

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**ELECTRUCK ASIA, INC.,
*Petitioner,***

-versus-

**G.R. No. 147031
July 27, 2004**

**EMMANUEL M. MERIS, GARY P.
DIEGO, EXEQUIEL OLIVARES, CESAR
CLARIN, RAMIL MARTIN, ARNULFO
ARANGEL, WILLIAM ISIDRO,
CALIXTO INFANTE, JR., GILBERTO
MADRID, GILBERT SORIANO,
EDMUNDO TUANO, RODRIGO
CABLING, JUAN RASONABE,
BERNARDINO ESPIRITO, ALBERTO
MONTENEGRO, ARMANDO FRIAS,
FERNANDO GARCIA, ARMANDO
CALLADO, ALBERTO MONTEAGUDO,
SENIO BALAG, JONATHAN
VILLAGENES, LEOPOLDO AGUILAR,
EDGARDO CRUZ, NECESARIO
CAÑIZARES, JUANITO IDLOC,
EDILBERTO UDASCO, RODRIGO
REGOROSA, GILBERT MARALIT,
JAIME MODESTO, ELORDE
BATLALER, MICHAEL MANUEL,
ROBERTO DEL MONTE, DANILO
RAMOS, JASON PANGILINAN,
DENNIS MANRIQUE, BYRON
LASANIN, ROMEO PANGILINAN,
MARIO OCAMPO, ROBERTO**

**ATENDIDO, TEDDY SORIANO,
EDGARDO TOLENTINO, DIONISIO
MAON, ROMEO GONZALEZ, VICENTE
AMISTAD, ANTONIO MADRID,
RICHARD DABU, BENJAMIN
OLIVEROS, JOEY ANASTACIO,
ALFREDO MAGLAQUE, PEPITO
GRACIO, LEOPOLDO LILOC, RAMIL
CERIOLA, WILFREDO RAYMUNDO,
EDWIN SALLAO and ALFONSO
RAMIREZ,**

Respondents.

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DECISION

CARPIO MORALES, J.:

The July 31, 2000 Decision and January 26, 2001 Resolution of the Court of Appeals in CA-G.R. SP No. 53720, “Emmanuel M. Meris, et al. vs. Electruck Asia, Inc. and National Labor Relations Commission,” are sought to be annulled in the petition for review on certiorari at bar.

Respondent Emmanuel M. Meris and fifty four others including the herein twenty six co-respondents were regular and permanent night shift employees (fabricator, welder, machinist, leadhand, bandsaw operator, storeman, rigger, helper), of petitioner Electruck Asia, Inc., a crane exporter holding office at BASECO Compound, Mariveles, Bataan.

On December 12, 1995, respondents and their twenty seven co-employees received a warning letter^[1] signed by petitioner’s Works Manager Geoffrey Datson (Datson) and General Manager Thomas Pigott reading:

TO: ALL NIGHT SHIFT WORKERS
FROM: THE MANAGEMENT
RE: WARNING

In regard to the amount of work to be completed by the night shift personnel, the quantity expected on the CB Truss on the 11th of December 1995 was far below than what was expected.

This is a formal warning to all night shift workers that if the output does not improve, the employees on the night shift shall be terminated and other personnel will take their place.

Your cooperation on this matter is very much appreciated.
(Underscoring and emphasis supplied)

The fabrication staff of petitioner which includes respondents later received on January 4, 1996 a letter^[2] reading:

TO: ALL FABRICATION STAFF
FROM: MANAGEMENT
RE: ABSENTEEISM, QUALITY AND QUANTITY OF WORK

Over the past three (3) weeks absenteeism has been up by 25 percent with very few prior notifications of absence.

The quality and especially the quantity of work being put out by the two (2) shifts is well below what is expected.

This is the final warning to all fabrication staff that if the above three (3) items do not improve offenders will be terminated and replaced with new staff. *(Underscoring and emphasis supplied)*

Still later or on January 20, 1996, respondents each received a mimeographed letter, signed by Datson, informing them of the termination of their services at the close of office hours of that day for having been found to have violated petitioner's rules and regulations. The letter reads as follows:

RE: NOTICE OF TERMINATION

Please be informed that as per incident that I have personally seen and caught on the midnight of January 20, 1996 at about 12:52 AM you have been found to have violated our company rules and regulations as follows:

Sec. 5 – Sleeping while on duty.

Sec. 8 _ Inefficiency in the performance of assigned work.

Sec. 71 – Unauthorized change of working schedule and undertime.

In this regard, we have previously issued final warning letters dated December 12, 1995 and January 4, 1996 with respect to these matters but you have not given attention.

Based on the foregoing, we are hereby terminating your services at the close of office hours effective January 20, 1996.

Please report to Personnel Office for your clearance and final payment.^[3] (*Underscoring and emphasis supplied*)

Also on January 20, 1996, Datson sent a letter^[4] to Wilfredo Dayrit, Officer-in-Charge of the Department of Labor and Employment, Philippine Economic Zone Authority, Mariveles, Bataan informing of respondents' termination and the grounds therefor.

Respondents and their twenty-eight co-employees thus filed on February 1, 1996 a complaint for illegal dismissal with prayer for reinstatement to their former positions, with full backwages and without loss of seniority rights.^[5]

In their Position Paper,^[6] respondents proffered that “the letter of dismissal did not specify the violation supposedly committed by each of them; that what petitioner did was to accuse all of them of wholesale violation of company regulations;” and that “the mass dismissal was a ‘shotgun’ affair.”

Respondents further proffered that none of them was afforded the opportunity to explain his side, in violation of the due process clause of the Constitution and the right to security of tenure, and that there was absolutely no evidence to show that they were culpable of violating company regulations.^[7]

Petitioner, on the other hand, contended in its Position Paper^[8] that its dismissal of respondents was just, valid and legal on the grounds of serious misconduct in the performance of their duties, fraud and willful breach of trust and confidence; that “the facts clearly show that respondents, taking advantage of the absence of Mr. Datson, left their respective work stations, went back to the warehouse and slept, placing the company’s night operation at a complete standstill;” and that the incident did not require further investigation as “the eyewitness account of Mr. Datson is sufficient as he has no reason to fabricate a cause for respondents’ termination.”^[9]

Replying, respondents drew attention to the conflicting assertions of petitioner, first, that respondents took advantage of Datson’s absence, and later, that Datson saw them sleeping to thus create the impression that Datson was present at the place of work.^[10]

Respondents hastened to add that “there is a very good reason for Mr. Datson to resort to falsehood” since “if he is always on his toes performing his job as Night Manager, none of the complainants could ever sleep.”^[11]

With respect to the case of San Miguel vs. Ubaldo and others cited by petitioner, respondents in their Reply explained why they are either off-tangent or irrelevant.^[12]

By Order^[13] of August 14, 1996, Labor Arbiter Emiliano T. De Asis considered the cases submitted for resolution after he “found no more need for further hearing.”

By Decision^[14] of September 27, 1996 which noted that there was “no need for trial on the merits,” Labor Arbiter De Asis, finding as follows:

Here, complainants' concerted action demonstrates a moral perverse attitude toward their employer. By leaving their work unattended and undone and sleeping on company's time, in effect, complainants are robbing the company of a fair day's labor. This is plain and simple dishonesty, and applying the Wenphil^[15] doctrine which, by his words, "upheld the validity of the dismissal despite the non-observance of due process of law," dismissed respondents' Complaint.

Petitioner was, "however, directed to pay complainants the amount of P1,000.00 each for its failure to observe due process of law prior to the termination of complainants."

Amplifying its finding that the therein complainants-appellants were dismissed on just, valid and legal grounds, the Labor Arbiter held, quoted verbatim:

Sleeping while on duty as a ground for dismissal has been consistently upheld by the Supreme Court. According to the Supreme Court in the Laguna Transportation Co. case, it is an evidence of lack of cooperation, lack of interest in the job.

In the present case, there is evident lack of cooperation on the part of complainants. They were all caught sleeping while on duty. The allegation in complainant's Reply that the Company's Night Manager "was not present at the place of work; that he did not see any complainants sleeping at the back of the warehouse; that he was not the one sleeping on his job" is obviously an after thought. If it were so, then why did complainants omit such a supposedly material fact in their Position Paper. The only logical conclusion that can be drawn from the manner by which complainants countered respondent's claim is that they would want this Office to believe that given their number, the word of 54 complainants will have more weight as against the word of one officer of the Company whom they would like to picture as despicable simply because he is a foreigner.

On the contrary, the spontaneity of Mr. Datson's reaction of immediately terminating complainants' services without further investigation bespeaks of the truth that complainants were indeed caught sleeping while on duty.

Quite clearly, there is valid ground for company to terminate complainants' employment for violating Company Rules and Regulations. For the right of an employee to demand just compensation carries with it the corollary duty to obey reasonable rules and regulations to govern the conduct of the company's business.

This Office is not unmindful of existing rulings of the Supreme Court upholding the validity of a dismissal for sleeping on duty but at the same time awarding separation pay as a matter of compassionate justice. In this case, however, we find the said rulings inapplicable. *(Underscoring supplied)*

The Labor Arbiter's decision was appealed^[16] to the National Labor Relations Commission (NLRC) upon the following issues:

- a) whether or not the wholesale dismissal of the complainants was in accordance with law and prevailing jurisprudence?
- b) whether or not the complainants are entitled to reinstatement, with full back wages and without loss of seniority rights and other benefits?
- c) whether or not the complainants are lawfully entitled to an award for damages by reason for their illegal dismissal?
- d) whether or not the complainants are lawfully entitled to an award for attorneys' fees and litigation expenses?

By Resolution^[17] of May 28, 1997, the NLRC dismissed the appeal for lack of merit.

The Motion for Reconsideration of the NLRC Resolution having been denied by Resolution^[18] of June 21, 1997, herein respondents filed a

petition for certiorari before this Court assailing the Resolutions of the NLRC. The case was docketed as G.R. No. 130390. With the promulgation of *St. Martin Funeral Home vs. NLRC*,^[19] this Court, on June 9, 1999, issued the following Resolution:^[20]

The Court Resolved to REFER to the Court of Appeals the special civil action for certiorari assailing the resolutions of the National Labor Relations Commission dated May 28, 1997 and July 21, 1997, as well as other pleadings filed herein, in accordance with the decision of September 16, 1998 in G.R. No. 130866 entitled *St. Martin Funeral Home vs. NLRC and Bienvenido Aricayos*, which ruled that all references in the amended Section 9 of B.P. No. 129 to supposed appeals from the NLRC to the Supreme Court must be interpreted and hereby declared to mean and refer to petitions for certiorari under Rule 65. Consequently, all such petitions should henceforth be initially filed with the Court of Appeals as the appropriate forum for the relief desired, pursuant to and in strict observance of the doctrine on the hierarchy of courts.

In their petition for certiorari, respondents raised the following issues:

1. whether or not the Labor Arbiter and respondent National Labor Relations Commission are culpable of grave abuse of discretion or have exceeded their jurisdiction in finding that the dismissal of the petitioners from their employment was in accordance with law?
2. whether or not the Labor Arbiter and respondent National Labor Relations Commission have decided petitioners' cases not in accord with law and existing decisions of the Supreme Court?
3. whether or not respondent National Labor Relations Commission has decided a question of substance in its Resolution dated May 28, 1997 which has not yet been determined by the Supreme Court?

By Decision^[21] of July 31, 2000, the Court of Appeals (CA) reversed and set aside the Resolutions of the NLRC and granted respondents' petition, disposing as follows:

WHEREFORE, premises considered, the petition is GRANTED, hereby reversing and setting aside the two (2) resolutions (promulgated on May 28, 1997 and July 31, 1997) of the public respondent (National Labor Relations Commission) in NLRC Case No. RAB-III-02-6770-96, RAB III-03-6902-96. The private respondent is hereby ordered to reinstate the fifty-five (55) workers without loss of seniority rights and privileges and with full backwages, inclusive of allowances and other benefits or their monetary equivalent, to be computed from their dismissal on January 20, 1996 up to actual reinstatement. No pronouncement as to costs. (*Underscoring supplied*)

In reversing the NLRC, the appellate court held that both the NLRC and the Labor Arbiter failed to anchor their conclusions upon substantial evidence.

At the outset, it should be stressed that the petitioners are not required to prove their innocence of the charges leveled against them by their employer. A su converso, the employer must affirmatively show rationally adequate evidence that the dismissal was for a just cause:

X X X

Besides, if doubts exist between the evidence presented by the employer and the employee, the scales of justice must be tilted in favor of the latter. It is a time honored rule that in controversies between a laborer and his master, doubts reasonably arising from the evidence, or in the interpretation of agreements and writing should be resolved in the former's favor. The policy is to extend the doctrine to a greater number of employees who can avail of the benefits under the law, which is in consonance with the avowed policy of the State to give maximum aid and protection to labor.

X X X

Ostensibly, the respondents belabored the misimpression that the onus probandi of refuting the charges rests upon the petitioners. The respondent corporation ipsi dixit admitted that

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“The incident, as witnessed by Mr. Datson, did not require further investigation. x x x No further explanation can exculpate complainants from their culpability. The eyewitness account of Mr. Datson is sufficient as he has no reason to fabricate a cause for complainants’ termination.

Such a vague, all encompassing pretext as loss of confidence, if unqualifiedly given the seal of approval by this Court, could readily reduce to barren form the words of the constitutional guarantee of security of tenure. Like a deck of cards, this stack of imprecise argumentation collapses on account of its egregious incongruity with the law and its sheer reliance on speculative inferences.

In pari passu, the charges against the petitioners cannot be categorized as gross habitual neglect of duties, in order to constitute a just cause for the employee’s dismissal, the neglect of duties must not only be gross but also habitual. There was no showing whatsoever that the alleged absence of diligence of an ordinarily prudent man was committed repeatedly. Besides, Datson’s statement cannot be taken as Gospel truth – lock, stock and barrel – without due regard to the countervailing statements of the employees. Obviously it is utterly preposterous to extend latitudinarian breath to Datson’s word as against the howl of protests from the fifty-five (55 [sic]) rank-and-file employees. A fortiori, the actuations of the respondent corporation becomes vulnerable to suspicion since the summary dismissal constitutes non-compliance with the strictures of due process.

x x x^[22] (*Citations omitted; Underscoring supplied*)

Petitioner's motion for reconsideration of the appellate court's Decision having been denied by Resolution^[23] of January 26, 2001, the present petition was filed, anchored on the following grounds:

- A. THE HONORABLE COURT OF APPEALS IN RENDERING THE QUESTIONED RESOLUTIONS ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION.
- B. THE CONCLUSIONS OF THE HONORABLE LABOR ARBITER AND THE HONORABLE COURT OF APPEALS ARE BASED ON SUBSTANTIAL EVIDENCE.
- C. THERE EXISTS A JUST CAUSE FOR TERMINATING RESPONDENT'S EMPLOYMENT.

Petitioner faults the CA for having "resolved the petition for certiorari in a manner appeals are resolved." It contends that the "factual findings of the Labor Arbiter and the NLRC were definitely the same," hence, "being experts in the field of labor laws, such determinations and findings must be held as binding and conclusive."^[24]

Petitioner likewise contends that the evidence presented "clearly showed that respondents were caught in flagrante sleeping at the back of the warehouse, away from their respective posts causing the operations to come to a complete standstill." It adds that respondents impliedly admitted said fact when they stated in their Reply to petitioner's position paper^[25] that:

If this Mr. Datson, as Night Manager, attended to his job on that night in question, none of the complainants would have the opportunity to sleep. The problem is definitely Mr. Datson – not the complainants.^[26]

Petitioner furthermore contends that it was shown through documentary evidence that respondents were "forewarned numerous times that acts detrimental to the Company shall be dealt with accordingly" and "the fact that Mr. Datson caught the fifty-four (54) employees sleeping en masse is undisputed;"^[27] that the termination of respondents' employment was not a result of a singular act as it was shown that there had been a considerable dip in their

performance even before they were caught sleeping, resulting in petitioner's extreme prejudice,^[28] and that respondents' acts constitute serious misconduct or willful disobedience of lawful orders and gross negligence.^[29]

Finally, petitioner contends that the ruling in the case of *Serrano vs. NLRC*^[30] requiring the employer to pay the dismissed employee's full backwages from the time of his dismissal to the finality of the Court's decision for not observing due process is not applicable as that case involves a termination for an authorized cause while the case at bar involves termination for a just cause.^[31]

At all events, petitioner contends that even assuming that it should be held liable to respondents for monetary awards, to be required to pay backwages in full would be "inequitable, unfair and unjust," given its exertion of efforts to ensure the early resolution of the case, without it deliberately causing any delay in the proceedings.^[32]

After a considered review of the records of the case, this Court finds no reason to disturb the findings of the Court of Appeals.

It is settled that the findings of facts of administrative agencies, such as the NLRC, must be respected so long as they are supported by substantial evidence.^[33] Deviation from this well-established rule must, however, be made when the Labor Arbiter and the NLRC clearly misappreciated the facts, thereby impairing the employees' right to security of tenure.^[34]

In illegal dismissal cases, the onus probandi lies on the employer.^[35] Petitioner has failed in this respect, however.

Contrary to petitioner's allegation and the findings of both the Labor Arbiter and the NLRC, no evidence was presented to prove that respondents were caught sleeping by Datson. Why no sworn statement or affidavit of Datson to substantiate such claim, petitioner proffered no reason. Parenthetically, it is highly unlikely and contrary to human experience that all fifty-five employees including respondents were at the same time sleeping.

If indeed Datson chanced upon respondents sleeping on the job, why he did not at least rouse some or all of them to put them on notice that they were caught in flagrante defies understanding.

As for the statement of respondents – that “if Datson is always on his toes performing his job as Night Manager, none of the complainants could ever sleep,” – cited by petitioner to prove that they were sleeping, such statement appears to have been made only to show the impossibility of them sleeping on their job if Mr. Datson were in the workplace.

With respect to the warning letters sent to respondents weeks before their termination about their “quality” and “quantity” of work, the same can not prove just cause for their dismissal. Said letters contained mere allegations which were not supported by substantial evidence, e.g., production reports, individual performance evaluations and the like.

As for petitioner’s contention that the Serrano^[36] ruling is not applicable, the same is well-taken but not for the reason it proffered. The Serrano doctrine which dispenses with the twin requirement of notice and hearing does not apply to the case at bar because, as already discussed, petitioner had not proved that the termination of respondents was for a just or authorized cause.

Respecting the CA’s order for the reinstatement of respondents without loss of seniority rights and privileges, since petitioner has already filed a petition for insolvency which was granted by the RTC of Bataan,^[37] reinstatement is no longer feasible. In lieu of reinstatement then, payment to respondents of separation pay equivalent to one (1) month pay for every year of service is in order. (*Solidbank Corporation (now Metrobank) vs. Court of Appeals, G.R. No. 151026, August 25, 2003; Atlas Farms, Inc. vs. NLRC, 392 SCRA 128, 138-139 (2002); Hantex Trading Co., Inc. vs. Court of Appeals, 390 SCRA 181, 192-193 (2002); National Bookstore, Inc. vs. Court of Appeals, 378 SCRA 194, 203 (2002).*)

Finally, petitioner’s challenge against its monetary liability as “inequitable, unfair and unjust” must, in light of the facts of the case, be brushed aside. The law so dictates.

ART. 279 SECURITY OF TENURE. – In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. 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 his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. *(As amended by Sec. 34, R.A. 6715).*

Dura lex sed lex.

WHEREFORE, the Decision of the Court of Appeals dated July 31, 2001 is hereby **AFFIRMED** with **MODIFICATION**. As modified, petitioner is ordered to pay respondents separation pay of One (1) Month pay for every year of service, and full backwages inclusive of allowances and other benefits or their monetary equivalent from January 20, 1996 up to the finality of this Decision.

SO ORDERED.

**Panganiban, (Chairman), and Sandoval-Gutierrez, JJ.,
concur. Corona, J., on leave.**

[1] National Labor Relations Commission (NLRC) Records, Vol. I at 52.

[2] Id. at 53.

[3] CA Rollo at 49; NLRC Records at 20.

[4] Rollo at 119.

[5] NLRC Records, Vol. I at 1-3.

[6] Id. at 19-30.

[7] Id. at 25-26.

[8] Id. at 41-51.

[9] Id. at 45-49.

[10] Id. at 68-69.

[11] Id. at 70.

[12] Id. at 71-74.

[13] Id. at 79.

[14] Id. at 87-92.

[15] 170 SCRA 69 (1989).

- [16] NLRC Records, Vol. I at 98-121.
[17] Id. at 167-177
[18] CA Rollo at 48.
[19] 295 SCRA 494 (1998).
[20] CA Rollo at 327.
[21] Id. at 338-348.
[22] Id. at 344-346.
[23] Id. at 386-387.
[24] Rollo at 20.
[25] Id. at 21.
[26] Id. at 67; NLRC Records at 69.
[27] Id. at 22.
[28] Id. at 22-23.
[29] Id. at 24.
[30] 323 SCRA 445 (2000).
[31] Rollo at 26-27.
[32] Id. at 27.
[33] Transglobe International, Inc. vs. Court of Appeals, 302 SCRA 57,68 (1999).
[34] Trendline Employees Association-Southern Philippines Federation of Labor vs. National Labor Relations Commission, 272 SCRA 172, 179 (1997).
[35] Hyatt Taxi Services, Inc. vs. Catinoy, 359 SCRA 686, 695 (2001).
[36] Supra.
[37] Rollo at 783-785.