Republic of the Philippines
# Supreme Court
Manila

**FIRST DIVISION**

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| **SUGARSTEEL INDUSTRIAL, INC. and MR. BEN YAPJOCO,** Petitioners, | **G.R. No. 168749** |
| | Present: |
| | *SERENO, *C.J.*, **LEONARDO-DE CASTRO, *Acting Chairperson,* BERSAMIN, PERLAS-BERNABE, and CAGUIOA, *JJ.* |
| - versus - | |
| **VICTOR ALBINA, VICENTE UY and ALEX VELASQUEZ,** Respondents. | Promulgated: JUN 06 2016 |

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## DECISION

**BERSAMIN, *J.*:**

The crux of this appeal is the extent of the authority of the Court of Appeals (CA) to review in a special civil action for *certiorari* the findings of fact contained in the rulings of the National Labor Relations Commission (NLRC). The petitioners insist that the CA's review is limited to the determination of whether or not the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction; hence, it cannot disregard the findings of fact of the NLRC to resolve the issue of illegal dismissal. The respondents maintain the contrary.

### The Case

On appeal is the decision promulgated on January 9, 2004,[1] whereby the CA granted the respondents' petition for *certiorari*, and overturned the decision rendered by the NLRC in favor of the petitioners.[2]

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* On leave.

** Acting Chairperson per Special Order No. 2355 dated June 2, 2016.

[1] *Rollo*, pp. 22-32; penned by Associate Justice Hakim S. Abdulwahid (retired), with Associate Justice Delilah Vidallon-Magtolis (retired) and Associate Justice Jose L. Sabio, Jr. (retired/deceased) concurring.

[2] Id. at 31-32.

**Antecedents**

Respondents Victor Albina, Vicente Uy and Alex Velasquez charged the petitioners in the Regional Arbitration Branch of the National Labor Relations Commission (NLRC) in Cebu City with having illegally dismissed them as kettleman, assistant kettleman, and inspector, respectively. The CA's assailed decision detailed the following factual antecedents, to wit:

> At around 4:00 a.m. of August 16, 1996, a clog-up occurred at the kettle sheet guide. At that time, the petitioners were on duty working in their assigned areas. As a consequence, twenty (20) GI sheets were clogged-up inside the kettle, causing damage to the private respondent. On the same day, a memorandum was issued by Mr. Ben S. Yapjoco, manager of the private respondent, requiring all the petitioners to submit written explanation on the aforesaid incident and why no action shall be taken against them for gross negligence. In response to the memorandum, the petitioners submitted their respective explanations.
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> Subsequently, in a memorandum dated August 20, 1996, Mr. Yapjoco, informed all the petitioners to attend a conference in connection with the aforesaid incident. On August 26, 1996, individual notices of suspension were sent to the petitioners pending final decision relative to the incident. On August 29, 1996, Mr. Yapjoco again sent individual notices of termination of employment to all petitioners, stating that after the management conducted an investigation on the circumstances surrounding the incident, the petitioners were found guilty of gross neglect of duty and by reason thereof, they were terminated from their employment.[3]

In the decision rendered on April 27, 1998,[4] the Labor Arbiter (LA) ruled that although the dismissal of the respondents was justified because of their being guilty of gross negligence, the petitioners should pay them their separation pay at the rate of 1/2 month per year of service.

On appeal, the NLRC, observing that the ground stated in support of the respondents' appeal – that "the decision with all due respect, is not supported by evidence and is contrary to the facts obtaining" – was not among those expressly enumerated under Article 223 of the *Labor Code*, upheld the LA's decision on December 23, 1998,[5] *viz.*:

> **WHEREFORE**, the appeal of complainants is hereby **DISMISSED** for failure of the appellants to comply with Article 223 of the Labor Code. Consequently, the decision of the Labor Arbiter is **AFFIRMED**.
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> **SO ORDERED**.[6]

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3 Id. at 22-23.
4 Id. at 80-85.
5 Id. at 43-45.
6 Id. at 44.

On May 8, 2000, the NLRC denied the respondents' motion for reconsideration,[7] opining thusly:

> We reiterate Our ruling that complainants' appeal was not filed in the manner prescribed by law, hence should be properly dismissed. Besides, even if We decide the appeal on its merits, We find no cogent reason to depart from the ruling of the Labor Arbiter supported as it is by the evidence on record.[8]

## Judgment of the CA

Aggrieved, the respondents assailed the result through their petition for *certiorari* in the CA, averring that:

> THE HONORABLE COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION IN AFFIRMING IN TOTO THE DECISION OF THE LABOR ARBITER DECLARING THE DISMISSAL OF THE PETITIONERS AS VALID ON THE GROUND OF GROSS NEGLIGENCE.

In the judgment promulgated on January 9, 2004,[9] the CA granted the petition for *certiorari*. It ruled that the NLRC's affirmance of the LA's decision did not accord with the evidence on record and the applicable law and jurisprudence; that the dismissal of the respondents' appeal constituted grave abuse of discretion amounting to lack or excess of jurisdiction;[10] and that based on its review the respondents had been illegally dismissed considering that the petitioners did not establish that the respondents were guilty of gross and habitual neglect.

## Issues

In this recourse, the petitioners submit that the CA gravely abused its discretion by disregarding the factual findings of the LA that the NLRC affirmed; that such findings, being supported by substantial evidence, were binding and conclusive on the CA; that the review of the decisions of the NLRC through *certiorari* was confined to determining issues of want or excess of jurisdiction and grave abuse of discretion amounting to lack or excess of jurisdiction; that *certiorari* required a clear showing that the respondent court or officer exercising judicial or quasi-judicial functions committed an error of jurisdiction because an error of judgment was not

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7 Id. at 46-49.
8 Id. at 46.
9 Supra note 1.
10 Id. at 31.

necessarily grave abuse of discretion; and that the CA thus exceeded its jurisdiction in making its own findings after re-assessing the facts and the sufficiency of the evidence presented to the LA.

Did the CA depart from well-settled rules on what findings the CA could review on *certiorari*?[11]

**Ruling of the Court**

The petition for review on *certiorari* lacks merit. The CA acted in accordance with the pertinent law and jurisprudence.

**I**

As a rule, the *certiorari* proceeding, being confined to the correction of acts rendered without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion that amounts to lack or excess of jurisdiction, is limited in scope and narrow in character. As such, the judicial inquiry in a special civil action for *certiorari* in labor litigation ascertains only whether or not the NLRC acted without jurisdiction or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or in excess of jurisdiction.[12]

We find that the CA did not exceed its jurisdiction by reviewing the evidence and deciding the case on the merits despite the judgment of the NLRC already being final. We have frequently expounded on the competence of the CA in a special civil action for *certiorari* to review the factual findings of the NLRC.[13] In *Univac Development, Inc. v. Soriano*,[14] for instance, we have pronounced that the CA is "given the power to pass upon the evidence, if and when necessary, to resolve factual issues," wit hout contravening the doctrine of the immutability of judgments. The power of the CA to pass upon the evidence flows from its original jurisdiction over the special civil action for *certiorari*, by which it can grant the writ of *certiorari* to correct errors of jurisdiction on the part of the NLRC should the latter's factual findings be not supported by the evidence on record; or when the granting of the writ of *certiorari* is necessary to do substantial justice or to prevent a substantial wrong; or when the findings of the NLRC contradict those of the LA; or when the granting of the writ of *certiorari* is necessary to

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[11] *Rollo*, p. 11.

[12] *Empire Insurance Company v. NLRC*, G.R. No. 121879, August 14 1998, 294 SCRA 263, 269-270.

[13] *PHILASIA Shipping Agency Corporation v. Tomacruz*, G.R. No. 181180, August 15, 2012, 678 SCRA 503, 513; *PICOP Resources, Incorporated (PRI) v. Tañeca*, G.R. No. 160828, August 9, 2010, 627 SCRA 56, 65-66; *Lirio v. Genovia*, G.R. No. 169757, November 23, 2011, 661 SCRA 126, 137; *Triumph International (Phils.), Inc. v. Apostol*, G.R. No. 164423, June 16, 2009, 589 SCRA 185, 197; *Marival Trading, Inc. v. National Labor Relations Commission*, G.R. No. 169600, June 26, 2007, 525 SCRA 708, 722.

[14] G.R. No. 182072, June 19, 2013, 699 SCRA 88, 97.

arrive at a just decision in the case.[15] The premise is that any decision by the NLRC that is not supported by substantial evidence is a decision definitely tainted with grave abuse of discretion.[16] Should the CA annul the decision of the NLRC upon its finding of jurisdictional error on the part of the latter, then it has the power to fully lay down whatever the latter ought to have decreed instead *as the records warranted.* The judicial function of the CA in the exercise of its *certiorari* jurisdiction over the NLRC extends to the careful review of the NLRC's evaluation of the evidence because the factual findings of the NLRC are accorded great respect and finality only when they rest on substantial evidence. Accordingly, the CA is not to be restrained from revising or correcting such factual findings whenever warranted by the circumstances simply because the NLRC is not infallible. Indeed, to deny to the CA this power is to diminish its corrective jurisdiction through the writ of *certiorari.*

The policy of practicing comity towards the factual findings of the labor tribunals does not preclude the CA from reviewing the findings, and from disregarding the findings upon a clear showing of the NLRC's capricious, whimsical or arbitrary disregard of the evidence or of circumstances of considerable importance crucial or decisive of the controversy.[17] In such eventuality, the writ of *certiorari* should issue, and the CA, being also a court of equity, then enjoys the leeway to make its own independent evaluation of the evidence of the parties as well as to ascertain whether or not substantial evidence supported the NLRC's ruling.

**II**

In the assailed judgment, the CA cogently stated as follows:

> The assigned error in the petitioner's appeal that the decision of the Labor Arbiter upholding the validity of their dismissal is not supported by the evidence or is contrary to the facts obtaining, can be reasonable construed to fall under either the afore-quoted paragraph (a) or paragraph (d) of Article 223 of the Labor Code. The petitioners were meted by their employer (herein private respondent) the supreme penalty of dismissal from their employment. In appealing the assailed decision, they believe that the Labor Arbiter committed error or abuse of discretion which if not corrected would cause them grave or irreparable damage or injury. To give the rule a different interpretation would be contrary to the spirit of the Labor Code which provides for the liberal construction of the rules. Thus, in meritorious cases, liberal (not literal) interpretation of the rule becomes imperative and technicalities should not be resorted to in derogation of the intent and purpose of the rules – the proper and just determination of a

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[15] Id. at 98.
[16] *INC Shipmanagement, Inc. v. Moradas,,* G.R. No. 178564, January 15, 2014, 713 SCRA 475, 502.
[17] *Norkis Trading Corporation v. Buenavista*, G.R. No. 182018, October 10, 2012, 683 SCRA 406, 422.

litigation.[18]

We uphold the CA's setting aside of the decision of the NLRC.

To start with, the NLRC affirmed the decision of the LA based on its observation that the alleged ground for the respondents' appeal – that "the decision with all due respect, is not supported by evidence and is contrary to the facts obtaining" – was not one of those expressly enumerated under Article 223 of the *Labor Code*.

We cannot sustain the NLRC's basis for its affirmance of the LA's decision. Article 223[19] of the *Labor Code* pertinently states:

> Art. 223. *Appeal.* - Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. Such appeal may be entertained only on any of the following grounds:
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> (a) If there is *prima facie* evidence of abuse of discretion on the part of the Labor Arbiter;
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> (b) If the decision, order or award was secured through fraud or coercion, including graft and corruption;
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> (c) If made purely on questions of law; and
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> (d) If serious errors in the findings of facts are raised which would cause grave or irreparable damage or injury to the appellant.
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> x x x x.

In our view, the CA acted judiciously in undoing the too *literal* interpretation of Article 223 of the *Labor Code* by the NLRC. The enumeration in the provision of the grounds for an appeal actually encompassed the ground relied upon by the respondents in their appeal. Their phrasing of the ground, albeit not hewing closely (or literally) to that of Article 223, related to the first and the last grounds under the provision. In dismissing the appeal on that basis, the NLRC seemed to prefer form and technicality to substance and justice. Thereby, the NLRC acted arbitrarily, for its dismissal of the appeal became entirely inconsistent with the constitutional mandate for the protection to labor.[20]

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[18] Supra note 1, at 26-27.

[19] Article 223, which has been renumbered Article 229 of the *Labor Code* (per DOLE Advisory No. 01, Series of 2015).

[20] *Pagdonsalan v. National Labor Relations Commission*, No. L-63701, January 31, 1984, 127 SCRA 463, 467.

Secondly, the CA's overturning of the NLRC's ruling was based on its finding that the petitioners did not sufficiently establish the just and valid cause to dismiss the respondents from their employment. As the assailed judgment indicates, the CA's review was thorough and its ruling judicious. The CA thereby enforced against the petitioners the respected proposition that it was the employer who bore the burden to show that the dismissal was for just and valid cause.[21] The failure of the petitioners to discharge their burden of proof as the employers necessarily meant that the dismissal was illegal.[22] The outcome could not be any other way.

In order to warrant the dismissal of the employee for just cause, Article 282 (b) of the *Labor Code* requires the negligence to be gross and habitual. Gross negligence is the want of even slight care, acting or omitting to act in a situation where there is duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to consequences insofar as other persons may be affected.[23] Habitual neglect connotes repeated failure to perform one's duties for a period of time, depending upon the circumstances.[24] Obviously, a single or isolated act of negligence does not constitute a just cause for the dismissal of the employee.[25]

The ground for dismissal, according to the LA, was gross negligence. Considering, however, that the petitioners did not refute the respondents' claim that the incident was their first offense, and that the petitioners did not present any evidence to establish the supposed habitual neglect on the part of the respondents, like employment or other records indicative of the service and personnel histories of the respondents during the period of their employment, the CA reasonably found and concluded that the just cause to dismiss them was not established by substantial evidence.

And, lastly, anent the error in the dispositive portion of the judgment of the CA, it appears that the CA's decision cited the consolidated cases of NLRC NCR Case No. 00-11-07903-94 and NLRC NCR Case No. 00-11-08208-94 as the rulings being rev ersed and set aside. A reading of the dispositive portion reveals that the error was limited to the reference to a different docket number. The correct docket number was instead NLRC Case No. V-000391-98 (RAB Case No. VII-10-1292-96). It should be plain that the error was clerical, not substantial, and this is borne out by the undeniable fact that the CA correctly stated the dates of the assailed decision and resolution of the NLRC, specifically December 23, 1998 and May 8,

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21 *Nissan Motors Phils., Inc. v. Angelo,* G.R. No. 164181, September 14, 2011, 657 SCRA 520, 532.

22 *National Labor Relations Commission v. Salgarino,* G.R. No. 164376, July 31, 2006, 497 SCRA 361, 383, citing *Royal Crown Internationale v. National Labor Relations Commission,* G.R. No. 78085, October 16, 1989, 178 SCRA 569, 578.

23 *Sanchez v. Republic,* G.R. No. 172885, October 9, 2009, 603 SCRA 229, 237.

24 *Abel v. Philex Mining Corporation,* G.R. No. 178976, July 31, 2009, 594 SCRA 683, 696-697.

25 *St. Luke's Medical Center, Inc. v. Notario,* G.R. No. 152166, October 20, 2010, 634 SCRA 67, 78.

2000, respectively. To be also noted is that the CA correctly stated August 29, 1996 as the date when the respondents were terminated.

**WHEREFORE**, the Court **DENIES** the petition for review on *certiorari*; and **AFFIRMS** the decision promulgated on January 9, 2004 as herein **MODIFIED**, to wit:

> **WHEREFORE**, the instant petition is GRANTED. The assailed Decision dated December 23, 1998 and Resolution dated May 8, 2000, of public respondent NLRC, Fourth Division, Cebu City in **NLRC Case No. V-000391-98 (RAB Case No. VII-10-1292-96)** are hereby REVERSED and SET ASIDE. In lieu thereof, the petitioners [Victor Albina, Vicente Uy and Alex Velasquez] are hereby reinstated with full backwages from the time their employment were terminated on August 29, 1996 up to the time the decision herein becomes final. However, if reinstatement is no longer feasible, due to the strained relations between the parties, the private respondent [Sugarsteel Industrial, Inc.] is ordered to pay the petitioners their separation pay equivalent to one (1) month for every year of service, in addition to the backwages.
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> **SO ORDERED.**

The petitioners shall pay the costs of suit.

**SO ORDERED.**

**LUCAS P. BERSAMIN**
Associate Justice

**WE CONCUR:**

(On Leave)
**MARIA LOURDES P. A. SERENO**
Chief Justice

**TERESITA J. LEONARDO-DE CASTRO**
Associate Justice
Acting Chairperson

**ESTELA M. PERLAS-BERNABE**
Associate Justice

**ALFREDO BENJAMIN S. CAGUIOA**
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.

**TERESITA J. LEONARDO-DE CASTRO**
Associate Justice
Acting Chairperson, First Division

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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.

**ANTONIO T. CARPIO**
Acting Chief Justice