



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**BOHOL WISDOM SCHOOL,  
DR. SIMPLICIO YAP, JR., and  
RAUL H. DELOSO,**

Petitioners,

- versus -

**G.R. No. 252124**

Present:

GESMUNDO, *C.J.*, Chairperson,  
HERNANDO,  
ZALAMEDA,  
ROSARIO, and  
MARQUEZ, *JJ.*

**MIRAFLOR MABAO,**

Respondent.

Promulgated:  
**JUL 23 2024**

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**DECISION**

**ROSARIO, J.:**

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> (Petition) under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> and the Resolution<sup>3</sup> of the Court of Appeals (CA) holding petitioners Bohol Wisdom School (BWS), Dr. Simplicio Yap, Jr. (Dr. Yap), and Raul H. Deloso (Deloso) (collectively, BWS et al.) liable for the illegal suspension of respondent Mirafior Mabao.

<sup>1</sup> *Rollo*, pp. 14–29.

<sup>2</sup> *Id.* at 32–41. The September 28, 2018 Decision in CA-G.R. SP No. 11224 was penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Louis P. Acosta and Dorothy P. Montejo-Gonzaga of the Special Nineteenth Division, Court of Appeals, Cebu City.

<sup>3</sup> *Id.* at 43–45. The January 24, 2020 Resolution in CA-G.R. SP No. 11224 was penned by Associate Justice Dorothy P. Montejo-Gonzaga and concurred in by Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap of the Special Former Special Nineteenth Division, Court of Appeals, Cebu City.

(Mabao).

### *Factual Antecedents*

This case stems from a Complaint<sup>4</sup> for illegal suspension and illegal dismissal filed by Mabao against BWS, the Chairman of its Board of Trustees, Dr. Yap, and the Head of its Administrative Team, Deloso.<sup>5</sup>

#### *Mabao's Version of Facts*

Mabao was a former teacher at BWS. She started working there on June 7, 2007 as a grade school teacher. She was granted regular status in 2010 and was designated adviser for Grade 1 and adviser for Grade 2 until she was allegedly dismissed on September 22, 2016. She was receiving a monthly salary of PHP 20,860.00, exclusive of other allowances and benefits, which were not given to her. Throughout her teaching career at BWS, Mabao taught Language 2, Physical Education 2, Arts 3, Mother Tongue, and Writing 2. She had been very diligent in performing her duties and responsibilities as a teacher and had not committed any infraction prior to her termination.<sup>6</sup>

Sometime in the afternoon of September 21, 2016, Mabao approached Melinda Sabaricos (Sabaricos), the grade school principal of BWS, and Deloso, to discuss the matter of her pregnancy which was two months along the way. The father of Mabao's baby was her boyfriend, Ian Usaraga. In order to avoid any unpleasant remarks from the faculty and staff of BWS, Mabao approached Sabaricos and Deloso even before her bump became evident.<sup>7</sup>

On September 22, 2016, Mabao was summoned to the conference room of BWS where Deloso verbally suspended Mabao, telling her not to report to her classes starting the next day until she could present documents showing that she was already married to her boyfriend.<sup>8</sup>

On September 27, 2016, Mabao was summoned to the office of Deloso where she was asked to receive a Disciplinary Form<sup>9</sup> and a Letter<sup>10</sup> stating that she was indefinitely suspended without pay.<sup>11</sup> The Disciplinary Form states:

You are receiving this disciplinary action because of the following actions.  
(Describe in detail in behavioral terms.)

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<sup>4</sup> *Id.* at 294.

<sup>5</sup> *Id.* at 99.

<sup>6</sup> *Id.* at 32-33.

<sup>7</sup> *Id.* at 33.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 240.

<sup>10</sup> *Id.* at 241-243.

<sup>11</sup> *Id.* at 33.

You engage in pre-marital relationship which lead you getting pregnant before marriage.

Unless this problem is corrected, further disciplinary action will be taken up to and including the termination of your employment. (Check the appropriate step in the progressive discipline policy).

....

√ *Others: Indefinite suspension until legally married*<sup>12</sup> (Emphasis supplied)

The Letter, on the other hand, states:

**Key Points to Consider:**

1. **REPUBLIC ACT NO. 9710** – The Magna Carta for Women, SEC. 13, Letter C Expulsion and non-readmission of women faculty due to pregnancy outside of marriage shall be outlawed.  
Meaning: Pregnancy outside of marriage may not be used to expel or refuse teachers and students from school.
2. Pregnancy is not a sin nor immoral. However the act that resulted in pregnancy can be immoral.
3. Pre-marital sex/fornication is an immoral act.

....

**Findings**

- a. *The conception of Miss Flor Mabao is due to pre-marital sexual relation with her boyfriend. That there was no coercion nor deception involved. That the consequence of getting pregnant can be considered an immoral act since it occurred outside of marriage. Thus it is considered as a ground of immorality.*
- b. As a teacher particularly as Grade School Teacher, she is expected to possess the highest moral standards. *Therefore, [S]ection 3 letter c of Republic Act [N]o. 9710, also known as the Magna Carta for Women cannot work in her favor, since the issue is on immorality.*
- c. Her act may not qualify for being notoriously undesirable, but it can still be considered a dishonorable conduct and a great offense to the teaching profession in general and to Bohol Wisdom School in particular.

....

**Decision**

After due process the member of the Administrative Team make the final decision to wit:

- a. *She will be suspended without pay until such time that she will be duly married to her [boyfriend].*

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<sup>12</sup> *Id.* at 240.

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- b. *Suspension will commence on September 22, 2016.*  
c. *The decision is final and executory.*<sup>13</sup> (Emphasis supplied)

On October 5, 2016, Mabao filed a complaint before the National Labor Relations Commission (NLRC) for illegal suspension, illegal dismissal, proportionate 13<sup>th</sup> month pay, service incentive leave pay, rice allowance, separation pay, damages, attorney's fees, and issuance of a Certificate of Employment.<sup>14</sup>

*BWS et al.'s Version of Facts*

BWS et al. averred that on September 19, 2016, Mabao confessed to Sabaricos and Deloso that she was pregnant out of wedlock but was in the process of securing a marriage license.<sup>15</sup>

On September 21, 2016, Mabao was called to a conference where she admitted her violation, expressed regret, and stated that she was about to get married in a few days. So that students will not see Mabao's situation and raise questions about her pregnancy, it was agreed that Mabao would be suspended from work until she got married. Mabao was also directed to report back to work after her wedding.<sup>16</sup>

On September 27, 2016, Mabao received the Disciplinary Form<sup>17</sup> and the Letter<sup>18</sup> stating that she was indefinitely suspended without pay.<sup>19</sup> Deloso's Narrative Report<sup>20</sup> states that when Mabao arrived at his office on even date, Dondon Usaraga (the brother of Mabao's boyfriend) accompanied Mabao and asked if Mabao's suspension is indefinite. Deloso responded that it is indefinite in the sense that the date is not specified, but that based on the discussion with Mabao, it is only for a minimum of one week to a maximum of two weeks, depending on the date of her marriage.<sup>21</sup>

On October 7, 2016, after receiving information that Mabao got married two days earlier, BWS sent Mabao a Letter<sup>22</sup> (First Return-to-Work Notice) dated October 7, 2016, asking her to report back to work immediately. Mabao refused to receive the First Return-to-Work Notice, for which reason it was sent via registered mail.<sup>23</sup>

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<sup>13</sup> *Id.* at 241–243.

<sup>14</sup> *See* Complaint, *id.* at 294.

<sup>15</sup> *Id.* at 33.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 240.

<sup>18</sup> *Id.* at 241–243.

<sup>19</sup> *Id.* at 33.

<sup>20</sup> *Id.* at 83.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 244.

<sup>23</sup> *Id.* at 34, 85.

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A second Letter,<sup>24</sup> dated November 3, 2016 (Second Return-to-Work Notice), was sent to Mabao, informing her that her suspension had ended when she got married, and that she should report back to work on November 7, 2016.<sup>25</sup>

On November 22, 2016, BWS sent a third Letter<sup>26</sup> (Third Return-to-Work Notice) informing Mabao that she had been absent for 29 working days and should report to work within three days from receipt of the letter. She was further requested to explain why she should not be charged with abandonment of responsibility and neglect of duty.<sup>27</sup>

According to the report of BWS's messenger, Salvador Cirunay (Cirunay), he was tasked to personally deliver the aforementioned letters to Mabao, but she refused to receive them.<sup>28</sup>

On November 29, 2016, BWS et al. received the summons for the instant case.<sup>29</sup>

As no settlement was reached during the mandatory conference held on December 8, 2016 and January 12, 2017, the parties were directed to file their respective Position Papers.<sup>30</sup>

### *Ruling of the Labor Arbiter*

In a Decision<sup>31</sup> dated January 31, 2017, Labor Arbiter (LA) Bertino A. Ruaya, Jr. held that Mabao was constructively dismissed, disposing as follows:

WHEREFORE, premises considered, judgment is hereby rendered declaring that [Mariflor Mabao] was constructively dismissed. Consequently, respondents **BOHOL WISDOM SCHOOL, DR. SIMPLICIO YAP, JR., and RAUL H. DELOSO**, are liable to pay [Mariflor Mabao] jointly and solidarily, her backwages, separation pay, 13<sup>th</sup> month pay, service incentive leave pay, rice allowance, Christmas cash gift and attorney's fees in the aggregate amount of **THREE HUNDRED TWENTY THOUSAND SIX HUNDRED SEVENTY EIGHT & 38/100 ([PHP] 320,678.19)**.

All other claims are dismissed for lack of merit.

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<sup>24</sup> *Id.* at 249.

<sup>25</sup> *Id.* at 34.

<sup>26</sup> *Id.* at 253.

<sup>27</sup> *Id.* at 34.

<sup>28</sup> *Id.* at 85, 88, 94, Narrative Report of Salvador Cirunay.

<sup>29</sup> *Id.* at 57.

<sup>30</sup> *Id.* at 18. *See also* Position Paper filed by BWS et al., *id.* at 55-72; Position Paper for the Complainant filed by Mabao, *id.* at 99-114.

<sup>31</sup> *See id.* at 133. Copy of the Labor Arbiter's Decision was not attached to the Petition.

SO ORDERED.<sup>32</sup> (Emphasis in the original)

BWS et al. appealed to the NLRC, arguing that the LA: (1) erred in finding that Mabao was constructively dismissed when the facts show that she was merely suspended; (2) erred in concluding that BWS et al. did not file their verified position paper and basing the Decision solely on Mabao's allegations; and (3) committed grave abuse of discretion in rendering the Decision not based on evidence.<sup>33</sup>

### *Ruling of the NLRC*

In its Decision<sup>34</sup> dated May 31, 2017, the NLRC granted the appeal of BWS et al. and reversed the LA, finding no evidence of constructive dismissal.<sup>35</sup> It held that there was not a scintilla of evidence showing any overt act on the part of BWS et al. to prove that Mabao's suspension was in fact a dismissal.<sup>36</sup> The dispositive portion of the NLRC Decision reads:

**WHEREFORE**, premises considered, [BWS et al.'s] appeal is, hereby, **GRANTED**. The Labor Arbiter's Decision is, hereby, **REVERSED**. The total monetary award as granted by the Labor Arbiter is **DELETED**.

SO ORDERED.<sup>37</sup> (Emphasis in the original)

The NLRC found that Mabao's suspension is not tantamount to constructive dismissal.<sup>38</sup>

The NLRC did not agree with Mabao on her assertion that BWS et al. forcibly required her to get married to the father of the child she was carrying as a condition to her continued employment. The NLRC found that Mabao's case is not on all fours with *Capin-Cadiz v. Brent Hospital and Colleges, Inc.*,<sup>39</sup> where the Court found that Brent Hospital's condition of marriage was not a *bona fide* occupational qualification. Here, Mabao was not coerced to get married to her boyfriend; rather, the couple already had plans to marry when Mabao informed BWS et al. of her pregnancy. In fact, Mabao and her boyfriend were married on October 5, 2016, two weeks after she had informed BWS et al. of her pregnancy.<sup>40</sup>

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 133-134.

<sup>34</sup> *Id.* at 133-141.

<sup>35</sup> *Id.* at 137.

<sup>36</sup> *Id.* at 139.

<sup>37</sup> *Id.* at 140-141.

<sup>38</sup> *Id.* at 137.

<sup>39</sup> 781 Phil. 610 (2016) [Per J. Reyes, Third Division].

<sup>40</sup> *Rollo*, pp. 137-138.

The NLRC also held that the records were bare of any indication that there was intent on the part of BWS et al. to dismiss Mabao.<sup>41</sup> On the contrary, BWS had every intention of accepting Mabao back to school and it was Mabao who refused to go back to work despite notice to return to work.<sup>42</sup>

Mabao filed a Motion for Reconsideration,<sup>43</sup> which the NLRC denied in a Resolution<sup>44</sup> dated July 17, 2017.

Undaunted, Mabao elevated her case to the CA via a petition for *certiorari*, alleging that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it reversed the LA's finding of constructive dismissal and deleted the LA's monetary awards.<sup>45</sup>

### *Ruling of the CA*

In its assailed Decision,<sup>46</sup> the CA partly granted Mabao's petition for *certiorari*. The CA affirmed the NLRC's ruling that there was no constructive dismissal, but held that Mabao was illegally suspended.<sup>47</sup> The dispositive portion of the CA Decision reads:

WHEREFORE, the Petition for *Certiorari* is PARTLY GRANTED. The Decision of the NLRC dated May 31, 2017 is MODIFIED to the following effect:

1. Declaring Petitioner Mirafior D. Mabao to have been illegally suspended and ordering the payment of BACKWAGES from September 22, 2016 to October 7, 2016, and 13<sup>th</sup> MONTH PAY accruing until November 25, 2016;
2. Ordering Respondents Bohol Wisdom School, Dr. Simplicio Yap, Jr., and Raul H. Deloso to pay the following benefits:
  - a. Unpaid RICE ALLOWANCE accruing until November 25, 2016;
  - b. Unpaid LAUNDRY ALLOWANCE accruing until November 25, 2016;
  - c. Unpaid MIDYEAR BONUS accruing until November 25, 2016;
  - d. Proportionate VACATION/SICK LEAVE accruing until November 25, 2016.

<sup>41</sup> *Id.* at 139.

<sup>42</sup> *Id.* at 139–140.

<sup>43</sup> *Id.* at 142–146.

<sup>44</sup> *Id.* at 148–149. The Resolution dated July 17, 2017 in NLRC Case No. VAC-04-000261-2017 was penned by Commissioner Julie C. Rendoque and concurred in by Presiding Commissioner Violeta Ortiz-Bantug of the Seventh Division, National Labor Relations Commission, Cebu City

<sup>45</sup> *Id.* at 35.

<sup>46</sup> *Id.* at 32–41.

<sup>47</sup> *Id.* at 36.

3. Ordering Respondents Bohol Wisdom School, Dr. Simplicio Yap, Jr., and Raul H. Deloso to pay ATTORNEY'S FEES of 10% of the total monetary award; and
4. Ordering Respondents Bohol Wisdom School, Dr. Simplicio Yap, Jr., and Raul H. Deloso to issue a Certificate of Employment to Petitioner Miraflor D. Mabao.

SO ORDERED.<sup>48</sup>

In ruling that Mabao failed to prove that she was constructively dismissed, the CA found it clear from BWS's communications that it intended to welcome Mabao back to work as soon as she got married. The CA also found that BWS et al. meted out the penalty of "indefinite suspension until legally married," with the view that Mabao would be getting married very soon. This shows that while Mabao took the term "indefinite" to mean "constructive dismissal," BWS's idea of "indefinite" was predicated on when Mabao was going to get married.<sup>49</sup>

Nonetheless, the CA ruled that Mabao's suspension, on the ground of immoral conduct for engaging in premarital sex, was illegal. Using jurisprudence's gauge of morality,<sup>50</sup> the CA did not find Mabao's conduct immoral as she did not have sexual relations with a married man, and neither was she married at the time.<sup>51</sup>

Moreover, BWS violated Mabao's right to procedural due process for failing to furnish Mabao the initial notice stating the specific grounds for disciplinary action and directing her to submit a written explanation.<sup>52</sup>

Considering the foregoing, the CA held that Mabao is entitled to pro-rated monetary awards, i.e., backwages from September 22, 2016 (the start of her suspension) until October 7, 2016 (when BWS delivered the First Return-to-Work Notice), and 13<sup>th</sup> month pay and other benefits accruing until November 25, 2016. The CA considered November 25, 2016 as Mabao's last day of employment, noting that BWS gave her until said date to return to work, which she did not do.<sup>53</sup>

While the CA held that Mabao is not entitled to moral and exemplary damages for failure to show clear and convincing evidence of bad faith on the part of BWS et al., it awarded her attorney's fees for having been compelled to litigate to assert her rights.<sup>54</sup>

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<sup>48</sup> *Id.* at 40–41.

<sup>49</sup> *Id.* at 36.

<sup>50</sup> *Leus v. St. Scholastica's College Westgrove*, 752 Phil. 186 (2015) [Per J. Reyes, Third Division].

<sup>51</sup> *Rollo*, pp. 36–38.

<sup>52</sup> *Id.* at 38.

<sup>53</sup> *Id.* at 38–39. *See also* Letter dated November 22, 2016, *id.* at 93.

<sup>54</sup> *Id.* at 39–40.

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Both parties moved for reconsideration,<sup>55</sup> with BWS et al. alleging that they did not illegally suspend Mabao, while the latter insisted on her constructive dismissal.

In its assailed Resolution,<sup>56</sup> the CA denied the parties' respective motions for reconsideration for lack of merit.

Hence, the instant Petition.

While petitioners agree with the CA's ruling that respondent was not constructively dismissed, they disagree with the finding that respondent was illegally suspended.<sup>57</sup>

Petitioners claim that respondent's suspension was not illegal and not baseless, as it was an exercise of the school's management prerogative, in keeping with their own standard of morality.<sup>58</sup> They argue that there is no absolute standard of morality, as the standard must be based on the surrounding circumstances where the questioned action takes place. They submit that respondent, as a teacher in a Christian educational institution, was obliged to teach and exemplify Christian values. Considering that respondent violated the standard of morality observed by the school, her suspension was reasonable.<sup>59</sup>

Petitioners also argue that procedural due process was substantially followed. While they admit that there was no written initial notice, they aver that procedural due process was substantially complied with as: (1) respondent was given the opportunity to explain her side; (2) she admitted the violation; and (3) and her suspension was reduced in writing. According to petitioners, "in the meeting with the BWS Administrative Team, [respondent] openly and voluntarily admitted her breach of school policy regarding unwed pregnancy and she expressed willingness to undergo suspension until after her marriage."<sup>60</sup> They thus maintain that respondent's suspension was mutually agreed by the parties.<sup>61</sup>

Considering the foregoing, petitioners assert that respondent is not entitled to backwages, 13<sup>th</sup> month pay, and attorney's fees.<sup>62</sup>

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<sup>55</sup> See *id.* at 43–44, 150–155. Copy of Mabao's motion for reconsideration filed before the CA was not attached to the Petition.

<sup>56</sup> *Id.* at 43–45.

<sup>57</sup> *Id.* at 20.

<sup>58</sup> *Id.* at 23.

<sup>59</sup> *Id.* at 21–22.

<sup>60</sup> *Id.* at 23.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 25.

### *Our Ruling*

We find no merit in the Petition. However, a modification of the assailed Decision is necessary as the CA erred in ruling that respondent's employment ended on November 25, 2016.

At the outset, petitioners' arguments require the Court to examine the facts anew, which is beyond the ambit of a petition for review under Rule 45 of the Rules of Court. It is settled that only questions of law may be raised on appeal under this remedy for the reason that this Court is not a trier of facts.<sup>63</sup> Nevertheless, this Court may review the facts where the findings and conclusions of the lower tribunals are inconsistent on material and substantial points,<sup>64</sup> as in this case.

#### *Respondent was illegally suspended*

In the eyes of the law, there is a standard of morality that binds all those who come before it, which is *public and secular*, not religious.<sup>65</sup> It is important to make this distinction as the Court's jurisdiction extends only to public and secular morality.

Public and secular morality refers to conduct proscribed because they are detrimental to conditions upon which depend the existence and progress of human society.<sup>66</sup> Otherwise, if government relies upon religious beliefs in formulating public policies and morals, the resulting policies and morals would require conformity to what some might regard as religious program or agenda.<sup>67</sup>

In this case, respondent was suspended for engaging in premarital sexual relations, resulting in being pregnant out of wedlock.

The Court has previously ruled in similar cases that premarital sexual relations resulting in pregnancy out of wedlock cannot be considered disgraceful or immoral when viewed against the prevailing norms of conduct. In *Leus v. St. Scholastica's College Westgrove*,<sup>68</sup> We held:

In stark contrast to *Santos*, the Court does not find any circumstance in this case which would lead the Court to conclude that the petitioner committed a disgraceful or immoral conduct. It bears stressing that the

<sup>63</sup> *Aboitiz Power Renewables, Inc. /Tiwi Consolidated Union v. Aboitiz Power Renewables, Inc.*, 876 Phil. 839, 852 (2020) [Per J. Delos Santos, Second Division].

<sup>64</sup> *See id.*

<sup>65</sup> *Capin-Cadiz v. Brent Hospital and Colleges, Inc.*, 781 Phil. 610, 625 (2016) [Per J. Reyes, Third Division].

<sup>66</sup> *Leus v. St. Scholastica's College Westgrove*, 752 Phil. 186, 209 (2015) [Per J. Reyes, Third Division].

<sup>67</sup> *Id.* at 208.

<sup>68</sup> 752 Phil. 186 (2015) [Per J. Reyes, Third Division].

petitioner and her boyfriend, at the time they conceived a child, had no legal impediment to marry. Indeed, even prior to her dismissal, the petitioner married her boyfriend, the father of her child. As the Court held in *Radam*, there is no law which penalizes an unmarried mother by reason of her sexual conduct or proscribes the consensual sexual activity between two unmarried persons; that neither does such situation contravene any fundamental state policy enshrined in the Constitution.

Admittedly, the petitioner is employed in an educational institution where the teachings and doctrines of the Catholic Church, including that on pre-marital sexual relations, is strictly upheld and taught to the students. That her indiscretion, which resulted in her pregnancy out of wedlock, is anathema to the doctrines of the Catholic Church. However, viewed against the prevailing norms of conduct, the petitioner's conduct cannot be considered as disgraceful or immoral; such conduct is not denounced by public and secular morality. It may be an unusual arrangement, but it certainly is not disgraceful or immoral within the contemplation of the law.<sup>69</sup>

And in *Inocente v. St. Vincent Foundation for Children and Aging, Inc.*:<sup>70</sup>

In this case, we note that both Zaida and Marlon at all times had no impediments to marry each other. They were adults who met at work, dated, fell in love and became sweethearts. The intimate sexual relations between them were consensual, borne by their love for one another and which they engaged in discreetly and in strict privacy. They continued their relationship even after Marlon left St. Vincent in 2008. They took their marriage vows soon after Zaida recovered from her miscarriage, thus validating their union in the eyes of both men and God. All these circumstances show the sincerity and honesty of the relationship between Zaida and Marlon. They also show their genuine regard and love for one another — a natural human emotion that is neither shameless, callous, nor offensive to the opinion of the upright and respectable members of the secular community. *While their actions might not have strictly conformed with the beliefs, ways, and mores of St. Vincent — which is governed largely by religious morality — or with the personal views of its officials, these actions are not prohibited under any law nor are they contrary to conduct generally accepted by society as respectable or moral.*<sup>71</sup> (Emphasis supplied)

Sexual intercourse between two consenting adults who have no legal impediment to marry, like respondent and her boyfriend, is not deemed as immoral.<sup>72</sup> No law proscribes such, and said conduct does not contravene any fundamental state policy enshrined in the Constitution.<sup>73</sup>

<sup>69</sup> *Id.* at 212.

<sup>70</sup> 788 Phil. 62 (2016) [Per J. Brion, Second Division].

<sup>71</sup> *Id.* at 79.

<sup>72</sup> 752 Phil. 212 (2015) [Per J. Reyes, Third Division].

<sup>73</sup> *Id.*

We thus find that respondent's act of engaging in premarital sexual relations with her boyfriend and eventually getting pregnant, is not disgraceful or immoral within the contemplation of the law. As the CA aptly ruled:

Suffice it to say, Mabao was suspended because BWS believed her to have acted in an immoral manner, i.e., engaged in premarital sex. However, BWS' idea of "religious morality runs counter with the State's idea of "secular morality."

Jurisprudence has already set the standard of immorality with which an act should be gauged—it is public and secular, not religious. Whether a conduct is considered disgraceful or immoral should be made in accordance with the prevailing norms of conduct, which refer to those conducts which are proscribed because they are detrimental to conditions upon which depend the existence and progress of human society. The fact that a particular act does not conform to the traditional moral views of a certain sectarian institution is not sufficient reason to qualify such act as immoral unless it, likewise, does not conform to public and secular standards. More importantly, there must be substantial evidence to establish that premarital sexual relations and pregnancy out of wedlock is considered disgraceful or immoral.

*On a secular level, premarital sex is not immoral per se. Mabao did not have sexual relations with a married man; neither was she married at the time.* Using the Supreme Court's gauge of morality, We do not see how Mabao's conduct is immoral. Considering Mabao is not guilty of immoral conduct, her suspension is illegal and without basis.<sup>74</sup> (Emphasis supplied)

Respondent's suspension on the ground of engaging in premarital sexual relations resulting in pregnancy out of wedlock is therefore illegal.

Moreover, petitioners cannot claim that they substantially complied with procedural due process.

It is undisputed that petitioners did not issue a notice to explain before suspending respondent. Nonetheless, they argue that procedural due process was substantially complied with as respondent was given the opportunity to explain her side, she admitted the violation, and her suspension was reduced in writing. Petitioners also argue that the suspension was mutually agreed upon by the parties.

Suspension from work must be reasonable to meet the constitutional requirement of due process of law. It will be reasonable if it is based on just or authorized causes enumerated in the Labor Code. The employee must also be given notice and the opportunity to be heard before judgment is rendered.<sup>75</sup>

<sup>74</sup> *Id.* at 37–38.

<sup>75</sup> *Delu Fuente v. Gimenez*, G.R. No. 214419, November 17, 2021 [Per J. Zalameda, Third Division] at 15. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

Any disciplinary action which affects employment must pass due process scrutiny in both its substantive and procedural aspects.<sup>76</sup>

In this case, respondent confessed her violation of school policy on September 19, 2016. Per the Minutes of the Administrative Team Meeting<sup>77</sup> held on September 21, 2016, prior to including respondent in the meeting to discuss her situation, the Administrative Team already decided that respondent will be suspended starting September 22, 2016 (the following day) until she is legally married to her partner. Verily, petitioners already decided respondent's disciplinary sanction before hearing her side. Petitioners cannot therefore claim substantial compliance with procedural due process.

For petitioners' failure to comply with substantive and procedural due process in suspending respondent, the CA did not err in ruling that her suspension is illegal.

#### *Respondent abandoned her employment*

We note that in their Position Paper, petitioners contended that respondent abandoned her work, as she refused to resume her teaching duties despite their several attempts to have her return to work.<sup>78</sup> In the assailed Decision, the CA found that respondent's suspension ended on October 7, 2016, but that she refused to return to work despite due notice.<sup>79</sup> Further, the CA considered November 25, 2016 as respondent's last day of employment as she failed to return to work within the time given by petitioners.<sup>80</sup>

To constitute abandonment, the employer must prove that: (1) the employee failed to report for work or must have been absent without valid or justifiable reason; and (2) there is a clear intention on the part of the employee to sever the employer-employee relationship manifested by some overt act.<sup>81</sup>

Petitioners gave respondent three return-to-work notices. The First Return-to-Work Notice<sup>82</sup> states:

This is a follow up of what we have agreed during our last conference that you are going to return to work after your wedding.

It has come to our knowledge that you were married last Wednesday, October 5, 2016. Best wishes!

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<sup>76</sup> *Montinola v. Philippine Airlines*, 742 Phil. 487, 501 (2014) [Per J. Leonen, Second Division].

<sup>77</sup> *Rollo*, p. 78.

<sup>78</sup> *Id.* at 66.

<sup>79</sup> *Id.* at 33.

<sup>80</sup> *Id.* at 33-34.

<sup>81</sup> *Hubilla v. HSY Marketing Ltd., Co.*, 823 Phil. 358, 385-386 (2018) [Per J. Leonen, Third Division].

<sup>82</sup> *Rollo*, p. 84.

Please report back to work immediately since your suspension has already ended based on the information above.<sup>83</sup>

When the First Return-to-Work Notice was personally handed to respondent at her known address, she refused to receive it.<sup>84</sup> Petitioners thus sent the First Return-to-Work Notice via registered mail on October 7, 2016,<sup>85</sup> which respondent received on October 24, 2016.<sup>86</sup>

Respondent replied to the First Return-to-Work Notice through a Letter dated November 9, 2016,<sup>87</sup> the pertinent portions of which read:

This is in response to your letter dated October 7, 2016.

This is to inform you that about 13 days after you unilaterally and indefinitely suspended me, which is tantamount to a constructive dismissal under the Labor Laws, I brought the matter before the National Labor Relations Commission (NLRC) for appropriate legal action.

Since the matter is already before the National Labor Relations Commission (copy of my complaint is attached to this letter for your guidance) and that given the wounded feelings, besmirched reputation and social humiliation that your actions caused me, **I regret to inform you that I could no longer go back to work for the school.**<sup>88</sup> (Emphasis supplied)

Petitioners then sent respondent the Second Return-to-Work Notice<sup>89</sup> through private courier<sup>90</sup> and registered mail<sup>91</sup> on November 4, 2016. The Second Return-to-Work Notice states:

Please be reminded of the condition given in your suspension that you are only suspended until legally married. In our knowledge, you are already legally married and so, your suspension has already ended. In this connection, you are hereby requested to report to the school on November 7, 2016. Failure to report on the said date, we will assume that you do not have any more intention of coming back to school and we will be obliged to get a permanent replacement in your teaching position.<sup>92</sup>

Respondent also refused to receive the Second Return-to-Work Notice on November 7 and 10, 2016.<sup>93</sup>

<sup>83</sup> *Id.*

<sup>84</sup> See Narrative Report of Salvador Cirunay, School Messenger, Bohol Wisdom School, *id.* at 85.

<sup>85</sup> See Registry Receipt, *id.* at 86.

<sup>86</sup> See Registry Return Receipt, *id.* at 87.

<sup>87</sup> *Id.* at 293.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 89.

<sup>90</sup> See receipt issued by LBC Express, Inc., *id.* at 90.

<sup>91</sup> See Registry Receipt, *id.*

<sup>92</sup> *Id.*

<sup>93</sup> See letter envelope, *id.* at 91.

Petitioners still sent respondent the Third Return-to-Work Notice,<sup>94</sup> which reads:

This is to inform you that per record on your attendance, you have been absent for 29 working days already. In this regard, the BWS Administration and Management is requesting you to report to work within 3 days upon receipt of this letter. Furthermore, you are also requested to explain why you should not be charged with abandonment of responsibility and neglect of duty.

Should you fail to come back and report to work within the given time, the school administration will be compelled to send you a letter of termination for the aforementioned charges.<sup>95</sup>

Cirunay attempted to personally deliver the Third Return-to-Work Notice to respondent on November 22, 2016, but respondent was not in the house and her mother-in-law and husband refused to accept the letter.<sup>96</sup> Petitioners thus sent respondent the Third Return-to-Work Notice via private courier on November 28, 2016,<sup>97</sup> which respondent likewise refused to accept.<sup>98</sup>

Despite receipt and knowledge of the return-to-work notices, respondent failed to return to work. On the other hand, despite respondent's failure to return to work within the period given in the Third Return-to-Work Notice, petitioners did not give her a letter of termination from employment.

While We agree with the CA's pronouncement that there is no dismissal in this case, We do not agree that respondent's employment ended on November 25, 2016. Rather, it ended on November 9, 2016, when respondent replied to the First Return-to-Work Notice, expressing her intention to no longer report back to the school. At this point, respondent already abandoned her work.

Aside from failing to return to work despite due notice, respondent clearly manifested her desire to end her employment in her letter dated November 9, 2016,<sup>99</sup> where she unequivocally stated that she "could no longer go back to work for the school."<sup>100</sup> The letter is respondent's overt act manifesting her clear intention to sever her employment with petitioners.

The other circumstances surrounding the case also evince respondent's intention to sever her employment.

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<sup>94</sup> *Id.* at 93.

<sup>95</sup> *Id.*

<sup>96</sup> See Narrative Report of Salvador Cirunay, school messenger, Bohol Wisdom School, *id.* at 94.

<sup>97</sup> See receipt issued by LBC Express, Inc., *id.* at 95.

<sup>98</sup> See envelope, *id.* at 96.

<sup>99</sup> *Id.* at 293.

<sup>100</sup> *Id.*

When respondent filed her Complaint on October 5, 2016, she prayed for separation pay and issuance of a certificate of employment, among others.<sup>101</sup> Notably, respondent got married on October 5, 2016,<sup>102</sup> the same day she filed her Complaint. As repeatedly mentioned, respondent's suspension ends when she becomes legally married. Respondent was thus obliged to return to work after October 5, 2016, without need for petitioners to issue a return-to-work order. However, records show that she never went back to the school after October 5, 2016.

Additionally, respondent's Position Paper dated January 21, 2017, filed before the LA, prayed for separation pay in lieu of reinstatement on the ground of strained relations, specifying the amount of separation pay, i.e., PHP 187,740.00, computed by multiplying her monthly salary of PHP 20,860.00 with her nine years of service.<sup>103</sup> This supports petitioners' narration in their Position Paper<sup>104</sup> that "[they] made clear to [respondent] during the mandatory conference that the school is still open and willing to have her back. However, [respondent] said she is not interested to work at BWS anymore and is more interested to receive her separation pay and compensation for damages."<sup>105</sup>

Taking respondent's letter with the foregoing circumstances, as well as her failure to return to work despite several notices, it becomes apparent that respondent no longer had any intention to continue the employment relationship with petitioners. Respondent thus abandoned her work starting November 9, 2016.

Consequently, the benefits to be paid to respondent, as enumerated by the CA, must accrue until November 9, 2016 only, the last day of her employment with petitioners.

As a final note, there is a need to impose interest at the rate of 6% per annum on the monetary awards from the date of finality of this Decision until fully paid.<sup>106</sup>

**ACCORDINGLY**, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated September 28, 2018 and the Resolution dated January 24, 2020 of the Court of Appeals in CA-G.R. SP No. 11224 are **AFFIRMED**, with **MODIFICATION** thus:

1. Declaring Miraflor D. Mabao to have been illegally suspended from employment. Consequently, Bohol Wisdom School, Dr. Simplicio

<sup>101</sup> See Complaint, *id.* at 294.

<sup>102</sup> See Marriage Certificate, *id.* at 130.

<sup>103</sup> *Id.* at 110-111.

<sup>104</sup> *Id.* at 55-72.

<sup>105</sup> *Id.* at 65.

<sup>106</sup> *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*, G.R. No. 225433, September 20, 2022 [Per J. Leonen, *En Banc*] at 20-21. This pinpoint citation refers to the copy of the Resolution uploaded to the Supreme Court website.

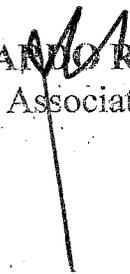
Yap, Jr., and Raul H. Deloso are **ORDERED** to jointly and solidarily pay Miraflor D. Mabao BACKWAGES from September 22, 2016 to October 7, 2016, and 13<sup>th</sup> MONTH PAY accruing until November 9, 2016;

2. Ordering Bohol Wisdom School, Dr. Simplicio Yap, Jr., and Raul H. Deloso to jointly and solidarily pay Miraflor D. Mabao the following benefits:
  - a. Unpaid RICE ALLOWANCE accruing until November 9, 2016;
  - b. Unpaid LAUNDRY ALLOWANCE accruing until November 9, 2016;
  - c. Unpaid MIDYEAR BONUS accruing until November 9, 2016;
  - d. Proportionate VACATION/SICK LEAVE accruing until November 9, 2016.
3. Ordering Bohol Wisdom School, Dr. Simplicio Yap, Jr., and Raul H. Deloso to jointly and solidarily pay ATTORNEY'S FEES of 10% of the total monetary award; and
4. Ordering Bohol Wisdom School, Dr. Simplicio Yap, Jr., and Raul H. Deloso to issue a Certificate of Employment to Miraflor D. Mabao.

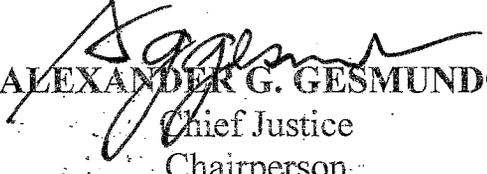
All monetary awards shall earn legal interest of 6% per annum from the date of finality of this Decision until full satisfaction thereof.

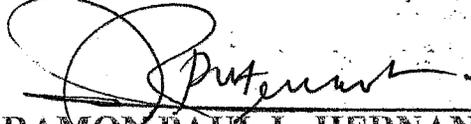
Let the records of the case be transmitted to the Labor Arbiter for proper computation of the award in accordance with this Decision.

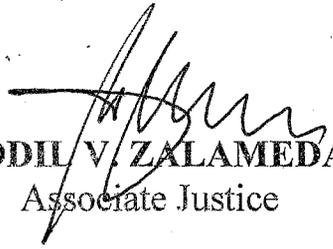
**SO ORDERED.**

  
**RICARDO R. ROSARIO**  
Associate Justice

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice  
Chairperson

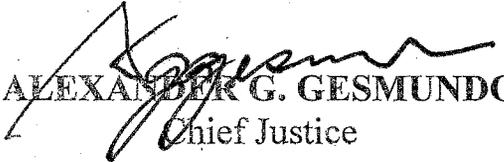
  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

v