



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SAMUEL MAMARIL,
Petitioner,

G.R. No. 229920

Present:

- versus -

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

THE RED SYSTEM COMPANY,
INC., DANILO PADRIGON, AGNES
TUNPALAN, ALEJANDRO
ALVAREZ, JODERICK LOZANO,
ENRIQUE ROMMEL
MIRAFLORES, DOMINGO
RIVERO,

Respondents.

Promulgated:

04 JUL 2018

X-----X

DECISION

REYES, JR., J.:

An employee's tenurial security shall not be used as a shield to force the hand of an employer to maintain a recalcitrant employee, whose continued employment is patently inimical to the employer's interest. Accordingly, an employee who is found to be willfully disobedient of the employer's lawful and reasonable rules and regulations may be dismissed from service.

This treats of the Petition for Review on *Certiorari*¹ under Rule 45 of the Revised Rules of Court seeking the reversal of the Decision² dated September 9, 2016, and Resolution³ dated January 30, 2017, rendered by the Court of Appeals (CA) in CA-G.R. SP No. 06413-MIN, which dismissed the

¹ Rollo, pp. 8-27.

² Penned by Associate Justice Ruben Reynaldo G. Roxas, with Associate Justices Edgardo T. Lloren and Rafael Antonio M. Santos, concurring; id. at 221-232.

³ Id. at 250-251.

complaint for illegal dismissal filed by petitioner Samuel Mamaril (Mamaril) against respondent The Red System Company, Inc. (Red System).

The Antecedents

Red System is a company engaged in the business of transporting Coca Cola Products from Coca-Cola warehouses to its various customers.⁴ Red System owns and operates several delivery trucks.⁵

On June 1, 2011, Red System employed Mamaril as a delivery service representative. Mamaril was assigned in Davao and was tasked to transport goods from various depots to the end users.⁶ He received a daily wage of Php 301.00.⁷

Prior to his employment as a delivery service representative, Mamaril was required to undergo seminars to orient him on the rules and regulations of Red System. During the orientation, drivers like Mamaril, were reminded to always observe the following safety rules, namely, to put a tire choke (*kalso*), engage the hand brake, and shift the transmission to first gear, before leaving the parked vehicle. These safeguards were necessary to prevent the movement of the truck while pushed by a forklift during loading and unloading operations.⁸

Meanwhile, on November 9, 2011, Red System conducted an administrative hearing to determine Mamaril's complicity in fraudulent and anomalous re-fueling charges on the truck he was driving. However, when asked if he had violated any other company regulations, or if he had met an accident that caused any damage to the truck, Mamaril admitted that he had met an accident in the past.⁹

Apparently, three days after Mamaril's employment, he failed to put a tire choke, and worse, shifted the gear to neutral after parking the truck he was driving. This caused the truck to move, which caused damage to Coca-Cola products valued at Php 14,556.00. Mamaril did not report the incident, and even concealed the matter.¹⁰

⁴ Id. at 282.

⁵ Id.

⁶ Id.

⁷ Id. at 47.

⁸ Id. at 282-283.

⁹ Id. at 284.

¹⁰ Id. at 283-284.

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Upon discovering Mamaril's mishap, Red System immediately re-assigned the former as a warehouse yard driver.¹¹ As a yard driver, Mamaril was tasked to maneuver trucks to ensure their proper parking in preparation for the safe and efficient loading and unloading of products.¹²

However, days after Mamaril's transfer, he was involved in yet another accident. On November 12, 2011, Mamaril parked the truck with plate number PIK 726, without again putting a tire choke and engaging the hand break. As a result, the parked truck moved and hit another vehicle, causing damage amounting to Php 25,500.00. In addition, Mamaril caused an undetermined amount of damage to the vehicle hit by his truck.¹³ Mamaril again concealed the incident.

Sometime in February 2012, Red System suddenly received a Job Order amounting to Php 25,500.00, for the repair of the truck with plate number PIK 726, from Motormall Davao Corporation.¹⁴ Surprised and curious as to how the truck incurred such heavy damage, Red System conducted an investigation. The investigation pointed to Mamaril as the person responsible for the damage.¹⁵

Consequently, on April 10, 2012, Red System sent Mamaril a Notice to Explain.¹⁶ In the said Notice, Mamaril was likewise apprised that the charges against him were serious and may warrant the penalty of dismissal.¹⁷

On May 3, 2012, Mamaril submitted his written explanation, where he admitted that he violated the safety rules, which caused damage to the truck.¹⁸

Thereafter, on June 8, 2012, Red System held an administrative hearing. Mamaril admitted that his failure to engage the hand brake and put a tire choke on the vehicle resulted to damage.¹⁹ Additionally, Red System discovered during the investigation that Mamaril had also committed several other infractions that were not reported to the company, such as pilferage, tardiness and other violations of the company's safety rules.²⁰

¹¹ Id. at 285.
¹² Id. at 132.
¹³ Id. at 285.
¹⁴ Id.
¹⁵ Id. at 133.
¹⁶ Id. at 90.
¹⁷ Id. at 286.
¹⁸ Id.
¹⁹ Id.
²⁰ Id. at 134.

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Meanwhile, during the pendency of the administrative hearing against Mamaril, Red Systems' officers noticed that the former encountered several near-accident misses and exhibited a lack of concern towards his work. Consequently, Mamaril was advised to be more focused on his duties. However, the advice remained unheeded. Thus, to protect the safety of the company personnel and equipment, Red System placed Mamaril under preventive suspension for a period of one month, which took effect on August 3, 2012. Nina Kathrina Sordan, Red System's Site Human Resource Officer, and Ruselo Raga (Raga), Mamaril's supervisor, explained to Mamaril the nature and duration of his preventive suspension.²¹

Subsequently, prior to the expiration of the 30-day preventive suspension, Raga contacted Mamaril and told him to report for work on September 4, 2012. Mamaril did not comply with the directive, and belatedly returned on September 18, 2012.²²

After the completion of the administrative investigation, Red System found Mamaril guilty of violating the Company Code of Conduct, particularly, Article 4 or Unacceptable Conduct and Behavior, as well as Rule 5, Section 2, pertaining to "Other Offenses or Other Acts of Negligence, Inefficiency in the Performance of Duties or in the Care, Custody/or Use of Company Property, Funds or Equipment Where the Amount of Loss or Damage to the company amounted to more than Php 25,000.00." Accordingly, Mamaril was terminated for willful disobedience and willful breach of trust as provided under Article 297 of the Labor Code.²³

Aggrieved, Mamaril filed a Complaint for illegal dismissal with damages and attorney's fees. In his Position Paper,²⁴ he claimed that he was illegally dismissed by Red System. He asserted that his termination from employment was too harsh as it was manifestly disproportionate to his infractions. He sought for his reinstatement and the payment of his backwages and other benefits and privileges from the time of his illegal dismissal until his reinstatement. He likewise prayed for moral damages, exemplary damages and attorney's fees, assailing Red System's unjust and oppressive dismissal, which purportedly caused him mental anguish, social humiliation and a besmirched reputation.²⁵

²¹ Id. at 288.

²² Id. at 288-289.

²³ Id. at 112-113.

²⁴ Id. at 47-56.

²⁵ Id. at 50-52.

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Ruling of the Labor Arbiter

In its Decision²⁶ on November 20, 2013, the Labor Arbiter (LA) dismissed the complaint for illegal dismissal. The LA ratiocinated that Mamaril was validly dismissed, as he was found to have been negligent, for failing to follow Red System's safety instructions. In fact, Mamaril admitted his complicity in such negligence. The LA held that Mamaril's propensity to violate the company's safety rules and conceal his misdeeds show that he is unfit to remain in Red System's service.²⁷

Likewise, the LA refused to award Mamaril his 13th month pay and service incentive leave (SIL) pay considering that they were never substantiated, properly discussed and included in Mamaril's position paper.

The dispositive portion of the LA decision reads:

WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the complaint for Illegal Dismissal for lack of merit.

All other claims are likewise DENIED for failure to substantiate and lack of merit.

SO ORDERED.²⁸

Dissatisfied with the LA's ruling, Mamaril filed a Memorandum of Appeal²⁹ with the National Labor Relations Commission (NLRC).

Ruling of the NLRC

On April 24, 2014, the NLRC issued a Resolution³⁰ affirming the LA's decision with modification. Echoing the ruling of the LA, the NLRC held that Mamaril was validly dismissed from employment, as he was proven to be guilty of violating Red System's Code of Conduct. Considering that his dismissal was warranted under the circumstances, his claims for reinstatement and backwages have no leg to stand on. In the same vein, the NLRC rejected Mamaril's claim for moral and exemplary damages due to his failure to present evidence showing that Red System acted with malice or bad faith in effecting his dismissal. The NLRC also denied Mamaril's claim for attorney's fees for lack of legal and factual basis.³¹

²⁶ Rendered by Labor Arbiter Joseph Martin R. Castillo; id. at 136.

²⁷ Id. at 134-135.

²⁸ Id. at 136.

²⁹ Id. at 137-152.

³⁰ Id. at 172-186.

³¹ Id. at 184-185.

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In addition, the NLRC rejected Mamaril's claim that he was meted with a "double penalty," for having been suspended, and thereafter terminated from employment. The NLRC clarified that what was initially imposed upon Mamaril was a preventive suspension, which was a disciplinary measure resorted to by Red System, pending the investigation of the former's offenses.³²

However, the NLRC awarded 13th month pay and SIL pay in favor of Mamaril. It noted that Red System failed to present any document proving that it had indeed paid Mamaril his 13th month pay and SIL pay. Nevertheless, the NLRC limited the award to three (3) years prior to the filing of the complaint, pursuant to Article 291 of the Labor Code.³³

The dispositive portion of the NLRC decision reads:

WHEREFORE, [Mamaril's] appeal is PARTIALLY GRANTED.

Accordingly, the decision of [LA] Joseph Martin R. Castillo dated November 20, 2013 is AFFIRMED with modification. [Red System], through its responsible officers, is directed to pay [Mamaril] his 13th month pay and [SIL] pay limited only to three (3) years from the filing of the instant complaint pursuant to Article 291 of the Labor Code.

The rest of [Mamaril's] money claims are dismissed for lack of factual and/or legal basis.

The computation of [Mamaril's] money claims shall be done at the Regional Arbitration Branch *a quo* during the pre-execution proceedings.

SO ORDERED.³⁴

Mamaril filed a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court with the CA.

Ruling of the CA

On September 9, 2016, the CA rendered the assailed Decision³⁵ affirming the NLRC resolution. The CA found no reason to reverse the findings of the LA and the NLRC holding that Mamaril was validly terminated by Red System. The CA ratiocinated that Mamaril's repeated failure to comply with Red System's safety instructions constituted a just cause for his dismissal.³⁶ His acts caused loss and damage to Red System,

³² Id. at 181-182.

³³ Id. at 184.

³⁴ Id. at 185.

³⁵ Id. at 221-232.

³⁶ Id. at 228.

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and constituted willful disobedience, negligence and willful breach of trust, which are just causes for termination under the Labor Code.³⁷

Likewise, the CA agreed with the NLRC's finding that the suspension imposed on Mamaril was merely a preventive suspension and not a penalty.³⁸ Hence, Red System cannot be held guilty for imposing a double penalty against Mamaril.³⁹

The CA also affirmed the NLRC's award of 13th month pay and SIL pay in favor of Mamaril.⁴⁰

The decretal portion of the assailed CA decision reads:

WHEREFORE, the petition is **DENIED**. The Resolutions dated April 24, 2014 and June 30, 2014 of the [NLRC], Eighth Division, are hereby **AFFIRMED**.

SO ORDERED.⁴¹

Undeterred, Mamaril filed the instant Petition for Review on *Certiorari*⁴² under Rule 45 of the Revised Rules of Court.

The Issues

The issues raised for the Court's resolution pertain to: (i) whether or not Mamaril was illegally dismissed by Red System, and is consequently entitled to reinstatement and full backwages; and (ii) whether or not Red System was guilty of imposing a double penalty against Mamaril.

Mamaril tenaciously maintains that he was illegally dismissed from his employment. He claims that he was even subjected to a double penalty that was harsh and excessive, as he was initially placed under suspension and thereafter dismissed, based on the same infraction. He avers that his initial suspension could not have been a preventive suspension, considering that the incident subject of the administrative complaint took place in February 2012 while the administrative hearing belatedly followed on June 8, 2012, and he was suspended only in September 2012. He even continued to work for Red System from February to September 2012, which proves that he was not a threat to Red System's property and personnel.⁴³ According to Mamaril, this clearly shows that the imposition of the

³⁷ Id. at 230.

³⁸ Id. at 226.

³⁹ Id. at 228.

⁴⁰ Id. at 230.

⁴¹ Id. at 231.

⁴² Id. at 8-27.

⁴³ Id. at 17.

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preventive suspension was unnecessary and hence, unjustified.⁴⁴ Furthermore, he bewails that the penalty of dismissal was too harsh and excessive for the infraction he committed. He points out that he readily admitted his misdeed and even offered to pay the cost of the damage, which are circumstances that warrant the imposition of a lesser penalty.⁴⁵

On the other hand, Red System counters that Mamaril's claim that his preventive suspension already constituted a penalty is unfounded and without legal basis. Red System points out that Mamaril was given a Notice of Preventive Suspension, which clearly indicated that he was being placed on suspension, pending the investigation of the charges against him. In fact, his supervisor and the Human Resource Department even separately met with him to discuss the nature and duration of his preventive suspension. Red System stresses that it was imperative to place Mamaril under preventive suspension due to the threat he posed to the former's property and personnel. Red System further avers that even assuming that the preventive suspension was illegal, his dismissal was nonetheless valid. He was terminated after the completion of the administrative investigation, where he was found to have committed a grave and blatant violation of the company's safety rules. Besides, Mamaril's conduct during his two-year employment with Red System revealed a pattern of flagrant and repeated violations of safety rules, notorious tardiness and involvement in several anomalies. These transgressions clearly justified his termination from employment.⁴⁶

Ruling of the Court

The instant petition is bereft of merit.

It must be noted at the outset that the jurisdiction of the Court in a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court is limited only to reviewing errors of law, not of fact, unless the factual findings complained of are completely devoid of support from the evidence on record, or the assailed judgment is based on a gross misapprehension of facts.⁴⁷ The Court finds that none of the mentioned circumstances are present to warrant a review of the factual findings of the case. Furthermore, the issues raised in the case at bar, which chiefly pertain to the legality of Mamaril's dismissal, involve a calibration and re-evaluation of the evidence presented by the parties, which is outside the province of a petition for review under Rule 45 of the Revised Rules of Court.

⁴⁴ Id.

⁴⁵ Id. at 20.

⁴⁶ Id. at 291-295.

⁴⁷ *Tenazas, et al. v. R. Villegas Taxi Transport, et al.*, 731 Phil. 217, 228 (2014), citing "*J*" *Marketing Corp. v. Taran*, 607 Phil. 414, 424-425 (2009).

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At any rate, the CA did not commit any reversible error that would warrant the reversal of its assailed decision.

Mamaril was validly dismissed on account of his willful disobedience of the lawful orders of Red System.

Remarkably, “the law and jurisprudence guarantee to every employee security of tenure. This textual and the ensuing jurisprudential commitment to the cause and welfare of the working class proceed from the social justice principles of the Constitution that the Court zealously implements out of its concern for those with less in life.”⁴⁸ However, this constitutional commitment to the policy of social justice does not mean that every labor dispute shall be automatically decided in favor of labor.⁴⁹ It must also be remembered that in protecting the rights of the workers, the law does not authorize the oppression of the employer.⁵⁰ Hence, due regard is likewise given to the right of an employer to manage its operations according to reasonable standards and norms of fair play.⁵¹ This means that an employer has free reign over every aspect of its business, including the dismissal of its employees, as long as the exercise of its management prerogative is done reasonably, in good faith, and in a manner not otherwise intended to defeat or circumvent the rights of workers.⁵²

Accordingly, Article 297 of the Labor Code affirms the right of an employer to dismiss a miscreant employee on account of the latter’s willful disobedience, *to wit*:

Article 282. (now Article 297) Termination by employer. An employer may terminate an employment for any of the following causes:

1. **Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;**
2. Gross and habitual neglect by the employee of his duties;
3. Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
4. 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
5. **Other causes analogous to the foregoing.”** (Emphasis Ours)

⁴⁸ *Imasen Philippine Manufacturing Corporation v. Alcon, et al.*, 746 Phil. 172, 178-179 (2014).

⁴⁹ *Id.* at 179.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* at 179-180.

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Significantly, jurisprudence ordains that for an employee to be validly dismissed on the ground of willful disobedience, the employer must prove by substantial evidence that: (i) “the employee’s assailed conduct must have been willful or intentional, the willfulness being characterized by a wrongful and perverse attitude; and (ii) the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.”⁵³

In the case at bar, it bears noting that the lifeblood of Red System’s business is the safe transport and delivery of Coca-Cola products from the warehouse to the customers. As such, Red System imposed stringent guidelines to ensure the safe and efficient delivery of all the products. Specifically, drivers were repeatedly reminded to place a tire choke, shift the engine to first gear, and pull the hand brake, upon parking the truck. Compliance with these safety measures was essential to prevent the sudden movement of the truck while parked and pushed by a forklift during loading and unloading operations. Likewise, caution was necessary to avoid damage to the new trucks. Moreover, extra-care was mandated in hauling Coca-Cola products to avoid accidents which would result in needless delays and unnecessary expenses and ruin Red System’s good will.⁵⁴

It bears noting that Red System was not remiss in reminding its drivers of the importance of abiding by their safety regulations. To ensure a strict observance of the rules, the company required its drivers to attend various safety seminars, in addition to a mandated pre-employment orientation. In fact, Mamaril attended a pre-orientation seminar and five safety seminars over the course of his two-year stint with Red System.⁵⁵ Added to this, the safety rules were also written in Red System’s Code of Conduct. There can be no doubt as to the lawfulness, reasonableness and necessity of Red System’s safety instructions. Moreover, the rules pertained to the duties performed by Mamaril. Accordingly, Mamaril was duty-bound to comply with such safety orders, as his main task consisted in driving and delivering fragile products. This notwithstanding, Mamaril still willfully and negligently failed to abide by the safety rules.

The records show that three days after Mamaril was employed, he failed to put a tire choke, and worse, shifted the truck’s gear to neutral. As a result, the parked vehicle moved causing damage to Coca-Cola products valued at Php 14,556.00, in addition to the damage he caused to the truck. To make matters worse, instead of reporting the incident to his supervisor, as mandated under Red System’s rules, Mamaril deliberately concealed the incident. If not for his belated admission in an administrative hearing on a

⁵³ *Realda v. New Age Graphics, Inc., et al.*, 686 Phil. 1110, 1114 (2012).

⁵⁴ *Rollo*, p. 282.

⁵⁵ *Id.* at 283.

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different incident, Red System would not have learned about his prior misdeed.⁵⁶

To make matters worse, Mamaril was again found to have committed the same violation of Red System's safety rules. On November 12, 2011, Mamaril parked the truck with plate number PIK 726, without again putting a tire choke and engaging the hand brake. Due to his failure to perform the required safety standards, the truck moved backwards and hit another vehicle. This caused damage amounting to Php 25,500.00. Brazenly, Mamaril again purposely concealed the incident. Red System belatedly learned of the accident only after conducting an investigation, after it was surprised to receive Job Order from Motormall Davao Corporation for the repair of the said truck.⁵⁷

Clearly, Mamaril's acts constituted a violation of Red System's company policy. Rule 5, Section 2(b)(3) of Red System's Code of Conduct penalizes other acts of negligence or inefficiency in the performance of duties or in the care, custody and/or use of company property, funds and/or equipment, where the amount of loss or damage amounts of more than Php 25,000.00. A violation of such rule warrants a penalty of dismissal.⁵⁸

Notably, Mamaril violated Red System's safety rules twice, and caused damage amounting to over Php 40,000.00. To make matters worse, he even deliberately and willfully concealed his transgressions. Such flagrant violation of the rules, coupled with the perversity of concealing the incidents, patently show a wrongful and perverse mental attitude rendering Mamaril's acts inconsistent with proper subordination. Indubitably, this shows that Mamaril was indeed guilty of willful disobedience of Red System's lawful orders.

It must likewise be noted that the Court will not condone Mamaril's acts in exchange for his admission of his mistakes and his willingness to pay for the damage he caused. Guided by the Court's ruling in *St. Luke's Medical Center, Inc. v. Sanchez*,⁵⁹ the deliberate disregard or disobedience by an employee of the rules, shall not be countenanced, as it may encourage him or her to do even worse and will render a mockery of the rules of discipline that employees are required to observe.⁶⁰ To allow a recalcitrant employee like Mamaril to remain in Red System's employ shall amount to coddling an obstinate employee at the expense of the employer.

⁵⁶ Id. at 283-284.

⁵⁷ Id. at 284-285.

⁵⁸ Id. at 90.

⁵⁹ 755 Phil. 910 (2015).

⁶⁰ Id. at 924.

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Thus, taking all the circumstances collectively, the Court is convinced that Red System had sufficient and valid reason for terminating Mamaril's services, as his continued employment would be patently inimical to its interest. It is evident from the circumstances that Red System's decision to terminate Mamaril was exercised in good faith, for the advancement of its interest and not for the purpose of defeating or circumventing the latter's rights. This valid exercise of management prerogative must be upheld.

Mamaril's preventive suspension and subsequent dismissal from the service do not partake of a double penalty; neither may his dismissal be regarded as harsh and excessive.

Mamaril claims that he was subjected to a "double penalty," for having been initially placed under preventive suspension, and thereafter dismissed from the service.

The Court is not persuaded.

To begin with, Mamaril's initial suspension was a preventive suspension that was necessary to protect Red System's equipment and personnel.

Significantly, "[p]reventive suspension is a measure allowed by law and afforded to the employer if an employee's continued employment poses a serious and imminent threat to the employer's life or property or of his co-workers."⁶¹ An employee may be placed under preventive suspension during the pendency of an investigation against him.⁶²

In fact, the employer's right to place an employee under preventive suspension is recognized in Sections 8 and 9 of Rule XXIII, Book V of the Omnibus Rules Implementing the Labor Code, which states:

SEC. 8. Preventive suspension. - The employer may place the worker concerned under preventive suspension if his continued employment poses a serious and imminent threat to the life or property of the employer or of his co-workers.

SEC. 9. Period of suspension. - No preventive suspension shall last longer than thirty (30) days. The employer shall thereafter reinstate the worker in his former or in a substantially equivalent position or the employer may extend the period of suspension provided that during the period of extension, he pays the wages and other benefits due to the worker. In such

⁶¹ *Bluer than Blue Joint Ventures Company, et al. v. Esteban*, 731 Phil. 502, 513-514 (2014).

⁶² *Id.*

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case, the worker shall not be bound to reimburse the amount paid to him during the extension if the employer decides, after completion of the hearing, to dismiss the worker.

In the case at bar, Mamaril was placed under preventive suspension considering that during the pendency of the administrative hearings, he was noticed to have several near-accident misses and he had exhibited a lack of concern for his work. His inattentiveness posed a serious threat to the safety of the company equipment and personnel. This is especially true considering that he was driving trucks loaded with fragile products.

Mamaril further questions the propriety of his preventive suspension, by claiming that the timing of its imposition was suspect, as he even continued working for Red System for eight months after the incident. According to Mamaril, this fact belied Red System's claim that he was a threat to the company's safety.

This same argument was struck down by the Court in the case of *Bluer Than Blue Ventures Company, et al. v. Esteban*,⁶³ where it held that even if the errant employee committed the acts complained of almost a year before the investigation was conducted, the employer shall not be estopped from placing the former under preventive suspension, if the employee still performs functions that involve handling the employer's property and funds. The employer still has every right to protect its assets and operations pending the employee's investigation.⁶⁴ Applying this to the case at bar, Red System's decision to place Mamaril on preventive suspension eight months after the incident does not in any way render the said decision questionable. What matters is that Mamaril's continued employment posed a threat to the company's properties and personnel. It would be at the height of inequity to prevent Red System from enacting measures to protect its own equipment pending the administrative investigation.

Thus, having settled that Mamaril's one-month suspension was in fact a preventive suspension, there was nothing excessive or harsh about Red System's decision to subsequently dismiss Mamaril after finding him guilty of willful disobedience of its lawful and reasonable orders.

Mamaril is Entitled to 13th Month Pay and SIL Pay

Essentially, it is settled that in claims for 13th month pay and SIL pay, the burden rests on the employer to prove the fact of payment. This standard follows the basic rule that in all illegal dismissal cases the burden rests on the defendant to prove payment rather than on the plaintiff to prove

⁶³ 731 Phil. 502 (2014).

⁶⁴ Id. at 513-514.

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non-payment, considering that all pertinent personnel files, payrolls, records, remittances and other similar documents – which will show that the claims of workers have been paid – are not in the possession of the worker but are in the custody and control of the employer.⁶⁵ In the instant case, Red System failed to present proof showing that it had indeed paid Mamaril his 13th month pay and SIL pay, thereby entitling the latter to the same monetary claims. All amounts due shall earn legal interest of six percent (6%) *per annum* from the finality of this ruling until full satisfaction.

All told, Mamaril's dismissal from Red System was valid pursuant to Article 297(a) of the Labor Code. Mamaril willfully violated Red System's safety instructions. Precisely, these safety instructions were lawful and reasonable and most importantly, were essentially for the safe discharge of his duties. It bears stressing that while the law imposes a heavy burden on the employer to respect its employees' security of tenure, the law likewise protects the employer's right to expect from its employees efficient service, diligence, and good conduct.⁶⁶ Thus, the Court shall not interfere with the employer's right to dismiss an employee found to have willfully violated its rules and regulations.

WHEREFORE, premises considered, the instant Petition is hereby **DENIED for lack of merit**. The Decision dated September 9, 2016, and Resolution dated January 30, 2017, rendered by the Court of Appeals in CA-G.R. SP No. 06413-MIN, are **AFFIRMED with modification**, such that the total amount due to petitioner Samuel Mamaril shall be subject to a legal interest of six percent (6%) *per annum* from the finality of this Decision until full satisfaction.

SO ORDERED.


ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

⁶⁵ *Loon, et al. v. Power Master, Inc., et al.*, 723 Phil. 515, 531-532 (2013).

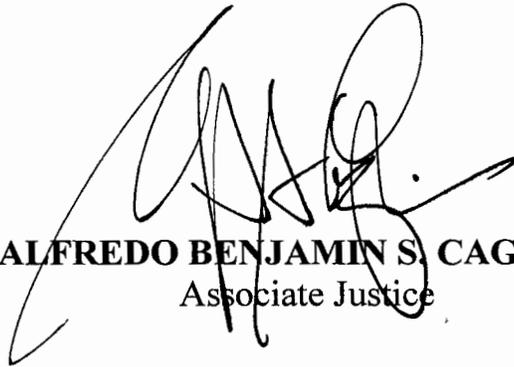
⁶⁶ *Peckson v. Robinsons Supermarket Corp., et al.*, 713 Phil. 471, 480-481 (2013).



DIOSDADO M. PERALTA
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
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, R.A. No. 296
The Judiciary Act of 1948,
as amended)