



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DEBRA ANN P. GAITE,
Petitioner,

G.R. No. 219324

Present:

- versus -

CARPIO, J., Chairperson
PERALTA,
PERLAS-BERNABE,
CAGUIOA,** and
REYES, JJ.

FILIPINO SOCIETY OF
COMPOSERS, AUTHORS AND
PUBLISHERS, INC., ARTURO
LUI PIO, NOEL G.
CABANGON, ALVIN F. DE
VERA, LEOCADIO ERNESTO
A. SANCHEZ III, ADORACION
SATURNO AND CEASAR*
APOSTOL,

Promulgated:
08 AUG 2018

Respondents.

AMCabalera Perfecto

x-----x

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision¹ dated November 24, 2014 and the Resolution² dated July 1, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 133559.

The antecedent facts are as follows:

* Also spelled as "CAESAR" in some parts of the rollo.
** On wellness leave.
¹ Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Amy C. Lazaro-Javier and Zenaida T. Galapate-Laguilles, concurring; *rollo*, pp. 14-33.
² *Id.* at 35-38.

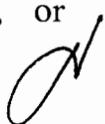
On May 16, 2006, respondent Filipino Society of Composers, Authors, and Publishers, Inc. (*FILSCAP*), incorporated in 1965 as a non-stock, non-profit association of composers, lyricists, and music publishers that collectively enforces the public performance rights granted by law to copyright owners of musical works, employed petitioner Debra Ann P. Gaité as its General Manager. Its primary purpose includes: (i) the acquisition of representation and performance rights on music compositions of its members and similar affiliate societies; and (ii) the grant of licenses and collection of royalties for the representation and performance rights on music compositions of its members and similar affiliate foreign societies. In consideration for its authorization of the public performance of copyright works through the issuance of licenses, *FILSCAP* collects license fees which it then distributes to its members and affiliate foreign societies.

In 2012, several issues pertaining to Gaité were brought to the attention of *FILSCAP*'s Board of Trustees which include the following: (1) the erroneous filing of a case against a records company without prior notice to the Board, which eventually resulted in *FILSCAP* being ordered to pay ₱1,000,000.00 in damages; (2) her non-disclosure of her receipt of an e-mail inviting one of the board members to a regional digital licensing conference in Taipei; (3) her willful delay in taking action on the collection of proxy forms from members for the May 28, 2011 *FILSCAP* elections and, consequently, collection of an insufficient number of proxy forms for the said election; (4) her non-disclosure of the complete list of members to a board member who wanted to help in securing the proxy forms; and (5) the appropriation for her personal benefit of show tickets given to *FILSCAP*, which were supposed to be used for monitoring purposes.³

Before conducting administrative disciplinary proceedings against Gaité, the Board sought the legal opinion of *FILSCAP*'s external counsel. Thereafter, learning of the issues between *FILSCAP* and Gaité, the International Confederation of Societies of Authors and Composers (*CISAC*), the umbrella organization of copyright societies around the world, advised *FILSCAP* to settle the matter amicably. Thus, *FILSCAP* discussed a graceful exit and separation package with Gaité and scheduled the signing of a Release, Waiver, and Quitclaim on June 26, 2012 which provided that *FILSCAP* would release, waive and discharge Gaité from any and all actions, whether civil, criminal or administrative, or from any and all claims of any kind or character arising out of or in connection with her employment with *FILSCAP* in exchange for ₱1,440,386.01.

Days before the scheduled signing, however, *FILSCAP* discovered that for several fiscal years already, specifically from 2009 to 2011, Gaité had been allowing funds from its Special Accounts to be used to cover the company's Operating Expenses without the knowledge, consent, or

³ *Id.* at 15.



authorization of the Board and in contravention of FILSCAP's Distribution Rules. FILSCAP pointed out that it is a non-stock, non-profit organization established to protect the interests of composers, lyricists, and music publishers and that from the royalties it receives, it maintained a Special Accounts for undistributed collections. Under its Distribution Rules, these Special Accounts were intended to be held for a certain period until such time that the conditions for their release to a particular person or entity or to a general membership, as the case may be, have been met. In other words, these funds were held in trust by FILSCAP for the benefit of the rightful owners. But as FILSCAP claimed, it discovered that said Special Accounts were being transferred and credited to cover the shortage in the Operating Expenses resulting in the dwindling of the same, depriving the rightful beneficiaries of the amount appropriately due them. Because of this discovery, FILSCAP decided to defer the settlement with Gaité and in lieu of the Quitclaim-signing scheduled on June 26, 2012, FILSCAP commenced a specific inquiry into the matter.⁴

During said investigation, FILSCAP confirmed Gaité's unauthorized misappropriation or reallocation, which she committed together with the then Distribution Manager, Mr. Genor Kasiguran, amounting to ₱17,720,455.77. In fact, she even admitted the same in her email to Board member, Mr. Gary Granada, on June 22, 2012, where she said in part that:

Rox, Genor and I discussed it and made a decision which we thought was in the best interest of the Society. I agree with you that it is mainly an accounting concern. But it was a collegial decision based on reports made by accounting and distribution, distribution rules as approved by the Board, and sound accounting principles (otherwise Rox would have said so). **Whether or not the Board was made fully aware of this (which I heard is now the main issue) does not make the decision wrong.**⁵

In view of said discovery, FILSCAP issued a Show Cause Notice to Gaité dated July 10, 2012 requiring her to explain why no disciplinary sanctions should be imposed on her and likewise placed her under preventive suspension with pay, pending the administrative investigation. In her reply, Gaité denied any misappropriation and informed the Board that she had already filed a case for constructive dismissal against FILSCAP on June 28, 2012, or two (2) days after the cancelled signing of the Quitclaim and even before the July 10, 2012 show-cause notice was sent to her.

In her Position Paper, Gaité alleged that her termination was premeditated and that as early as 2010, she was already confronted about certain matters such as her out-of-town trips, entitlement to complimentary concert tickets, and her remarks about having too many board meetings. She

⁴ *Id.* at 16-17.

⁵ *Id.* at 17. (Emphasis ours)

alleged that it is because FILSCAP and its counsel doubted the validity of their proposed grounds for termination that they instead negotiated with her for a separation package in exchange for her resignation. But belatedly, they reneged on their offer and simulated the charge of loss of confidence to justify her termination. According to Gaité, she did not misappropriate any fund nor is there proof that she utilized the same for her personal use. As regards the alleged reallocation from the Special Accounts to the Operating Expenses, Gaité claimed that such was done in accordance with the company's Distribution Rules which provide that the distributable revenue is calculated by subtracting from the company's gross revenue, among others, all expenses arising from and incidental to the management and operation thereof. Also, she pointed out that, besides, said reallocation redounded to the benefit of the company.⁶

On April 24, 2013, the Labor Arbiter (*LA*) rendered a Decision ordering FILSCAP to pay Gaité ₱1,440,386.10 representing the amount stated in the Quitclaim declaring that there was already a perfected and binding contract between the parties when they negotiated and wrote the final draft of the Quitclaim.⁷

On October 29, 2013, the National Labor Relations Commission (*NLRC*) partially set aside the *LA* Decision and declared that Gaité was constructively dismissed, ordering FILSCAP to pay her backwages, separation pay, moral and exemplary damages and attorney' fees. According to the *NLRC*, the acts of FILSCAP prior to terminating Gaité's services amounted to constructive dismissal. *First*, they sought the legal opinion of their counsel as to how they could terminate her employment. Apparently unconvinced with the soundness of their grounds, they negotiated with Gaité for a separation package. But they reneged on their promise and instead belatedly came up with the charge of reallocation/misappropriation, which is a mere afterthought. To the *NLRC*, these acts constituted discrimination, insensibility, and disdain towards Gaité amounting to constructive dismissal.⁸

In a Decision dated November 24, 2014, however, the *CA* reversed and set aside the *NLRC* Decision. It held that contrary to the *NLRC*'s findings, the acts of FILSCAP in seeking the opinion of its counsel, foregoing the signing of the Quitclaim, and conducting an administrative hearing cannot be considered as acts of discrimination, insensibility, and disdain for it was merely exercising prudence and due diligence in good faith to ensure that Gaité's dismissal would be proper and based on valid

⁶ *Id.* at 18-19.

⁷ *Id.* at 20.

⁸ *Id.* at 21.

grounds.⁹ Besides, it was stressed that the said Quitclaim was not perfected as the parties did not sign the same.

As for her actual dismissal, the CA ruled that Gaité was validly dismissed for serious misconduct and loss of trust and confidence. This is because as provided by the company's Distribution Rule, the Board has sole authority to allocate or appropriate FILSCAP's revenues consisting of royalties and license fees. Thus, her act of transferring the staggering amount from the Special Accounts to augment the alleged Operating Expenses deficit without the consent of the Board is serious in that not only did she violate the rules, she depleted the special funds which FILSCAP merely held in trust for the rightful copyright owners, putting FILSCAP in a bad light. In fact, the appellate court noted that to correct Gaité's anomaly, FILSCAP even had to take out a loan to cover the royalties due for distribution but were unavailable because of her reallocation.

The CA also ruled that contrary to Gaité's claim, FILSCAP was able to sufficiently prove with convincing evidence the fact of the reallocation. Besides, her claim that there is no reallocation is inconsistent with her subsequent arguments that the reallocation was made pursuant to the Distribution Rules and that the same even redounded to the benefit of the company. The fact remains that Gaité's culpable acts amounted to loss of trust and confidence justifying her dismissal because as General Manager of FILSCAP, she held a fiduciary position entrusted with the overall operation thereof.¹⁰

In its Resolution dated July 1, 2015, the CA further rejected Gaité's contention that the accounting report and email correspondence are inadmissible as they were never authenticated, verified or sworn to. First of all, technical rules of evidence are not binding in labor cases. Second of all, Gaité never questioned the authenticity/admissibility thereof before the labor tribunals. Thus, any objection thereto must be deemed waived.¹¹

Unfazed, Gaité filed the instant petition on September 7, 2015 invoking the following arguments:

I.

THE COURT OF APPEALS GRAVELY ERRED IN IGNORING THE FACTUAL FINDINGS OF THE NATIONAL LABOR RELATIONS COMMISSION WHICH WERE CLEARLY SUBSTANTIATED BY EVIDENCE ON RECORD.



⁹ *Id.* at 24-25.

¹⁰ *Id.* at 25-32.

¹¹ *Id.* at 36-37.

II.

THE CONCLUSIONS OF THE COURT OF APPEALS WERE GROUNDED ENTIRELY ON SPECULATIONS, SURMISES, AND A MISAPPREHENSION OF FACTS.

III.

THE GROUND UPON WHICH PETITIONER WAS DISMISSED WAS BASELESS, UNFOUNDED, AND CONTRIVED.¹²

In her petition, Gaité posits that the CA erred in reversing the ruling of the NLRC for the same was clearly supported by substantial evidence, particularly, the legal opinion of FILSCAP's counsel, the minutes of the special meeting of the Board, and the draft of the Quitclaim. These documents evince the premeditated scheme of FILSCAP to oust Gaité from her employment. Clearly, the supposed "reallocation or misappropriation of funds" purportedly committed by Gaité was a belated accusation to forestall the execution of the Quitclaim. Thus, the findings of fact of the NLRC should be respected.¹³

Gaité also claims that the CA erred when it ruled that she was validly dismissed. *First*, the documents presented by FILSCAP as evidence were neither authenticated, identified nor sworn to. As such, they have no probative value and are merely hearsay and self-serving. *Second*, the June 22, 2012 email where Gaité supposedly admitted that there was a "reallocation" of funds was conveniently taken out of context for the CA merely relied on its last paragraph. She invites Us to consider the pertinent portions of the same below:

"Hi Gary. It seems that the brief I prepared was not read or forwarded. Baka that might explain things better.

The ratios reported annually are correct, but based on totals. The distribution is done in pools, with varying percentages of administration cost (specifically for mechanicals and foreign pools) – a practice that has been in place since the beginning. That is causing the deficiencies.

The amounts were not "borrowed." The expense was already made the previous year. (i.e., last year's opex) based on the approved budgets and all disbursements over 50,000 are cleared with the Board. The budgets were not changed at all. But these were expenses already incurred for the previous year's operating expense, and the amount should be deducted from the following year's distribution as specified in our distribution rules. It is simply an issue of the amount not being fully deducted from the following year's distributable amount.

x x x

Genor and I discussed this with Mars and then Rox because it is an accounting concern more than a distribution concern. When the auditor

¹² *Id.* at 64.

¹³ *Id.* at 64-72.

(Bing) discussed the audit findings with us, one issue he mentioned was the lack of reconciliation between the accounting and the distribution. I agreed and said we will direct the two to make a reconciliation. Rox and I then explained the problem of unrecovered costs to him and what we thought of doing to correct the previous years. He said it was “ok” naman especially since these funds can no longer be attributable to any specific recipient.

Rox, Genor and I discussed it and made a decision which we thought was in the best interest of the Society. I agree with you that it is mainly an accounting concern. But it was a collegial decision based on reports made by accounting and distribution, distribution rules as approved by the board, and sound accounting principles (otherwise Rox would have said so). Whether or not the Board was made fully aware of this (which I heard is the main issue) does not make the decision wrong.” (Underscoring supplied)¹⁴

Thus, Gaité claims that “the distribution is done in pools, with varying percentages of administration cost (specifically for mechanicals and foreign pools) – a practice that has been in place since the beginning” and that “the expense was already made the previous year. (i.e., last year’s opex) based on the approved budgets and all disbursements over 50,000 are cleared with the Board.” Clearly, therefore, this allegation of reallocation is merely an afterthought for had there been irregularities since 2009, the same should have already been discovered in the course of the audit.

Third, to defend her case, Gaité explains that Section 3.1 of the Distribution Rules of the company provides that all expenses arising from and incidental to the conduct, management and operation of the company, which includes Operating Expenses, are first to be deducted from the company’s gross revenue, to wit:

3. General Principles Governing Royalty Distribution
- 3.1 Distributable revenue is calculated by subtracting from the Society’s gross revenue:
 - a) all expenses arising from and incidental to the conduct, management and operation of the Society;
 - b) provision for reserves, if any; and
 - c) moneys applied by the Board for development and promotion of Filipino Music and culture.” (Underscoring supplied)¹⁵

Thus, Gaité concludes that the monies were used for operating expenses which were used for the company. *Fourth*, Gaité asseverates that the statement of the CA that FILSCAP was constrained to take out a loan to “cover royalties due” is based on conjecture, speculation, and guesswork. This is because the purported bank loan application submitted by FILSCAP does not indicate the purpose the same is to be used other than “capital.”¹⁶ *Finally*, Gaité contends that the only offense she appears to be guilty of is

¹⁴ *Id.* at 74-75.

¹⁵ *Id.* at 76.

¹⁶ *Id.* at 76-77.

that she withheld the disbursement of funds from a Special Fund for the company's Operating Expenses without the knowledge, consent or authorization of the Board. She is not, however, guilty of misappropriation since she did not utilize said funds for her personal use. In fact, it was clearly shown that the disbursement of funds redounded to the benefit of the company.¹⁷

The Court does not agree.

Ultimately, the bone of contention in the instant case is the legality of Gaité's dismissal.

Basic is the rule that an employer may validly terminate the services of an employee for any of the just causes enumerated under Article 296 (formerly Article 282) of the Labor Code, namely:

- (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.

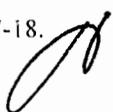
Here, the Notice of Termination shows that FILSCAP terminated Gaité's employment due to the fact that her actuations constituted serious misconduct and caused loss of trust and confidence in her as General Manager of the company.¹⁸

On the first ground for termination, case law characterizes "misconduct" as an improper or wrong conduct; it is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment. The misconduct, to be serious within the meaning of the Labor Code, must be of such a grave and aggravated character and not merely trivial or unimportant. Thus, for misconduct or improper behavior to be a just cause for dismissal, (a) it must be serious; (b) it must relate to the performance of the employee's duties; and (c) it must show that the employee has become unfit to continue working for the employer.¹⁹

¹⁷ *Id.* at 79.

¹⁸ *Id.* at 209.

¹⁹ *Maula v. Ximex Delivery Express, Inc.*, G.R. No. 207838, January 25, 2017, 815 SCRA 1, 17-18.



In the instant case, the Court finds that Gaité's actuations constitutes serious misconduct. *First*, the seriousness of the same cannot be denied. Not only is the amount involved herein a staggering amount of ₱17,720,455.77, the alleged reallocation violated an express provision of the company's Distribution Rules and was accomplished without the knowledge, consent, or authorization of the Board. *Second*, Gaité committed said transfer in the performance of her duties as General Manager of FILSCAP who is responsible for the overall operations thereof, including the regular review and updating of its distribution guidelines to facilitate royalty distribution to FILSCAP members and foreign affiliates. *Third*, because of this grave infraction causing the depletion of the company's Special Accounts held in trust for the rightful copyright owners, Gaité's ability to duly perform and accomplish her duties and responsibilities as General Manager has been seriously put into question. It is clear, therefore, that Gaité's acts amounted to serious misconduct warranting her dismissal.

On the second ground for termination, the Court has held that "loss of trust and confidence" will validate an employee's dismissal when it is shown that: (a) the employee concerned holds a position of trust and confidence; and (b) he performs an act that would justify such loss of trust and confidence. Moreover, certain guidelines must be observed for the employer to cite loss of trust and confidence as a ground for termination. It is never intended to provide the employer with a blank check for terminating its employees. Neither should it be loosely applied in justifying the termination of an employee nor should it be used as a subterfuge for causes which are improper, illegal, or unjustified.²⁰

Here, the Court finds that FILSCAP validly terminated Gaité's employment on the ground of loss of trust and confidence. *First*, there is no doubt that she held a position of trust and confidence. The law contemplates two (2) classes of positions of trust. The first class consists of managerial employees. They are as those who are vested with the power or prerogative to lay down management policies and to hire, transfer, suspend, layoff, recall, discharge, assign or discipline employees or effectively recommend such managerial actions. The second class consists of cashiers, auditors, property custodians, etc. who, in the normal and routine exercise of their functions, regularly handle significant amounts of money or property.²¹ As General Manager of the company, Gaité clearly falls under the first class of employee for as earlier pointed out, she was responsible for the overall operations thereof, including the regular review and updating of its distribution guidelines to facilitate royalty distribution to FILSCAP members and foreign affiliates. Specifically, her duties include: (1) preparation of the annual and 3-5 year FILSCAP Programs and budgets, ensuring that the same are implemented effectively and judiciously; and (ii)

²⁰ *PJ Lhuillier, Inc. v. Camacho*, G.R. No. 223073, February 22, 2017.

²¹ *Id.*

regular reviews and updating of FILSCAP's distribution guidelines to facilitate royalty distribution to FILSCAP members and foreign affiliates.²² Hence, the first requisite is present in this case.

Second, it is rather obvious to the Court that the act of transferring the aforementioned staggering amount from the Special Accounts to cover the company's Operating Expenses, without the knowledge and consent of the Board of Directors, and in direct contravention of FILSCAP's Distribution Rules is sufficient reason for the loss of trust and confidence in Gaité. It bears stressing that as managerial employee, Gaité could be terminated on the ground of loss of confidence by mere existence of a basis for believing that she had breached the trust of her employer, which in this case is FILSCAP. Proof beyond reasonable doubt is not required. It would already be sufficient that there is some basis for such loss of confidence, such as when the employer has reasonable ground to believe that the concerned employee is responsible for the purported misconduct and the nature of his participation therein. This distinguishes a managerial employee from a fiduciary rank-and-file where loss of trust and confidence, as ground for valid dismissal, requires proof of involvement in the alleged events in question, and that mere uncorroborated assertion and accusation by the employer will not be sufficient.²³

In the present case, the Court agrees with the appellate court in ruling that FILSCAP has sufficiently proven Gaité's unauthorized reallocation or transfer of funds from the company's Special Accounts to its Operating Expenses. For one, the report of FILSCAP's Accounting Officer, Melinda Lenon, dated July 18, 2012 adequately showed that the funds were taken from the distribution pool to cover the operating expenses deficit.²⁴ For another, such report was, in fact, duly corroborated by Gaité's June 22, 2012 email to Board member, Mr. Gary Granada.

On this matter, Gaité contends that said June 22, 2012 email, where she allegedly admitted to the reallocation, was taken out of context. The Court is not convinced. In the first place, nowhere in said e-mail did she expressly or impliedly deny having reallocated funds from the Special Accounts to the Operating Expenses. In the second place, nowhere in said email did she even address the issue of her unauthorized reallocation. At most, she merely explained therein that "the operating expenses were already incurred based on approved budgets' and that 'the same was not deducted from the following year's funds." But the email tells Us nothing about the source from which these expenses were actually paid. Neither does it provide any explanation for FILSCAP's finding that these operating costs were in fact paid using the funds from the Special Accounts. The fact that

²² *Rollo*, p. 630.

²³ *PJ Lhuillier, Inc. v. Camacho*, *supra* note 20.

²⁴ *Rollo*, p. 27.



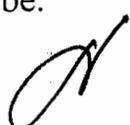
the issue here is mainly an “accounting concern” has no bearing on the allegations proven in the present case.

Unfortunately for Gaité, moreover, her arguments in the instant petition are just as elusive. There, Gaité merely declared that the CA conveniently took her email out of context and simply relied on its last paragraph but did not particularly illustrate how this was done. Instead, she merely quoted the NLRC’s ruling which found that the allegation of reallocation is an afterthought for had there been irregularities since 2009, the same should have already been discovered in the course of the audit. But again, this finding does not explain how her admission in her email was misinterpreted. The allegation that the reallocation issue is a mere afterthought does not instantly render Gaité innocent of the same. Besides, even if we are to assume that the same was indeed taken out of context, the fact remains that as pointed out by the CA, her claim that there was no reallocation is belied by her subsequent arguments that the reallocation was made pursuant to the Distribution Rules and that the same even redounded to the benefit of FILSCAP.

In her belated attempt to refute the charges against her, Gaité claims that the documents presented by FILSCAP as evidence have no probative value for being neither authenticated, identified, nor sworn to. But the Court affirms the ruling of the appellate court that technical rules of evidence are not binding in labor cases. In addition, any objection to said evidence must be deemed waived for Gaité never questioned the authenticity or admissibility thereof before the labor tribunals.

Contrary to Gaité’s expectations, moreover, it has not escaped the Court’s attention that while she persistently insists that her act of reallocating funds was sanctioned by the company’s Distribution Rules, she unfortunately failed to cite any relevant provision that supposedly authorizes her to do so. To support her claim, she cites Section 3.1 of the Distribution Rules. But all said provision states is that all expenses arising from and incidental to the conduct, management and operation of the company, which includes the Operating Expenses, are first to be deducted from the gross income. Nowhere in the rules cited by Gaité was it provided, either expressly or impliedly, that she, as General Manager of FILSCAP, is authorized to transfer funds from the Special Accounts to cover the Operating Expenses without the knowledge or consent of the Board. As the CA points out, it is true that the Operating Expenses must first be deducted from gross revenue to arrive at the distributable revenue. But the Distribution Rules expressly provide that part of the distributable revenue, *after operating and other expenses have been deducted*, are to be held in suspense under special accounts for certain works to be distributed later to the rightful owners or to the general membership, as the case may be.²⁵

²⁵ *Id.* at 28.



Thus, Gaité should not have used the funds from the Special Accounts to cover Operating Expenses because in the first place, the Operating Expenses should have already been deducted from the gross revenue before part of the distributable royalties may be set aside under the Special Accounts. In fact, it bears stressing that Paragraph 1.2 of the Distribution Rules even provides that *the Board has the sole authority to allocate or appropriate FILSCAP's revenues consisting of royalties and license fees.*²⁶ It is therefore clear that not only did Gaité anchor her defense on an inapplicable and irrelevant provision of the company's Distribution Rules, her commission of the subject reallocation goes against the express prohibitions provided thereunder.

The Court finds it worthy to state further that Gaité seems to be missing the point in insisting that there is no showing that an interested person had suffered any damage or injury as a result of the perceived 'reallocation.' That she did not use the funds for her personal gain and that the transfer thereof redounded to the benefit of the company is of no moment. To the Court, the mere fact that she authorized said transfer without the knowledge or consent of the Board and in direct contravention of the company's Distribution Rules constitutes valid and legal ground sufficient enough to warrant her dismissal. Otherwise stated, regardless of whether FILSCAP has sufficiently proven actual damage to FILSCAP or that she personally benefited from her actuations, the mere existence of a basis for believing that she breached FILSCAP's trust and confidence suffices as grounds for her dismissal.

At this juncture, it must be noted that the Court, in *Kasiguran v. FILSCAP, et al.*, had already issued a Resolution²⁷ dated April 6, 2015, where it ruled upon the illegal dismissal suit filed against FILSCAP by Mr. Genor Kasiguran, the Distribution Manager of FILSCAP with whom Gaité allegedly conspired in committing the same unauthorized act of reallocation charged herein. There, the Court upheld the validity of Kasiguran's dismissal on the grounds of serious misconduct and loss of trust and confidence, *viz.*:

In this case, the LA and the NLRC were uniform in their findings that the ₱17,720,455.77 subject amount was transferred from Special Accounts to the Operating Expenses without the required Board approval. The NLRC did not consider this as sufficient reason to justify Kasiguran's dismissal because: (1) the respondents failed to prove that they were defrauded which to it was an essential element of misappropriation; and (2) hence, while there was "transfer," the dismissal was too harsh a penalty.

It should be noted, however, that **the damage to the respondents or whether or not the respondents were defrauded is not a necessary**

²⁶ *Id.* at 26.

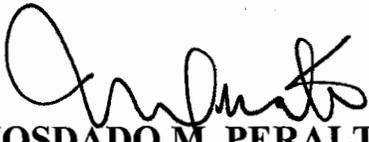
²⁷ *Id.* at 825-829.

element and consideration in determining whether sufficient basis exists to justify the employee's dismissal on grounds of serious misconduct or loss of trust. To reiterate, the employer need only to entertain the moral conviction or such reasonable grounds to believe, that the employee is responsible for the misconduct and the nature of the latter's participation renders him unworthy of the trust and confidence demanded by the position; that the act resulting in the loss of trust or the misconduct is established by facts; and that the act or misconduct is willfully made, *i.e.*, the employee voluntarily and willfully committed the act, although he may not have intended the wrongful consequence.²⁸

Prescinding from the foregoing, it is evident from the facts of this case that Gaité was validly dismissed on the grounds of serious misconduct and loss of trust and confidence for her unauthorized reallocation of funds from FILSCAP's Special Accounts to cover the deficit in its Operating Expense without the required knowledge, consent, or authorization of the company's Board of Directors. Time and again, the Court has emphasized that an employer has the right to exercise its management prerogative in dealing with its company's affairs including its right to dismiss its erring employees. We recognized the right of the employer to regulate all aspects of employment, such as the freedom to prescribe work assignments, working methods, processes to be followed, regulation regarding transfer of employees, supervision of their work, lay-off and discipline, and dismissal and recall of workers. In fact, it is a general principle of labor law to discourage interference with an employer's judgment in the conduct of his business. Even as the law is solicitous of the welfare of the employees, it also recognizes employer's exercise of management prerogatives. Thus, for as long as the company's exercise of judgment is in good faith to advance its interest and not for the purpose of defeating or circumventing the rights of employees under the laws or valid agreements, such exercise will be upheld.²⁹

WHEREFORE, premises considered, the instant petition is **DENIED**. The assailed Decision dated November 24, 2014 and Resolution dated July 1, 2015 of the Court of Appeals are **AFFIRMED**.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

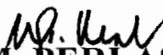
²⁸ *Id.* at 828. (Emphasis ours)

²⁹ *Moya v. First Solid Rubber Industries, Inc.*, 718 Phil. 77, 87 (2013).

WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ESTELA M. PERLAS-BERNABE
Associate Justice

On wellness leave
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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
Senior Associate Justice
(Per Section 12, Republic Act
No. 296, The Judiciary Act of
1948, as amended)