

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**EVELYN CHUA-QUA,
*Petitioner,***

-versus-

**G.R. No. 49549
August 30, 1990**

**HON. JACOBO C. CLAVE, in his
capacity as Presidential Executive
Assistant, and TAY TUNG HIGH
SCHOOL, INC.,**

Respondents.

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DECISION

REGALADO, J.:

This would have been just another illegal dismissal case were it not for the controversial and unique situation that the marriage of herein petitioner, then a classroom teacher, to her student who was fourteen (14) years her junior, was considered by the school authorities as sufficient basis for terminating her services.

Private respondent Tay Tung High School, Inc. is an educational institution in Bacolod City. Petitioner had been employed therein as a teacher since 1963 and, in 1976 when this dispute arose, was the class adviser in the sixth grade where one Bobby Qua was enrolled. Since it

was the policy of the school to extend remedial instructions to its students, Bobby Qua was imparted such instructions in school by petitioner.^[1] In the course thereof, the couple fell in love and on December 24, 1975, they got married in a civil ceremony solemnized in Iloilo City by Hon. Cornelio G. Lazaro, City Judge of Iloilo.^[2] Petitioner was then thirty (30) years of age but Bobby Qua, being sixteen (16) years old, consent and advice to the marriage was given by his mother, Mrs. Concepcion Ong.^[3] Their marriage was ratified in accordance with the rites of their religion in a church wedding solemnized by Fr. Nick Melicor at Bacolod City on January 10, 1976.^[4]

On February 4, 1976, private respondent filed with the subregional office of the Department of Labor at Bacolod City an application for clearance to terminate the employment of petitioner on the following ground: “For abusive and unethical conduct unbecoming of a dignified school teacher and that her continued employment is inimical to the best interest, and would downgrade the high moral values, of the school.”^[5]

Petitioner was placed under suspension without pay on March 12, 1976.^[6] Executive Labor Arbiter Jose Y. Aguirre, Jr. of the National Labor Relations Commission, Bacolod City, to whom the case was certified for resolution, required the parties to submit their position papers and supporting evidence. Affidavits^[7] were submitted by private respondent to bolster its contention that petitioner, “defying all standards of decency, recklessly took advantage of her position as school teacher, lured a Grade VI boy under her advisory section and 15 years her junior into an amorous relation.”^[8] More specifically, private respondent raised issues on the fact that petitioner stayed alone with Bobby Qua in the classroom after school hours when everybody had gone home, with one door allegedly locked and the other slightly open.

On September 17, 1976, Executive Labor Arbiter Jose Y. Aguirre, Jr., without conducting any formal hearing, rendered an “Award” in NLRC Case No. 956 in favor of private respondent granting the clearance to terminate the employment of petitioner. It was held therein that —

“The affidavits although self-serving but were never disputed by the respondent pointed out that before the marriage of respondent to Bobby Qua, fourteen (14) years her junior and during her employment with petitioner, an amorous relationship existed between them. In the absence of evidence to the contrary, the undisputed written testimonies of several witnesses convincingly picture the circumstances under which such amorous relationship was manifested within the premises of the school, inside the classroom, and within the sight of some employees. While no direct evidences have been introduced to show that immoral acts were committed during these times, it is however enough for a sane and credible mind to imagine and conclude what transpired and took place during these times.”^[9]

Petitioner, however, denied having received any copy of the affidavits referred to.^[10]

On October 7, 1976, petitioner appealed to the National Labor Relations Commission claiming denial of due process for not having been furnished copies of the aforesaid affidavits relied on by the labor arbiter. She further contended that there was nothing immoral, nor was it abusive and unethical conduct unbecoming of a dignified school teacher, for a teacher to enter into lawful wedlock with her student.^[11]

On December 27, 1976, the National Labor Relations Commission unanimously reversed the Labor Arbiter’s decision and ordered petitioner’s reinstatement with backwages, with the following specific findings:

“Affiant Maselliones deposed and said that he saw appellant and Qua sitting on the student desk inside a classroom after classes. The depositions of affiants Despi and Chiu are of the same tenor. No statements whatever were sworn by them that they were eyewitnesses to immoral or scandalous acts.

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“Even if we have to strain our sense of moral values to accommodate the conclusion of the Arbiter, we could not

deduce anything immoral or scandalous about a girl and a boy talking inside a room after classes with lights on and with the door open.

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“Petitioner-appellee naively insisted that the clearance application was precipitated by immoral acts which did not lend dignity to the position of appellant. Aside from such gratuitous assertions of immoral acts or conduct by herein appellant, no evidence to support such claims was introduced by petitioner-appellee. We reviewed the sequence of events from the beginning of the relationship between appellant Evelyn Chua and Bobby Qua up to the date of the filing of the present application for clearance in search of evidence that could have proved detrimental to the image and dignity of the school but none has come to our attention.^[12]

The case was elevated by private respondent to the Minister of Labor who, on March 30, 1977, reversed the decision of the National Labor Relations Commission. The petitioner was, however, awarded six (6) months salary as financial assistance.^[13]

On May 20, 1977, petitioner appealed the said decision to the Office of the President of the Philippines.^[14] After the corresponding exchanges, on September 1, 1978 said office, through Presidential Executive Assistant Jacobo C. Clave, rendered its decision reversing the appealed decision. Private respondent was ordered to reinstate petitioner to her former position without loss of seniority rights and other privileges and with full back wages from the time she was not allowed to work until the date of her actual reinstatement.^[15]

Having run the gamut of three prior adjudications of the case with alternating reversals, one would think that this decision of public respondent wrote finis to petitioner’s calvary. However, in a resolution dated December 6, 1978, public respondent, acting on a Motion for Reconsideration^[16] of herein private respondent and despite opposition thereto,^[17] reconsidered and modified the aforesaid decision, this time giving due course to the application of Tay Tung High School, Inc. to terminate the services of petitioner as

classroom teacher but giving her separation pay equivalent to her six (6) months salary.^[18]

In thus reconsidering his earlier decision, public respondent reasoned out in his manifestation/comment filed on August 14, 1979 in this Court in the present case:

“That this Office did not limit itself to the legal issues involved in the case, but went further to view the matter from the standpoint of policy which involves the delicate task of rearing and educating of children whose interest must be held paramount in the school community, and on this basis, this Office deemed it wise to uphold the judgment and action of the school authorities in terminating the services of a teacher whose actuations and behavior, in the belief of the school authorities, had spawned ugly rumors that had cast serious doubts on her integrity, a situation which was considered by them as not healthy for a school campus, behaving that a school teacher should at all times act with utmost circumspection and conduct herself beyond reproach and above suspicion;”^[19]

In this petition for *certiorari*, petitioner relies on the following grounds for the reversal of the aforesaid resolution of public respondent, viz.:

1. The dismissal or termination of petitioner’s employment, despite Tay Tung’s claim to the contrary, was actually based on her marriage with her pupil and is, therefore, illegal.
2. Petitioner’s right to due process under the Constitution was violated when the hearsay affidavits of Laddy Maselliones, Eleuterio Despi, Pina D. Chiu, and Ong Lee Bing, were admitted and considered in evidence without presenting the affiants as witnesses and affording the petitioner the right to confront and cross examine them.
3. No sufficient proofs were adduced to show that petitioner committed serious misconduct or breached the trust reposed on her by her employer or committed any of the other grounds enumerated in Article 283 (Now Article 282) of the

Labor Code which will justify the termination of her employment.^[20]

We first dispose of petitioner's claim that her right to due process was violated. We do not agree. There is no denial of due process where a party was afforded an opportunity to present his side. Also, the procedure by which issues are resolved based on position papers, affidavits and other documentary evidence is recognized as not violative of such right. Moreover, petitioner could have insisted on a hearing to confront and cross-examine the affiants, but she did not do so, obviously because she was convinced that the case involves a question of law. Besides, said affidavits were also cited and discussed by her in the proceedings before the Ministry of Labor.

Now, on the merits. Citing its upright intention to preserve the respect of the community toward the teachers and to strengthen the educational system, private respondent submits that petitioner's actuations as a teacher constitute serious misconduct, if not an immoral act, a breach of trust and confidence reposed upon her and, thus, a valid and just ground to terminate her services. It argues that as a school teacher who exercises substitute parental authority over her pupils inside the school campus, petitioner had moral ascendancy over Bobby Qua and, therefore, she must not abuse such authority and respect extended to her. Furthermore, it charged petitioner with having allegedly violated the Code of Ethics for teachers the pertinent provision of which states that a "school official or teacher should never take advantage of his/her position to court a pupil or student."^[21]

On the other hand, petitioner maintains that there was no ground to terminate her services as there is nothing wrong with a teacher falling in love with her pupil and, subsequently, contracting a lawful marriage with him. She argued that she was dismissed because of her marriage with Bobby Qua. This contention was sustained in the aforesaid decision of the National Labor Relations Commission thus:

"One thing, however, has not escaped our observation: That the application for clearance was filed only after more than one month elapsed from the date of appellant's marriage to Bobby Qua. Certainly, such belated application for clearance weakens

instead of strengthening the cause of petitioner-appellee. The alleged immoral acts transpired before the marriage and if it is these alleged undignified conduct that triggered the intended separation, then why was the present application for clearance not filed at that time when the alleged demoralizing effect was still fresh and abrasive?”^[22]

After a painstaking perusal of the records, we are of the considered view that the determination of the legality of the dismissal hinges on the issue of whether or not there is substantial evidence to prove that the antecedent facts which culminated in the marriage between petitioner and her student constitute immorality and or grave misconduct. To constitute immorality, the circumstances of each particular case must be holistically considered and evaluated in the light of prevailing norms of conduct and the applicable law. Contrary to what petitioner had insisted on from the very start, what is before us is a factual question, the resolution of which is better left to the trier of facts.

Considering that there was no formal hearing conducted, we are constrained to review the factual conclusions arrived at by public respondent, and to nullify his decision through the extraordinary writ of *certiorari* if the same is tainted by absence or excess of jurisdiction or grave abuse of discretion. The findings of fact must be supported by substantial evidence; otherwise, this Court is not bound thereby.^[23]

We rule that public respondent acted with grave abuse of discretion. As vividly and forcefully observed by him in his original decision:

“Indeed, the records relied upon by the Acting Secretary of Labor (actually the records referred to are the affidavits attached as Annexes ‘A’ to ‘D’ of the position paper dated August 10, 1976 filed by appellee at the arbitration proceedings) in arriving at his decision are unbelievable and unworthy of credit, leaving many questions unanswered by a rational mind. For one thing, the affidavits refer to certain times of the day during off-school hours when appellant and her student were found together in one of the classrooms of the school. But the records of the case present a ready answer: appellant was giving

remedial instruction to her student and the school was the most convenient place to serve the purpose. What is glaring in the affidants is the complete absence of specific immoral acts allegedly committed by appellant and her student. For another, and very important at that, the alleged acts complained of invariably happened from September to December, 1975, but the disciplinary action imposed by appellee was sought only in February, 1976, and what is more, the affidavits were executed only in August, 1976 and from all indications, were prepared by appellee or its counsel. The affidavits heavily relied upon by appellee are clearly the product of after-thought. The action pursued by appellee in dismissing appellant over one month after her marriage, allegedly based on immoral acts committed even much earlier, is open to question. The basis of the action sought is seriously doubted; on the contrary, we are more inclined to believe that appellee had certain selfish, ulterior and undisclosed motives known only to itself.”^[24]

As earlier stated, from the outset even the labor arbiter conceded that there was no direct evidence to show that immoral acts were committed. Nonetheless, indulging in a patently unfair conjecture, he concluded that “it is however enough for a sane and credible mind to imagine and conclude what transpired during those times.”^[25] In reversing his decision, the National Labor Relations Commission observed that the assertions of immoral acts or conducts are gratuitous and that there is no direct evidence to support such claim,^[26] a finding which herein public respondent himself shared.

We are, therefore, at a loss as to how public respondent could adopt the volte-face in the questioned resolution, which we hereby reject, despite his prior trenchant observations hereinbefore quoted. What is revealing, however, is that the reversal of his original decision is inexplicably based on unsubstantiated surmises and non sequiturs which he incorporated in his assailed resolution in this wise:

“While admittedly, no one directly saw Evelyn Chua and Bobby Qua doing immoral acts inside the classroom, it seems obvious and this Office is convinced that such a happening indeed transpired within the solitude of the classroom after regular class hours. The marriage between Evelyn Chua and Bobby Qua

is the best proof which confirms the suspicion that the two indulged in amorous relations in that place during those times of the day.”^[27]

With the finding that there is no substantial evidence of the imputed immoral acts, it follows that the alleged violation of the Code of Ethics governing school teachers would have no basis. Private respondent utterly failed to show that petitioner took advantage of her position to court her student. If the two eventually fell in love, despite the disparity in their ages and academic levels, this only lends substance to the truism that the heart has reasons of its own which reason does not know. But, definitely, yielding to this gentle and universal emotion is not to be so casually equated with immorality. The deviation of the circumstances of their marriage from the usual societal pattern cannot be considered as a defiance of contemporary social mores.

It would seem quite obvious that the avowed policy of the school in rearing and educating children is being unnecessarily bannered to justify the dismissal of petitioner. This policy, however, is not at odds with and should not be capitalized on to defeat the security of tenure granted by the Constitution to labor. In termination cases, the burden of proving just and valid cause for dismissing an employee rests on the employer and his failure to do so would result in a finding that the dismissal is unjustified.

The charge against petitioner not having been substantiated, we declare her dismissal as unwarranted and illegal. It being apparent, however, that the relationship between petitioner and private respondent has been inevitably and severely strained, we believe that it would neither be to the interest of the parties nor would any prudent purpose be served by ordering her reinstatement.

WHEREFORE, the Petition for *Certiorari* is **GRANTED** and the Resolution of public respondent, dated December 6, 1978 is **ANNULLED** and **SET ASIDE**. Private respondent Tay Tung High School, Inc. is hereby **ORDERED** to pay petitioner backwages equivalent to three (3) years, without any deduction or qualification, and separation pay in the amount of one (1) month for every year of service.

SO ORDERED.

**Melencio-Herrera, Paras and Padilla, JJ., concur.
Sarmiento, J., is on leave.**

- [1] Rollo, 189.
- [2] Ibid., 84.
- [3] Ibid., 14; Annex A, Petition.
- [4] Ibid., id.; Annex B. id.
- [5] Ibid., id., Annex C, id.
- [6] Ibid., 43, Annex I, id.
- [7] Annexes N-1 to N-4, Petition.
- [8] Rollo, 15; Annex F, Petition.
- [9] Rollo, 60-61.
- [10] Ibid., 74.
- [11] Ibid., 73-75.
- [12] Ibid., 85-87.
- [13] Ibid., 111-114.
- [14] Ibid., 115-122.
- [15] Ibid., 137.
- [16] Ibid., 138-142.
- [17] Ibid., 143-144.
- [18] Ibid., 146.
- [19] Ibid., 180-181.
- [20] Ibid., 22.
- [21] Ibid., 127.
- [22] Ibid., 87.
- [23] Llobrera vs. National Labor Relations Commission, et al., 162 SCRA 788 (1988).
- [24] Rollo. 135-136.
- [25] Ibid., 60-61.
- [26] Ibid., 86.
- [27] Ibid., 148.