

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**ANFLO MANAGEMENT &
INVESTMENT CORP. and/or
LINDA F. LAGDAMEO,**
Petitioners,

-versus-

**G.R. No. 141608
October 4, 2002**

RODOLFO D. BOLANIO,
Respondent.

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DECISION

CORONA, J.:

The instant petition assails (1) the decision of the Court of Appeals in CA-G.R. SP No. 50908, dated August 6, 1999, which annulled and set aside the decision of the National Labor Relations Commission (NLRC) and (2) the resolution of the appellate court dated January 14, 2000 denying petitioner's motion for reconsideration.

The generative facts of the case are chronicled as follows:

Respondent Rodolfo Bolanio was employed as company driver by petitioner corporation in 1992 and was assigned to the residence of its senior vice-president Linda F. Lagdameo at

Dasmariñas Village, Makati City. He was mainly tasked to transport Linda's daughter, Regina Floirendo Lagdameo, to and from her work at Sky Cable in Quezon City. On November 3, 1994, respondent got involved in a heated argument with Regina while they were on their way home, stemming from respondent's failure to follow Regina's instructions regarding road directions. Upon arrival at Dasmariñas Village, Regina ordered respondent to buy an ointment from a drug store. When he returned, he was confronted by Linda who accused him of verbally abusing her daughter. Respondent tried to explain that he did not say anything against petitioner's daughter but Linda would not give him a chance and instead shouted the words "you're fired" at him. He was then ordered to return his company and Dasmariñas Village identification cards as well as his uniforms. He was not allowed to report for work anymore. Thus, he filed a complaint for illegal dismissal on November 4, 1994 with a prayer for reinstatement and payment of monetary claims.

In their answer, petitioners denied dismissing respondent from employment. They maintained that respondent abandoned his work when he failed to report for work on November 4, 1994, the day after his altercation with Linda Lagdameo's daughter. In fact, on November 5, 1994, the company's personnel manager even visited respondent at his residence and assured him that he had not been dismissed from work but was merely reassigned to the company's pool of drivers. However, respondent still refused to report back for work. This prompted petitioners to send, on November 10, 1994, a notice of offense upon respondent but the latter simply ignored the same.

On December 28, 1995, labor arbiter Jovencio Mayor, Jr. dismissed the complaint for illegal dismissal on the ground that herein respondent had abandoned his work.

Respondent appealed to the NLRC which, on February 25, 1997, set aside the decision of the labor arbiter. It directed respondent Bolanio to report for work and ordered petitioners to accept him back as company diver. The NLRC held that respondent did not abandon his work nor was he illegally

dismissed by petitioners.

Aggrieved by the decision of the NLRC, respondent filed a petition for certiorari with the Court of Appeals which rendered the assailed decision finding that respondent was illegally dismissed. In so ruling, the appellate court reasoned out that:

“The dismissal of petitioner on November 3, 1994 is too vivid to be understood from the actuations of respondent Linda Lagdameo, who at that time was holding the position of Senior Vice-President and to whom petitioner was particularly assigned as family/residential driver. Having been told ‘you’re fired’ and ordered to return his identification cards and uniforms, there can be no other interpretation thereto except that petitioner is already being discharged from his employment. The fact that thereafter the personnel manager exerted efforts to convince petitioner to return to his work as he was not dismissed but merely re-assigned to the company’s pool of drivers did not cure the vice of petitioner’s earlier arbitrary dismissal inasmuch as the wrong had already been committed and the harm done.”^[1]

Petitioners moved for a reconsideration of the above decision but the same was denied by the Court of Appeals in its resolution dated January 14, 2000.

Petitioners now come to this Court seeking the reversal of the judgment of the Court of Appeals, arguing that:

I.

THE FINDINGS OF FACT OF THE NLRC, BEING SUPPORTED BY SUBSTANTIAL EVIDENCE, SHOULD HAVE BEEN GIVEN DUE WEIGHT AND RESPECT, IF NOT FINALITY.

II.

THE EVIDENCE ON HAND CLEARLY SHOWS THAT

RESPONDENT WAS NOT DISMISSED BY THE COMPANY, AND THAT IT WAS RESPONDENT WHO ABANDONED HIS EMPLOYMENT.

III.

CONSIDERING THAT IT WAS RESPONDENT WHO SEVERED HIS EMPLOYMENT WITH THE COMPANY, THERE IS NO BASIS TO RULE THAT RESPONDENT WAS DENIED DUE PROCESS.

IV.

AN AWARD FOR PAYMENT OF BACKWAGES CANNOT BE PROPERLY MADE IN THE PRESENT CASE, AS RESPONDENT WILFULLY REFUSED TO REPORT BACK TO WORK.^[2]

It is immediately apparent that the foregoing arguments are questions of fact. We have consistently ruled that it is not the function of this Court to assess and evaluate the facts and the evidence all over again, our jurisdiction being generally limited to reviewing errors of law that might have been committed by the lower court. Nevertheless, since the factual findings of the Court of Appeals are at variance with those of the NLRC, we are compelled to review the records presented in both the Court of Appeals and the said agency. (*Deiparine vs. Court of Appeals, 299 SCRA 668 [1998]*).

The aforementioned arguments, being interrelated, shall be jointly discussed.

The crux of the controversy may be narrowed down to two main issues: (1) whether respondent was unlawfully dismissed by petitioners and (2) whether respondent abandoned his work.

We must emphasize that while the findings of fact of the NLRC are generally accorded not only respect but also, at times, even the stamp of finality, the rule is equally settled that this Court will not uphold erroneous conclusions of the NLRC if the Court finds that it committed grave abuse of discretion or if the NLRC's findings of fact

on which its conclusions are based are not supported by substantial evidence. (*Garcia vs. NLRC, 289 SCRA 36 [1998]*). Substantial evidence, which is the quantum of evidence required to establish a fact in cases before administrative or quasi-judicial bodies, is that level of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. (*Iriga Telephone Co., Inc. vs. NLRC, 286 SCRA 600 [1998]*).

In the instant case, while the NLRC found that respondent was not dismissed from work, this Court is of a contrary opinion. It is clear from the records that on November 3, 1994, immediately after a verbal tussle with Regina, respondent was reprimanded and castigated by Regina's mother, Linda Lagdameo. The words "you're fired" were clear, unequivocal, and categorical. Moreover, respondent was ordered to surrender his company identification cards and uniforms. These orders came from no less than the senior vice-president of the company. All these circumstances were sufficient to create the impression in the mind of respondent – and correctly so - that his services were being terminated. The acts of Linda Lagdameo were indicative of her intention to dismiss respondent from employment.

Petitioners' subsequent effort to visit respondent in his residence and to assure him that he was not dismissed from work was futile and did little to rectify the situation. Jurisprudence abounds on the rule that the twin requirements of *notice* and *hearing* must be complied with before a valid dismissal can take place.^[3] Any procedural shortcut that effectively allows an employer to assume the dual roles of accuser and judge at the same time treads on dangerous ground. Needless to state, the failure to comply with the requirements taints the dismissal with illegality.

Compliance with the mandatory requirements was undeniably absent in the case at bar. Petitioners dismissed respondent on November 3, 1994 without giving him any written notice informing him of the cause for his termination. Likewise, no hearing was conducted in order to give respondent the opportunity to be heard and defend himself. He was simply told "you're fired" after a disagreement with Lagdameo's daughter. Clearly, respondent's services were terminated without any regard for an employee's right to procedural and

substantive due process.

Further, where there is no showing of a clear, valid and legal cause for the termination of employment, the law considers the matter to be a case of illegal dismissal. The burden is then on the employer to prove that the termination was for a valid or justified cause.^[4] Petitioners failed to discharge its burden.

On the other hand, we also cannot accept the contention of petitioners that it was respondent who abandoned his job. For abandonment to exist, two elements must concur: (1) the failure to report for work or absence without valid or justifiable reason and (2) a clear intention to sever the employer-employee relationship. Of the two, the second element is the more determinative factor. Mere absence is not sufficient and it is the employer who has the burden of proof to show a deliberate and unjustified refusal on the part of the employee to resume his employment without any intention of returning.^[5] Petitioners' evidence of abandonment of work by respondent fails to persuade us. The alleged intent on the part of respondent to discontinue his employment was belied by his filing of a complaint for illegal dismissal the very next day after he was removed from service by Lagdameo. The filing of said complaint was proof enough of his desire to return to work, thus negating any suggestion of abandonment. It is settled that the filing of a complaint for illegal dismissal is inconsistent with a charge of abandonment, for an employee who takes steps to protest his lay-off cannot by any logic be said to have abandoned his work. (*Hagonoy Rural Bank, Inc. vs. NLRC, 285 SCRA 297 [1998]*).

Having determined that respondent did not abandon his job but was illegally dismissed, we next resolve the question of whether respondent is entitled to reinstatement and backwages.

Under Article 279 of the Labor Code, as amended, an employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

It being clearly established that herein respondent was illegally dismissed, the decision of the Court of Appeals ordering his reinstatement and awarding him backwages is definitely in order.

As a final note, the reason for the passage of labor laws is social justice. The Constitution says that “the State affirms labor as a primary social economic force, and therefore, it shall protect the rights of workers and promote their welfare. (*Article II, Section 18, 1987 Constitution*).

With the foregoing in mind, we affirm the findings of the appellate court.

WHEREFORE, the petition is **DENIED** and the assailed decision of the Court of Appeals is hereby **AFFIRMED** *in toto*.

SO ORDERED.

Puno, J., (Chairman), and Morales, JJ., concur.
Panganiban, J., no part due to close family relations with a party.
Sandoval-Gutierrez, J., on leave.

[1] Rollo, p. 26.

[2] Rollo, p. 9.

[3] *Arboleda vs. National Labor Relations Commission*, 303 SCRA 38 [1999]; *C & A Construction Co., Inc. vs. National Labor Relations Commission*, 318 SCRA 784 [1999]; *Pepsi-Cola Distributors of the Philippines, Inc. vs. NLRC*, 272 SCRA 267 [1997].

[4] *Paguio Transport Corporation vs. NLRC*, 244 SCRA 657 [1998].

[5] *Villar vs. National Labor Relations Commission*, 331 SCRA 686 [2000].