Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PHILIPPINE SPAN ASIA CARRIERS CORPORATION (FORMERLY SULPICIO LINES, INC.),	**G.R. No. 212003**
Petitioner,	Present:
	VELASCO, JR., *J., Chairperson,*
	BERSAMIN,
	LEONEN,
	MARTIRES, and
-versus-	GESMUNDO, *JJ.*
HEIDI PELAYO,	**Promulgated:**
Respondent.	February 28, 2018

x----------x

DECISION

LEONEN, *J.*:

"Not every inconvenience, disruption, difficulty, or disadvantage that an employee must endure sustains a finding of constructive dismissal."[1] It is an employer's right to investigate acts of wrongdoing by employees. Employees involved in such investigations cannot ipso facto claim that employers are out to get them. Their involvement in investigations will naturally entail some inconvenience, stress, and difficulty. However, even if they might be burdened – and, in some cases, rather heavily so – it does not necessarily mean that an employer has embarked on their constructive dismissal.

---

[1] *Manalo v. Ateneo de Naga University*, 772 Phil. 366, 369 (2015). [Per J. Leonen, Second Division].

This resolves a Petition for Review on Certiorari[2] under Rule 45 of the 1997 Rules of Civil Procedure praying that the assailed Court of Appeals July 4, 2013 Decision[3] and February 12, 2014 Resolution[4] in CA-G.R. SP No. 04622 be reversed and set aside.

The assailed Court of Appeals July 4, 2013 Decision found grave abuse of discretion on the part of the National Labor Relations Commission in issuing its May 27, 2011 Decision[5] and August 31, 2011 Decision[6] holding that respondent Heidi Pelayo (Pelayo) was not constructively dismissed. The assailed Court of Appeals February 12, 2014 Resolution denied the Motion for Reconsideration[7] of petitioner Philippine Span Asia Carriers Corporation, then Sulpicio Lines, Inc. (Sulpicio Lines).

Pelayo was employed by Sulpicio Lines as an accounting clerk at its Davao City branch office. As accounting clerk, her main duties were "to receive statements and billings for processing of payments, prepare vouchers and checks for the approval and signature of the branch manager, and release checks for payment."[8]

Sulpicio Lines uncovered several anomalous transactions in its Davao City branch office. Most notably, a check issued to a certain "J. Josol"[9] had been altered from its original amount of ₱20,804.58 to ₱820,804.58. The signatories to the check were branch manager Tirso Tan (Tan) and cashier Fely Sobiaco (Sobiaco).[10]

There were also apparent double disbursements. In the first double disbursement, two (2) checks amounting to ₱5,312.15 each were issued for a single ₱5,312.15 transaction with Davao United Educational Supplies. This transaction was covered by official receipt no. 16527, in the amount of ₱5,312.15 and dated January 12, 2008. The first check, Philippine Trust Company (PhilTrust Bank) check no. 2043921, was issued on December 15, 2007. This was covered by voucher no. 227275. The second check,

---

2 *Rollo*, pp. 10–28.

3 Id. at 248–257. The Decision was penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Marie Christine Azcarraga-Jacob and Edward B. Contreras of the Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

4 Id. at 266–268. The Resolution was penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Marie Christine Azcarraga-Jacob and Edward B. Contreras of the Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

5 Id. at 180–184. The Decision, docketed as NLRC No. MAC-01-011835-2011, was penned by Presiding Commissioner Bario-rod M. Talon and concurred in by Commissioners Proculo T. Sarmen and Dominador B. Medroso, Jr. of the Eighth Division, National Labor Relations Commission, Cagayan de Oro City.

6 Id. at 204–205. The Decision was penned by Presiding Commissioner Bario-rod M. Talon and concurred in by Commissioners Proculo T. Sarmen and Dominador B. Medroso, Jr. of the Eighth Division, National Labor Relations Commission, Cagayan de Oro City.

7 Id. at 258–264.

8 Id. at 249.

9 Also referred to as "C. Josol" in some documents.

10 *Rollo*, p. 249.

PhilTrust Bank check no. 2044116, was issued on January 19, 2008 and was covered by voucher no. 227909.[11]

There was another double disbursement for a single transaction. Two (2) checks for ₱20,804.58 each in favor of Everstrong Enterprises were covered by official receipt no. 5129, dated January 25, 2008. The first check, PhilTrust Bank check no. 2044156, was dated January 26, 2008 and covered by voucher no. 228034. The second check, PhilTrust Bank check no. 2044244, was dated February 9, 2008 and covered by voucher no. 228296.[12]

Another apparent anomaly was a discrepancy in the amounts reflected in what should have been a voucher and a check corresponding to each other and covering the same transaction with ARR Vulcanizing. Voucher no. 232550 dated October 30, 2008 indicated only ₱17,052.00, but the amount disbursed through check no. 2051313 amounted to ₱29,306.00.[13]

Sulpicio Lines' Cebu-based management team went to Davao to investigate from March 3 to 5, 2010. Pelayo was interviewed by members of the management team as "she was the one who personally prepared the cash vouchers and checks for approval by Tan and Sobiaco."[14]

The management team was unable to complete its investigation by March 5, 2010. Thus, a follow-up investigation had to be conducted. On March 8, 2010, Pelayo was asked to come to Sulpicio Lines' Cebu main office for another interview.[15] Sulpicio Lines shouldered all the expenses arising from Pelayo's trip.[16]

In the midst of a panel interview, Pelayo walked out.[17] She later claimed that she was being coerced to admit complicity with Tan and Sobiaco.[18] Pelayo then returned to Davao City,[19] where she was admitted to a hospital "because of depression and a nervous breakdown."[20] She eventually filed for leave of absence and ultimately stopped reporting for work.[21]

---

11 Id. at 40–41 and 59–60.
12 Id. at 41 and 60.
13 Id.
14 Id. at 181.
15 Id. at 181 and 249.
16 Id. at 155.
17 Id. at 181.
18 Id. at 249.
19 Id. at 181.
20 Id. at 249.
21 Id.

Following an initial phone call asking her to return to Cebu, Sulpicio Lines served on Pelayo a memorandum dated March 15, 2010,[22] requiring her to submit a written explanation concerning "double disbursements, payments of ghost purchases and issuances of checks with amounts bigger than what [were] stated in the vouchers."[23] Sulpicio Lines also placed Pelayo on preventive suspension for 30 days.[24] It stated:

> Among your duties is to receive statements and billings for processing of payments, prepare vouchers and checks for the signature of the approving authority. In the preparation of the vouchers and the checks, you also are required to check and to make sure that the supporting documents are in order. Thus, the double payments and other payments could not have been perpetra[t]ed without your cooperation and/or neglect of duty/gross negligence.
>
> You are hereby required to submit within three (3) days from receipt of this letter a written explanation why no disciplinary action [should] be imposed against you for dishonesty and/or neglect of duty or gross negligence.[25]

Sulpicio Lines also sought the assistance of the National Bureau of Investigation, which asked Pelayo to appear before it on March 19, 2010.[26]

Instead of responding to Sulpicio Lines' memorandum or appearing before the National Bureau of Investigation, Pelayo filed a Complaint against Sulpicio Lines charging it with constructive dismissal.[27]

Sulpicio Lines denied liability asserting that Pelayo was merely asked to come to Cebu "to shed light on the discovered anomalies"[28] and was "only asked to cooperate in prosecuting Tan and Sobiaco."[29] It also decried Pelayo's seeming attempt at "distanc[ing] herself from the ongoing investigation of financial anomalies discovered."[30]

In her September 17, 2010 Decision,[31] Labor Arbiter Merceditas C. Larida (Labor Arbiter Larida) held that Sulpicio Lines constructively dismissed Pelayo. She faulted Sulpicio Lines for harassing Pelayo when her participation in the uncovered anomalies was "far-fetched."[32] Labor Arbiter

---

22 Id. at 40–42.
23 Id.
24 Id.
25 Id. at 42.
26 Id. at 156.
27 Id. at 181.
28 Id. at 250.
29 Id.
30 Id.
31 Id. at 154–162. The Decision, docketed as NLRC RAB-XI-03-00352-2010, was penned by Labor Arbiter Merceditas C. Larida of Branch No. XI, National Labor Relations Commission, Davao City.
32 Id. at 158.

Larida relied mainly on the affidavit of Alex Te (Te),[33] an employee of Sulpicio Lines assigned at the Accounting Department of its Cebu City main office. Te's affidavit was attached to the Secretary's Certificate,[34] attesting to Sulpicio Lines' Board Resolution authorizing Te to act in its behalf in prosecuting Tan and Sobiaco. This affidavit detailed the duties of Tan and Sobiaco, as branch manager and cashier, respectively, and laid out the bases for their prosecution.[35] Labor Arbiter Larida noted that the affidavit's silence on how Pelayo could have been involved demonstrated that it was unjust to suspect her of wrongdoing.[36]

In its May 27, 2011 Decision,[37] the National Labor Relations Commission reversed Labor Arbiter Larida's Decision. It explained that the matter of disciplining employees was a management prerogative and that complainant's involvement in the investigation did not necessarily amount to harassment.[38] The dispositive portion of this Decision read:

> WHEREFORE, foregoing premises considered, the appeal is GRANTED and the appealed decision is SET ASIDE and VACATED. In lieu thereof, a new judgment is rendered DISMISSING the above-entitled case for lack of merit.
>
> SO ORDERED.[39]

In its assailed July 4, 2013 Decision, the Court of Appeals found grave abuse of discretion on the part of the National Labor Relations Commission in reversing Labor Arbiter Larida's Decision.[40]

Following the denial of its Motion for Reconsideration,[41] Sulpicio Lines filed the present Petition.

For resolution is the issue of whether or not the Court of Appeals erred in finding grave abuse of discretion on the part of the National Labor Relations Commission in ruling that respondent Heidi Pelayo's involvement in the investigation conducted by petitioner did not amount to constructive dismissal.

The Court of Appeals must be reversed.

---

33 Id. at 130–135.
34 Id. at 128–129.
35 Id. at 130–134.
36 Id. at 158–159.
37 Id. at 180–184.
38 Id. at 183.
39 Id. at 184.
40 Id. at 254–255.
41 Id. at 258–264.

An employer who conducts investigations following the discovery of misdeeds by its employees is not being abusive when it seeks information from an employee involved in the workflow which occasioned the misdeed. Basic diligence impels an employer to cover all bases and inquire from employees who, by their inclusion in that workflow, may have participated in the misdeed or may have information that can lead to the perpetrator's identification and the employer's adoption of appropriate responsive measures. An employee's involvement in such an investigation will naturally entail difficulty. This difficulty does not mean that the employer is creating an inhospitable employment atmosphere so as to ease out the employee involved in the investigation.

I

While adopted with a view "to give maximum aid and protection to labor,"[42] labor laws are not to be applied in a manner that undermines valid exercise of management prerogative.

> Indeed, basic is the recognition that even as our laws on labor and social justice impel a "preferential view in favor of labor,"
>
> > [e]xcept as limited by special laws, an employer is free to regulate, according to his own discretion and judgment, all aspects of employment, including hiring, work assignments, working methods, time, place and manner of work, tools to be used, processes to be followed, supervision of workers, working regulations, transfer of employees, work supervision, lay-off of workers and the *discipline, dismissal and recall of work.*[43] (Emphasis supplied).

The validity of management prerogative in the discipline of employees was sustained by this Court in *Philippine Airlines v. National Labor Relations Commission,*[44] "In general, management has the prerogative to discipline its employees and to impose appropriate penalties on erring workers pursuant to company rules and regulations."[45]

---

42 *Cristobal v. Employees' Compensation Commission*, 186 Phil. 324, 329 (1980) [Per J. Makasiar, First Division].

43 *Manalo v. Ateneo de Naga University*, 772 Phil. 366, 382 (2015) [Per J. Leonen, Second Division], *citing Rivera v. Genesis Transport*, 765 Phil. 544 (2015) [Per J. Leonen, Second Division], and *San Miguel Brewery Sales Force Union v. Ople*, 252 Phil. 27, 30 (1989) [Per J. Griño-Aquino, First Division].

44 392 Phil. 50 (2000) [Per J. Pardo, First Division].

45 Id. at 56–57. *See Deles, Jr. v. National Labor Relations Commission*, 384 Phil. 271 (2000) [Per J. Quisumbing, Second Division] and *China Banking Corp. v. Borromeo*, 483 Phil. 643 (2004) [Per J. Callejo, Sr., Second Division].

The rationale for this was explained in *Rural Bank of Cantilan, Inc. v. Julve*:[46]

> While the law imposes many obligations upon the employer, nonetheless, it also protects the employer's right to expect from its employees not only good performance, adequate work, and diligence, but also good conduct and loyalty. In fact, the Labor Code does not excuse employees from complying with valid company policies and reasonable regulations for their governance and guidance.[47]

Accordingly, in *San Miguel Corporation v. National Labor Relations Commission*:[48]

> An employer has the prerogative to prescribe reasonable rules and regulations necessary for the proper conduct of its business, to provide certain disciplinary measures in order to implement said rules and to assure that the same would be complied with. An employer enjoys a wide latitude of discretion in the promulgation of policies, rules and regulations on work-related activities of the employees.
>
> It is axiomatic that appropriate disciplinary sanction is within the purview of management imposition. Thus, in the implementation of its rules and policies, the employer has the choice to do so strictly or not, since this is inherent in its right to control and manage its business effectively.[49]

II

Disciplining employees does not only entail the demarcation of permissible and impermissible conduct through company rules and regulations, and the imposition of appropriate sanctions. It also involves intervening mechanisms "to assure that [employers' rules] would be complied with."[50] These mechanisms include the conduct of investigations to address employee wrongdoing.

While due process, both substantive and procedural, is imperative in the discipline of employees, our laws do not go so far as to mandate the minutiae of how employers must actually investigate employees' wrongdoings. Employers are free to adopt different mechanisms such as

---

46 545 Phil. 619 (2007) [Per J. Sandoval-Guttierez, First Division].

47 Id. at 624, *citing Baybay Water District v. Commission on Audit*, 425 Phil. 326 (2002) [Per J. Mendoza, En Banc]; and *Durban Apartments Corp. v. Catacutan*, 545 Phil. 619 (2005) [Per J. Sandoval-Gutierrez, First Division].

48 574 Phil. 556 (2008) [Per J. Tinga, Second Division].

49 Id. at 569–570, *citing Gustilo v. Wyeth Philippines, Inc.*, 574 Phil. 556 (2004) [Per J. Sandoval-Gutierrez, Third Division] and *Coca Cola Bottlers, Phils., Inc. v. Kapisanan ng Malayang Manggagawa sa Coca Cola-FFW*, 492 Phil. 570 (2005) [Per J. Callejo, Sr., Second Division].

50 Id.

interviews, written statements, or probes by specially designated panels of officers.

In the case of termination of employment for offenses and misdeeds by employees, i.e., for just causes under Article 282 of the Labor Code,[51] employers are required to adhere to the so-called "two-notice rule."[52] *King of Kings Transport v. Mamac*[53] outlined what "should be considered in terminating the services of employees"[54]:

> (1) The first written notice to be served on the employees should contain the specific causes or grounds for termination against them, and a directive that the employees are given the opportunity to submit their written explanation within a reasonable period. "Reasonable opportunity" under the Omnibus Rules means every kind of assistance that management must accord to the employees to enable them to prepare adequately for their defense. This should be construed as a period of at least five (5) calendar days from receipt of the notice to give the employees an opportunity to study the accusation against them, consult a union official or lawyer, gather data and evidence, and decide on the defenses they will raise against the complaint. Moreover, in order to enable the employees to intelligently prepare their explanation and defenses, the notice should contain a detailed narration of the facts and circumstances that will serve as basis for the charge against the employees. A general description of the charge will not suffice. Lastly, the notice should specifically mention which company rules, if any, are violated and/or which among the grounds under Art. 282 is being charged against the employees.
>
> (2) After serving the first notice, the employers should schedule and conduct a hearing or conference wherein the employees will be given the opportunity to: (1) explain and clarify their defenses to the charge against them; (2) present evidence in support of their defenses; and (3) rebut the evidence presented against them by the management. During the hearing or conference, the employees are given the chance to defend themselves personally, with the assistance of a representative or counsel of their choice. Moreover, this conference or hearing could be used by the parties as an opportunity to come to an amicable settlement.

---

[51] LABOR CODE, art. 297 (282) provides:

Article 297. [282] Termination by Employer. — An employer may terminate an employment for any of the following causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with 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 representatives; and

(e) Other causes analogous to the foregoing.

[52] *Orlando Farms Growers Association v. National Labor Relations Commission*, 359 Phil. 693, 701(1998) [Per J. Romero, Third Division].

[53] 553 Phil. 108 (2007) [Per J. Velasco, Jr., Second Division].

[54] Id. at 115.

> (3) After determining that termination of employment is justified, the employers shall serve the employees a written notice of termination indicating that: (1) all circumstances involving the charge against the employees have been considered; and (2) grounds have been established to justify the severance of their employment.[55] (Citation omitted)

The two-notice rule applies at that stage when an employer has previously determined that there are probable grounds for dismissing a specific employee. The first notice implies that the employer already has a cause for termination. The employee then responds to the cause against him or her. The two-notice rule does not apply to anterior, preparatory investigations precipitated by the initial discovery of wrongdoing. At this stage, an employer has yet to identify a specific employee as a suspect. These preparatory investigations logically lead to disciplinary proceedings against the specific employee suspected of wrongdoing, but are not yet part of the actual disciplinary proceedings against that erring employee. While the Labor Code specifically prescribes the two-notice rule as the manner by which an employer must proceed against an employee specifically charged with wrongdoing, it leaves to the employer's discretion the manner by which it shall proceed in initially investigating offenses that have been uncovered, and whose probable perpetrators have yet to be pinpointed.

Thus, subject to the limits of ethical and lawful conduct, an employer is free to adopt any means for conducting these investigations. They can, for example, obtain information from the entire roster of employees involved in a given workflow. They can also enlist the aid of public and private investigators and law enforcers, especially when the uncovered iniquity amounts to a criminal offense just as much as it violates company policies.

When employee wrongdoing has been uncovered, employers are equally free to adopt contingency measures; lest they, their clients, and other employees suffer from exigencies otherwise left unaddressed. These measures may be enforced as soon as an employee's wrongdoing is uncovered, may extend until such time that disciplinary proceedings are commenced and terminated, and in certain instances, even made permanent. Employers can rework processes, reshuffle assignments, enforce stopgap measures, and put in place safety checks like additional approvals from superiors. In *Mandapat v. Add Force Personnel Services, Inc.*,[56] this Court upheld the temporary withholding of facilities and privileges as an incident to an ongoing investigation. Thus, this Court found no fault in the disconnection of an employee's computer and the suspension of her internet access privilege.[57] Employers can also place employees under preventive suspension, not as a penalty in itself, but as an intervening means to enable

---

55 Id. at 115–116.
56 638 Phil. 150 (2010) [Per J. Perez, First Division].
57 Id. at 160.

unhampered investigation and to foreclose "a serious and imminent threat to the life or property of the employer or of the employee's co-workers."[58] As *Artificio v. National Labor Relations Commission*[59] illustrated:

> In this case, Artificio's preventive suspension was justified since he was employed as a security guard tasked precisely to safeguard respondents' client. His continued presence in respondents' or its client's premises poses a serious threat to respondents, its employees and client in light of the serious allegation of conduct unbecoming a security guard such as abandonment of post during night shift duty, light threats and irregularities in the observance of proper relieving time.
>
> Besides, as the employer, respondent has the right to regulate, according to its discretion and best judgment, all aspects of employment, including work assignment, working methods, processes to be followed, working regulations, transfer of employees, work supervision, lay-off of workers and the discipline, dismissal and recall of workers. Management has the prerogative to discipline its employees and to impose appropriate penalties on erring workers pursuant to company rules and regulations.
>
> This Court has upheld a company's management prerogatives so long as they are exercised in good faith for the advancement of the employer's interest and not for the purpose of defeating or circumventing the rights of the employees under special laws or under valid agreements.[60]

III

The standards for ascertaining constructive dismissal are settled:

> There is constructive dismissal when an employer's act of clear discrimination, insensibility or disdain becomes so unbearable on the part of the employee so as to foreclose any choice on his part except to resign from such employment. It exists where there is involuntary resignation because of the harsh, hostile and unfavorable conditions set by the employer. We have held that the standard for constructive dismissal is "whether a reasonable person in the employee's position would have felt compelled to give up his employment under the circumstances."[61]

---

58 *Maula v. Ximex Delivery Express, Inc.*, G.R. No. 207838, January 25, 2017 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/january2017/207838.pdf> 17 [Per J. Peralta, Second Division].

59 639 Phil. 449 (2010) [Per J. Perez, First Division].

60 Id. at 458–459, *citing Challenge Socks Corporation v. Court of Appeals*, 511 Phil. 4 (2005) [Per J. Ynares-Santiago, First Division].

61 *Rodriguez v. Park N Ride, Inc.*, G.R. No. 222980, March 20, 2017 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/march2017/222980.pdf> 7–8 [Per J. Leonen, Second Division], *citing Gan v. Galderma Philippines, Inc.*, 701 Phil. 612, 638–639 (2013) [Per J. Peralta, Third Division]; *Portuguez v. GSIS Family Bank (Comsavings Bank)*, 546 Phil. 140, 153 (2007) [Per J. Chico-Nazario, Third Division]; and, *Uniwide Sales Warehouse Club v. National Labor Relations Commission*, 570 Phil. 535, 548 (2008) [Per J. Austria-Martinez, Third Division].

This Court has, however, been careful to qualify that "[n]ot every inconvenience, disruption, difficulty, or disadvantage that an employee must endure sustains a finding of constructive dismissal."[62] In a case where the employee decried her employers' harsh words as supposedly making for a work environment so inhospitable that she was compelled to resign, this Court explained:

> The unreasonably harsh conditions that compel resignation on the part of an employee must be way beyond the occasional discomforts brought about by the misunderstandings between the employer and employee. Strong words may sometimes be exchanged as the employer describes her expectations or as the employee narrates the conditions of her work environment and the obstacles she encounters as she accomplishes her assigned tasks. As in every human relationship, there are bound to be disagreements.
>
> However, when these strong words from the employer happen without palpable reason or are expressed only for the purpose of degrading the dignity of the employee, then a hostile work environment will be created. In a sense, the doctrine of constructive dismissal has been a consistent vehicle by this Court to assert the dignity of labor.[63]

Resolving allegations of constructive dismissal is not a one-sided affair impelled by romanticized sentiment for a preconceived underdog. Rather, it is a question of justice that "hinges on whether, given the circumstances, the employer acted fairly in exercising a prerogative."[64] It involves the weighing of evidence and a consideration of the "totality of circumstances."[65]

IV

This Court fails to see how the petitioner's investigation amounted to respondent's constructive dismissal.

The assailed Court of Appeals July 4, 2013 Decision devoted all of three (3) paragraphs[66] in explaining why respondent was constructively

---

62 *Manalo v. Ateneo de Naga University*, 772 Phil. 366, 369 (2015) [Per J. Leonen, Second Division].

63 *Rodriguez v. Park N Ride, Inc.*, G.R. No. 222980, March 20, 2017 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/march2017/222980.pdf> 8 [Per J. Leonen, Second Division].

64 *Manalo v. Ateneo de Naga University*, 772 Phil. 366, 383 (2015) [Per J. Leonen, Second Division].

65 *Rodriguez v. Park N Ride, Inc.*, G.R. No. 222980, March 20, 2017 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/march2017/222980.pdf> 1 [Per J. Leonen, Second Division].

66 *Rollo*, pp. 255-256. The entirety of the Court of Appeals' ratio decidendi reads:
It is to Our observation that constructive dismissal is apparent in the case at bar. Constructive dismissal is defined as a quitting because continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or a diminution of pay. The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his position under the circumstances. It is an act amounting to dismissal but is made to appear as if it were not. Constructive dismissal is therefore a dismissal in disguise. The law recognizes and resolves this

dismissed. It anchored its conclusion on how "petitioner was made to admit the commission of the crime,"[67] and on how "[respondent] was compelled to give up her employment due to [petitioner's] unfounded, unreasonable and improper accusations, which made her employment unbearable."[68]

The Court of Appeals was in serious error.

The most basic flaw in the Court of Appeals' reasoning is its naïve credulity. It did not segregate verified facts from impressions and bare allegations. It was quick to lend credence to respondent's version of events and her bare claim that she "was made to admit the commission of the crime."[69]

As it stands, all that have been ascertained are that: first, petitioner discovered anomalies in its Davao branch; second, members of its management team went to Davao to investigate ; third, the investigation involved respondent considering that, as accounting clerk, her main duties were "to receive statements and billings for processing of payments, prepare vouchers and checks for the approval and signature of the Branch Manager, and release the checks for cash payment";[70] fourth, the investigation in Davao could not be completed for lack of time; fifth, respondent was made to come to petitioner's Cebu main office – all expense paid – for the continuation of the investigation; sixth, in Cebu, respondent was again interviewed; seventh, respondent walked out in the midst of this interview.

---

situation in favor of employees in order to protect their rights and interests from the coercive acts of the employer.

At first glance, it would seem that petitioner was "invited to participate" in the investigation against Tan and Sobacio. But during said investigation, petitioner was made to admit the commission of the crime instead:

. . . .

> Pelayo further narrated that during the investigation, those officers of Sulpicio forced her to admit the offense – the alteration on the check issued to C. Josol. Having no knowledge at all to (sic) the said transaction Pelayo stood firm of (sic) her lack of knowledge and participation whatsoever to (sic) the said transaction (thereof). Mr. Devin Go, on (sic) their one-on-one conversation once again forced her to admit her participation and even offered that if she admits the charge they will allow her to pay it on (sic) installment basis. Pelayo, who could no longer withstand the baseless and malevolent accusation of respondents, left Cebu City and upon her arrival in Davao City, she was immediately rushed to San Pedro Hospital and was confined because of depression and nervous breakdown. Not contented, on (the) same day, Mr. Devin Go even called up Pelayo and ordered her to come back to Cebu City which she vehemently opposed. Thru counsel, Pelayo sent a letter to Sulpicio dated March 10, 2010 reciting Pelayo's dismay over the way Sulpicio, thru its officers, conducted the investigation. Pelayo also manifested her intention to go on leave of absence for 6 months and to turn over all accounting documents to the company. . . .

As shown by the evidence at hand and the findings of the Labor Arbiter, petitioner was compelled to give up her employment due to [Sulpicio Lines'] unfounded, unreasonable and improper accusations, which made her employment unbearable. (Citations omitted)

67 Id. at 255.

68 Id. at 256.

69 Id. at 255.

70 Id. at 181.

There is no objective proof demonstrating how the interview in Cebu actually proceeded. Other than respondent's bare allegation, there is nothing to support the claim that her interviewers were hostile, distrusting, and censorious, or that the interview was a mere pretext to pin her down. Respondent's recollection is riddled with impressions, unsupported by independently verifiable facts. These impressions are subjective products of nuanced perception, personal interpretation, and ingrained belief that cannot be appreciated as evidencing "the truth respecting a matter of fact."[71]

Respondent's subsequent hospitalization does not prove harassment or coercion to make an admission either. The mere fact of its occurrence is not an attestation that respondent's interview proceeded in the manner that she claimed it did. While it proves that she was stressed, it does not prove that she was stressed specifically because she was cornered into admitting wrongdoing.

Human nature dictates that involvement in investigations for wrongdoing, even if one is not the identified suspect, will entail discomfort and difficulty. Indeed, stress is merely the "response to physical or psychological demands on a person."[72] Even positive stimuli can become stressors.[73] Stress, challenge, and adversity are the natural state of things when a problematic incident is revealed and begs to be addressed. They do not mean that an employer is bent on inflicting suffering on an employee.

Different individuals react to stress differently "and some people react to stress by getting sick."[74] Stress is as much a matter of psychological perception as it is of physiological reaction. Respondent's confinement at a hospital proves that, indeed, she was stressed at such a degree that it manifested physically. It may also be correlated with the stressors that respondent previously encountered. Among these stressors was her interview. One can then reasonably say that respondent's interview may have been difficult for her. However, any analysis of causation and correlation can only go as far as this. The evidence does not lead to an inescapable conclusion that respondent's confinement was solely and exclusively because of how respondent claims her interviewers incriminated her.

The discomfort of having to come to the investigation's venue, the strain of recalling and testifying on matters that transpired months prior, the frustration that she was being dragged into the wrongdoing of other employees—if indeed she was completely innocent—or the trepidation that a reckoning was forthcoming—if indeed she was guilty—and many other

---

71 RULES OF COURT, Rule 128, sec. 1.

72 DIANE E. PAPALIA, SALLY WNDKOS OLDS AND RUTH DUSKIN FELDMAN, HUMAN DEVELOPMENT 377 (9th ed. 1994).

73 Id. at 545.

74 Id.

worries doubtlessly weighed on respondent. Yet, these are normal burdens cast upon her plainly on account of having to cooperate in the investigation. They themselves do not translate to petitioner's malice. Respondent's physical response may have been acute, but this, by itself, can only speak of her temperament and physiology. It would be fallacious to view this physical response as proof of what her interviewers actually told her or did to her.

Indeed, it was possible that respondent was harassed. But possibility is not proof. Judicial and quasi-judicial proceedings demand proof. Respondent's narrative is rich with melodramatic undertones of how she suffered a nervous breakdown, but is short of prudent, verifiable proof. In the absence of proof, it would be a miscarriage of justice to sustain a party-litigant's allegation.

What is certain is that there were several anomalies in petitioner's Davao branch. It made sense for petitioner to investigate these anomalies. It also made sense for respondent to be involved in the investigation.

Contrary to Labor Arbiter Larida's conclusion, respondent's connection with the uncovered anomalies was not "far-fetched."[75] The anomalies related to discrepancies between vouchers and checks, multiple releases of checks backed by as many vouchers (even if there had only been one transaction), and a check altered to indicate a larger amount, thereby enabling a larger disbursement. Certainly, it made sense to involve in the investigation the accounting clerk whose main duty was to "prepare vouchers and checks for the approval and signature of the Branch Manager, and release the checks for cash payment."[76]

Labor Arbiter Larida's reliance on Te's affidavit is misplaced. That affidavit was prepared to facilitate the criminal prosecution of Tan, the branch manager, and Sobiaco, the cashier.[77] It naturally emphasized Tan's and Sobiaco's functions, and related these to the uncovered anomalies. It would have been absurd to make respondent a focal point as she was extraneous to the criminal suit against Tan and Sobiaco. The affidavit was reticent about respondent because it did not have to discuss her.

If at all, Te's affidavit even militates against respondent's claim that petitioner was out to get her. For if petitioner was indeed bent on pinning her down, it was foolhardy for it to concentrate its attempts at criminal prosecution on Tan and Sobiaco.

---

75 *Rollo*, p. 158.
76 Id. at 181.
77 Id. at 128–134.

Respondent cannot point to petitioner's referral to the National Bureau of Investigation as proof of petitioner's malevolence. In the first place, petitioner was free to refer the commission of crimes to the National Bureau of Investigation. Republic Act No. 157,[78] which was in effect until the National Bureau of Investigation's functions were calibrated in 2016 by Republic Act No. 10867,[79] enabled the National Bureau of Investigation "[t]o render assistance, whenever properly requested in the investigation or detection of crimes and other offenses."[80] Moreover, petitioner's efforts show that it opted to avail of legitimate, official channels for conducting investigations. Petitioner's actions demonstrate that rather than insisting on its own position and proceeding with undue haste, it was submitting to the wisdom of an independent, official investigator and was willing to await the outcome of an official process. While this could have also led to criminal prosecution, it still negates malicious fixation. Indeed, if petitioner's focus was to subvert respondent, it could have just lumped her with Tan and Sobiaco. This would have even been to petitioner's advantage as joining all defendants in a single case would have been more efficient and economical.

In any case, for the very reason of her main functions as accounting clerk, it made sense to view respondent with a degree of suspicion. It was only logical for petitioner to inquire into how multiple vouchers and checks could have passed the scrutiny of the officer tasked to prepare them. It was not capricious for petitioner to ponder if its accounting clerk acted negligently or had allowed herself to be used, if not acted with deliberate intent to defraud.

Even if petitioner were to completely distance itself from judicious misgivings against respondent, elect to not treat her as a suspect, and restrict itself to Tan's and Sobiaco's complicity, it was still reasonable for it to involve respondent in its investigation. Given her direct interactions with Tan and Sobiaco and her role in the workflow for payments and disbursements, it was wise, if not imperative, to invoke respondent as a witness.

In prior jurisprudence, this Court has been so frank as to view an employee's preemption of investigation as a badge of guilt. In *Mandapat v. Add Force Personnel Services, Inc.*,[81] this Court quoted with approval the following findings of the Court of Appeals:

> Unfortunately, however, before the investigation could proceed to the second step of the termination process into a hearing or conference, Mandapat chose to resign from her job. Mandapat's bare allegation that she was coerced into resigning can hardly be given credence in the

---

78 An Act Creating a Bureau of Investigation, Providing Funds Therefor, and for Other Purposes (1947).
79 The National Bureau of Investigation Reorganization and Modernization Act (2016).
80 Rep. Act No. 157, Section 1(b).
81 638 Phil. 150 (2010) [Per J. Perez, First Division].

> absence of clear evidence proving the same. No doubt, Mandapat read the writing on the wall, knew that she would be fired for her transgressions, and beat the company to it by resigning. Indeed, by the disrespectful tenor of her memorandum, Mandapat practically indicated that she was no longer interested in continuing cordial relations, much less gainful employment with Add Force.[82] (Citation omitted)

This Court will not be so intrepid in this case as to surmise that respondent was truly complicit in the uncovered anomalies and that termination of employment for just cause was a foregone conclusion which she was merely trying to evade by ceasing to report to work. Still, fairness dictates that this Court decline to condone her acts in preempting and refusing to cooperate in a legitimate investigation, only to cry constructive dismissal. To do so would be to render inutile legitimate measures to address employee iniquity. It would be to send a chilling effect against bona fide investigations, for to investigate – riddled as it is with the strain on employees it naturally entails – would be to court liability for constructive dismissal. Employees cannot tie employers' hands, incapacitating them, and preemptively defeating investigations with laments of how the travails of their involvement in such investigations translates to their employers' fabrication of an inhospitable employment atmosphere so that an employee is left with no recourse but to resign.

WHEREFORE, the Petition for Review on Certiorari is **GRANTED**. The assailed July 4, 2013 Decision and February 12, 2014 Resolution of the Court of Appeals in CA-G.R. SP No. 04622 are **REVERSED and SET ASIDE**. The National Labor Relations Commission May 27, 2011 and August 31, 2011 Decisions in NLRC No. MAC-01-011835-2011 (RAB-XI-03-00352-2010) are **REINSTATED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

---

82 Id. at 159.

LUCAS P. BERSAMIN
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

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
MAY 02 2018