PHILIPPINE NATIONAL BANK, PETITIONER, VS. DAN PADAO, RESPONDENT.

G.R. Nos. 180849 and 187143. November 16, 2011

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-nos-180849/

MENDOZA, J.:

These are two consolidated petitions for review on certiorari under Rule 45 of the Rules of Court.

In G.R. No. 180849, petitioner Philippine National Bank (PNB) seeks the reversal of the December 14, 2006 Decision[1] and October 2, 2007 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 76584, which upheld the ruling of the National Labor Relations Commission, Cagayan de Oro City (NLRC) in its October 30, 2002 Resolution,[3] reversing the June 21, 2001 Decision[4] of the Executive Labor Arbiter (ELA) which found the dismissal of respondent Dan Padao (Padao) valid.

In G.R. No. 187143, PNB seeks the reversal of the December 9, 2008 Decision[5] and February 24, 2009 Resolution[6] of the CA in CA-G.R. SP No. 00945, which allowed the execution of the October 30, 2002 NLRC Resolution.

THE FACTS

A. G.R. No. 180849

On August 21, 1981, Padao was hired by PNB as a clerk at its Dipolog City Branch. He was later designated as a credit investigator in an acting capacity on November 9, 1993. On March 23, 1995, he was appointed regular Credit Investigator III, and was ultimately promoted to the position of Loan and Credit Officer IV.

Sometime in 1994, PNB became embroiled in a scandal involving “behest loans.” A certain Sih Wat Kai complained to the Provincial Office of the Commission on Audit (COA) of Zamboanga del Norte that anomalous loans were being granted by its officers: Assistant Vice President (AVP) and Branch Manager Aurelio De Guzman (AVP de Guzman), Assistant Department Manager and Cashier Olson Sala (Sala), and Loans and Senior Credit Investigator Primitivo Virtudazo (Virtudazo).

The questionable loans were reportedly being extended to select bank clients, among them Joseph Liong, Danilo Dangcalan, Jacinto Salac, Catherine Opulentisima, and Virgie Pango. The exposé triggered the conduct of separate investigations by the COA and PNB’s Internal Audit Department (IAD) from January to August 1995. Both investigations confirmed that the collateral provided in numerous loan accommodations were grossly over-appraised. The credit standing of the loan applicants was also fabricated, allowing them to obtain larger loan portfolios from PNB. These borrowers eventually defaulted on the payment of their loans, causing PNB to suffer millions in losses.

In August 1995, Credit Investigators Rolando Palomares (Palomares) and Cayo Dagpin (Dagpin) were administratively charged with Dishonesty, Grave Misconduct, Gross Neglect of Duty, Conduct Prejudicial to the

Best Interest of the Service, and violation of Republic Act (R.A.) No. 3019 (Anti-Graft and Corrupt Practices Act), in connection with an anomalous loan granted to the spouses, Jaime and Allyn Lim (the Lims). These charges, however, were later ordered dropped by PNB, citing its findings that Dagpin and Palomares signed the Inspection and Appraisal Report (IAR) and the Credit Inspection Report (CIR) in support of the Lims' loan application in good faith, and upon the instruction of their superior officers. PNB also considered using Dagpin and Palomares as prosecution witnesses against AVP de Guzman, Loan Division Chief Melindo Bidad (Bidad) and Sala.

The following month, September 1995, administrative charges for Grave Misconduct, Gross Neglect of Duty and Gross Violations of Bank Rules and Regulations and criminal cases for violation of R.A. No. 3019 were filed against AVP de Guzman, Sala, Virtudazo, and Bidad. Consequently, they were all dismissed from the service by PNB in November 1996. Later, Virtudazo was ordered reinstated.

On June 14, 1996, Padao and Division Chief Wilma Velasco (Velasco) were similarly administratively charged with Dishonesty, Grave Misconduct, Gross Neglect of Duty, Conduct Prejudicial to the Best Interest of the Service, and violation of R.A. No. 3019.

The case against Padao was grounded on his having allegedly presented a deceptively positive status of the business, credit standing/rating and financial capability of loan applicants Reynaldo and Luzvilla Baluma and eleven (11) others. It was later found that either said borrowers' businesses were inadequate to meet their loan obligations, or that the projects they sought to be financed did not exist.

Padao was also accused of having over-appraised the collateral of the spouses Gardito and Alma Ajero, the spouses Ibaba, and Rolly Pango.

On January 10, 1997, after due investigation, PNB found Padao guilty of gross and habitual neglect of duty and ordered him dismissed from the bank. Padao appealed to the bank's Board of Directors. On January 20, 1997, Velasco was also held guilty of the offenses charged against her, and was similarly meted the penalty of dismissal. Her motion for reconsideration, however, was later granted by the bank, and she was reinstated.

On October 11, 1999, after almost three (3) years of inaction on the part of the Board, Padao instituted a complaint[7] against PNB and its then AVP, Napoleon Matienzo (Matienzo), with the Labor Arbitration Branch of the NLRC Regional Arbitration Branch (RAB) No. IX in Zamboanga City for 1] Reinstatement; 2] Backwages; 3] Illegal Dismissal; and 4] Treachery/Bad Faith and Palpable Discrimination in the Treatment of Employees with administrative cases. The case was docketed as RAB 09-04-00098-01.

In a Decision dated June 21, 2001, the ELA found Padao's dismissal valid. Despite the finding of legality, the ELA still awarded separation pay of one-half (1/2) month's pay for every year of service, citing PLDT v. NLRC & Abucay.[8] The ELA held that in view of the peculiar conditions attendant to Padao's dismissal, there being no clear conclusive showing of moral turpitude, Padao should not be left without any remedy.

Padao appealed to the NLRC, which, in its Resolution[9] dated October 30, 2002, reversed and set aside the ELA Decision and declared Padao's dismissal to be illegal. He was thereby ordered reinstated to his previous position without loss of seniority rights and PNB was ordered to pay him full backwages and attorney's fees equivalent to ten percent (10%) of the total monetary award.

PNB's Motion for Reconsideration[10] was denied by the NLRC in its Resolution[11] dated December 27, 2002.

Aggrieved, PNB filed a petition for certiorari[12] with the CA but it was dismissed in a Decision[13] dated December 14, 2006. PNB moved for reconsideration[14] but the motion was denied in the CA Resolution[15]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

dated October 2, 2007.

B. G.R. No. 187143

During the pendency of G.R. No. 180849 before the Court, the NLRC issued an entry of judgment on September 22, 2003, certifying that on February 28, 2003, its October 30, 2002 Resolution had become final and executory.[16]

On December 5, 2003, Padao filed a Motion for Execution of the NLRC Resolution dated October 30, 2002. This was granted by the ELA on April 22, 2004.

On May 4, 2004, PNB and AVP Matienzo sought reconsideration of the ELA's Order based on the following grounds: (1) the October 30, 2003 Resolution was inexistent and, thus, could not become final and executory; and (2) Padao's motion for execution was granted without hearing.

Acting thereon, the ELA denied PNB's motion for reconsideration on the ground that motions for reconsideration of an order are prohibited under Section 19, Rule V of the NLRC Rules of Procedure.

Thus, Padao filed his Motion to Admit Computation[17] dated July 14, 2004. In its Comment,[18] PNB alleged that the computation was grossly exaggerated and without basis, and prayed for a period of thirty (30) days within which to submit its counter-computation since the same would come from its head office in Pasay City.

On September 22, 2004, the ELA issued the Order[19] granting Padao's Motion to Admit Computation. The order cited PNB's failure to submit its counter-computation within the two extended periods (totaling forty days), which the ELA construed as a waiver to submit the same. Thus, the ELA ordered the issuance of a writ of execution for the payment of backwages due to Padao in the amount of ?2,589,236.21.

In a motion[20] dated September 29, 2004, PNB sought reconsideration of the order with an attached counter-computation. The ELA denied the same in its Order[21] dated October 20, 2004 on the ground that the motions for reconsideration of orders and decisions of the Labor Arbiter are prohibited under Section 19, Rule V of the NLRC Rules of Procedure. The ELA further stated that PNB had been given more than ample opportunity to submit its own computation in this case, and the belatedly submitted counter-computation of claims could not be considered. Thus, a writ of execution[22] was issued on October 21, 2004.

On November 11, 2004 and January 19, 2005, PNB filed its Motion to Quash Writ of Execution and its Motion to Dissolve Alias Writ of Execution, respectively. Both were denied by the ELA in an Order[23] dated February 8, 2005.

On February 18, 2005, PNB filed a Notice of Appeal with Memorandum on Appeal[24] with the NLRC. On September 20, 2005, however, the NLRC issued a Resolution[25] dismissing the bank's appeal. PNB's Motion for Reconsideration[26] was also denied in the December 21, 2005 Resolution.[27]

Thus, on March 7, 2006, PNB filed a Petition for Certiorari[28] with the CA, assailing the findings of ELA Plagata and the NLRC.

In a Decision[29] dated December 9, 2008, the CA dismissed the petition, and later denied PNB's motion for reconsideration on February 24, 2009.

ISSUES

In G.R. No. 180849, PNB presents the following Assignment of Errors:[30]

A. THE COURT OF APPEALS ERRED IN NOT CONSIDERING THAT THE POSITION OF A CREDIT

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

> INVESTIGATOR IS ONE IMBUED WITH [THE] TRUST AND CONFIDENCE OF THE EMPLOYER.
>
> B. THE COURT OF APPEALS ERRED IN TREATING THE ACT OF FALSIFYING THE CREDIT AND APPRAISAL REPORTS AND THAT OF MERELY AFFIXING ONE'S SIGNATURE IN A FALSE REPORT PREPARED BY ANOTHER AS ONE AND THE SAME DEGREE OF MISCONDUCT WHICH WARRANTS THE SAME PENALTY.

In G.R. No. 187143, PNB presents the following Assignment of Errors:[31]

> THE LABOR COURTS AND THE APPELLATE COURT ERRED WHEN THEY INVARIABLY IGNORED PNB'S COUNTER-COMPUTATION AND MERELY RELIED ON RESPONDENT DAN PADAO'S SELF-SERVING COMPUTATION OF HIS MONEY AWARD.
>
> THE LABOR COURTS AND THE APPELLATE COURT ERRED WHEN THEY ACCEPTED THE COMPUTATION OF RESPONDENT PADAO WITHOUT REQUIRING PROOF TO SUPPORT THE SAME.

In G.R. No. 180849, PNB argues that the position of a credit investigator is one reposed with trust and confidence, such that its holder may be validly dismissed based on loss of trust and confidence. In disciplining employees, the employer has the right to exercise discretion in determining the individual liability of each erring employee and in imposing a penalty commensurate with the degree of participation of each. PNB further contends that the findings of the CA are not in accordance with the evidence on record, thus, necessitating a review of the facts of the present case by this Court.[32]

On the other hand, Padao counters that local bank policies implemented by the highest-ranking branch officials such as the assistant vice-president/branch manager, assistant manager/cashier, chief of the loans division and legal counsel, are presumed to be sanctioned and approved by the bank, and a subordinate employee should not be faulted for his reliance thereon. He argues that a person who acts in obedience to an order issued by a superior for some lawful purpose cannot be held liable. PNB is bound by the acts of its senior officers and he, like his fellow credit investigators, having acted in good faith in affixing his signature on the reports based on the instruction, order and directive of senior local bank officials, should not be held liable.[33]

Padao also claims that PNB cruelly betrayed him by charging and dismissing him after using him as a prosecution witness to secure the conviction of the senior bank officials, that he was never part of the conspiracy, and that he did not derive any benefit from the scheme.[34]

The Court's Ruling

In the 1987 Constitution, provisions on social justice and the protection of labor underscore the importance and economic significance of labor. Article II, Section 18 characterizes labor as a "primary social economic force," and as such, the State is bound to "protect the rights of workers and promote their welfare." Moreover, workers are "entitled to security of tenure, humane conditions of work, and a living wage."[35]

The Labor Code declares as policy that the State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work.[36]

While it is an employer's basic right to freely select or discharge its employees, if only as a measure of self-protection against acts inimical to its interest,[37] the law sets the valid grounds for termination as well as the proper procedure to be followed when terminating the services of an employee.[38]

Thus, in cases of regular employment, the employer is prohibited from terminating the services of an employee except for a just or authorized cause.[39] Such just causes for which an employer may terminate an employee are enumerated in Article 282 of the Labor Code:

> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
>
> (b) Gross and habitual neglect by the employee of his duties;
>
> (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
>
> (d) Commission of a crime or offense by the employee against the person of his employer or any immediate family member of his family or his duly authorized representative; and
>
> (e) Other causes analogous to the foregoing.

Further, due process requires that employers follow the procedure set by the Labor Code:

> Art. 277. Miscellaneous provisions.
>
> xxx
>
> b. Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment. Any decision taken by the employer shall be without prejudice to the right of the worker to contest the validity or legality of his dismissal by filing a complaint with the regional branch of the National Labor Relations Commission. The burden of proving that the termination was for a valid or authorized cause shall rest on the employer. The Secretary of the Department of Labor and Employment may suspend the effects of the termination pending resolution of the dispute in the event of a prima facie finding by the appropriate official of the Department of Labor and Employment before whom such dispute is pending that the termination may cause a serious labor dispute or is in implementation of a mass lay-off. (As amended by Section 33, Republic Act No. 6715, March 21, 1989)
>
> xxx

In this case, Padao was dismissed by PNB for gross and habitual neglect of duties under Article 282 (b) of the Labor Code.

Gross negligence connotes want of care in the performance of one's duties, while habitual neglect implies repeated failure to perform one's duties for a period of time, depending on the circumstances.[40] Gross negligence has been defined as the want or absence of or failure to exercise slight care or diligence, or the entire absence of care. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them.[41]

In the case at bench, Padao was accused of having presented a fraudulently positive evaluation of the business, credit standing/rating and financial capability of Reynaldo and Luzvilla Baluma and eleven other loan applicants.[42] Some businesses were eventually found not to exist at all, while in other transactions, the financial status of the borrowers simply could not support the grant of loans in the approved amounts.[43] Moreover, Padao over-appraised the collateral of spouses Gardito and Alma Ajero, and that of spouses Ihaba and Rolly Pango.[44]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

The role that a credit investigator plays in the conduct of a bank's business cannot be overestimated. The amount of loans to be extended by a bank depends upon the report of the credit investigator on the collateral being offered. If a loan is not fairly secured, the bank is at the mercy of the borrower who may just opt to have the collateral foreclosed. If the scheme is repeated a hundredfold, it may lead to the collapse of the bank. In the case of Sawadjaan v. Court of Appeals,[45] the Court stressed the crucial role that a credit investigator or an appraiser plays. Thus:

> Petitioner himself admits that the position of appraiser/inspector is "one of the most serious [and] sensitive job[s] in the banking operations." He should have been aware that accepting such a designation, he is obliged to perform the task at hand by the exercise of more than ordinary prudence. As appraiser/investigator, the petitioner was expected to conduct an ocular inspection of the properties offered by CAMEC as collaterals and check the copies of the certificates of title against those on file with the Registry of Deeds. Not only did he fail to conduct these routine checks, but he also deliberately misrepresented in his appraisal report that after reviewing the documents and conducting a site inspection, he found the CAMEC loan application to be in order. Despite the number of pleadings he has filed, he has failed to offer an alternative explanation for his actions. [Emphasis supplied]

In fact, banks are mandated to exercise more care and prudence in dealing with registered lands:

> [B]anks are cautioned to exercise more care and prudence in dealing even with registered lands, than private individuals, "for their business is one affected with public interest, keeping in trust money belonging to their depositors, which they should guard against loss by not committing any act of negligence which amounts to lack of good faith by which they would be denied the protective mantle of the land registration statute Act 496, extended only to purchasers for value and in good faith, as well as to mortgagees of the same character and description. It is for this reason that banks before approving a loan send representatives to the premises of the land offered as collateral and investigate who are the true owners thereof.[46]

Padao's repeated failure to discharge his duties as a credit investigator of the bank amounted to gross and habitual neglect of duties under Article 282 (b) of the Labor Code. He not only failed to perform what he was employed to do, but also did so repetitively and habitually, causing millions of pesos in damage to PNB. Thus, PNB acted within the bounds of the law by meting out the penalty of dismissal, which it deemed appropriate given the circumstances.

The CA was correct in stating that when the violation of company policy or breach of company rules and regulations is tolerated by management, it cannot serve as a basis for termination.[47] Such ruling, however, does not apply here. The principle only applies when the breach or violation is one which neither amounts to nor involves fraud or illegal activities. In such a case, one cannot evade liability or culpability based on obedience to the corporate chain of command.

Padao cited Llosa-Tan v. Silahis International Hotel,[48] where the "violation" of corporate policy was held not per se fraudulent or illegal. Moreover, the said "violation" was done in compliance with the apparent lawful orders of the concerned employee's superiors. Management-sanctioned deviations in the said case did not amount to fraud or illegal activities. If anything, it merely represented flawed policy implementation.

In sharp contrast, Padao, in affixing his signature on the fraudulent reports, attested to the falsehoods contained therein. Moreover, by doing so, he repeatedly failed to perform his duties as a credit investigator.

Further, even Article 11(6) of the Revised Penal Code requires that any person, who acts in obedience to an order issued by a superior does so for some lawful purpose in order for such person not to incur criminal liability. The succeeding article exempts from criminal liability any person who acts under the compulsion of an irresistible force (Article 12, paragraph 6) or under the impulse of an uncontrollable fear of an equal or greater injury (Article

12, paragraph 7).

Assuming solely for the sake of argument that these principles apply by analogy, even an extremely liberal interpretation of these justifying or exempting circumstances will not allow Padao to escape liability.

Also, had Padao wanted immunity in exchange for his testimony as a prosecution witness, he should have demanded that there be a written agreement. Without it, his claim is self-serving and unreliable.

That there is no proof that Padao derived any benefit from the scheme is immaterial.[49] What is crucial is that his gross and habitual negligence caused great damage to his employer. Padao was aware that there was something irregular about the practices being implemented by his superiors, but he went along with, became part of, and participated in the scheme.

It does not speak well for a person to apparently blindly follow his superiors, particularly when, with the exercise of ordinary diligence, one would be able to determine that what he or she was being ordered to do was highly irregular, if not illegal, and would, and did, work to the great disadvantage of his or her employer.

PNB, as an employer, has the basic right to freely select and discharge employees (subject to the Labor Code requirements on substantive and procedural due process), if only as a measure of self-protection against acts inimical to its interests.[50] It has the authority to impose what penalty it deems sufficient or commensurate to an employee's offense. Having satisfied the requirements of procedural and substantive due process, it is thus left to the discretion of the employer to impose such sanction as it sees befitting based on the circumstances.

Finally, Padao claims that he should be accorded the same treatment as his co-employees.[51] As the ELA, however, correctly observed:

> [A]s pointed out by the respondents, the case of the complainant was different, and his culpability, much more than his aforementioned co-employees. In the case of Palomares and Dagpin, they were involved in only one case of over-appraisal of collateral in the loan account of the spouses Jaime Lim and Allyn Tan (Respondents' Comments, p. 1), but in the case of complainant, his over-appraisals involved three (3) loan accounts and amounting to ?9,537,759.00 (Ibid.), not to mention that he also submitted falsified Credit Investigation Reports for the loan accounts of seven (7) other borrowers of PNB (Ibid., pp. 1-2).
>
> xxx
>
> The number of over-appraisals (3) and falsified credit investigation reports (7) or countersigned by the complainant indicates habituality, or the propensity to do the same. The best that can be said of his acts is the lack of moral strength to resist the repeated commission of illegal or prohibited acts in loan transactions. He thus cannot interpose undue pressure or coercion exerted upon [him] by his superiors, to absolve himself of liability for his signing or countersigning the aforementioned falsified reports. It may have been allowable or justifiable for him to give in to one anomalous loan transaction report, but definitely not for ten (10) loan accounts. It is axiomatic that obedience to one's superiors extends only to lawful orders, not to unlawful orders calling for unauthorized, prohibited or immoral acts to be done.
>
> In the case of Wilma Velasco, PNB did not pursue legal action and even discontinued the administrative case filed against her because, according to PNB, she appeared to have been the victim of the misrepresentations and falsifications of the credit investigation and appraisal reports of the complainant upon which she had to reply in acting on loan applications filed with the PNB and for which such reports were made. She was not obliged to conduct a separate or personal appraisal of the properties offered as collaterals, or separate credit investigations of the borrowers of PNB. These functions pertained to PNB inspectors/credit investigators, like the complainant. Unfortunately, the latter was derelict in the performance of those duties, if he did not deliberately misuse or abuse such duties.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

> As can be seen, therefore, the complainant and Wilma Velasco did not stand on the same footing relative to their involvement or participation in the anomalous loan transactions earlier mentioned. Therefore, PNB cannot be faulted for freeing her from liability and punishment, while dismissing the complainant from service. [Emphases supplied]

Given the above ruling of the Court in G.R. No. 180849, the ruling of the CA in CA-G.R. SP No. 00945, an action stemming from the execution of the decision in said case, must perforce be reversed.

However, Padao is not entitled to financial assistance. In Toyota Motor Phils. Corp. Workers Association v. NLRC,[52] the Court reaffirmed the general rule that separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct, willful disobedience, gross and habitual neglect of duty, fraud or willful breach of trust, commission of a crime against the employer or his family, or those reflecting on his moral character. These five grounds are just causes for dismissal as provided in Article 282 of the Labor Code.

In Central Philippine Bandag Retreaders, Inc. v. Diasnes,[53] cited in Quiambao v. Manila Electric Company,[54] we discussed the parameters of awarding separation pay to dismissed employees as a measure of financial assistance:

> To reiterate our ruling in Toyota, labor adjudicatory officials and the CA must demur the award of separation pay based on social justice when an employee's dismissal is based on serious misconduct or willful disobedience; gross and habitual neglect of duty; fraud or willfull breach of trust; or commission of a crime against the person of the employer or his immediate family – grounds under Art. 282 of the Labor Code that sanction dismissal of employees. They must be judicious and circumspect in awarding separation pay or financial assistance as the constitutional policy to provide full protection to labor is not meant to be an instrument to oppress the employers. The commitment of the Court to the cause of labor should not embarrass us from sustaining the employers when they are right, as here. In fine, we should be more cautions in awarding financial assistance to the undeserving and those who are unworthy of the liberality of the law.[55] [Emphasis original. Underscoring supplied]

Clearly, given the Court's findings, Padao is not entitled to financial assistance.

WHEREFORE, the petitions in G.R. No. 180849 and G.R. No. 187143 are GRANTED. In G.R. No. 180849, the December 14, 2006 Decision and the October 2, 2007 Resolution of the Court of Appeals in CA-G.R. SP No. 76584 are REVERSED and SET ASIDE.

In G.R. No. 187143, the December 9, 2008 Decision and the February 24, 2009 Resolution of the Court of Appeals in CA-G.R. SP No. 00945 are REVERSED and SET ASIDE.

The June 21, 2001 Decision of the Executive Labor Arbiter is hereby ordered REINSTATED, with the MODIFICATION that the award of financial assistance is DELETED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Perez,[*] JJ., concur.

---

[*] Designated as additional member in lieu of Associate Justice Estela M. Perlas-Bernabe, per Special Order No. 1152 dated November 11, 2011.

[1] Rollo (G.R. No. 180849), pp. 7-21. Twenty First Division, penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justice Teresita Dy-Liacco Flores and Associate Justice Mario V. Lopez, concurring.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[2] Id. at 22-23. Former Twenty First Division, penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justice Teresita Dy-Liacco Flores and Associate Justice Mario V. Lopez, concurring.

[3] Id. at 54-61. Penned by Presiding Commissioner Salic B. Dumarpa, with Commissioner Oscar N. Abella, concurring.

[4] Id. at 102-112.

[5] Id. (G.R. No. 187143), pp. 9-27. Twenty First Division, penned by Associate Justice Romulo V. Borja, with Associate Justice Mario V. Lopez and Associate Justice Elihu A. Ibañez, concurring.

[6] Id. at 22-23. Twenty First Division, penned by Associate Justice Romulo V. Borja, with Associate Justice Mario V. Lopez and Associate Justice Elihu A. Ibañez, concurring.

[7] Id. (G.R. No. 180849), p. 100.

[8] 247 Phil. 641(1988), cited in G.R. No. 180849, rollo, p. 111.

[9] Rollo (G.R. No. 180849), pp. 54-60. Penned by Presiding Commissioner Salic B. Dumarpa, with Commissioner Oscar N. Abella, concurring.

[10] Id. at 122-127.

[11] Id. at 128.

[12] Id. at 129-143.

[13] Id. at 7-21.

[14] Id. at 159-183.

[15] Id. at 22.-23.

[16] Id. (G.R. No. 187143), p. 11. The CA Decision (at footnote 7, p. 11) states that the date of the Resolution, October 30, 2003, is clearly a typographical error. It should read October 30, 2002.

[17] Id. at 87-89.

[18] Id. at 91-92.

[19] Id. at 94-96.

[20] Id. at 97-98.

[21] Id. at 106-107.

[22] Id. at 108-110.

[23] Id. at 111-112.

[24] Id. at 113-130.

[25] Id. at 131-139.

[26] Id. at 140-148.

[27] Id. at 149-151.

[28] Id. at 152-165.

[29] Id. at 9. Twenty First Division, penned by Associate Justice Romulo V. Borja, with Associate Justice Mario V. Lopez and Associate Justice Elihu A. Ibañez, concurring.

[30] Id. (G.R. No. 180849), at 35.

[31] Id. (G.R. No. 187143), at 45.

[32] Id. (G.R. No. 180849), at 35-36.

[33] Id. at 362.

[34] Id. at 364.

[35] Spic N' Span Services Corporation v. Paje, G.R. No. 174084, August 25, 2010, 629 SCRA 261, 269-270.

[36] Article 3, Presidential Decree No. 442 (Labor Code of the Philippines), as amended.

[37] Sawadjaan v. Court of Appeals, 498 Phil. 552, 556 (2005), citing Filipro, Incorporated v. National Labor Relations Commission, G.R. No. 70546, October 16, 1986, 145 SCRA 123.

[38] Alert Security and Investigation Agency, Inc. v. Pasawilan, G.R. No. 182397, September 14, 2011.

[39] Article 279, Presidential Decree No. 442 (Labor Code of the Philippines), as amended.

[40] AFI International Trading Corporation v. Lorenzo, G.R. No. 173256, October 9, 2007, 535 SCRA 347, 353-354, citing Genuino Ice Co., Inc. v. Magpantay, G.R. No. 147740, June 27, 2006, 493 SCRA 195, 205-206.

[41] Citibank v. Gatchalian, 310 Phil. 211, 217-218 (1995); National Bookstore v. CA, 428 Phil. 235, 245 (2002).

[42] Rollo (G.R. No. 180849), p. 11.

[43] Id.

[44] Id.

[45] 498 Phil. 552, 560 (2005).

[46] Gonzales v. Intermediate Appellate Court, 241 Phil. 630, 639-640 (1988), citing Tomas v. Tomas, G.R. No. L-36897, June 25, 1980, 98 SCRA 280.

[47] Rollo (G.R. No. 180849), p. 7.

[48] 260 Phil. 166 (1990), where the dismissed company cashier encashed two personal checks drawn by a Reynaldo M. Vicencio with a combined value of US$1,200.00, on the recommendation of Fernando Gayondato, the general cashier of Puerto Azul Beach Resort (a sister company of Silahis International Hotel), and nephew of the Executive Vice President. It was shown in that case that Llosa-Tan initially refused to encash the checks, citing the company policy prohibiting such transactions, but Gayondato persisted, assuring her that the presentation of such checks was being done upon instructions of the Executive Vice President.

[49] Sawadjaan v. Court of Appeals, 498 Phil. 552, 556 (2005).

[50] Id., citing Filipro, Incorporated v. National Labor Relations Commission, 229 Phil. 150 (1986). In Filipro case (229 Phil. 150, 156-157 [1986]), the Court also stated:

> The initial decision of the Labor Arbiter decreeing the dismissal of private respondent herein is fully justified by the provisions of Article 283 (c) of the Labor Code, already above quoted. Pronouncements made by this Court in this regard are as follows:

> "It is an established principle that an employer cannot be compelled to continue in employment an employee guilty of acts inimical to the interest of the employer and justifying loss of confidence in him (International Hardwood and Veneer Company of the Philippines v. Leogardo, 117 SCRA 967, 971-972 (1982); (Manila Trading and Supply Co. v. Zulueta, 69 Phil. 485; Galsim v. PNB, 23 SCRA 293; PECO v. PECO Employees Union, 107 Phil. 1003; Nevans v. Court of Industrial Relations, 23 SCRA 1321; Gas Corporation of the Philippines v. Inciong, 93 SCRA 652).
>
> "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. v. Zulueta, 69 Phil, 485 and International Hardwood and Veneer Co. of the Phil. v. Leogardo, G.R. No. 57429, October 28, 1982, 117 SCRA 967).
>
> "We concede that the right of the employer to freely select or discharge his employees, is subject to regulation by the State basically in the exercise of its paramount police power. But much as we should expand beyond the economic doxy, we hold that an employer cannot be legally compelled to continue with the employment of a person who admittedly was guilty of misfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interest. The law in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer." (Manila Trading Co. v. Zulueta, 69 Phil. 485, 486-487 (1940).

[51] Rollo (G.R. No. 180849), p. 44.

[52] G.R. Nos. 158786 & 158789, October 19, 2007, 537 SCRA 171.

[53] G.R. No. 163607, July 14, 2008, 558 SCRA 194.

[54] G.R. No. 171023, December 18, 2009.

[55] Supra note 53 at 207.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

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.