

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
THIRD DIVISION**

**LEILANI MENDOZA,**  
*Petitioner,*

*-versus-*

**G.R. No. 131405  
July 20, 1999**

**NATIONAL LABOR RELATIONS  
COMMISSION and ASIAN LAND  
STRATEGIES CORPORATION,**  
*Respondents.*

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**D E C I S I O N**

**PANGANIBAN, J.:**

Unsubstantiated accusations or baseless conclusions of the employer are insufficient legal justifications to dismiss an employee. The employer must prove by substantial evidence the facts and incidents upon which loss of confidence or breach of trust is based. Mere allegations, even if supported by pro forma and generalized affidavits, are not sufficient evidence to justify the dismissal of an employee.

**The Case**

The Petition for Certiorari before us seeks to set aside the Decision dated February 19, 1997, promulgated by the National Labor

Relations Commission in NLRC CA No. 011082-96, which reversed that of the labor arbiter granting petitioner's Complaint for illegal dismissal. In his Decision dated May 17, 1996, Labor Arbiter Dominador B. Saldares disposed as follows: <sup>[1]</sup>

“WHEREFORE, premises considered, judgment is hereby entered in favor of the complainant and against the respondent, ordering the latter, as follows:

1. To pay the sum of P8,000.00 as one (1) month separation pay of the complainant in lieu of reinstatement;
2. To pay the sum of P92,000.00 as back wages of complainant from June 16, 1995 up to this writing;
3. To pay complainant moral damages in the sum of P50,000.00; and
4. To pay attorney's fees in the sum of P15,000.00.”

Reversing the above disposition, the National Labor Relations Commission (NLRC)<sup>[2]</sup> ruled:

“WHEREFORE, premises considered, the appealed decision is hereby REVERSED AND SET ASIDE, and the instant case is hereby dismissed for lack of merit.”<sup>[3]</sup>

Reconsideration was denied in the Resolution dated September 19, 1997.<sup>[4]</sup>

### **The Facts**

Respondent Commission narrates the facts in this wise:<sup>[5]</sup>

“Petitioner started working with the private respondent during the latter part of April 1994. Shortly thereafter, she was appointed as finance manager of the private respondent and her tasks included, among others, custody of and disbursement of company funds.

“On June 9, 1995, petitioner claims that she was summoned by Ms. Ma. Angela Celeridad, the company’s vice-president, who informed her that management had decided to terminate her employment. Hence, she was told either to resign or face dismissal. Later that day at around 7:00 o’clock in the evening, petitioner alleged that the p resident of the company, Johnny P. Lee, announced that her employment was already terminated. On June 23, 1995, petitioner lodged her complaint against the company for illegal dismissal.

“Private respondent, however, paints a different scenario of the circumstances surrounding petitioner’s cessation from her employment. Private respondent denies having dismissed the petitioner as no memorandum or letter of dismissal was issued to the petitioner. Private respondent asserts that on May 20, 1995, it received a complaint from several of its marketing and sales agents accusing petitioner of committing deliberate delays in the payment of their commission in violation of company policy. They alleged that she refused to release their commissions despite payment of the price of the properties they had brokered unless she was given a certain amount as her cut. These individual complainants included Amado Roa, acting vice-president for marketing and all division heads of the Sales Department of the company, namely: Leonora Punongbayan, Elma Mendoza, Nestor Pamintuan and Melly Rubid. The company, through its president, furnished petitioner with a copy of the complaint and gave her time to answer the same. Despite having been given an extension to file a reply to the charges against her, petitioner failed to submit the same. Instead, on June 10, 1995, she stopped reporting for work.

“In addition, private respondent claims that on June 15, 1995, another employee of the company, a certain Rufino Pahati, lodged a separate complaint against petitioner regarding his application for cash advance. Mr. Pahati claimed that petitioner made him apply for cash advance but it was she who took the money. She promised to pay him back but failed. Allegedly, the company sent a letter to Mendoza dated June 24,

1995 demanding her to explain all the irregularities imputed to her. Hearing no response from her, the company was constrained to conduct an investigation in her absence. Petitioner was found to have committed the above-mentioned anomalies imputed to her. On June 28, 1995, the private respondent notified petitioner that as of June 15, 1995, she was considered resigned from her job.

“On June 23, 1995 the instant complaint was filed seeking reinstatement, backwages, damages and attorney’s fees.”

### **Ruling of Respondent Commission**

As finance manager, petitioner held a sensitive position which depended largely on her employer’s continued trust and confidence in her. Respondent Commission found that she had committed acts that were of such nature as to be sufficient to cause the loss of such trust and confidence.

The dismissal of the criminal charges against petitioner did not prove the absence of a valid ground for her dismissal. Conviction in a criminal case is not indispensable to the dismissal of an employee, and the findings of a public prosecutor are not binding upon a labor tribunal.

Respondent Commission also faulted petitioner for the failure of private respondent to conduct a hearing regarding the complaints against her. Allegedly, she refused to report for work to avoid and prevent an investigation by the company. Thus, the accusations against her stood un rebutted, and private respondent had no recourse but to consider her services ended.

Hence, this Petition. <sup>[6]</sup>

### **The Issues**

Petitioner does not pinpoint the issues, but Respondent Commission poses the following question: <sup>[7]</sup>

“Whether or not Respondent NLRC acted with grave abuse of discretion in reversing the decision of the labor arbiter and in declaring that petitioner was not illegally dismissed.”<sup>[8]</sup>

To fully ventilate the foregoing question, the Court resolved to subdivide the discussion into three issues: (1) Should this Court review the factual findings of the labor tribunals below? (2) Did petitioner abandon her post? (3) May petitioner be validly dismissed on the ground of breach of trust and loss of confidence?

### **The Court’s Ruling**

The Petition is partly meritorious.

First Issue:

#### **Review of Factual Findings**

The factual findings of the labor arbiter, when sufficiently supported by the evidence on record, should as a rule be given great respect by appellate tribunals.<sup>[9]</sup> Pursuant to this doctrine, petitioner insists that private respondent adduced no “scintilla of evidence” to establish that she abandoned her job or committed serious irregularities constituting a breach of trust and loss of confidence. Hence, the NLRC abused its discretion in reversing the labor arbiter’s factual findings.

On the other hand, Respondent Commission ruled that “there was sufficient cause for respondent to terminate complainant after she failed to report back to work without justifiable cause.” The NLRC and private respondent argue that the labor arbiter failed to take into account important pieces of relevant evidence showing that petitioner was guilty of a serious breach of trust. Thus, Respondent Commission invokes the similarly entrenched rule that its findings should be respected because they are grounded on substantial evidence.<sup>[10]</sup>

Since the factual findings of the NLRC are inconsistent with those of the labor arbiter, this Court — as an exception to the rule that only questions of law may be raised in certiorari proceedings — resolved to

conduct a full review of the records before us in order to determine the facts of this case.<sup>[11]</sup>

In *St. Martin Funeral Home vs. National Labor Relations Commission*,<sup>[12]</sup> we held that petitions for certiorari challenging NLRC decisions should be remanded to or filed directly with the Court of Appeals, which has concurrent jurisdiction over such cases. However, since the Memoranda of the parties have already been filed in this Court prior to the finality of *St. Martin*, we shall dispose of this case once and for all, rather than remand it to the appellate court.

Second Issue:

### **Abandonment Must Be Proven**

Petitioner prays that we should reinstate the labor arbiter's Decision, which ruled out abandonment in this wise:

“Anent the defense of alleged abandonment, the labor arbiter also finds the same to be incredible if not highly unthinkable because petitioner is a mother and at the same time the head of the family having been separated from her husband. She is the only breadwinner of the family and her job is her only means of livelihood. Abandonment of position is a matter of intention and cannot be lightly inferred, much less legally presumed from certain equivocal acts. For abandonment to arise, there must be concurrence of the intention to abandon and some overt acts from which it can be inferred that the employee concerned has no more interest to work. On the contrary, she immediately filed her complaint for illegal dismissal with prayer for reinstatement.”<sup>[13]</sup>

Respondent Commission found the foregoing reasoning weak. It held that petitioner abandoned her work to avoid the investigation of the complaints filed against her, viz.:

“Admittedly, there was a falling out between petitioner and private respondent which was triggered by the complaint filed by several company agents against complainant. This, however, did not justify complainant's absence for an indefinite period.

There was no reason for her to abandon her work beginning June 10, 1995. In fact, she was supposed to confront her accusers on that day. The absence of any memorandum or order directing her dismissal, which complainant herself kept harping on to prove illegal dismissal, all the more strengthens the theory that she was expected by the company to report for work on June 10, 1995 and on the following days. With her actuation, the company was left with no choice but to consider her as resigned.”<sup>[14]</sup>

We cannot concur with the NLRC. The unflinching rule in illegal dismissal cases is that the employer bears the burden of proof.<sup>[15]</sup> To establish a case of abandonment, the employer must prove the employee’s deliberate and unjustified refusal to resume employment without any intention of returning. Specifically, the employer has to show the concurrence of the following: (1) the employee’s intention to abandon employment and (2) overt acts from which such intention may be inferred — as when the employee shows no desire to resume work.<sup>[16]</sup> The private respondent failed to establish any of these.

The employer herein argues that the lack of a notice of termination is proof that petitioner abandoned her job. We disagree. Mere absence from work, especially where the employee has been verbally told not to report, cannot by itself constitute abandonment. To repeat, the employer has the burden of proving overt acts on the employee’s part which demonstrate a desire or an intention to abandon her work. It failed to discharge this burden.

Furthermore, the filing of a complaint for illegal dismissal within a reasonable period negates abandonment.<sup>[17]</sup> In the present case, the Complaint was filed about two weeks after petitioner had been dismissed or had been deemed resigned.

Third Issue:

### **Loss of Trust and Breach of Confidence**

Petitioner insists that the complaints against her were “afterthoughts” concocted by the private respondent to gain leverage in the Complaint for illegal dismissal that she had filed. As proof, she cites the city

fiscal's dismissal of the criminal Complaints for estafa brought against her by her employer.

Respondent Commission correctly held that the dismissal of the said Complaints by the city prosecutor did not bar the private respondent from considering them in evaluating petitioner's trustworthiness. Proof beyond reasonable doubt of an employee's misconduct is not required to establish loss of trust and confidence.<sup>[18]</sup> It is enough for the employer to present substantial evidence — such amount of evidence as to induce a belief that the employee is responsible for a misconduct, and participation therein renders that employee unworthy of the trust and confidence demanded by the job.<sup>[19]</sup>

### **Complaints and Notices**

Petitioner questions the NLRC's admission in evidence of the letter-complaint of Roa and the other division heads of the Sales Department of the company.<sup>[20]</sup> She alleges that these complaints were concocted by the private respondent, as she never received any copy of these; and that they were made known to her only after she had filed the Complaint for illegal dismissal.

We disagree. The notices served on her sufficiently apprised her of the existence and the nature of the accusations against her. The company president's letter of June 2, 1995<sup>[21]</sup> informed her that there was a complaint from Amado Roa and the other division heads of the Sales Department for her "alleged deliberate withholding or delaying of the release and payment of the commissions, unless and until given a certain amount in consideration of the expeditious release of the said commissions." Celeridad's letter of June 24, 1995<sup>[22]</sup> reiterated the same gripe. That she did not receive a copy of these Complaints does not show that they were mere fabrications of the private respondent. Procedural due process only requires employers to furnish their errant employees written notices stating the particular acts or omissions constituting the grounds for their dismissal and to hear their side of the story.<sup>[23]</sup> Obviously, the employer complied with these. It was, therefore, incumbent upon petitioner to exercise her right by asking the management for copies of the letters.

She also alleges that the notices were fabricated since the private respondent presented them only during the appeal before the NLRC. Again, we disagree. Under its rules, the NLRC is allowed to receive evidence and to weigh its probative value.<sup>[24]</sup> Furthermore, contrary to petitioner's claims, the private respondent did not have to send these notices via registered mail, because the recipient could have been served such documents in the very office where she was working.<sup>[25]</sup>

### **Accusations Must Be Substantiated**

All in all, we believe the petitioner was sufficiently notified of the charges against her. Nonetheless, such belief does not necessarily ripen into a holding that her dismissal was justified, because the employer failed to substantiate the accusations, which are as follows:

1. The division heads, led by acting Vice President Amado Roa, complained that (a) on several occasions petitioner intentionally delayed the release of commissions, unless the sales agents agreed to give her grease money; and (b) she solicited "contributions" for various "causes" in exchange for the release of said commissions.
2. Elma Mendoza grumbled that, to encash her disbursement voucher, she had to give the petitioner P1,000.
3. Carolyn "Bam" Gonzales, one of the firm's accredited brokers, protested that although the company's book of accounts showed a disbursement of P6,712.32 representing her commissions for closing a sale, she did not receive such amount.
4. Rufino Pahati complained that petitioner made him sign a cash advance voucher for money given to another employee.

After hearing the testimonies of Roa, Mendoza and Pahati, the labor arbiter disbelieved these accusations, because "the alleged serious irregularities surfaced for the first time only after this complaint for illegal dismissal was filed." The labor arbiter rationalized that, if there was any truth to petitioner's involvement in any serious

irregularities, “she should have been informed and furnished a written notice stating the particular acts or omissions constituting the grounds for her dismissal,” but that private respondent failed to show evidence that it had complied with the notice and hearing requirements.

To rectify the oversight, private respondent submitted before the NLRC two notices requiring petitioner to respond to the accusations leveled against her.<sup>[26]</sup> On this basis, Respondent Commission reversed the labor arbiter, holding that there was sufficient basis for private respondent to lose trust and confidence in petitioner. It held:

“Based on evidence submitted, the allegations in the complaint of Mr. Roa and several other employees stood unrebutted and the company had no recourse but to hold her responsible for the accusations leveled against her, or at least, to find her unfit to continue holding such sensitive and fiduciary position as finance manager.

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As finance manager, complainant’s relationship with the company was one of trust and confidence. After complainant refused to answer the charges of anomalies imputed to her by several sales agents despite being afforded the opportunity to be heard and to defend herself, the respondent cannot be faulted for losing its trust and confidence in her as finance manager. Under the circumstances, it would be most unfair to compel the company to continue employing complainant.”<sup>[27]</sup>

We fail to see how the NLRC could have arrived at such a conclusion. Reviewing the evidence on record, we find that the relevant evidence for the private respondent consisted only of the following: (a) Gonzales’ commission voucher (Exh. 3);<sup>[28]</sup> (b) the letter-complaint signed by the division heads of the Sales Department (Exh. 2);<sup>[29]</sup> (c) Pahati’s letter-complaint (Exh. 1);<sup>[30]</sup> (d) the affidavits of Celeridad, Gonzales and Mendoza (Exhs. 4-A, 4-B & 5);<sup>[31]</sup> (e) Lee’s letter-notice dated June 2, 1995 (Annex 6);<sup>[32]</sup> (f) Celeridad’s letter-notice dated June 24, 1995 (Annex 8);<sup>[33]</sup> and (g) several cash disbursement

vouchers including those of Mendoza and Gonzales (Annexes 9-18).<sup>[34]</sup>

While the cash disbursement voucher and Gonzales' affidavit support the claim that her commission was released to another person, they do not show that petitioner was responsible for such irregularity. As finance manager, she approved disbursement of the company's funds, but the actual payment of cash was usually the function of the company cashier. Petitioner insists that she had no participation in the preparation of said documents.<sup>[35]</sup>

The flimsiness of private respondent's evidence is obvious. In its Memorandum on Appeal, it claims that petitioner had "effective control not only over the processing of said application referring to Pahati's cash advance but also the subsequent salary deduction."<sup>[36]</sup> From such premise, private respondent concludes that petitioner was guilty of the accusations of Roa and company, viz.:

"In the light of the actuations of petitioner in the foregoing transaction, the accusations of the sales agents and managers regarding her motives behind the delay in the payment of their commission income become credible. This betrays a tendency on her part to circumvent company procedures and to employ irregular means without qualms for her personal benefit, especially in pecuniary matters. She likewise exhibited a propensity to capitalize on her superior position to exert undue influence over her peers and subordinates for purposes inimical to the interest of the company. Such mental attitude and psychological make-up of petitioner renders her unfit to assume a position as sensitive as that of the finance manager."<sup>[37]</sup>

Labor tribunals should be cautioned against confusing conjecture with evidence. The absence of petitioner, who failed to contest the charges against her in the investigation conducted by private respondent, did not mean admission of the accusations.

Although admissible in evidence, affidavits being self-serving must be received with caution, even if presented only on appeal before the NLRC.<sup>[38]</sup> This is because the adverse party is not afforded any

opportunity to test their veracity.<sup>[39]</sup> While Roa, Mendoza and Pahati testified for the private respondent before the labor arbiter, stenographic notes of the proceedings were not taken. Since their testimonies were not retaken during the appeal before Respondent Commission, the NLRC had no basis to reverse the labor arbiter's assessment of their credibility. Their affidavits, standing alone, cannot be considered as substantial evidence. By themselves, generalized and pro forma affidavits cannot constitute relevant evidence which a reasonable mind may accept as adequate.<sup>[40]</sup>

True, employers cannot be compelled to retain in their service employees who are guilty of acts inimical to the interest of the former. True also, management has the right to dismiss erring employees as a measure of self-protection. In the case of managerial employees, employers are allowed a wider latitude of discretion in terminating their employment because they perform functions which by their nature require the full trust and confidence of the company.<sup>[41]</sup>

However, loss of trust and confidence has never been intended to afford an occasion for abuse.<sup>[42]</sup> It cannot be used arbitrarily, whimsically or capriciously; it must be supported with substantial evidence.<sup>[43]</sup>

Unsubstantiated suspicions, accusations and conclusions of employers do not provide legal justifications for dismissing employees. In case of doubt, such cases should be resolved in favor of labor, pursuant to the social justice policy of our labor laws and the Constitution.<sup>[44]</sup> The act of extorting money from sales agents in exchange for releasing their commissions is a serious accusation, but allegation is not proof. We reiterate that the employer has the burden of proof. As already pointed out, it failed to present sufficient evidence that petitioner was responsible for such abnormality.

An employee who has been illegally dismissed is entitled to reinstatement and full back wages.<sup>[45]</sup> However, as held by the labor arbiter, conflict and antagonism have strained the relations between the parties; hence, reinstatement is no longer viable or advisable. Instead, petitioner should be awarded separation pay in lieu of reinstatement.<sup>[46]</sup>

Moral damages are recoverable only where the dismissal of an employee is attended by bad faith, fraud, or an act oppressive to labor; or if it is done in a manner contrary to morals, good customs or public policy. [47] The adverse result of an action does not per se subject the actor to the payment of moral damages. [48] Neither attorney's fees nor litigation expenses should be awarded, [49] absent a showing of any of the grounds provided under the Civil Code. [50] Where the award of moral damages is eliminated, so must the award for attorney's fees. [51]

**WHEREFORE**, the Petition is hereby **GRANTED**. The assailed Decision and Resolution are hereby **SET ASIDE**. The labor arbiter's Decision is **REINSTATED** with **MODIFICATION**, as follows: (1) private respondent is hereby **ORDERED** to pay petitioner (a) back wages from June 16, 1995 up to the finality of this judgment without any deduction or qualification and (b) separation pay in the sum of P8,000; and (2) the award for moral damages and attorney's fees is **DELETED**. No costs.

**SO ORDERED.**

**Romero, Vitug, Purisima and Gonzaga-Reyes, JJ., concur.**

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[1] Labor Arbiter's Decision, p. 9; rollo, p. 56.

[2] Third Division, composed of Comms. Joaquin A. Tanodra, ponente; Lourdes C. Javier, presiding commissioner; and Ireneo B. Bernardo, member.

[3] NLRC Decision, p. 24; rollo, p. 83.

[4] Resolution, pp. 1-2; rollo, pp. 85-86.

[5] NLRC Decision, pp. 2-7; rollo, pp. 62-67.

[6] This case was deemed submitted for resolution upon the Court's receipt of the Memorandum for the private respondent on October 9, 1998.

[7] Memorandum for Public Respondent, p. 4; rollo, p. 180.

[8] The private respondent posed a similarly worded issue: "Whether or not the Public Respondent NLRC committed grave abuse of discretion when it ruled that petitioner was validly dismissed for cause." See Private Respondent's Memorandum, p. 5; rollo, p. 231.

[9] CDCP Tollways Operation Employees and Workers Union vs. National Labor Relations Commission, 211 SCRA 58, 63, June 3, 1993; Maranaw Hotels & Resort Corporation vs. Court of Appeals, 215 SCRA 501, 504-505, November 6, 1992; Philippine Telegraph & Telephone Corporation vs. National Labor Relations Commission, 183 SCRA 451, 455, March 21, 1990;

- and Mary Johnston Hospital vs. National Labor Relations Commission, 165 SCRA 110, 116, August 30, 1988.
- [10] Palomado vs. National Labor Relations Commission, 257 SCRA 680, 690, June 28, 1996; Reyes & Lim Company, Inc. vs. National Labor Relations Commission, 201 SCRA 772, 776, September 25, 1991; and PNOC-Energy Development Corp. vs. National Labor Relations Commission, 201 SCRA 487, 494, September 11, 1991.
- [11] Manila Mandarin Employees Union vs. National Labor Relations Commission, 264 SCRA 320, 335, November 19, 1996; and Pantranco North Express, Inc. vs. National Labor Relations Commission, 239 SCRA 272, 282, December 16, 1994.
- [12] GR No. 130866, September 16, 1998, p. 16, per Regalado, J.
- [13] Labor Arbiter's Decision, pp. 6-7; rollo, pp. 53-54.
- [14] NLRC Decision, pp. 19-20; rollo, pp. 79-80.
- [15] Gonpu Services Corporation vs. National Labor Relations Commission, 266 SCRA 657; Reformist Union of R.B. Liner, Inc. vs. National Labor Relations Commission, 266 SCRA 713; De la Cruz vs. National Labor Relations Commission, 268 SCRA 458; Reahs Corporation vs. National Labor Relations Commission, 271 SCRA 247; Pascua vs. National Labor Relations Commission & Tionsan Super Bazaar, GR No. 123518, March 13, 1998; Paguio Transport Corp. vs. National Labor Relations Commission, GR No. 119500, August 28, 1998; Vinta Maritime Co., Inc., et al. vs. National Labor Relations Commission et al., GR No. 113911, January 23, 1998; Anino et al. vs. National Labor Relations Commission et al., GR No. 123226, May 21, 1998.
- [16] Sentinel Security Agency Inc. vs. National Labor Relations Commission, GR Nos. 122468 & 122716, September 3, 1998, pp. 10-11; Escobin vs. National Labor Relations Commission, 289 SCRA 49, April 15, 1998; Fernandez vs. National Labor Relations Commission et al., 285 SCRA 149, January 28, 1998.
- [17] Pampanga Sugar Development Company, Inc. vs. National Labor Relations Commission, 272 SCRA 737, 747, May 29, 1997; Fernandez et al. vs. National Labor Relations Commission et al., supra.
- [18] MGG Marine Services, Inc. vs. National Labor Relations Commission, 259 SCRA 664, 677, July 29, 1996.
- [19] Riker vs. Ople, 155 SCRA 85, 92, October 27, 1987; Cruz vs. Medina, 177 SCRA 565, 571, September 15, 1989; Vergara vs. National Labor Relations Commission, GR No. 117196, December 5, 1997, p. 13; ComSavings Bank vs. National Labor Relations Commission, 257 SCRA 307, 316, June 14, 1996; Cocoland Development Corporation vs. National Labor Relations Commission, 259 SCRA 51, 61, July 17, 1996.
- [20] Exh. 2, NLRC Records, p. 80.
- [21] Annex 6, NLRC Records, pp. 82-86.
- [22] Annex 8, *ibid.*, p. 290.
- [23] Secs. 2(d)(ii) & (iii), Rule I, and Sec. 2(1, a & c), Rule XXIII of Book V of the Rules and Regulations Implementing the Labor Code (1998 ed).

- [24] Panlilio vs. National Labor Relations Commission, 281 SCRA 53, 57, October 17, 1997; Philippine Telegraph & Telephone Corporation vs. National Labor Relations Commission, 183 SCRA 451, 457, March 21, 1990; and Bristol Laboratories Employees Association vs. National Labor Relations Commission, 187 SCRA 118, 121, July 2, 1990.
- [25] NLRC, Records, p. 194.
- [26] The first notice, dated June 2, 1995, was from the company president, Johnny P. Lee; and the second, dated June 24, 1995, was from Celeridad.
- [27] NLRC Decision, pp. 22-23; rollo, p. 82. The certified true copy of the NLRC Decision lacks p. 23.
- [28] NLRC Records, p. 78.
- [29] Ibid., p. 80.
- [30] Id., p. 79.
- [31] Id., pp. 82-86.
- [32] Id., p. 288.
- [33] Id., p. 290.
- [34] Id., pp. 291-300.
- [35] NLRC Records, p. 36.
- [36] Id., p. 149. Pahati's application for cash advance is not, however, found in the records.
- [37] Id., p. 150.
- [38] Panlilio vs. NLRC, supra; PT&T vs. NLRC, supra; and Bristol Laboratories Employees Association vs. NLRC, supra.
- [39] Midas Touch Food Corporation vs. National Labor Relations Commission, 259 SCRA 652, 661, July 29, 1996; Molina vs. People, 259 SCRA 138, 159-160, July 24, 1996; Osias vs. Court of Appeals, 256 SCRA 101, 118, April 10, 1996; People vs. Matildo, 230 SCRA 635, 636, March 2, 1994.
- [40] Cf. Madlos vs. National Labor Relations Commission, 254 SCRA 248, 257, March 4, 1996.
- [41] Manila Midtown vs. NUWHRAIN, supra; Cruz vs. Medina, supra.
- [42] Ranises vs. National Labor Relations Commission, 262 SCRA 371, 379, September 24, 1996.
- [43] Madlos vs. NLRC, supra.
- [44] Samillano vs. National Labor Relations Commission, 265 SCRA 788, 797, December 23, 1996.
- [45] Ibid., p. 798; Fernandez vs. National Labor Relations Commission, GR No. 105892, January 28, 1998; and Bustamante vs. National Labor Relations Commission, 265 SCRA 61, 71, November 28, 1996. The Court in Bustamante held that in accordance with RA 6715, illegally dismissed employees are entitled to their full back wages from the time their actual compensation was withheld until the finality of the Decision (supra).
- [46] Belaunzaran vs. National Labor Relations Commission, 265 SCRA 800, 808-809, December 23, 1996; Caliguia vs. National Labor Relations Commission, 264 SCRA 110, 123-124, November 13, 1996; Tumbiga vs. National Labor Relations Commission, 274 SCRA 338, 348, June 19, 1997; and Banana Growers Collective at Puyod Farms vs. National Labor Relations Commission, 276 SCRA 544, 557, July 31, 1997.

- [47] *Ford Philippines, Inc. vs. Court of Appeals*, 267 SCRA 320, 329, February 3, 1997; *Cosico Jr. vs. National Labor Relations Commission*, 272 SCRA 583, 595, May 23, 1997; *Equitable Banking Corporation vs. National Labor Relations Commission*, 273 SCRA 352, 379, June 13, 1997; *Cocoland Development Corp. vs. NLRC*, supra, p. 63; *Tumbiga vs. NLRC*, supra, p. 349.
- [48] *Barreto vs. Arevalo*, 99 Phil 771, 780, August 27, 1956; and *Castillo vs. Castillo*, 95 SCRA 40, 68, January 22, 1980.
- [49] *Tumbiga vs. NLRC*, supra; *Special Police Workmen Association (PLUM) Federation vs. National Labor Relations Commission*, 278 SCRA 828, 835, September 5, 1997; *Ramos vs. Ramos*, 61 SCRA 284, 306, December 3, 1974; *Salao vs. Salao*, 70 SCRA 65, 86, March 16, 1976; and *Rizal Surety & Insurance Co., Inc. vs. Court of Appeals*, 20 SCRA 61, 66-67, May 16, 1967.
- [50] ART. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:
1. When exemplary damages are awarded.
  2. When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his or her interest.
  3. In criminal cases of malicious prosecution against the plaintiff.
  4. In case of a clearly unfounded civil action or proceeding against the plaintiff.
  5. Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim.
  6. In actions for legal support.
  7. In actions for the recovery of wages of household helpers, laborers and skilled workers.
  8. In actions for indemnity under workmen's compensation and employer's liability laws.
  9. In a separate civil action to recover civil liability arising from a crime.
  10. When at least double judicial costs are awarded.
  11. In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.
- In all cases, the attorney's fees and expenses of litigation must be reasonable.
- [51] *Bernardo vs. Court of Appeals (Special Sixth Division)*, 275 SCRA 413, 432, July 14, 1997; *Philippine Air Lines vs. Miano*, 242 SCRA 235, 240, March 8, 1995; and *LBC vs. Court of Appeals*, 236 SCRA 602, September 21, 1994.