**SUPREME COURT**
**FIRST DIVISION**

**CORAZON JAMER and CRISTINA AMORTIZADO,**
***Petitioners*,**

***-versus-***

**G.R. No. 112630**
**September 5, 1997**

**NATIONAL LABOR RELATIONS COMMISSION, ISETANN DEPARTMENT STORE and/or JOHN GO,**
***Respondents*.**
**x----------x**

# D E C I S I O N

**HERMOSISIMA, JR., *J.*:**

The Decision[1] of public respondent National Labor Relations Commission (NLRC)[2] in NLRC NCR CA 002074-91,[3] promulgated on November 12, 1993, is herein sought to be annulled for having been rendered with grave abuse of discretion, it having reversed and set aside the Decision[4] of Labor Arbiter Pablo C. Espiritu, Jr. by dismissing the petitioners' complaint for illegal dismissal against private respondent Isetann Department Store (Isetann, for brevity). The decretal part of the NLRC decision reads:

> "WHEREFORE, premises considered, the appealed decision is hereby set aside and new one promulgated declaring that the dismissal from the service of complainants Corazon Jamer and Cristina Amortizado was valid and for cause. Consequently, the order of reinstatement with backwages and attorney's fees are likewise vacated and set aside."[5]

Although the Labor Arbiter[6] and the NLRC reached contrary conclusions, both agree on the following facts:

> "Complainant, Corazon Jamer was employed on February 10, 1976 as a Cashier at 'Joy Mart,' a sister company of Isetann. After two (2) years, she was later on promoted to the position of counter supervisor. She was transferred to Isetann, Carriedo Branch, as a money changer. In 1982 she was transferred to the Cubao Branch of Isetann, as a money changer, till her dismissal on August 31, 1990.
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> Complainant Cristina Amortizado, on the other hand, was employed also at 'Joy Mart' in May, 1977 as a sales clerk. In 1980 she was promoted to the position as counter cashier. Thereafter, she was transferred to 'Young Un Department Store' as an assistant to the money changer. Later on, or in 1985, she was transferred to Isetann, Cubao Branch where she worked as a Store Cashier till her dismissal on August 31, 1990.
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> Both complainants were receiving a salary of P4,182.00 for eight (8) hours work at the time of their dismissal.
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> Respondent Isetann Department Store on the other hand, is a corporation duly organized and existing under the laws of the Philippines and is engaged in retail trade and the department store business. Individual respondent, John Go, is the President/General (Manager) of respondent Department Store.
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> This complaint arose from the dismissal of the complainants by the respondents. They were both dismissed on August 31, 1990 on the alleged ground of dishonesty in their work as Store Cashiers.

Complainant's (sic) function as Store Cashiers is to accumulate, at the end of daily operations, the cash sales receipts of the selling floor cash register clerks. At the close of business hours, all the cash sales of the floor cash register clerks are turned over by them to the Store Cashiers, complainants herein, together with the tally sheets prepared by the cash register clerks. Thereafter, complainants will reconcile the cash sales with the tally sheets to determine shortages or coverages (sic) and deposit the same with the bank depositor (sic) of respondent's company. Thereafter, the recorded transactions are forwarded to the main branch of respondent's company at Carriedo for counter-checking.

On July 16, 1990, complainants discovered a shortage of P15,353.78. It was complainant Corazon Jamer who first discovered the shortage. In fact at first, she thought that it was merely a P1,000.00 shortage but when she reconciled the cash receipts, from the cash register counters, with the tally sheets and the actual money on hand, the shortage amounted to P15,353.78. She informed her co-store cashier, complainant Cristina Amortizado, about the shortage. Cristina Amortizado also reconciled and re-counted the sale previous to July 16, 1990 and she also confirmed that there was a discrepancy or a shortage of P15,353.78. They did not, (sic) immediately report the shortage to management hoping to find the cause of the shortage but to no avail they failed to reconcile the same. Hence, they had no other alternative but to report the same to the management on July 17, 1990.

Complainants, together with another Store Cashier, Lutgarda Inducta, were asked to explain and they submitted their respective written explanations for the shortage of P15,353.78 and the P450.00 under deposit last July 14, 1990.

Respondents placed both complainants and their co-store cashier Lutgarda Inducta under preventive suspension for the alleged shortages. Thereafter, respondents conducted an administrative investigation. Finding the explanation of the complainants to be unsatisfactory, respondent dismissed the complainants from the service on August 31, 1990. Aggrieved

and not satisfied with the decision of management terminating their services, complainants instituted this present action on September 26, 1990 for illegal dismissal praying for reinstatement with payment of backwages and other benefits.[7]

In justifying complainants' dismissal from their employment, respondents alleged:

> 'When the transactions for July 15, 1990 were being reconciled, a shortage of P15,353.78 was discovered. Also uncovered was an underdeposit of P450.00 of cash receipts for July 14, 1990.

Considering that the foregoing deficits were attributable to herein appellees and to another store cashier, Mrs. Lutgarda Inducta, who were the ones on duty those days respondent Isetann's Human Resources Division Manager, Teresita A. Villanueva, issued letters (Exhs. '1' and '5') individually addressed to herein appellees and Mrs. Inducta requiring them to submit written explanations in regard to their above malfeasance within 48 hours from receipt thereof. Pursuant to said letters, they were likewise placed under preventive suspension.

Thereafter, the Committee on Discipline of appellant Isetann conducted a series of investigations probing appellees' and Mrs. Inducta's aforestated shortages. In addition to the shortage of P15,738.58 (sic) and underdeposit of P450.00, said investigation also included the following sums which appellees failed to turnover or account for:

a) P1,000.00 — amount borrowed by Lutgarda Inducta from Corazon Jamer;

b) P70.00 — over replenishment of petty cash expenses incurred by Cristina Amortizado.

After the administrative investigation, the Committee on Discipline rendered its decision (Exhs. '3,' '3-A,' to '3-D') dated August 23, 1990 duly approved by the General Manager of

respondent Isetann, finding the appellees and Mrs. Inducta responsible for said shortages and consequently requiring them to restitute the same to respondent Isetann. This Decision and the notices of termination were sent by respondent Isetann to the appellees, and which the latter admittedly received.'

On the other hand, the complainants account of the factual antecedents that let (sic) to their dismissal is as follows:

> 'Aside from the foregoing persons, Alex Mejia had and was allowed by management to have uncontrolled access to the said room, including the vault. Ostensibly, the purpose was to assist in the bringing in or taking out of coin bags, monies, etc.

There were therefore, at a minimum at least six (6) persons who could have had access to the company funds. To ascribe liability to the store cashiers alone, in the absence of a clear proof of any wrongdoing is not only unfair and discriminatory but is likewise illegal.

Parenthetically, and within the parameters of their assigned tasks, herein complainants could not be faulted in any way for the said shortage as there is no showing that the loss occurred at the time they were in control of the funds concerned.

Complainants do not dispute the fact that there appeared to be a shortage of P15,373.78 (sic) for the July 15, 1990 (a Sunday) sales and which were tallied and the loss discovered on the following day, July 16, 1990. They however vehemently deny any culpability or participation in any kind, directly or indirectly, in regard to the said loss or shortage. Given the kind of trust reposed upon them by respondents for fourteen and thirteen years respectively they were not about, although they could have done so before given the negligence and laxity of management in regard to the control and handling of funds of the store, to break said trust.

At the time the persons who had access either to the vault the money and/or the keys aside from herein complainants, were:

> 1) Lutgarda Inducta, also a store cashier on duty at the time; 2) the SOM Mrs. Samonte, the supervisor in charge; 3) Alex Mejia, an employee assigned as utility man; and 4) Boy Cabatuando.
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> There where(sic) three (3) keys to the money changer's room, and these keys were assigned and distributed to: a) master key is or was with the SOM's (Mrs. Samonte) room at the 3rd floor of the building; b) another key is or was in the possession of the keeper of the keys, i.e. Boy Cabatuando; and c) the third and last key is any of the store cashiers depending on who is on duty at the time.
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> Likewise, there were four (4) persons who were aware and knew of the vault combination. These were the three store cashiers, i.e. herein complainants, Lutgarda Inducta and their SOM, Mrs. Samonte."[8]

On July 23, 1991, Labor Arbiter Nieves V. de Castro, to whom the instant controversy was originally assigned, rendered a Decision[9] in favor of herein petitioners, finding that petitioners had been illegally dismissed, the dispositive portion of which reads:

> "WHEREFORE, respondents are hereby directed to reinstate complainants to service effective August 1, 1991 with full backwages and without loss of seniority rights.
>
> SO ORDERED."[10]

Expectedly, respondents Isetann and John Go appealed the aforesaid decision to the NLRC. On January 31, 1992, the NLRC issued a Resolution[11] remanding this case to the NLRC National Capital Region Arbitration Branch for further proceedings in the following manner:

> "WHEREFORE, premises considered, the challenged decision is hereby SET ASIDE and VACATED.
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> The entire records of this case is hereby remanded to the NLRC National Capital Regional Arbitration Branch for further proceedings.

> Considering that the Labor Arbiter a quo rendered a decision in this case and in order to dispel any suspicion of pre-judgment of this case, the Executive Labor Arbiter is hereby directed to have this case re-raffled to another Labor Arbiter.
>
> SO ORDERED."[12]

Consequently, the present case was then re-raffled to Labor Arbiter Pablo C. Espiritu, Jr. After a full-blown trial, the said Labor Arbiter found for the petitioners and declared that there was no justification, whether in fact or in law, for their dismissal. The decretal part of the Decision[13] dated March 31, 1993, states:

> "WHEREFORE, above premises considered, judgement (sic) is hereby rendered finding the dismissal of complainants, Cristina Amortizado and Corazon Jamer to be illegal and concomitantly, (r)espondents are hereby ordered to pay complainants, Corazon Jamer the amount of P125,460.00 and Cristina Amortizado the amount of P125,460.00, representing full backwages from the time of their dismissal (August 31, 1990) till actual or payroll reinstatement at the option of the respondent (computed until promulgation only). Respondents are also hereby further ordered to reinstate the complainants to their former position as Store Cashiers without loss of seniority rights, privileges and benefits, failure to do so backwages shall continue to run but in no case to exceed three (3) years.
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> Respondents are also ordered to pay complainants the amount of P25,092.00 representing 10% attorney's fees based in the total judgment (sic) award of P250,920.00.
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> SO ORDERED."[14]

Dissatisfied over the decision of the Labor Arbiter which struck private respondents as grossly contrary to the evidence presented, the herein private respondents once again appealed to the NLRC. And, as earlier stated, the NLRC rendered the challenged Decision[15] on November 12, 1993, vacating the decision of the Labor Arbiter and entering a new one dismissing the petitioners' complaint.

Hence, this petition wherein the main issue to be resolved is whether NLRC committed grave abuse of discretion in finding that petitioners were validly dismissed on the ground of loss of trust and confidence.

At the outset, the Court notes petitioners inexcusable failure to move for the reconsideration of respondent NLRC's decision. Thus, the present petition suffers from a procedural defect that warrants its outright dismissal. While in some exceptional cases we allowed the immediate recourse to this Court, we find nothing herein that could warrant an exceptional treatment to this petition which will justify the omission. This premature action of petitioners constitutes a fatal infirmity as ruled in a long line of Decisions,[16] most recently in the case of Building Care Corporation vs. National Labor Relations Commission, et al.:[17]

> "The filing of such a motion is intended to afford public respondent an opportunity to correct any actual or fancied error attributed to it by way of a re-examination of the legal and factual aspects of the case. Petitioner's inaction or negligence under the circumstances is tantamount to a deprivation of the right and opportunity of the respondent Commission to cleanse itself of an error unwittingly committed or to vindicate itself of an act unfairly imputed.
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> And for failure to avail of the correct remedy expressly provided by law, petitioner has permitted the subject Resolution to become final and executory after the lapse of the ten day period within which to file such motion for reconsideration."

Likewise, a motion for reconsideration is an adequate remedy; hence *certiorari* proceedings, as in this case, will not prosper.[18] Rule 65, Section 1 of the Rules of Civil Procedure, as amended, clearly provides that:

> "When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of

> law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer."

The unquestioned rule in this jurisdiction is that *certiorari* will lie only if there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law against the acts of respondent.[19] In the case at bench, the plain and adequate remedy referred to in Rule 65, Section I, is a motion for reconsideration of the challenged decision and the resolution thereof, which was expected to provide an adequate and a more speedy remedy than the present petition for *certiorari.*

Petitioners asseverate that respondent NLRC committed a grave abuse of discretion when it reversed the findings of facts of the Labor Arbiter.

We find said submissions untenable.

In asserting that there was grave abuse of discretion, petitioners advert to alleged variances in the factual findings of the Labor Arbiter and the respondent NLRC. This is inept and erroneous. Firstly, errors of judgment, as distinguished from errors of jurisdiction, are not within the province of a special civil action for *certiorari*.[20] Secondly, a careful reading of the records of this case would readily show that if there is any error by public respondent in its analysis of the facts and its evaluation of the evidence, it is not of such a degree as may be stigmatized as a grave abuse of discretion. Grave abuse of discretion is committed when the judgment is rendered in a capricious, whimsical, arbitrary or despotic manner. An abuse of discretion does not necessarily follow just because there is a reversal by the NLRC of the decision of the Labor Arbiter. Neither does the mere variance in the evidentiary assessment of the NLRC and that of the Labor Arbiter would, as a matter of course, so warrant another full review of the facts. The NLRC's decision, so long as it is not bereft of support from the records, deserves respect from the Court.[21]

We must once more reiterate our much repeated but not well-heeded rule that the special civil action for *certiorari* is a remedy designed for

the correction of errors of jurisdiction and not errors of judgment. The rationale for this rule is simple. When a court exercises its jurisdiction an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. If it did, every error committed by a court would deprive it of its jurisdiction and every erroneous judgment would be a void judgment. This cannot be allowed. The administration of justice would not countenance such a rule. Consequently, an error of judgment that the court may commit in the exercise of its jurisdiction is not correctible through the original special civil action of *certiorari*.[22]

On the merits, we find and so hold that substantial evidence exists to warrant the finding that petitioners were validly dismissed for just cause and after observance of due process.

Under the Labor Code, as amended, the requirements for the lawful dismissal of an employee by his employer are two-fold: the substantive and the procedural. Not only must the dismissal be for a valid or authorized cause as provided by law (Articles 282, 283 and 284, of the Labor Code, as amended), but the rudimentary requirements of due process, basic of which are the opportunity to be heard and to defend himself, must be observed before an employee may be dismissed.[23]

With respect to the first requisite, Article 282 of the Labor Code, as amended, provides:

> "ART. 282. Termination by Employer. — An employer may terminate an employment for any of the following causes:
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> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
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> (b) Gross and habitual neglect by the employee of his duties;
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> (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and

(e) Other causes analogous to the foregoing." (Emphasis supplied.

In the instant case, we find no difficulty in agreeing with the findings of the public respondent that the herein petitioners were guilty of acts of dishonesty by incurring several occurrences of shortages in the amounts of P15,353.78, P1,000.00, P450.00 and P70.00 which they failed to turnover and account for/and in behalf of respondent Isetann. Fittingly, the findings of the NLRC are worth stressing at this point, to wit:

> "With regard to the several occurrences of shortages of the amounts of P15,353.78, P1,000.00 and P70.00, the Labor Arbiter has failed to consider the fact that complainants-appellees were accorded the chance to explain their side as to the shortages and that they have utterly failed to do so providing basis for their valid dismissal. This fact has been established by the respondents-appellants in the findings of the Committee on Discipline on Exhibits '3,' '3-A' to '3-D', as follows:
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> 'a) On the Shortage of P15,353.78:
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> The 3 respondents, Lutgarda Inducta, Cristy Amortizado and Corazon Jamer denied any involvement in the loss of P15,353.78. Although the money is under their responsibility, not one of them gave any explanation about the shortage or loss.
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> b) On the amount of P1,000.00 borrowed by Inducta from Jamer:

On July 18, 1990, Lutgarda Inducta borrowed money from respondents (sic) Jamer amounting to P1,000.00 to cover her shortage.

Ms. Jamer said that Ms. Inducta paid the amount on that day. But Ms. Jamer did not report the shortage.

c) On the Underdeposit of Cash = P450.00:

The computation of Ms. Amortizado's sales collections last July 14, 1990 resulted to an overage of P350.00. Amortizado turned over the amount of P350.00, to cover up a shortage incurred by her and Mrs. Inducta.

Jamer used the money given to her by Amortizado (P350.00), and borrowed (P150.00) from the change fund to cover the total shortage amounting to P500.00 which she had then.

Jamer cannot trace how the shortage came about. Inducta and Jamer shouldered the total shortage amounting to P500.00, P330.00 for Jamer and P200.00 for Inducta. Jamer claims that she returned the P350.00 in the box. However, the claim of respondent was further verified from the payroll section which revealed that a value slip was issued last July 1990. Jamer and Inducta were charged for P200.00 each. A value slip was issued last August 10, 1990 charging P100.00 to Amortizado.

Jamer admitted that she failed to inform the Audit Staff regarding the P350.00 overage which she received from Amortizado. A(s) per report of Ms. Agnes Gonzales dated 26 July 1990, there was a total under deposit of cash amounting to P450.00.

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|---|---|
| Total cash admitted *(cash in drawer)* | P65,428.05 |
| Total cash remitted *(per tally sheet)* | 64,978.05 |
| Overage: | P450.00 |

d) On the P70.00 Over Replenishment of Petty Cash Expenses:

During the 3rd administrative hearing, the Committee informed Mrs. Amortizado regarding the over replenishment of petty cash expenses as revealed by the Finance Manager last August 10, 1990.

Mrs. Amortizado readily admitted and explained that she forgot to inform Mrs. Inducta regarding the P70.00. She admitted her failure to correct the amount from P100.00 to P30.00 (total expenses spent for the taxi fair.

She added the she previously incurred a shortage amounting to P100.00. Then she used the P70.00 to cover for the shortage. The remaining balance of P30.00 was paid by Amortizado.

Amortizado informed the Committee that she is willing to refund the P70.00 shortage." (Emphasis supplied).[24]

From the foregoing premises, it is crystal clear that the failure of petitioners to report the aforequoted shortages and overages to management as soon as they arose resulted in the breach of the fiduciary trust reposed in them by respondent company, thereby causing the latter to lose confidence in them. This warrants their dismissal. Moreover, it must be pointed out that herein petitioners have in fact admitted the underpayment of P450.00 not only in their "Sinumpaang Salaysay" but also during the hearing conducted before Labor Arbiter Pablo C. Espiritu.[25] And, the record shows that the petitioners in fact made a last ditch effort to conceal the same. Were it not for its timely discovery by private respondents' trusted employees, the incident could not have been discovered at all. Furthermore, it is worth stressing at this juncture that the petitioners have also expressly admitted the shortage of P15,353.78 — a substantial amount — in their respective sworn statements, and they were not able to satisfactorily explain such shortage.[26] The Court is convinced that these particular acts or omissions provided Isetann

with enough basis to forfeit its trust and confidence over herein petitioners.

The NLRC, therefore, did not act with grave abuse of discretion in declaring that petitioners were legally dismissed from employment. The failure of petitioners to report to management the aforementioned irregularities constitute "fraud or willful breach of the trust reposed in them by their employer or duly authorized representative" — one of the just cases in terminating employment as provided for by paragraph (c), Article 282 of the Labor Code, as amended.

In other words, petitioners' admissions in their sworn statements, together with the other documentary evidence on record, constituted breach of trust on their part which justifies their dismissal. Private respondents Isetann Department Store and Mr. John Go cannot be compelled to retain employees who are clearly guilty of malfeasance as their continued employment will be prejudicial to the former's best interest.[27] The law, in protecting the rights of the employees, authorizes neither oppression nor self-destruction of the employer.[28]

The cause of social justice is not served by upholding the interest of petitioners in disregard of the right of private respondents. Social justice ceases to be an effective instrument for the "equalization of the social and economic forces" by the State when it is used to shield wrongdoing.[29] While it is true that compassion and human consideration should guide the disposition of case involving termination of employment since it affects one's source or means of livelihood, it should not be overlooked that the benefits accorded to labor do not include compelling an employer to retain the services of an employee who has been shown to be a gross liability to the employer. It should be made clear that when the law tilts the scale of justice in favor of labor, it is but a recognition of the inherent economic inequality between labor and management. The intent is to balance the scale of justice; to put the two parties on relatively equal positions. There may be cases where the circumstances warrant favoring labor over the interests of management but never should the scale be so tilted if the results is an injustice to the employer, *Justicia remini regarda est* (Justice is to be denied to none).[30]

Thus, this Court has held time and again, in a number of Decisions,[31] that:

> "Loss of confidence is a valid ground for dismissing an employee and proof beyond reasonable doubt of the employee's misconduct is not required to dismiss him on this charge. It is sufficient if there is 'some basis' for such loss of confidence or if the employer has reasonable ground to believe or to entertain the moral conviction that the employee concerned is responsible for the misconduct and that the nature of his participation therein rendered him absolutely unworthy of the trust and confidence demanded by his position."[32]

Parenthetically, the fact that petitioners Jamer and Amortizado had worked for respondent company for fourteen (14) and thirteen (13) years, respectively, should be taken against them. The infractions that they committed, notwithstanding their long years of service with the company, reflects a regrettable lack of loyalty — loyalty that they should have strengthened instead of betrayed. If the petitioners' length of service is to be regarded as a justifying circumstance in moderating the dismissal, it will actually become a prize for disloyalty, perverting the meaning of social justice and undermining the efforts of labor to cleanse its ranks of all undesirables.[33]

Petitioners also maintain that the NLRC acted with grave abuse of discretion when it failed to consider the fact that, other than petitioners themselves, there were four (4) other persons who had access to the company vaults, and hence, could have been responsible for the aforesaid cash shortages imputed to them. They aver therefore, that there was a serious flaw and laxity in the supervision and handling of company funds by respondent Isetann.[34]

We also find this contention devoid of merit.

First, it must be pointed out that the petitioners' remark that there was laxity in the accounting procedures of the company is a matter addressed to the respondent employer. However, this does not excuse dishonesty of employees and should not in any case hamper the right of the employer to terminate the employment of petitioners on the ground of loss of confidence or breach of trust. Precisely, the

accounting procedure which called for improvements was based primarily on trust and confidence.[35]

Secondly, it must be noted that the herein petitioners were store cashiers and as such, a special and unique employment relationship exists between them and the respondent company. More than most key positions, that of cashier calls for the utmost trust and confidence because their primary function involves basically the handling of a highly essential property of the respondent employer — the sales and revenues of the store. Employers are consequently given wider latitude of discretion in terminating the employment of managerial employees or other personnel occupying positions of responsibility, such as in the instant case, than in the case of ordinary rank-and-file employees, whose termination on the basis of these same grounds required proof of involvement in the malfeasance in question. Mere uncorroborated assertions and accusations by the employer will not suffice.[36] In that respect, we quote with approval the observations of the NLRC:

> "To expound further, for the position of a cashier, the honesty and integrity of the persons assuming said position are the primary considerations for the nature of her work required that her actuation's should be beyond suspicion as they are accorded the responsibility of handling money and whatever they would do to such property of the employer largely depend on their trustworthiness. Hence, the right of the employer to dismiss a cashier guilty of breach of trust and confidence should be recognized. In a case decided by the Supreme Court it has been ruled that:
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> > 'Honesty and integrity are the primary considerations in petitioner's position. The nature of his work requires that the actuations should be beyond suspicion. Our empathy with the cause of labor should not blind us to the rights of management. As we have held, this Court should help stamp out, rather than tolerate, the commission of irregular acts whenever these are noted. Malpractices should not be allowed to continue but should be rebuked. (Del Carmen vs. NLRC, 203 SCRA 245)'"[37]

Finally, we are convinced that the NLRC did not commit grave abuse of discretion in evaluating the evidence. Petitioners merely denied the charges against them. Denials are weak forms of defenses, particularly when they are not substantiated by clear and convincing evidence.[38] The petitioners' failure to satisfactorily explain the cash shortages, for which sums they are responsible, given their respective positions in respondent company, is enough reason to warrant their dismissal on the ground of loss of confidence. They cannot place the burden on somebody else given the factual circumstances of this case. As succinctly put by the NLRC:

> "That there were other persons who had access to the vaults of the appellant company implying that these other persons could have been responsible for the loss of the P15,353.78 is of no moment inasmuch as the appellees were the ones who took first custody of the possession of said collections. As store cashiers, it is expected of them to exercise ordinary prudence to count the collection and record the same in the tally sheet before depositing to said vault to avoid a slightest suspicion of having pocketed part of it should a shortage arise. They did not exert efforts to exercise such prudence demanded of their positions hence, appellants should not be blamed when they were called for an investigation when said shortage was discovered.
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> That the occurrence of shortages is merely an isolated one and therefore should not be taken against the complainant-appellees as a ground for loss of trust and confidence that would cause their termination cannot be given any credence. The shortages having been established and admitted has provided the employer sufficient basis for loss of confidence and whether such occurrence is merely an isolated one or has been repeatedly committed is no longer material. The bone of contention here is whether there is 'some basis' for such loss of trust and confidence and if the employer has reasonable ground to believe or to entertain the moral conviction that the employee concerned is responsible for the misconduct which in the instant case has been established."[39]

We reiterate the rule that in cases of dismissal for breach of trust and confidence, proof beyond doubt of the employees' misconduct is not required. It is sufficient that the employer had reasonable ground to believe that the employees are responsible for the misconduct which renders him unworthy of the trust and confidence demanded by their position.[40] In the case at hand, it cannot be doubted that respondents succeeded in discharging its burden of proof.

As regards the second requisite, the law requires that the employer must furnish the worker sought to be dismissed with two (2) written notices before termination may be validly effected: first, a notice apprising the employee of the particular acts or omission for which his dismissal is sought and, second, a subsequent notice informing the employee of the decision to dismiss him.[41]

In accordance with this requirement, petitioners were given the required notices, on August 2, 1990 and then on August 23, 1990. The Court finds that petitioners were accorded due process before they were dismissed on August 31, 1990. It is a well-established rule that the essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.[42] It is evident from the records, that herein petitioners were given all the opportunities to defend themselves and air their side before the Committee on Discipline, having been notified by respondent Isetann's Human Resources Division Manager, Teresita A. Villanueva, on August 2, 1990 through letters individually sent to them. However, when the petitioners were confronted with reports of the anomalies, they offered no explanation or theory which could account for money lost in their possession. Hence, the company had no other alternative but to terminate their employment. As we elucidated in the case of Philippine Savings Bank vs. National Labor Relations Commission,[43] to wit:

> "the requirement of due process is satisfied when a fair and reasonable opportunity to explain his side of the controversy is afforded the party. A formal or trial-type hearing is not at all times and in all circumstances essential, especially when the employee chooses not to speak."

**WHEREFORE**, the assailed decision of the National Labor Relations Commission in NLRC NCR CA 002074-91 is hereby **AFFIRMED**. The petition is **DISMISSED** for lack of merit.

**SO ORDERED.**

**Bellosillo, Vitug and Kapunan, *JJ.*, concur.**

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[1] Annex "A" of the Petition; Rollo, pp. 36-57.
[2] Second Division.
[3] Penned by Commissioner Domingo H. Zapanta with Commissioner Rogelio I. Rayala concurring and Presiding Commissioner Enda Bonto-Perez dissenting.
[4] Docketed as NLRC-NCR 00-09-05-209-90; Rollo, pp. 79-89.
[5] Annex "A" of the Petition; Rollo, p. 54.
[6] Labor Arbiter Pablo C. Espiritu, Jr.
[7] Annex "D" of the Petition; Rollo, pp. 79-81.
[8] Annex "A" of the Petition; Rollo, pp. 38-40.
[9] Annex "B" of the Petition, Rollo, pp. 59-69.
[10] Id., Rollo, p. 69.
[11] Annex "C" of the Petition; Rollo, pp. 70-76.
[12] Id., Rollo, pp. 75-76.
[13] Annex "D" of the Petition; Rollo, pp. 78-79.
[14] Id.; Rollo, p. 89.
[15] Annex "A" of the Petition; Rollo, pp. 36-57.
[16] Pure Foods Corporation vs. NLRC, 171 SCRA 415 [1989]; Labudahon vs. NLRC, 251 SCRA 129 [1995]; Gonpu Services Corporation vs. NLRC, G.R. No. 111897, January 27, 1997; Orient Express Placement Philippines vs. NLRC, G.R. No. 124766, January 30, 1997; Luna vs. NLRC, G.R. No. 116404, March 20, 1997.
[17] G.R. No. 94237, February 26, 1997, citing Interorient Maritime Enterprises, Inc. vs. NLRC, G.R. No. 115497, September 16, 1996.
[18] Gonpu Services Corporation vs. NLRC, supra, citing P.A. Aviles Placement Services/Surety and Insurance Company vs. NLRC and Sinsuan, G.R. No. 120990, October 9, 1996; Antonio vs. NLRC, G.R. No. 101755, January 27, 1992.
[19] See Rule 65, Section 1 of the Rules of Court; Pure Foods Corporation vs. NLRC, supra; Gonpu Services Corporation vs. NLRC, supra; Building Care Corporation vs. NLRC, supra.
[20] Pure Foods Corporation vs. NLRC, supra; Zarate, Jr. vs. Olegario, G.R. No. 90655, October 7, 1996; Building Care Corporation vs. NLRC, supra.
[21] Philippine Advertising Counselors vs. NLRC, G.R. No. 120008, October 18, 1996.
[22] Pure Foods Corporation vs. NLRC, supra.

[23] Labor vs. NLRC, 284 SCRA 183 [1995], citing Salaw vs. NLRC, 202 SCRA 7 [1991]; Ala Mode Garments, Inc., vs. NLRC, G.R. No. 122165, February 17, 1997, citing Oania vs. NLRC, 244 SCRA 688 [1995]).
[24] Annex "A" of the Petition, Rollo, pp. 45-47.
[25] Annex "A" of the Petition, Rollo, pp. 45-46.
[26] Id., Rollo, pp. 47-48.
[27] Flores vs. NLRC, 219 SCRA 350 [1993].
[28] Del Carmen vs. NLRC, 203 SCRA 245 [1991].
[29] Pampanga II Electric Cooperative, Inc. vs. NLRC, 250 SCRA 31 [1995].
[30] Worldwide Papermills, Inc. vs. NLRC, 244 SCRA 125 [1995].
[31] Valladolid vs. Inciong, 121 SCRA [1983]; Del Carmen vs. NLRC, supra; Vallende vs. NLRC, 245 SCRA 662 [1995].
[32] Ibid.
[33] Flores vs. NLRC, supra.
[34] Petition dated November 26, 1993, pp. 11-14; Rollo, pp. 12-15.
[35] San Miguel Corporation vs. NLRC, 128 SCRA 180 [1984].
[36] Metro Drug Corporation vs. NLRC, 143 SCRA 132 [1986]; Manila Midtown Commercial Corporation vs. NUWHRAIN [Ramada Chapter], 159 SCRA 212 [1988].
[37] Annex "A" of the Petition; Rollo, p. 53.
[38] Quiñones vs. NLRC, 246 SCRA 294 [1995].
[39] Annex "A" of the Petition; Rollo, pp. 50-51.
[40] Maranaw Hotel & Resort Corporation (Century Park Sheraton Manila) vs. NLRC, 244 SCRA 375 [1995]; Falguera vs. Linsangan, 251 SCRA 364 [1995].
[41] Pampanga II Electric Cooperative, Inc. vs. NLRC, supra; San Antonio vs. NLRC, 250 SCRA 359 [1995]; Jones vs. NLRC, 250 SCRA 668 [1996]; Labudahon vs. NLRC, supra; Philippine Savings Bank vs. NLRC, G.R. No. 111173, September 4, 1996. See Secs. 2-6, Rule XIV, Book V, Rules and Regulations Implementing the Labor Code, as amended.
[42] Stayfast Philippine Corporation vs. NLRC, 218 SCRA 596 [1995].
[43] Docketed as G.R. No. 111173, September 4, 1996.