

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**LA CARLOTA PLANTERS  
ASSOCIATION INC./RUDOLFO  
AZCONA,**  
*Petitioners,*

*-versus-*

**G.R. No. 126689  
October 27, 1998**

**NATIONAL LABOR RELATIONS  
COMMISSION (FOURTH DIVISION)  
and FELIX COMPACION,**  
*Respondents.*

X-----X

**DECISION**

**VITUG, J.:**

The Petition for *Certiorari* (under Rule 65 of the Rules of Court) before the Court seeks to set aside and nullify the decision of the National Labor Relations Commission (“NLRC”), promulgated on 25 September 1995, the dispositive portion of which reads:

“WHEREFORE, We give due course to the Appeal of complainant.

“The Decision of the Labor Arbiter is hereby vacated and set aside, and a new one is issued directing the respondent to pay complainant backwages and separation pay in lieu of reinstatement, computed at one (1) month per year of service. The computation of the total awards to complainant are as follows:

“I. Separation pay (1988 - Dec. 15/92)			
P89.00 x 365/12 x 5 years			P13,535.42
“II. Backwages (Dec. 15/92 - Sept. 15/92)			
a) Basic (Dec. 15/92 - Dec. 2/93)			
P89.00 x 365/12 x 11 mo.	= P29,777.92		
89.00x17days	= 1,513.00	31,290.92	
Dec. 3/93 - Sept. 15/95			
P97.90 x 365/12 x 21 mos.	= P62,533.62		
97.90 x 12 days	= 1,174.80	63,708.42	
b) COLA/ERA			
Dec. 15/92 - Dec. 2/93			
P8.90 x 365/12 x 11 mos.	= P2,977.79		
8.90 x 17 days	= 151.30	3,129.09	
Dec. 3/93 - Sept. 15/95			
P11.50 X 365/12 x 21 mos.	= 7,345.63		
11.50 x 12 days	= 138.00	7,483.63	
Dec. 29/90 - Jan. 31/91			
P10.00 x 32 days		320.00	
c) SILP			
P97.90 x 5 days x 5 years		2,447.50	<u>108,379.56</u>
Sub Total			P121,914.98
			=====

“SUMMARY:

SEPARATION PAY	P13,535.42
BACKWAGES	<u>108,379.56</u>
TOTAL AWARD	P121,914.98
	=====

SO ORDERED.”<sup>[1]</sup>

In its decision, the NLRC adopted the factual antecedents narrated by the Labor Arbiter; viz.:

“Complainant, in his position paper, allege that he was a regular employee of the respondent since 1988, hired as truck driver, which truck has a capacity of only 18 tons; that on December 14, 1992, at about 9:00 P.M., at the instance of the respondent, he drove the truck overloaded (23 tons) of sugarcane bound for La Carlota Sugar Central; that while driving through Sitio Bacus, Ma-ao, Bago City, the road was very slippery causing the truck to be outbalance (sic) resulting to the truck turning right side down, causing minor damage on the U Clamp costing around P200.00; that he was not drunk when he drove the truck on December 14, 1992; that the Security Guards of Central La Carlota issued a clearance (Annex ‘B’) to the effect that he is cleared from whatever issues against him; that Rene Baylon reported the incident only on March 1993 when the incident happened on December 14, 1992 as shown by the Police Blotter (Annex ‘C’); that he was not issued any notice of termination thus making his termination arbitrary and without due process; that because of his illegal dismissal, he sought the help of a legal counsel who helped him in filing this case for which he claims for payment of attorney’s fees.

“Complainant further averred that the incident was never reported to the police authorities.

“On the other hand, respondents allege that complainant Felix Compacion is a truck driver of Nature’s Beauty Trucking Services owned by respondent Rodolfo Azcona; as such, he was assigned to Ma-ao Transloading Station, a loading station of sugarcanes bound for Central La Carlota located at Brgy. Ma-ao, Bago City, Negros Occidental; that on December 14, 1992, complainant who was very drunk and with a knife entered the Ma-ao Transloading Station and harassed the office personnel to the extent of stabbing the person of Gerry Flores who fortunately was able to escape the said assault (Annex ‘5’ — Police Blotter) and Annex ‘6’ — Affidavit of Rene Baylon); that despite the repeated warning made by the Shifting In-charge Rene Baylon not to drive the truck, complainant drove the ten

wheeler truck loaded with 18 tons of sugarcane bound for La Carlota Central in a reckless manner (Annex '7' – Truck Trip Memo, dated December 14, 1992; Annex '8' - Police Blotter, dated December 14, 1992) causing the truck to turn right side down resulting in a damage to property amounting to P36,607.00 plus the P400.00 paid by the owner Azcona to Mr. Eulalio Pagunsan, owner of the bananas and pig pen hit and destroyed by the truck (Annexes '9' – Summary of Expenses for Truck No. 2; '9-A' to '9-M' – Receipts of Expenses; Annex '10' – Receipt dated December 19, 1992); that the said Mr. Eulalio Pagunsan observed that the driver Felix Compacion, at the time of the accident, was very drunk; that because of this accident which happened because of complainant's reckless driving, the truck underwent major repair causing its failure to realize an average daily income of P1,800.00 for 24 days or a total of P43,000.00; that after the accident, driver Felix Compacion was nowhere to be found, never reporting the accident to the police authorities or to the owner Mr. Azcona; that despite repeated calls, he refused to meet respondent Azcona nor he reported to the office of herein respondent thus prompting the latter to write him a letter dated January 4, 1993 (Annex '11' – letter dated January 4, 1993) copy furnished the Department of Labor and Employment, suspending him for 30 days; further requiring him to report to the office and explain why he should not be terminated.

“Respondent further averred that during his employment, complainant was paid wages and other benefits in accordance with law (Annex '1' to '1-V' – Payroll; Annexes '2' to '2-AA' – Weekly Driver's Incentives; Annexes '3' to '3-S' – Half month rice ration); that at the time of the accident, there was no rain and the road was not slippery; that at the time he stopped reporting, he has an outstanding account with respondent in the amount of P3,650.00; that prior to this accident on December 14, 1992, specifically on November 27, 1992, Felix Compacion was caught stealing diesel fuel from the drums owned by La Carlota Planters Association (Annex '4' – Millsite Transloading Report dated November 28, 1992) for which he was admonished and warned not to repeat the same.”<sup>[2]</sup>

Claiming that his services had been unlawfully and unceremoniously dispensed with, herein private respondent Felix Compacion filed with the Arbitration Branch of the NLRC, Bacolod City, a complaint for illegal dismissal, underpayment of wages, non-payment of 13<sup>th</sup> month pay, separation pay, Social Amelioration Bonus with claims for moral damages, exemplary damages and attorney's fees against petitioners. The parties filed their respective position papers and other pleadings. On 23 August 1994, Executive Labor Arbiter Oscar Uy rendered his decision dismissing the complaint for lack of merit. Private respondent went to the NLRC. In its decision, dated 25 September 1995, public respondent gave due course to the appeal and reversed the decision of the Labor Arbiter. Petitioners filed a motion for reconsideration of the decision which the NLRC, in its other assailed Resolution of 15 August 1996, denied.

The instant petition for *certiorari* posed the following issues:

1. Whether or not there was valid, legal and just cause for the dismissal of private respondent by petitioners; and
2. Whether or not petitioners observed due process in dismissing private respondent.

Petitioners contend that sufficient factual and legal bases exist to justify the dismissal of private respondent for misconduct. It cites various infractions allegedly committed in the past by private respondent; to wit:

- “a. Private respondent was caught twice stealing diesel fuel from the drum of the petitioner's association;
- “b. He entered the transloading office on December 14, 1992 drunk, armed with bayonet knife, and harassed the personnel therein, ever unsuccessfully stabbing one Gerry Flores for two (2) times; and
- “c. Private respondent failed to report for work since December 14, 1992 which is an obvious sign of guilt.”<sup>[3]</sup>

The reliance by petitioners on the past offenses of private respondent supposedly dictating his eventual dismissal is unavailing. The correct rule has always been that such previous offenses may be so used as valid justification for dismissal from work only if the infractions are related to the subsequent offense upon which basis the termination of employment is decreed.<sup>[4]</sup> The previous infraction, in other words, may be used if it has a bearing to the proximate offense warranting dismissal.<sup>[5]</sup>

The complainant may have been at fault when he figured in a vehicular accident causing damage to the company truck; that fault, nevertheless, cannot be considered a just cause for dismissal. Indeed, it has once been held that the penalty of dismissal would be grossly disproportionate to the offense of driving through reckless imprudence resulting in damage to property.<sup>[6]</sup> The claim of drunkenness on the part of private respondent has not been substantiated; the allegation is based solely on the uncorroborated statement made by one Rene Baylon in his affidavit executed on 24 April 1993, months after the accident had occurred in December of 1992.<sup>[7]</sup>

Relative to the second issue, the NLRC has found private respondent to have been deprived of his right to due process, a finding of fact that the Court is bound to respect.<sup>[8]</sup> The Solicitor General correctly points out that —

“The law requires the employer to afford his employee ample opportunity to be heard. Thus, if after the said thirty-day period private respondent still did not give his explanation about the incident, this does not give petitioners an outright license to terminate private respondent. They should have again sent a notice of dismissal to private respondent stating the particular acts or omission constituting the grounds for dismissal, pursuant to Section 2, above, and adding therein, perhaps, an inquiry why he did not give the explanation required in the January 4, 1993 letter; and private respondent should again be allowed to answer and be heard, pursuant to Section 5 above; and thereafter, another notice about the decision of dismissal, should also be sent to private respondent, pursuant to Section 6 above.

“The above-mentioned procedures of dismissal were not complied with by petitioners in the instant case.

“The phrase ‘ample opportunity’ mentioned in the above-cited provision is meant every kind of assistance that management must accord to the employee to enable him to prepare adequately for his defense (Batangas Laguna Tayabas Bus Company vs. NLRC, 209 SCRA 430 [1992]).

“Before an employer may dismiss an employee, he must be afforded due process which means, among others, the opportunity to confront the witness against him and to adduce evidence in his defense (Manila Electric Company vs. NLRC, 183 SCRA 51 [1990]).

“Private respondent in the instant case was unable to confront the witnesses of petitioners against him.<sup>[9]</sup>

In *Balayan Colleges vs. NLRC*,<sup>[10]</sup> the Court has observed that ample opportunity in due process means that “kind of assistance that management must accord the employee to enable him to prepare adequately for his defense including legal representation. Here, private respondent has been summarily dismissed, following his suspension, without being accorded an opportunity to confront the “witness” (Rene Baylon) against him and to thereafter adduce evidence in his defense.

**WHEREFORE**, the Court is constrained to dismiss, as it hereby so **DISMISSES**, the instant Petition for *Certiorari*.

**SO ORDERED.**

**Davide, Jr., Panganiban and Quisumbing, JJ., concur.**  
**Bellosillo, J., is on leave.**

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[1] Rollo, pp. 31-33.

[2] Rollo, pp. 23-25.

[3] Rollo, p. 142.

- [4] *Filipro vs. Ople*, 182 SCRA 1.
- [5] *Stellar Industrial Services, Inc. vs. NLRC*, 252 SCRA 323.
- [6] *Sampang vs. Inciong*, 137 SCRA 56.
- [7] The just causes for terminating an employment, under Article 282 of the Labor Code, are:
- “(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative relative to his work;
  - (b) Gross and habitual neglect by the employee of his duties;
  - (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.” (See *Edge Apparel, Inc. vs. NLRC*, G.R. No 121314, 12 February 1998).
- [8] *Laguio vs. NLRC*, 262 SCRA 715.
- [9] *Rollo*, pp. 174-175.
- [10] 255 SCRA 1.