THIRD DIVISION

NANCY CLAIRE PIT CELIS,
Petitioner,

- *versus* -

BANK OF MAKATI (A SAVINGS BANK), INC.,
Respondent.

G.R. No. 250776

Present:

CAGUIOA, *J.*, *Chairperson*,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, *JJ.*

Promulgated:

June 15, 2022

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DECISION

INTING, *J.*:

Before the Court is a Petition for Review on *Certiorari*[1] filed under Rule 45 of the Rules of Court assailing the Decision[2] dated June 7, 2019 and the Resolution[3] dated December 6, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 158988. The CA reversed and set aside the Decision[4] dated July 13, 2018 and the Resolution[5] dated October 26, 2018 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 06-002270-18/NLRC Case No. NCR-02-02488-18 and held that Bank of Makati (A Savings Bank), Inc. (respondent) validly dismissed Nancy Claire Pit Celis (petitioner) from employment.

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[1] *Rollo*, pp. 13-39.

[2] Id. at 44-53; penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Elihu A. Ybañez and Marie Christine Azcarraga-Jacob.

[3] Id. at 55-57; penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Danton Q. Bueser and Marie Christine Azcarraga-Jacob.

[4] Id. at 96-107; penned by Commissioner Dominador B. Medroso, Jr. and concurred in by Presiding Commissioner Gregorio O. Bilog III and Commissioner Erlinda T. Agus.

[5] Id. at 109-111; penned by Commissioner Dominador B. Medroso, Jr. and concurred in by Presiding Commissioner Julia Cecily Coching-Sosito and Commissioner Erlinda T. Agus.

The Antecedents

On July 15, 2013, respondent hired petitioner as an Account Officer for its Pasay City Branch.[6] On May 23, 2016, respondent assigned her to the Legal and External Agency Department as an Administrative Officer.[7]

Towards the end of 2017, respondent's Human Resource Department received a report that petitioner was previously employed in the Rural Bank of Placer (Bank of Placer), Surigao del Norte, and was involved in a case concerning embezzlement of funds.[8] However, petitioner did not disclose her past employment with the Bank of Placer in her job application with respondent.[9]

Acting on the information, respondent issued a Notice of Explanation[10] dated December 13, 2017 to petitioner and thereafter, placed her under preventive suspension for 30 days beginning December 18, 2017.[11]

On December 21, 2017, petitioner submitted a Written Explanation[12] wherein she admitted that she indeed failed to disclose her past employment with the Bank of Placer but attributed such omission to her excitement in filling up her job application with respondent.[13] She denied being involved in an embezzlement case and explained that the matter was mere hearsay and gossip.[14]

On January 8, 2018,[15] respondent conducted a conference/hearing where petitioner personally explained her side.[16]

In the Notice of Decision[17] dated January 10, 2018, respondent

6 Id. at 44 and 97.
7 Id. at 44 and 113.
8 Id. at 44.
9 Id.
10 Id. at 140.
11 See Notice of Preventive Suspension and Invitation dated December 15, 2017, id. at 141.
12 Id. at 144.
13 Id.
14 Id.
15 Originally scheduled on January 2, 2018 but was moved to January 8, 2018 upon petitioner's Letter dated December 21, 2017, id. at 142.
16 See Facts/Minutes of the Meeting dated January 8, 2018, id. at 145.
17 Id. at 146-147.

resolved to terminate the employment of petitioner on the following grounds: (1) violation of the Bank's Code of Conduct and Discipline (respondent's Code of Conduct) for "[*k*]*nowingly giving false or misleading information in applications for employment as a result of which employment is secured*"[18] (subject infraction); and (2) Serious Misconduct, Fraud or Willful Breach of Trust and Loss of Confidence under Article 297 [282] of the Labor Code.[19]

Respondent found out that petitioner purposely concealed her past employment with the Bank of Placer to hide her implication in a certain embezzlement case.[20] In meting out the penalty of dismissal, respondent likewise considered the infractions of petitioner in 2016 and the corresponding disciplinary actions imposed on her, *viz.*: (1) suspension from work for 10 days for her "improper conduct and acts of gross discourtesy or disrespect to fellow employees;"[21] and (2) suspension from work for 15 days for her infraction of "personal borrowing from the Bank's Clients."[22]

Consequently, petitioner filed a Complaint[23] for illegal dismissal, monetary claims, and damages against respondent. She alleged that her dismissal from employment was only precipitated by her discovery of the corrupt practices in which her division head and her department head were involved.[24]

Petitioner maintained that her failure to disclose her past employment with the Bank of Placer was done in good faith, and respondent failed to prove her involvement in the embezzlement case.[25]

The Ruling of the Labor Arbiter (LA)

In the Decision[26] dated May 23, 2018, the LA ruled in favor of petitioner and held that respondent illegally dismissed her from

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18 Id. at 146.
19 Id. at 147.
20 Id. at 146.
21 Id.
22 Id. at 146-147.
23 Id. at 151.
24 See petitioner's Position Paper dated March 20, 2018, id. at 171.
25 Id.
26 Id. at 228-237; penned by Labor Arbiter Raymund M. Celino.

employment.[27] The LA explained as follows:

> It is, however, undisputed that [petitioner] was never administratively found guilty of the supposed charge of embezzlement against the Rural Bank of Placer. She was also never criminally charged or found guilty of said charge in a court of law. This is despite the fact that it has been more than five (5) years since she has left the Rural Bank of Placer. As a matter of fact, [petitioner] resigned from the latter Bank. It appears that she was allowed by the Bank to resign without any much ado.
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> x x x x
>
> To reiterate, the only thing [petitioner] did was failing to state that she was employed with the Rural Bank of Placer. This omission cannot be considered as a serious offense which would justify her suspension and termination.[28]

The dispositive portion of the LA Decision reads:

> WHEREFORE, premises considered, complainant is found to have been illegally dismissed. Respondent BANK OF MAKATI, INC. is hereby ordered to pay complainant the provisional (computed to date) sum of ONE HUNDRED SIXTY THOUSAND PESOS, NINE HUNDRED THIRTY TWO PESOS AND THIRTY SEVEN CENTAVOS (P160,932.37) representing:
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> 1. Full back wages computed from the time of her preventive suspension up to finality of this decision;
> 2. Separation pay equivalent to one month wage for every year of service, it being understood that a fraction of six (6) months is considered one full year; and
> 3. Attorney['s] fees equivalent to ten (10%) of the total monetary award.
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> All other claims are dismissed for lack of merit. The computation hereto attached is made an integral part hereof.
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> SO ORDERED.[29]

Aggrieved, respondent partially appealed[30] to the NLRC.[31]

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[27] Id. at 237.

[28] Id. at 235-236.

[29] Id. at 237.

[30] Only partial appeal as respondent agreed with the Labor Arbiter that petitioner is not entitled to her other monetary claims.

[31] See Memorandum of Partial Appeal dated June 7, 2018; *rollo*, pp. 239-254.

The Ruling of the NLRC

In the Decision[32] dated July 13, 2018, the NLRC dismissed the appeal of respondent and agreed with the LA that respondent illegally dismissed petitioner from employment.[33] The dispositive portion of the NLRC Decision reads:

> WHEREFORE, the instant Appeal is DISMISSED for lack of merit. The Labor Arbiter's Decision dated May 23, 2018 is AFFIRMED *in toto*.
>
> SO ORDERED.[34]

The NLRC ratiocinated that petitioner could not have committed the offense of "[*k*]*nowingly giving false or misleading information in applications for employment as a result of which employment is secured*" as petitioner only withheld information from respondent in her job application, an act not covered by the subject infraction.[35]

Aggrieved, respondent filed a motion for reconsideration of the NLRC ruling, but the NLRC denied it in the Resolution[36] dated October 26, 2018.

The Ruling of the CA

In the assailed Decision[37] dated June 7, 2019, the CA found grave abuse of discretion on the part of the NLRC and held that respondent validly dismissed petitioner from employment. The dispositive portion of the CA Decision reads:

> WHEREFORE, premises considered, the petition is GRANTED.
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> The July 13, 2018 Decision and October 26, 2018 Resolution

32 Id. at 96-107.
33 Id. at 104-106.
34 Id. at 107.
35 Id. at 104.
36 Id. at 109-111.
37 Id. at 44-53.

> of public respondent National Labor Relations Commission in *NLRC LAC No. 06-002270-18 [NLRC Case No. NCR-02-02488-18]* are REVERSED and SET ASIDE. Accordingly, the complaint filed by private respondent Nancy Claire Pit Celis is hereby DISMISSED for lack of merit.
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> SO ORDERED.[38]

The CA explained as follows:

> Without any doubt, the bank's Code of Conduct and Discipline is an established and definite rule of action which all employees must abide by. In no uncertain terms, said code of conduct prohibits the act of "Knowingly giving false or misleading information in applications for employment." To our mind, private respondent's act of not disclosing her previous employment with the Rural Bank of Placer violated said provision. It is not a simple omission because she was in effect giving the false information to petitioner that she never worked for said previous employer.[39]

In upholding the validity of petitioner's dismissal from employment, the CA also applied the Principle of Totality of Infractions and considered her past transgressions, *viz.*: (1) "*improper conduct and acts of gross discourtesy or disrespect to fellow employees*," and (2) "*personal borrowing from the Bank's Clients.*"[40]

Aggrieved, petitioner filed a motion for reconsideration of the CA Decision, but the CA denied it in the Resolution[41] dated December 6, 2019.

Thus, the petition.

The Issue

The issue to be resolved is whether respondent validly dismissed petitioner from employment.

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38 Id. at 52.
39 Id. at 49.
40 Id. at 51-52.
41 Id. at 55-57.

The Court's Ruling

The issue of whether respondent justifiably dismissed petitioner from employment is a factual matter which the Court may generally not dwell upon in a petition for review on *certiorari* under Rule 45 of the Rules of Court. However, considering that the findings of fact of the labor tribunals are in conflict with those of the CA, the Court may deviate from the general rule and review the records to determine which findings conform to the applicable laws and the evidentiary facts in the case.[42]

Equally important, "in a Rule 45 review in labor cases, the Court examines the CA's Decision from the prism of whether, [in a petition for *certiorari*,] the latter had correctly determined the presence or absence of grave abuse of discretion in the NLRC's Decision."[43]

It must be stressed that in labor cases, there is grave abuse of discretion on the part of the NLRC when its findings and conclusions are not supported by substantial evidence, *i.e.*, that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[44] Such grave abuse of discretion on the part of the NLRC warrants the grant of the extraordinary remedy of *certiorari*.[45]

The CA erred in imputing grave abuse of discretion on the part of the NLRC.

Dismissal from employment has two aspects: (1) the justness of the cause of dismissal, which constitutes substantive due process; and (2) the validity of the manner of dismissal, which constitutes procedural due process.[46]

As petitioner does not dispute the procedural aspect of her termination from employment, the Court shall proceed to resolve the issue of whether respondent justifiably dismissed her from employment.

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42 See *Samson v. National Labor Relations Commission*, 386 Phil. 669, 681 (2000).

43 *Slord Development Corporation v. Noya*, G.R. No. 232687, February 4, 2019; see also *Maricalum Mining Corp. v. Florentino*, 836 Phil. 655, 677 (2018).

44 *Ace Navigation Company v. Garcia*, 760 Phil. 924, 932 (2015); *Mercado v. AMA Computer College-Paranaque City, Inc.*, 632 Phil. 228 (2010).

45 *Ace Navigation Company v. Garcia*, id.

46 See *Bicol Isarog Transport System, Inc. v. Relucio*, G.R. No. 234725, September 16, 2020.

Doubts should be resolved in favor of labor.

In line with the Constitutional policy[47] of giving protection to labor, the Civil Code[48] and the Labor Code[49] provide that doubts in the interpretation of labor legislation and contracts shall be construed in favor of labor. Likewise, the Court has consistently held that doubts in the appreciation of evidence in labor cases shall work to the advantage of labor.[50]

In the case, respondent dismissed petitioner from employment as she allegedly violated its Code of Conduct for the subject infraction.[51] According to respondent, petitioner did not state in her job application that she was once employed with the Bank of Placer to conceal her implication in the embezzlement case thereat. Respondent further explained that it could not have hired petitioner had it known about her involvement in such case.[52]

The CA agreed with respondent that the subject infraction applies against petitioner because in not disclosing her past employment with the Bank of Placer, she, in effect, gave respondent false information that

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[47] Section 3, Article XIII of the Constitution provides:

> Section 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.
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> It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.
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> The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.
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> The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

[48] Article 1702 of the Civil Code of the Philippines (Civil Code) provides:

> Art. 1702. In case of doubt, all labor legislation and all labor contracts shall be construed in favor of the safety and decent living for the laborer.

[49] Article 4 of the Labor Code of the Philippines (Labor Code) provides:

> Article 4. *Construction in favor of labor.* — All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor.

[50] See *Loadstar International Shipping, Inc. v. Cawaling*, G.R. No. 242725, June 16, 2021.

[51] See respondent's Notice of Decision dated January 10, 2018; *rollo*, pp. 146-147.

[52] Id.

she never worked thereat.[53] On the other hand, the labor tribunals were one in holding that petitioner could not have committed the subject infraction as she only withheld information in her job application with respondent, an act not covered by the latter's Code of Conduct.[54]

Being faced with different interpretations of the subject provision, the Court adopts the construction which favors petitioner in view of the Constitutional policy of giving protection to labor[55] and resolving doubtful labor provisions or contracts in favor of workers.[56]

To be liable under the subject infraction, *i.e.*, "*knowingly giving false or misleading information in applications for employment as a result of which employment is secured,*" the employee must have performed an overt or positive act, *i.e.*, giving false information in the application for employment. Considering that petitioner did not actually state any false information in her job application but merely omitted to reflect her past employment with the Bank of Placer, she could not have committed the alleged infraction.

At any rate, it is of no moment that petitioner had omitted to reflect her past employment with the Bank of Placer or was allegedly implicated in the purported embezzlement case thereat. Significantly, the Bank of Placer neither found petitioner liable nor meted out any disciplinary action against her in the case.[57] In fact, the record is bereft of any information about the incidents of petitioner's implication in the embezzlement case.[58] What the record actually shows is that the Bank of Placer allowed petitioner to gracefully exit from the company without any derogatory record.[59]

From the foregoing, the labor tribunals aptly held that this is merely a case of an omission to disclose former employment in a job application, a fault which does not justify petitioner's suspension and eventual termination from employment.[60] It is well settled that "there must be a reasonable proportionality between the offense and the

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53 Id. at 49.
54 Id. at 104.
55 Section 3, Article XIII of the Constitution.
56 Article 1702, Civil Code; Article 4, Labor Code.
57 *Rollo*, pp. 235-236.
58 Id.
59 Id.
60 Id. at 236.

penalty. The penalty must be commensurate to the offense involved and to the degree of the infraction."[61] To dismiss petitioner on account of her omission to disclose former employment is just too harsh a penalty.

Respondent now posits that it could not have hired petitioner had it known that she was once implicated in an embezzlement case.[62]

Notably, petitioner had been working with respondent for almost five years already when it raised, out of the blue, the issue regarding her undisclosed past employment.[63] To the Court, such matter is already water under the bridge. Likewise, the fact that respondent suddenly created an issue about petitioner's undisclosed past employment lends credence to her allegation that the charge against her was only precipitated by her discovery of the corrupt practices involving her division head and her department head.[64] Thus, the LA aptly held:

> Respondents Bank is thinking on hindsight, after [petitioner] has revealed anomalous transactions involving some bank personnel and officials. Had not [petitioner] made some serious revelations against respondent Bank officials, her employment record would not have been brought out. Respondent Bank had more than five (5) years to bring out the issue against [petitioner] but failed to do so. It is questionable that it is only now that complainant [*sic*] has made his serious revelations that her past employment was made an issue against her.[65]

The CA's reliance on the Principle of Totality of Infractions is misplaced.

At any rate, the reason of respondent for terminating petitioner's employment is without just cause. Notably, however, the CA also justified the dismissal of petitioner from employment by applying the Principle of Totality of Infractions. It held:

> The record shows that the termination of [petitioner] was the culmination of various infractions she committed during her brief

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61 *Moriroku Philippines, Inc. v. Trienta*, G.R. No. 240377 (Notice), January 27, 2021, citing *Philippine Long Distance Telephone Co. v. Teves*, 649 Phil. 39, 51 (2010) and *Cavite Apparel, Inc. v. Marquez*, 703 Phil. 46, 56 (2013).

62 *Rollo*, pp. 146-147.

63 Id. at 44 and 140.

64 Id. at 171.

65 Id. at 236.

> employment with [respondent] bank. [Petitioner's]: (1) failure to report an administrative case before her previous employer First Macro Bank; (2) past suspension for ten days due to "Improper conduct and acts of gross discourtesy to fellow employees"; (3) another suspension of fifteen days because of her infraction of "Personal Borrowing from the Bank's Clients," among others, indeed, manifest her indifference to respondent's policies on employees' conduct and discipline.
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> Jurisprudence is settled that in determining the sanction imposable to an employee, the employer may consider and weigh her other past infractions or the so-called *totality of infractions rule*.
> x x x
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> x x x x
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> Having in mind the untruthful declaration in her Application for Employment, taken together with her other offenses, certainly, petitioner had compelling reasons to conclude that private respondent has become unfit to remain in its employ.[66]

Previous offenses may be used to aggravate a subsequent infraction to justify an employee's dismissal only if they are related to the subsequent offense upon which termination is decreed.[67]

In 2016, respondent previously found petitioner liable for the following infractions: (1) *improper conduct and acts of gross discourtesy or disrespect to fellow employees*; and (2) *personal borrowing from the bank's clients*. On account of these infractions, respondent placed petitioner under a 10-day and 15-day suspension, respectively.[68]

While petitioner had committed two previous offenses, the Principle of Totality of Infractions cannot be utilized against her as she committed no subsequent violation of respondent's Code of Conduct. As earlier discussed, petitioner did not commit the subject infraction. Simply put, there is no subsequent offense which petitioner's previous infractions could aggravate.

But even assuming that petitioner had committed the subject

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[66] Id. at 51-52.

[67] *Moriroku Philippines, Inc. v. Trienta*, supra note 61, citing *Sy v. Neat, Inc.*, 821 Phil. 751, 769 (2017).

[68] *Rollo*, pp. 146-147.

infraction, the CA still erred in applying the Principle of Totality of Infractions considering that petitioner's previous infractions and the subject offense upon which her termination was decreed were in no way related to each other.

Instructive on this matter is the case of *Sy v. Neat, Inc.*,[69] wherein the Court ruled that the Principle of Totality of Infractions cannot be used against the employee because his transgression for wearing an improper uniform was not related to his latest infractions of insubordination and purported poor performance evaluation.[70] "Previous offenses may be used as valid justification for dismissal only if they are related to the subsequent offense upon which the basis of termination is decreed, or if they have a bearing on the proximate offense warranting dismissal."[71]

Also relevant at bar is the case of *De Guzman v. NLRC*,[72] wherein the Court ruled that the Principle of Totality of Infractions applies when prior infractions are similar to the subsequent offense, *viz.*:

> The previous offense that DE GUZMAN had committed on 3 July 1993 for willful refusal to perform one's assigned work or to comply with instruction of supervisor, for which she had been administered a sufficient disciplinary sanction of six days suspension, could no longer be utilized to aggravate the present offense. *Her previous offense was an entirely separate and distinct violation of company rules. The correct rule is that previous infractions may be used as justification for an employee's dismissal from work in connection with a subsequent similar offense.*[73] (Italics supplied.)

In the case, the first offense of petitioner, *i.e.*, discourtesy or disrespect to fellow employees, was an offense concerning improper behavior towards co-workers. On the other hand, petitioner's second offense, *i.e.*, *personal borrowing from the bank's clients*, was a transgression relating to conflict of interest. The subject infraction differs from the aforementioned offenses in that, the subject infraction concerns dishonesty.

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69 821 Phil. 751 (2017).

70 Id. at 769.

71 Id., citing *Salas v. Aboitiz One, Inc.*, 578 Phil. 915, 929 (2008) and *McDonals (Katipunan Branch) v. Alba*, 595 Phil. 44, 54 (2008).

72 371 Phil. 192 (1999).

73 Id. at 203-204. Citations omitted.

Petitioner's infractions not being related or similar in nature to the present charge, the CA erred in applying the Principle of Totality of Infractions against her. Indubitably, respondent failed to substantially prove that petitioner's dismissal from employment was for a just cause.

All told, there is substantial evidence to support the finding of the NLRC that respondent illegally dismissed petitioner from employment. Thus, the CA erred in imputing grave abuse of discretion against the NLRC. The Court agrees with the labor tribunals that petitioner was indeed illegally terminated from her job.[74]

Petitioner's entitlement to monetary awards.

The right of employees to security of tenure, as enshrined under Section 3, Article XIII of the Constitution, is further guarded by Article 294 of the Labor Code which states:

> Art. 294. *Security of tenure.* — In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

From the foregoing, "employees who are illegally dismissed are entitled to full backwages, inclusive of allowances and other benefits, computed from the time their actual compensation was withheld from them up to the time of their actual reinstatement."[75] However, if reinstatement is no longer possible, the backwages shall be computed until the finality of the decision.[76]

In the case, respondent placed petitioner on a 30-day preventive suspension starting December 18, 2017 in view of its allegation that she was involved in a case concerning embezzlement of funds in her

[74] *Rollo*, pp. 104-106, 234-237.
[75] *Abbott Laboratories (Phils.), Inc. v. Torralba*, 820 Phil. 196, 216-217 (2017).
[76] *Id.* at 217.

previous employment which she did not disclose in her job application. While preventive suspension is not a penalty but a measure to protect the life or property of the employer or the co-workers pending investigation of any alleged infraction committed by the employee,[77] it should be imposed with caution as employees are deprived of their salaries and benefits during the period of the suspension.[78] As such, it should only be meted out when the employee's continued employment poses a serious and imminent threat to the life or property of the employer or of his co-workers.[79]

Here, respondent charged petitioner of violating the company Code of Conduct for "[*k*]*nowingly giving false or misleading information in applications for employment as a result of which employment is secured.*" If any, the only transgression which petitioner committed against respondent was her omission to state her previous employment with the Bank of Placer in her job application. By her omission, the Court cannot see how petitioner's continued employment posed any serious and imminent threat to the life or property of respondent or of her co-workers. As such, the Court finds petitioner's preventive suspension unjust. Petitioner's omission of declaring a previous employment with Bank of Placer in her application for employment with respondent would not in any way prejudice the latter as a banking institution considering that Bank of Placer "*allowed petitioner to gracefully exit from the company without any derogatory record.*"

There being no reason for respondent to place petitioner under preventive suspension, the NLRC committed no grave abuse of discretion in affirming in *toto* the ruling of the LA that petitioner was entitled to full backwages computed from the time of her preventive suspension beginning December 18, 2017.

Nevertheless, separation pay may be awarded to an illegally dismissed employee in lieu of reinstatement in the following instances:

> Over time, the following reasons have been advanced by the Court for allowing this alternative remedy: that reinstatement can no longer be

[77] *Every Nation Language Institute v. Dela Cruz*, G.R. No. 225100, February 19, 2020.

[78] *Id.*

[79] *Lafuente v. Davao Central Warehouse Club, Inc.*, G.R. No. 247410, March 17, 2021, citing *Bluer Than Blue Joint Ventures Company v. Esteban*, 731 Phil. 502, 513-514 (2014) and *Gatbonton v. NLRC*, 515 Phil. 387 (2006).

> effected in view of the long passage of time or because of the realities of the situation; or that it would be 'inimical to the employer's interest;' or that reinstatement may no longer be feasible; or, that it will not serve the best interests of the parties involved; or that the company would be prejudiced by the workers' continued employment; or that it will not serve any prudent purpose as when supervening facts have transpired which make execution on that score unjust or inequitable or, to an increasing extent, due to the resultant atmosphere of 'antipathy and antagonism' or 'strained relations' or 'irretrievable estrangement' between the employer and the employee.[80]

In the case, the Court deems it best to award petitioner separation pay in lieu of reinstatement due to the resultant strained relations between respondent and petitioner. The Court notes the allegation of petitioner that her dismissal from employment was precipitated by her alleged discovery of the corrupt practices involving her division head and her department head. According to petitioner, she was singled out as those who were engaged in corrupt practices were closely connected with the higher executives of the company.[81] Although the allegations were not established, the situation shows that reinstatement will not serve the best interests of the parties because of an existing antagonism between them.

"[W]hen there is an order of separation pay, in lieu of reinstatement, the employment relationship is terminated only upon the finality of the decision ordering the separation pay. The finality of the decision cuts-off the employment relationship and represents the final settlement of the rights and obligations of the parties against each other."[82] Thus, petitioner is entitled to separation pay as well as to full backwages computed from the time respondent withheld her compensation until the finality of the Decision.

However, not every illegally dismissed employee is entitled to damages, as it is only recoverable when the dismissal is attended by bad faith or fraud or constitutes an act oppressive to labor.[83] "Exemplary damages, on the other hand, is only granted when the dismissal was done in a wanton, oppressive, or malevolent manner."[84]

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[80] Id. at 217, citing *Emeritus Security and Maintenance Systems, Inc. v. Dailig*, G.R. No. 204761, April 2, 2014, April 2, 2014, 720 SCRA 572, 579-580.

[81] *Rollo*, p. 171.

[82] *Petron Corp. v. Javier*, G.R. No. 229777 (Notice), July 6, 2020. Citations omitted.

[83] See *Bayview Management Consultants, Inc. v. Pre*, G.R. No. 220170, August 19, 2020.

[84] Id., citing *Symex Security Services, Inc. v. Rivera, Jr.*, 820 Phil. 653, 673-674 (2017).

Here, the dismissal of respondent, although considered invalid, was neither without basis nor done in a malevolent manner. Respondent dismissed petitioner from employment in its honest but mistaken belief that it had a just cause to dismiss her from employment for her alleged act of knowingly stating untruthful information in her job application. Respondent's act having a semblance of reason, the Court holds petitioner not entitled to either moral damages or exemplary damages.

However, for having been compelled to litigate, petitioner is entitled to reasonable attorney's fees at the rate of 10% of the total monetary award in accordance to Article 111[85] of the Labor Code in relation to Article 2208(2)[86] of the Civil Code. The Court hereby imposes legal interest on the monetary awards at the rate of 6% *per annum* reckoned from the finality of this Decision until its full payment.

WHEREFORE, the petition is **GRANTED**. The Decision dated June 7, 2019 and the Resolution dated December 6, 2019 of the Court of Appeals in CA-G.R. SP No. 158988 are **REVERSED** and **SET ASIDE**. The Decision dated July 13, 2018 and the Resolution dated October 26, 2018 of the National Labor Relations Commission in NLRC LAC No. 06-002270-18/NLRC Case No. NCR-02-02488-18 are hereby **REINSTATED** with **MODIFICATION** in that the total monetary award in favor of petitioner Nancy Claire Pit Celis shall earn legal interest at the rate of 6% *per annum* from the date of finality of this Decision until full satisfaction.

The case is hereby **REMANDED** to the Labor Arbiter for the proper computation of the monetary awards.

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[85] Article 111 of the Labor Code provides:

Art. 111. *Attorney's Fees.*— (a) In cases of unlawful withholding of wages, the culpable party may be assessed attorney's fees equivalent to ten percent of the amount of wages recovered.

(b) It shall be unlawful for any person to demand or accept, in any judicial or administrative proceedings for the recovery of wages, attorney's fees which exceed ten percent of the amount of wages recovered.

[86] Article 2208(2) of the Civil Code provides:

Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

x x x x

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

x x x x

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson

SAMUEL H. GAERLAN
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

MARIA FILOMENA D. SINGH
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.

ALFREDO BENJAMIN S. CAGUIOA
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.

ALEXANDER G. GESMUNDO
Chief Justice