SUPREME COURT
THIRD DIVISION

PHILIPPINE AIRLINES, INC.,
***Petitioner*,**

-versus-

G.R. No. 120507
September 26, 1997

NATIONAL LABOR RELATIONS COMMISSION (4TH DIVISION), AND VICENTE O. SATOR, JR.,
***Respondents*.**
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D E C I S I O N

ROMERO, *J.*:

"What's in a name?
That which we call a rose
By any other name
Would smell as sweet"[1]

Shakespeare's lines must have been the farthest thing from the mind of the National Labor Relations Commission when, reversing the Labor Arbiter, it declared that the respondent worker should not have been dismissed for having been found guilty of stealing a purse when the petitioner Philippine Airlines, Inc.; (PAL) had accused him of stealing a billfold.

The issue thus posed is: Does it matter if an employee, on first notice, is informed of an administrative charge for pilfering a billfold but after investigation is notified of his dismissal on the ground of taking a lady's purse instead? The National Labor Relations Commission (NLRC) believes it does. Petitioner Philippine Airlines, Inc., however, disagrees. Hence, PAL files the instant petition for *certiorari* impugning the NLRC's[2] December 8, 1994 Decision[3] and its May 22, 1995 Resolution[4] which found private respondent Vicente O. Sator, Jr.'s termination illegal because the aforementioned basis for dismissing him did not accord with PAL's accusation.

We chronicle the pertinent facts below.

Private respondent commenced working for PAL on April 1, 1991 and he was dismissed by the latter effective November 19, 1993. Prior to his dismissal, he was designated as a Ramp Equipment Operator (REO) whose assigned task was to drive the airstairs at PAL's branch in Mactan International Airport, Lapu-lapu City.

On November 15, 1993, at about 8:40 P.M., private respondent and two other station loaders were ordered to handle the loading of cargoes and pieces of baggage in PAL Flight PR 838 bound for Manila where two security guards, namely, Rogelio Dasoc and Reynaldo Amodia, were posted at the time. As the loading operation took place, Dasoc allegedly noticed private respondent taking something from one of the loaded baggage and wrapping the same in his PAL service polo shirt. His suspicion aroused, Dasoc attempted to conduct an inspection of the person of the private respondent. However, before he had even commenced, the latter hastily boarded the airstair, tossed the shirt he was holding into the right side of the front seat and immediately rushed out therefrom. Dasoc then seized this opportunity to open the right side door to retrieve the shirt but private respondent quickly grappled for possession of the same and attempted to free himself from Dasoc who managed to grab him by the shoulder. But as he dashed towards Mactan Air Base, Dasoc and his companion gave chase and cried out to Sergeants Renato Penafiel and Nathaniel Dungog who were then manning the base for help. Upon order of the two base guards, private respondent finally halted

but not before he allegedly threw something into a nearby canal which, when later retrieved, turned out to be a lady's wallet.

The said incident was promptly reported in the blotter of the Philippine Air Force Security Command (PAFSECOM) and with the Mactan Cebu International Airport Authority (MCIAA) police where the two guards and the base personnel executed their sworn statements regarding the matter. Information about the same was also relayed to PAL through its Assistant Vice President, Jose de la Rosa, who immediately placed private respondent under preventive suspension and directed a thorough investigation of the incident. Meanwhile, PAL sent a Notice[5] dated November 17, 1993, to private respondent charging the latter with serious misconduct on account of the alleged filching of a billfold from a baggage of a passenger. This act of private respondent, according to PAL, violated Section 2, Chapter 2, Article VIII of PAL's Code of Discipline on theft, pilferage and embezzlement of baggage or cargo, among others.

Private respondent duly filed his answer to the charge after which PAL conducted a clarificatory hearing[6] on December 10, 1993, where he was duly represented and assisted by a labor lawyer of his union. Thereafter, on the basis of the findings made during the investigation, PAL declared him guilty of pilferage of a lady's purse for which he was meted out the penalty of dismissal for cause.[7]

Private respondent, on the other hand, belied PAL's version of the incident. He recalled that on November 15, 1993, he was actually assigned to load cargoes and pieces of baggage at the rear compartment of the aircraft but denied having pilfered anything therefrom. According to him, he was then disengaging the airstair from the aircraft when Dasoc allegedly followed him and, for an unknown reason, demanded to search his person. He acceded to the demand but requested that it be done in the presence of his Ramp Superior Officer, Nicolas Sia, and a co-employee, Ramiro San Juan, who were just within the vicinity. As nothing was found on his person during said search, he returned to the airstair to continue his work. However, Dasoc and Amodia ganged up on him again on the pretext of conducting yet another search. Suspecting that the guards merely wanted to plant incriminatory evidence, he resisted the search and struggled to free himself from their grip. He then sprinted towards

the nearby base but security personnel of the Philippine Air Force stopped him and at gun point, conducted another search. They only released him when no incriminatory item was found in his possession. Despite this, private respondent was still investigated by PAL although the wallet which he allegedly pilfered and threw into a canal was not even offered in evidence. In his opinion, PAL's failure to present the stolen item rendered its accusation absolutely baseless.

The Labor Arbiter, however, gave credence to PAL's account of the incident and explained in the main that, as against the negative assertion of the complainant that he did not commit the offense charged, the positive allegations of the witnesses pointing to him as the culprit should be given more evidentiary weight. He, therefore, adjudged private respondent's termination from employment valid and, accordingly, dismissed the complaint.

On appeal, the NLRC reversed and set aside the Labor Arbiter's decision after reconsidering its earlier action to remand the case for further proceedings. It declared that the offense charged — that of stealing a billfold — was not proved by PAL inasmuch as what eventually became the basis for dismissing private respondent was that of taking a lady's purse or wallet, thus:

> "However, in all the pleadings of respondent, it was alleged that what complainant threw into the canal turned out to be a lady's wallet. In fact, the Certification issued by SPO3 Franklin Begaso (pp. 86, Rollo), the Certification of Desk Officer Napoleon Bebanco (p. 87, Rollo;) Affidavit of S/G Basilio Dasoc (p. 88, Rollo), Affidavit of S/G Reynaldo Amodia (p. 89, Rollo); Affidavit of Sgt. Renato Penafiel (p. 90, Rollo) and Affidavit of Nathaniel Bungag, (p. 91, Rollo) all claim that what was allegedly thrown by complainant to the canal was a lady's wallet. The same lady's wallet was mentioned in the Supplemental Affidavit by SS Dasoc (pp. 132-133, Rollo).
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> As We have heretofore stated, complainant was charged of pilferage of a BILLFOLD. (See Notice of Administrative Charge, pp. 92-92, Rollo), but he was dismissed for having pilfered a

> LADY'S PURSE. (See Dismissal for Cause, pp. 98-99, Rollo). Clearly, the offense charged — pilferage of a BILLFOLD — has not been proven. What is more, the alleged stolen item which was purportedly recovered from the canal was never presented. This renders the respondent's position more dubious. Since the cause for complainant's dismissal — pilferage of a Lady's Purse — was not the offense charged complainant's right to be informed of the charges against him before dismissal has been violated and the cause for his dismissal is false.
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> Under such circumstances, We can only conclude that the dismissal of complainant was without just or authorized cause and without due process. Such dismissal is, therefore, illegal."[8] (Emphasis supplied).

We do not subscribe to the NLRC's forced attempt at ratiocination.

It is indeed axiomatic that in all termination cases, strict compliance by the employer with the demands of both procedural and substantive due process is a condition sine qua non for the same to be declared valid.[9] This means that the employer is enjoined to terminate the services of an employee only upon such causes or grounds authorized by law and, even then, only after the employee is served with the required notices and accorded ample opportunity to defend himself. Likewise, the employer bears the burden of proving just and valid cause for dismissing an employee, the object of which is to give flesh and blood to the guarantee of security of tenure granted the employee by the Constitution and the Labor Code.[10] In this regard, we believe that these standards have been satisfactorily met by PAL and, hence, there is really no basis for declaring that the penalty of dismissal it imposed upon private respondent was tainted with infirmity.

From the language of the NLRC's resolution finding the dismissal defective, it is obvious that it was under a misapprehension that there was a difference between the "Notice of Administrative Charge"[11] and the "Dismissal for Cause"[12] with respect to the appropriate denomination of the item allegedly purloined. Actually, in the notice, the terms "billfold" and "lady's purse" were being used interchangeably. In any case, the distinction, in our opinion, is more apparent than real and overlooks the substance of PAL's charge.

While the basic tenets of justice and fair play indisputably require that an employee be properly apprised of the charge against him and that he be dismissed only on the specific ground charged, this rule, however, finds no application in the case at bar where the variance between the accusation and the stated cause of dismissal involves a simple matter of nomenclature that merely skims the essence of the charge or the ground for the dismissal eventually proved.

What the NLRC lost sight of in the course of its review is the fact that private respondent was charged with and finally dismissed on the basis of the act of pilferage alone and nothing else. There was no undue surprise upon him as the evidence adduced by PAL did not depart from, and were all in support of, the charge of which he stands accused. Even a cursory examination of his affidavit, reveals that he was fully aware of the accusation against him as his statements therein were all intended to negate the act of pilferage. We do not have here a case where private respondent was informed of a charge based on a certain set of facts and then was instead investigated and dismissed on another ground. That would unquestionably be a denial of due process and an invalid act on the part of the employer.

What the Court finds apropos is our disquisition in Segismundo vs. National Labor Relations Commission[13] whose factual milieu is similar to the case at bar, viz.:

> "We uphold the finding of the public respondent that petitioners' dismissal was for a just cause. The public respondent's findings on this score are fully supported by the results of the investigation conducted by private respondent regarding the pilferages (sic), and these results were presented before the Labor Arbiter. The conclusion that petitioners were involved in the pilferages (sic) was solidly premised on the tabulated complaints of consignees, the records of pilfered packages delivered by petitioner's team and delivery receipts. No evidence was presented to show that private respondent was motivated by ill feeling or bad faith in dismissing the petitioners. It is thus clear that private respondent's decision to terminate petitioners' services was prompted by the necessity to protect its good name and interests.

> Private respondent's documentary evidence showing the culpability of petitioners should prevail over petitioners' uncorroborated explanations and self-serving denials regarding their involvement in the pilferages (sic). All administrative determinations require only substantial proof and not clear and convincing evidence (Manalo vs. Roldan-Confesor, 215 SCRA 808). Proof beyond reasonable doubt of the employee's misconduct is not required, it being sufficient that there is some basis for the same or that the employer has reasonable ground to believe that the employee is responsible for the misconduct, and his participation therein renders him unworthy of the trust and confidence demanded by his position. (Riker vs. Ople, 155 SCRA 85)." (Emphasis supplied).

That the item allegedly stolen by private respondent was not presented at all during the administrative investigation and that the designation thereof in the two notices sent by PAL may have been different do not in any way render private respondent's dismissal illegal. In Maranaw Hotel and Resort Corporation (Century Park Sheraton Manila) vs. National Labor Relations Commission,[14] we sustained the dismissal of the private respondent therein for stealing money belonging to the hotel's guests despite the fact that no one actually witnessed his act and that the stolen items were not recovered at all. The participation of private respondent in said thievery was only established by mere circumstantial evidence consisting of proof that he was the assigned attendant at the time and in the rooms where the alleged losses took place. In thus deciding, we again emphasized the doctrine that in cases of dismissal for breach of trust and confidence, proof beyond reasonable ground of an employee's misconduct is not required.

Similarly, we have ruled earlier that it is not even essential that there be a conviction of theft or that all the elements of the crime exist before termination of an employee could be carried out.[15] This, as we have explained in Dole Philippines, Inc. vs. National Labor Relations Commission,[16] is anchored on the company's right to dismiss its erring employees if only as a measure of self-protection against acts inimical to its interest.

In view of the foregoing, we see no compelling reason to invalidate private respondent's dismissal simply because of the alleged variance in the designation of the item stolen in the two notices served upon him. The NLRC's precipitate conclusion that, on this account, the charge of stealing a billfold was not proven is a blatant disregard of the evidence disclosed on the record. Presented by PAL were not mere circumstantial evidence but near-identical eye-witness accounts of disinterested individuals who had seen private respondent (1) taking a wallet from a passenger's baggage, (2) trying to hide it in his shirt, (3) eluding the search conducted on him, and (4) throwing a wallet into a canal. All told, these evidence adequately established the required basis for his dismissal and should not have been disregarded by the NLRC on the basis of a differing terminology of the item stolen. The NLRC should have realized that this being an administrative proceeding and not a criminal case, the requisite quantum of evidence is only substantial evidence or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[17] What is material is proof of the fact of asportation or taking by the private respondent of property, specifically, a container of money belonging to a passenger, with no intent of returning the same, thus resulting in the breach of the duty and trust reposed on him by PAL. What the NLRC has done through its disposition of PAL's charge is to acquit private respondent by drawing a distinction without a difference between the terms "billfold" and "purse" which both denote a container of money. In so doing, it has committed a grave abuse of discretion.

At this juncture, we quote with approval the Solicitor General's opinion which differed from the position taken by the NLRC to wit:

> The NLRC argued that since private respondent was charged with pilferage of a billfold, but was dismissed for pilferage of a lady's purse, then, private respondent's right to be informed of the charges against him before dismissal was violated and the cause for his dismissal is false.
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> Apparently, the NLRC has missed the forest for the trees. It has glossed over the substance of the charge against private respondent by resorting to a needless hairsplitting (sic) over the terms used to identify the object stolen by private respondent.

The words “billfold’ and “purse”, and even the word “wallet” (which was used by security guard Dasoc in his affidavit) all mean the same thing — they are containers of money. Webster’s New World Dictionary, 1966 edition, defines these words as follows:

> “billfold” — a folding, pocket sized case, usually of leather, for carrying bank notes and papers; wallet
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> “purse” — a small bag or pouch in which money is carried
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> “wallet” — a pocketbook, usually of leather, for carrying cards, unfolded paper money; billfold
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> Evidently, pilferage of a billfold (the terms used in the notice of administrative charge) is the same, in substance, as pilferage of a purse (the term used in the notice of dismissal). It is immaterial whether the item taken by private respondent is called a billfold, purse, or even a wallet.
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> Thus, contrary to the NLRC’s finding, private respondent was adequately apprised of the particular act for which his dismissal was sought and was appropriately afforded an opportunity to present his side, which meets the requirement of procedural due process in termination proceedings.
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> For the same reason — that there is no material difference between the theft of a billfold and theft of a purse — there is no basis for the NLRC’s conclusion that the cause of private respondent’s dismissal is false. Indeed, the evidence on record clearly show that private respondent was dismissed for a just and valid ground.[18]

WHEREFORE, in view of the foregoing, the Court hereby **GRANTS** the instant Petition. Consequently, the Decision of public respondent National Labor Relations Commission (NLRC) dated December 8, 1994 and its Resolution dated May 22, 1995 are hereby **REVERSED** and **SET ASIDE** for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction, while the

Decision of Labor Arbiter Ernesto F. Carreon dated August 22, 1994 is hereby **REINSTATED.**

SO ORDERED.

Narvasa, *C.J.*, Melo, Francisco and Panganiban, *JJ.*, concur.

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[1] Shakespeare, Romeo and Juliet, II-ii, 43.
[2] Fourth Division (Cebu City).
[3] Rollo, pp. 33-38.
[4] Id., pp. 40-47.
[5] Id., pp. 90-91.
[6] Id., p. 95.
[7] Id., pp. 96-97.
[8] Id., pp. 45-46.
[9] BPI Credit Corporation vs. National Labor Relations Commission, 234 SCRA 441 (1994); Mapalo vs. National Labor Relations Commission. 233 SCRA 266 (1994), Nitto Enterprises vs. National Labor Relations Commission, 248 SCRA 654 (1995); Oania vs. National Labor Relations Commission, 244 SCRA 668 (1995), Labor vs. National Labor Relations Commission, 248 SCRA 183 (1995); Jones vs. National Labor Relations Commission, 250 SCRA 668 (1995); AHS/ Phils. Inc., et al. vs. CA and Alfonso R. Bayani, G.R. No. 111807, June 14, 1996.
[10] Gloria S. dela Cruz vs. National Labor Relations Commission, et. al., G. R. No. 119536, February 17, 1997 citing Reno Foods. Inc. vs. National Labor Relations Commission, 249 SCRA 379 (1995); Magnolia Corporation vs. National Labor Relations Commission, 250 SCRA 332 (1995).
[11] Pertinent portion of said notice states: "When the guard tried to hold you, you ran towards the airbase and was blocked by the airbase guard. You then threw something into the canal which turned out to be a billfold." (Emphasis supplied).
[12] Pertinent portion of said notice states: "Upon a careful review of the evidence, especially the direct and positive testimony of Security Guard Rogelio Dasoc who actually saw you take something (later on established to be a lady's purse)." (Emphasis supplied).
[13] 239 SCRA 167 (1994). Cf. Vallende vs. National Labor Relations Commission, 245 SCRA 662 (1995) citing Dole Philippines, Inc. vs. National Labor Relations Commission, 123 SCRA 673(1983).
[14] 244 SCRA 375(1995).
[15] Mina vs. National Labor Relations Commission, 246 SCRA 229 (1995).
[16] See note 12, supra, citing Manila Trading & Supply Company vs. Zulueta, 69 Phil. 485 and International Hardwood and Veneer Co. of the Phils. vs. Leogardo, 117 SCRA 967.
[17] Section 5, Rule 133 Revised Rules of Court.

[18] Rollo, pp. 206-207.