony of Accounting Clerk Jocelyn B. Longno is undeserving of credit.

At the administrative investigation conducted by SMC respecting Divinagracia's shortage, as well as in the proceedings before the Labor Arbiter, evidence was given by the persons who were with Divinagracia at the time of the incident: Remus Banogon and Jocelyn B. Longno.

Banogon pertinently deposed that -

- 1) although he really did have a key to the Cashier's office and knew the combination of the vault lock, he never entered the cashier's booth on January 31, 1985, when the shortage supposedly happened; moreover, he did not have a key to the drawer of the Cashier's table where some of the remittances were supposedly placed; and
- 2) it is not true that there was a turn-over of the Cashier's funds, booth or vault to him; such a turn-over not being "done in absences of short duration like Divinagracia's absence from 5:30 p.m. to 6:45 p.m."

Jocelyn B. Longno testified that -

- 1) as shown in two (2) sketches of the Accounting Office in which she was at the time working together with Remus Banogon, Francisco Divinagracia and others, Divinagracia's Cashier's booth "is situated in such a way that I would be able to see if someone should enter it ** (and) Remus Banogon's table was just next to my table ** (such that) I would surely notice if he left his table;"
- 2) she did not leave her table inside the Accounting Office from the time that Divinagracia left at about 5:30 P.M. until she went home at about 6:45 P.M.; "(n)either Remus Banogon nor anybody else entered the Cashier's Booth on that period that Francisco Divinagracia III was out ** (and in fact) Remus Banogon did not leave his table until 6:30 P.M. when he was already going home;" and
- 3) she herself left the Accounting Office at about 6:45 P.M. and locked its door; and as she was going out of the gate, she met Divinagracia coming back.

From the foregoing evidence, the NLRC drew the conclusion that Divinagracia's "failure to account could not be solely attributable to him since other persons have similar access to the company funds," and his superior, Remus Banogon "to whom the responsibility of taking over complainant's function is lodged, was likewise remiss in the performance of his duty."

What in effect the NLRC is saying is that since both Divinagracia and Banogon had access to the former's office and the vault therein, it is not possible to hold only Divinagracia liable for the shortage in his funds, since Banogon might himself have surreptitiously gone inside Divinagracia's booth, opened the vault and made off with some of the money lying there. The evidence, however, is that while Banogon indeed had access to Divinagracia's office and its vault, Banogon had not gone into that office at all at any time during the hour that Divinagracia was away. What the NLRC has done is to make a selective acceptance of Banogon's testimony, according credit to such part thereof as was consistent with obscuration of Divinagracia's liability for the

shortage, and conveniently ignoring so much of it as was inconsistent. It accorded credit to Banogon's statement that he had a key to Divinagracia's office and knew the combination to the vault, but it rejected his declaration, forming part of the same testimony, that he had never entered Divinagracia's booth on the day in question. That rejection cannot in the circumstances be regarded as otherwise than whimsical, capricious, even irrational. No reason whatsoever has been given by the NLRC for that rejection, or why Banogon is deemed a credible witness in part and branded as undeserving of belief in another, specially when Banogon's statements are corroborated in their entirety by the other evidence on record, Jocelyn B. Longno's testimony and the unchallenged sketches of Divinagracia's Cashier's Booth in relation to the adjacent or surrounding working areas.

Neither does the NLRC cite any cause to disbelieve the evidence given by Longno, basically to the effect that Banogon had never entered the office of Divinagracia while the latter was out on personal business. This lack of justification is attempted to be cured by the NLRC's counsel by such arguments as -

- 1) " ** (while it) may be true that she had no ill-motive as to falsely testify against ** (Divinagracia), (h)owever, she had to protect her employment with petitioner (SMC);" and
- 2) " ** while Longno was rendering overtime work, her concern and attention were focused on her work. It was unnatural for her to have noticed that Banogon never left his desk while she was concentrating on her work. Longno then was biased and cannot be relied upon on this point."

The first argument is unintelligible. Its import is that while Longno had "no ill-motive" to testify falsely against Divinagracia, she nevertheless did so "to protect her employment with petitioner." Why her employment would be imperilled by her testifying otherwise than she actually did (e.g., that Divinagracia was faultless, or it was some other employee who had taken the money, etc.) is not explained. The second argument is cut from the same bolt. It insists that Longno could not have noticed what Banogon was doing at all since she was concentrated on her work, despite Longno's positive declaration that she would surely have noticed if Bagonon had entered the booth of Divinagracia while the latter was out for an hour and fifteen minutes because her desk was right beside Bagonon's, and she was so situated that Divinagracia's booth was within her view at any given moment. Why stark speculation or plain guessing should be preferred to affirmative testimony is also not explained.

In any event, it is clear that the NLRC's conclusions regarding the evidence have nothing to support them and hence must be struck down, as already stated, for being whimsical and capricious, arrived at with grave abuse of discretion.

WHEREFORE, the petition is GRANTED. The Decision of the respondent National Labor Relations Commission of November 25, 1988 is NULLIFIED AND SET ASIDE, and the complaint of illegal dismissal is DISMISSED, without pronouncement as to costs.

SO ORDERED.

Paras and Regalado, JJ., concur.

Padilla, J., No part, by reason of equity interest in SMC.

Nocon, 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.