



Republic of the Philippines
Supreme Court
 Manila

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WILFREDO V. LAPIDAN
 Division Clerk of Court
 Third Division

MAR 22 2018

THIRD DIVISION

JOSEPHINE A. CASCO,
 Petitioner,

G.R. No. 200571

Present:

- versus -

VELASCO, JR., *J.*, Chairperson,
 BERSAMIN,
 LEONEN,
 MARTIRES and
 GESMUNDO, *JJ.*

**NATIONAL LABOR RELATIONS
 COMMISSION, SIXTH DIVISION,
 CAPITOL MEDICAL CENTER
 and/or THELMA N. CLEMENTE,**
 Respondents.

Promulgated:

February 19, 2018

X-----

 X-----

DECISION

BERSAMIN, J.:

This appeal seeks to set aside the decision promulgated on October 12, 2011¹ whereby the Court of Appeals (CA) dismissed the petition for *certiorari* of the petitioner and thereby upheld the decision dated July 22, 2010² of the National Labor Relations Commission (NLRC) reversing and setting aside the ruling of the Labor Arbiter that had declared her dismissal to be illegal.³

Antecedents

The CA recounted the antecedent facts in its assailed decision, *viz.*:

Private respondent Capitol Medical Center (hereafter CAPITOL) is a private hospital, with private respondent Dr. Thelma N. Clemente as its President and Chief Executive Officer.

¹ *Rollo*, pp. 119-129; penned by Associate Justice Jane Aurora C. Lantion, with Associate Justice Japar B. Dimaampao and Associate Justice Danton Q. Bueser concurring.
² *Id.* at 82-90.
³ *Id.* at 71-78.

Petitioner Josephine Casco is the Nurse Supervisor of the Operating Room of CAPITOL. She started working for CAPITOL as a Staff Nurse in the Recovery Room on 29 March 1984. She was promoted as Head Nurse of the OB-Gyne Surgical Ward on 16 February 1989 and as Nurse Supervisor of the Surgical Ward on 30 November 1991. Petitioner was finally promoted as Nurse Supervisor of the Operating Room on 3 September 2002.

The job summary of a Nurse Supervisor of the Operating Room are as follows: a.) responsible for the supervision and management of nurses and services at the Operating and Recovery Room; b.) plan all nursing and exercise personnel management within the area, make decisions when problems arise in the unit; c.) accountable for losses, equipment malfunction, breakage, patients and personnel.

On 19 June 2006 and 3 July 2006, petitioner received from CAPITOL various equipment such as vaporizers, patient monitors and Pulse Oximeters for the Operating Room.

On 25 January 2008, a representative of Abbot Laboratories conducted a calibration of the Operating Room's vaporizers. In the course of the calibration, it was discovered that several hospital equipments [sic] in the Operating Room were missing. Petitioner filed Incident Report dated 31 January 2007 stating that several vaporizers were missing inside the Operating Complex, including two (2) Munday Monitors and two (2) Pulse Oximeter.

On 7 February 2008, CAPITOL issued a *First Notice of Investigation* stating that a complaint for gross negligence in connection with the loss of hospital equipments [sic] has been filed against the petitioner and requiring her to submit a written explanation on the matter.

In her *Explanation* dated 11 February 2008, petitioner alleged the following:

xxx

xxx

1.) I've been working for 23 years here at CMC and not one instance that I have neglected my duties and responsibilities;

2.) I suggested verbally before the first incident that we have lost 17 sutures to put surveillance camera to all Operating Theaters, Central Supply and all important areas in the Operating Room Complex but they have placed two (2) surveillance camera[s] in the OR hallway only;

3.) I started reviewing the surveillance camera but I doubt I could get something out of it. I called up my colleagues in the ORNAP organization who are all connected in the hospitals in Metro Manila to inquire whether they have the same machines as we do and asked them to inform me if somebody inquires/sell about monitors and vaporizers;

xxx

xxx

2

5.) This incident of theft is beyond my control because everybody has access in (sic) the machine room area and all OP theaters. And Besides we have seven (7) doors, three (3) of which are the exit[s] inside the sterile area that could not be permanently locked.

xxx

xxx

On 18 December 2008, CAPITOL issued a *Letter of Termination* to petitioner which reads:

After a careful deliberation of the case filed against you and upon serious consideration of the evidences (sic) presented, the investigation committee hereby finds you of (sic) GROSS NEGLIGENCE resulting to loss of equipments [sic] at the Operating Rooms specifically (2) units PM 600 Mindray (sic) monitors, (2) units Pulse Oximeter; (3) Vaporizers and (1) Endoscopy Camera with a total value of P2.9 M. These equipments [sic] have been kept in your area of responsibility but you did not initiate control measures to secure them and the machine room where they are kept has been accessible to everybody until the time that the loss was discovered. The lack of effort in securing the machine room speaks of your negligence, lapses and lack of concern for the equipments [sic] entrusted to your custody. This has caused the Management to lose its trust and confidence in you as Supervisor. The sanction for this offense is DISMISSAL.

x x x x⁴

On February 2, 2009, the petitioner filed her complaint for illegal dismissal and damages against respondents Capitol Medical Center and Thelma N. Clemente in the NLRC.⁵

Labor Arbiter's Ruling

Labor Arbiter (LA) Daniel J. Cajilig rendered a decision on October 14, 2009 disposing as follows:⁶

WHEREFORE, judgment is hereby rendered ordering the respondent entity to reinstate the complainant to her former position without loss of seniority rights and other privileges and benefits which is immediately executory within ten (10) calendar days from receipt hereof, and to submit a report of compliance thereof pursuant to Paragraph 2, Section 14, Rule V of the 2005 Revised Rules of Procedure of the NLRC.

⁴ Id. at 120-122.

⁵ Docketed as NLRC-NCR Case No. 02-01917-09.

⁶ *Rollo*, pp. 71-78.

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Respondent entity is hereby likewise ordered to pay complainant the amount of ₱220,298.58, representing her backwages as of the date of this decision.

Other claims are hereby denied for lack of merit.

SO ORDERED.⁷

LA Cajilig pointed out that the records did not show that the petitioner had been habitually neglectful of her duties; that an isolated case of negligence did not justify her termination for gross and habitual negligence; and that Section II, subsection H of the *Manual of Employee Discipline* providing for other forms of neglect of which she was charged did not require the penalty of dismissal.

Respondent employers appealed to the NLRC.⁸

Decision of the NLRC

On July 22, 2010, the NLRC promulgated its decision reversing the LA's ruling, and dismissing the petitioner's complaint for illegal dismissal.⁹ The NLRC declared that she had committed a series of negligent acts by failing to perform her duties and responsibilities as the Head Nurse that resulted to the loss of the hospital equipment; and that she had been validly dismissed also on account of loss of trust and confidence because her position as the Head Nurse qualified her as a supervisor or manager in whom the respondents had reposed their trust and confidence.

The petitioner moved for reconsideration,¹⁰ but the NLRC denied her motion on September 17, 2010.¹¹

Hence, the petitioner assailed the NLRC's decision on *certiorari*,¹² asserting that the NLRC thereby gravely abused its discretion amounting to lack or excess of jurisdiction.

Decision of the CA

On October 12, 2011, the CA promulgated its decision upholding the decision of the NLRC,¹³ and ruling that the petitioner as Nurse Supervisor

⁷ Id. at 78.

⁸ Id. at 79-81.

⁹ Id. at 82-90.

¹⁰ Id. at 92-98.

¹¹ Id. at 99-101.

¹² Id. at 102-117.

¹³ *Supra*, note 1.

held a position of trust and confidence by virtue of her being entrusted with the protection, handling and custody of hospital equipment and machines assigned at the Operating Room Complex; and that she had consequently been validly dismissed on the ground of loss of trust and confidence following the loss of the hospital equipment.

The CA concluded that the petitioner was grossly negligent because she only discovered the missing equipment when the vaporizers were scheduled to be calibrated; that if she had been diligent, she would have regularly conducted an inventory of the equipment; and that despite being aware that the operating room was easily accessible to anybody, she did not take any appropriate measures to secure the equipment and machines to prevent the loss.

The petitioner moved for reconsideration,¹⁴ but the CA denied the same on February 8, 2012.¹⁵

Issues

In her appeal, the petitioner seeks the reversal of the CA's adverse decision, submitting the following errors on the part of the CA, to wit:

I

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN FINDING THAT PUBLIC RESPONDENT DID NOT GRAVELY ABUSE ITS DISCRETION IN FINDING THAT PETITIONER WAS VALIDLY DISMISSED FROM HER EMPLOYMENT BY PRIVATE RESPONDENTS WHICH ARE CONTRARY TO THE FACTS AND LAW

A

THE PUBLIC RESPONDENT DELIBERATELY MISAPPRECIATED THE FACTS WHEN IT FOUND THAT PETITIONER WAS SUPPOSEDLY VALIDLY DISMISSED FROM HER EMPLOYMENT ON THE GROUND OF LOSS OF TRUST AND CONFIDENCE DUE TO PURPORTED GROSS NEGLIGENCE IN THE PERF[OR]MANCE OF DUTIES.

B

THE CARE AND CUSTODY OF THE LOST MACHINERIES/EQUIPMENT WAS NOT THE CHIEF TASK OF PETITIONER

¹⁴ *Rollo*, pp. 130-167.

¹⁵ *Id.* at 128-129.

C

PETITIONER CONDUCTED REGULAR INVENTORIES OF THE MACHINERIES AND EQUIPMENT WITHIN HER AREA, THE LATEST OF WHICH WAS A FEW MONTHS BEFORE THE LOSS WAS DISCOVERED.¹⁶

The petitioner contends that the care and custody of the equipment and machinery devolved upon the Head Nurse who was specifically tasked to secure and oversee their care and use;¹⁷ that she regularly conducted an inventory of the fixed assets and supplies of the operating room, the latest of which was done a few months prior to the loss of the equipment;¹⁸ that she diligently performed her duties and even advocated the installation of surveillance cameras;¹⁹ that she had rendered loyal, dedicated and efficient service to the respondents' hospital for 25 years;²⁰ that loss of trust and confidence required willfulness on her part but that was lacking; that she could only be guilty of simple negligence, if at all; and that under Capitol Medical Center's Manual on Employee Regulations, her offense was not punishable with dismissal.²¹

The respondents maintain, however, that the petitioner did not discharge her responsibility by regularly conducting an inventory; that she did not institute control measures to secure the equipment under her custody; that she did not actively pursue the lead as to the possible perpetrator; that the lost equipment was never released to the Head Nurse; that her acts warranting her dismissal were voluntary, willful and blameworthy for having resulted in financial loss to the employer; and that her length of service aggravated instead of mitigated her liability because she had become grossly complacent and careless.²²

Did the CA err in finding that the NLRC did not gravely abuse its discretion in declaring the petitioner's dismissal as valid on the ground of loss of trust and confidence and gross negligence?

Ruling of the Court

The appeal is meritorious.

¹⁶ Id. at 14-15.

¹⁷ Id. at 16.

¹⁸ Id.

¹⁹ Id. at 17.

²⁰ Id. at 17-18.

²¹ Id. at 18.

²² Id. at 162-165.

I**The Court may review factual issues in a labor case when there are conflicting findings of fact**

We restate the legal framework for reviewing the CA's decision in a labor case laid down in *Montoya v. Transmed Manila Corporation*,²³ viz:

x x x In a Rule 45 review, we consider the **correctness of the assailed CA decision**, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of **questions of law** raised against the assailed CA decision. In ruling for legal correctness, we have to view the CA decision in the same context that the petition for *certiorari* it ruled upon was presented to it; **we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct.** In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. In question form, the question to ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?²⁴

Consequently, only questions of law may now be entertained by the Court. But the Court, by way of exception, may proceed on an inquiry into the factual issues in order to determine whether or not, as essentially ruled by the CA, the NLRC committed grave abuse of discretion by grossly misreading the facts and misappreciating the evidence.²⁵ As such, the Court may review the facts in labor cases where the findings of the CA and of the labor tribunals are contradictory,²⁶ which is the case herein.

II**Petitioner was not liable for gross and habitual negligence**

Neglect of duty, as a ground for dismissal, must be both gross and habitual.²⁷ Gross negligence implies a want or absence of or a failure to exercise slight care or diligence, or the entire absence of care. It evinces a thoughtless disregard of consequences without exerting any effort to avoid

²³ G.R. No. 183329, August 27, 2009, 597 SCRA 334.

²⁴ Id. at 342-343.

²⁵ *Nightowl Watchman & Security Agency, Inc. v. Lumahan*, G.R. No. 212096, October 14, 2015, 772 SCRA 638, 649.

²⁶ *Cavite Apparel, Incorporated v. Marquez*, G.R. No. 172044, February 6, 2013, 690 SCRA 48, 55.

²⁷ *Nissan Motors Phils., Inc. v. Angelo*, G.R. No. 164181, September 14, 2011, 657 SCRA 520, 530.

them. Habitual neglect implies repeated failure to perform one’s duties for a period of time, depending upon the circumstances.²⁸

In termination cases, the burden of proving that the dismissal of the employees was for a valid and authorized cause rests on the employer, who show by substantial evidence that the termination of the employment of the employee was validly made; the failure to discharge this duty will mean that the dismissal was not justified and was, therefore, illegal.²⁹

Respondent employers did not discharge their burden.

Both the CA and the NLRC concluded that the petitioner had been remiss in her duty to secure the hospital equipment and machineries under her custody. They based their conclusion on her Job Summary that included her being accountable for losses and equipment malfunction, among others.

The conclusion of the CA and the NLRC was erroneous.

Before the petitioner could be held liable for gross and habitual negligence of duty, respondents must clearly show that part of her duty as a Nurse Supervisor was to be the custodian of hospital equipment and machineries within her area of responsibility. Yet, there was no evidence submitted that substantially proved that the respondents had entrusted to her the custody of such property. Even the job description of a Nurse Supervisor³⁰ did not include that of being the custodian of hospital equipment and machines, to wit:

Position Title: NURSE SUPERVISOR – OPERATING/RECOVERY ROOM

xxxx xxxx xxxx

Job Summary

Responsible in the supervision and management of nurses and services at the Operating and Recovery Room. Plan all nursing activities and exercise personnel management within the area, make decisions when problem arises in the unit. Accountable for losses, equipment malfunction, breakage, patients and personnel.

xxxx xxxx xxxx

Details of Duties and Responsibilities

²⁸ *School of the Holy Spirit of Quezon City v. Taguam*, G.R. No. 165565, July 14, 2008, 558 SCRA 223, 229-230.

²⁹ *Leus v. St. Scholastica’s College Westgrove*, G.R. No. 187226, January 28, 2015, 748 SCRA 378, 408.

³⁰ *Rollo*, pp. 45-46.

1. Supervision of Patient Care

XXXX XXXX XXXX

2. Personnel Management:

XXXX XXXX XXXX

3. Others:

- 3.1. Accepts schedule of operation and ensure easy flow of cases daily
- 3.2. Consistently monitor the use of supplies
- 3.3. Check proper endorsement of supplies, equipment, machines and report immediately the malfunction of equipment and machines
- 3.4. Receives newly purchased instruments and equipment
- 3.5. Conducts inventory of fixed assets and supplies
- 3.6. Prepares annual budget, reports (monthly and annually)

Based on the petitioner's job description, she would be accountable for losses, equipment malfunction and breakages. Her other duties included, among others, the consistent monitoring of the use of supplies; checking proper endorsement of supplies, equipment and machines; reporting of any malfunction thereof; receiving newly purchased instruments and equipment; and conducting inventory of fixed assets and supplies. Her job description nowhere vested her with the task of taking care, handling and keeping of hospital property. Clearly, her job description did not include her acting as the custodian of hospital property and equipment. Her being held accountable for losses and equipment malfunction did not automatically make her the custodian thereof. For one, there was no mention at all of what kind of loss she would be liable for. As for equipment malfunction, that liability was clearly upon her because part of her specific responsibilities was that of promptly reporting such malfunction; yet, that liability did not necessarily mean that she was the custodian of the equipment.

Even assuming that the petitioner was made the custodian of hospital property, she could not be found to have been grossly and habitually negligent of her duty.

Negligence is "the failure to observe for the protection of the interests of another person that degree of care, precaution, and vigilance which the circumstances justly demand, whereby such other person suffers injury."³¹ The test of negligence is: *Did the defendant in doing the alleged negligent act use that reasonable care and caution which an ordinarily prudent person would have used in the same situation?* The law considers what would be reckless, blameworthy, or negligent in the man of ordinary intelligence and prudence, and determines liability by that.³²

³¹ *R. Transport Corporation v. Yu*, G.R. No. 174161, February 18, 2015, 750 SCRA 696, 703-704.

³² *Gutierrez v. Commission on Audit*, G.R. No. 200628, January 13, 2015, 745 SCRA 435, 457.

The respondents failed to establish that the petitioner had wilfully and deliberately intended to be mindless of her responsibilities, or that she had been reckless as to be blameworthy for her acts or omissions. She could not be responsible for conducting the annual inventory if there was no standard laid down by the respondents as the employers. Neither should the blame for failing to secure the equipment fall upon her if access to the operating room was not under her control, but that of the management to which security of the premises from unauthorized and undesirable personalities was of utmost importance. Likewise, the responsibility of taking the lead in investigating the loss could not be expected from her considering that any actions against the supposed perpetrator should be initiated by the respondents themselves. Under the circumstances, she could not be validly dismissed on the ground of gross negligence.

II

The petitioner could not be dismissed for loss of trust and confidence

Loss of trust and confidence as a valid ground for dismissal is premised on the fact that the employee holds a position whose functions may only be performed by someone who enjoys the trust and confidence of the management. Such employee bears a greater burden of trustworthiness than ordinary workers, and *the betrayal of the trust reposed is the essence of the loss of trust and confidence* that becomes the basis for the employee's dismissal.³³

In *Bristol Myers Squibb (Phils.), Inc. v. Baban*,³⁴ the Court laid down the requisites for a valid dismissal on the ground of loss of trust and confidence, to wit:

The first requisite for dismissal on the ground of loss of trust and confidence is that the employee concerned must be one holding a position of trust and confidence. Verily, We must first determine if respondent holds such a position.

There are two (2) classes of positions of trust. The first class consists of managerial employees. They are defined as those vested with the powers or prerogatives to lay down management policies and to hire, transfer suspend, lay-off, recall, discharge, assign or discipline employees or effectively recommend such managerial actions. The second class consists of cashiers, auditors, property custodians, etc. They are defined as those who in the normal and routine exercise of their functions, regularly handle significant amounts of money or property.³⁵

³³ *P.J. Lhuillier, Inc. v. Velayo*, G.R. No. 198620, November 12, 2014, 740 SCRA 147, 162.

³⁴ G.R. No. 167449, December 17, 2008, 574 SCRA 198, 574 SCRA 198.

³⁵ *Id.* at 205-206.

Managerial employees refer to those whose primary duty consists of the management of the establishment in which they are employed, or of a department or a subdivision thereof, and to other officers or members of the managerial staff.³⁶ A simple perusal of the job description of Nurse Supervisor indicated that the petitioner was a managerial employee. Being tasked with the daily supervision of other nurses and with the operational management of the operating room, she was clearly discharging a position of trust.

Did the respondents validly dismiss the petitioner as a managerial employee on the ground of loss of trust and confidence?

We answer in the negative.

In terminating managerial employees based on loss of trust and confidence, proof beyond reasonable doubt is not required, but the mere existence of a basis for believing that such employee has breached the trust of his employer suffices.³⁷ In *Lima Land v. Cuevas*,³⁸ we distinguished between managerial employees and rank-and-file personnel insofar as terminating them on the basis of loss of trust and confidence, thus:

As firmly entrenched in our jurisprudence, loss of trust and confidence, as a just cause for termination of employment, is premised on the fact that an employee concerned holds a position where greater trust is placed by management and from whom greater fidelity to duty is correspondingly expected. This includes managerial personnel entrusted with confidence on delicate matters, such as the custody, handling, or care and protection of the employer's property. The betrayal of this trust is the essence of the offense for which an employee is penalized.

It must be noted, however, that in a plethora of cases, this Court has distinguished the treatment of managerial employees from that of rank-and-file personnel, insofar as the application of the doctrine of loss of trust and confidence is concerned. Thus, with respect to rank-and-file personnel, loss of trust and confidence, as ground for valid dismissal, requires proof of involvement in the alleged events in question, and that mere uncorroborated assertions and accusations by the employer will not be sufficient. **But as regards a managerial employee, the mere existence of a basis for believing that such employee has breached the trust of his employer would suffice for his dismissal. Hence, in the case of managerial employees, proof beyond reasonable doubt is not required, it being sufficient that there is some basis for such loss of confidence, such as when the employer has reasonable ground to believe that the employee concerned is responsible for the purported**

³⁶ *M+W Zander Philippines, Inc. v. Enriquez*, G.R. No. 169173, June 5, 2009, 588 SCRA 590, 603; *Peñaranda v. Baganga Plywood Corporation*, G.R. No. 159577, May 3, 2006, 489 SCRA 94, 102-103.

³⁷ *Alaska Milk Corporation v. Ponce*, G.R. No. 228412, July 26, 2017; *Grand Asian Shipping Lines, Inc. v. Galvez*, G.R. No. 178184, January 29, 2014, 715 SCRA 1, 27.

³⁸ G.R. No. 169523, June 16, 2010, 621 SCRA 37.

misconduct, and the nature of his participation therein renders him unworthy of the trust and confidence demanded of his position.

On the other hand, **loss of trust and confidence as a ground of dismissal has never been intended to afford an occasion for abuse because of its subjective nature. It should not be used as a subterfuge for causes which are illegal, improper, and unjustified. It must be genuine, not a mere afterthought intended to justify an earlier action taken in bad faith.** Let it not be forgotten that what is at stake is the means of livelihood, the name, and the reputation of the employee. To countenance an arbitrary exercise of that prerogative is to negate the employee's constitutional right to security of tenure.³⁹ (Boldscoreing supplied for emphasis)

Herein, the respondents could not simply dismiss the petitioner on account of her position. Although a less stringent degree of proof was required in termination cases involving managerial employees, the employers could not invoke the ground of loss of trust and confidence arbitrarily.⁴⁰ There must still be some basis to justify that the petitioner was somehow responsible for the loss of the equipment, and to show that her participation in the loss rendered her unworthy of the trust and confidence demanded of her position as the Nurse Supervisor. As already discussed, however, she could not be made accountable for the missing property for several reasons. Firstly, she was not vested with the responsibility of safekeeping of the hospital equipment and machines. And, secondly, the respondents did not adduce evidence showing that she had committed wilful and deliberate acts that led to the loss. As such, her dismissal based on loss of trust and confidence should not be upheld.

The misdeed attributed to the employee must be a genuine and serious breach of established expectations required by the exigencies of the position regardless of its designation, and not out of a mere distaste, apathy, or petty misunderstanding. It cannot be overemphasized that the employee's reputation and good name are currency in their chosen profession, and their livelihood, at the very least, is what is at stake. Employment and tenure cannot be bargained away for the convenience of attaching blame and holding one accountable when no such accountability exists.

In fine, the petitioner was illegally terminated from her employment. Under Article 294⁴¹ of the *Labor Code*, she is entitled to reinstatement to her former position without loss of seniority rights; and to the payment of backwages covering the period from the time of her illegal dismissal until her actual reinstatement.

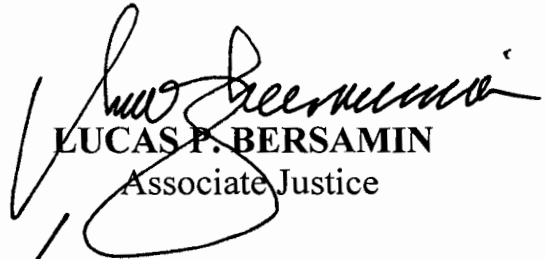
³⁹ G.R. No. 169523, June 16, 2010, 621 SCRA 37, 46-47.

⁴⁰ *Bravo v. Urios College (now Father Saturnino Urios University)*, G.R. No. 198066, June 7, 2017, citing *Lima Land, Inc. v. Cuevas*, G.R. No. 169523, June 16, 2010, 621 SCRA 37.


⁴¹ Formerly Article 279. See DOLE Department Order No. 1, series of 2015.

ACCORDINGLY, the Court **GRANTS** the petition for review on *certiorari*; **REVERSES** the decision promulgated on October 12, 2011 by the Court of Appeals; **REINSTATES** the decision of the Labor Arbiter dated October 14, 2009; and **ORDERS** respondents Capitol Medical Center and Thelma N. Clemente to pay the costs of suit.

SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


PRESBERTO J. VELASCO, JR.
Associate Justice

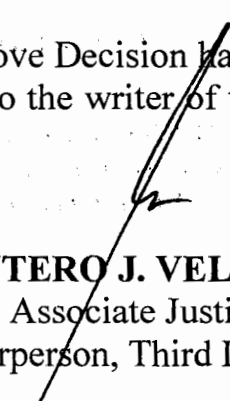

MARVIC M.V.F. LEONEN
Associate Justice


SAMUEL R. MARTIRES
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division


CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

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