



Republic of the Philippines  
Supreme Court  
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated April 26, 2023 which reads as follows:*

**“G.R. No. 245376 (Romel L. Subaldo v. International Fine Paper Exchange, Inc.).** — Challenged in this Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court are the Decision<sup>2</sup> dated March 28, 2018 and Resolution<sup>3</sup> dated January 7, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 10871. The CA held that petitioner Romel L. Subaldo (Subaldo) was dismissed with just cause but without compliance with the procedural requirements of the law by respondent International Fine Paper Exchange, Inc. (Fine Paper).

**Factual Antecedents**

The instant case stemmed from a Complaint<sup>4</sup> for illegal dismissal and monetary claims (Complaint) filed by Subaldo against Fine Paper.<sup>5</sup>

Subaldo was employed as Regional Sales Manager of Fine Paper beginning December 13, 2012.<sup>6</sup> As Regional Sales Manager, Subaldo was tasked to oversee the sales operations of Fine Paper in the Visayas area covering Cebu Province, Negros Island, Panay, Samar, Bohol, and Leyte.<sup>7</sup> Subaldo was expected to manage the salespeople and sales coordinators in such area.<sup>8</sup> Furthermore, Subaldo “had to ensure achievement of sales target and prompt collection of accounts receivables.”<sup>9</sup>

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\* Referred to as Rommel in some parts of the records.

<sup>1</sup> *Rollo*, pp. 9-25.

<sup>2</sup> *Id.* at 26-36. Penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos (now a retired member of the Court) and Louis P. Acosta.

<sup>3</sup> *Id.* at 37-42. Penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos (now a retired member of the Court) and Louis P. Acosta.

<sup>4</sup> *Id.* at 53.

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

<sup>6</sup> *Id.* at 29.

<sup>7</sup> *Id.* at 57.

<sup>8</sup> *Id.* at 29, 57.

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

On August 3, 2015, at around 10:45 a.m., the Corporate Affairs Manager of Fine Paper, Josephine Ongsitco (Ongsitco), informed Subaldo that it was his last day of duty and instructed him to surrender the company vehicle to the depot officer.<sup>10</sup> In the afternoon of the same day, Subaldo asked Ongsitco for a written memorandum of Fine Paper's decision to terminate his employment.<sup>11</sup> Ongsitco replied, "*Gusto mo ba na bigyan kita ng memo na tinatangal ka namin dahil hindi ka nag perform?*"<sup>12</sup> Without objecting to the decision of Fine Paper, Subaldo demanded payment for his services from Ongsitco.<sup>13</sup> Ongsitco said that the check would be given to him once all company properties in his possession was returned.<sup>14</sup>

Clearly bothered by his predicament, Subaldo reached out to the National Sales Manager of Fine Paper, Allaine\* Lozada, who revealed to him that Fine Paper was realigning its manpower.<sup>15</sup> The next day, it was revealed to Subaldo that the real reason for his termination was a performance issue.<sup>16</sup>

On August 7, 2015, Subaldo returned all of the company properties in his possession.<sup>17</sup> While the check was available by October 15, 2015, Subaldo was informed that the check would only be released to him if he signed a resignation letter and the corresponding quitclaim.<sup>18</sup> Subaldo, who was dismayed when he saw that the amount in the check was only ₱11,000.00, refused to sign the quitclaim and left Fine Paper's office.<sup>19</sup>

For their part, Fine Paper averred that it is a corporation primarily engaged in the business of distributing paper products.<sup>20</sup> In the course of its operations, it engaged the services of Subaldo as its Regional Sales Manager.<sup>21</sup> Sometime in July 2015, Subaldo was given his Performance Assessment for the period of January to June 2015 (Performance Assessment).<sup>22</sup> The Performance Assessment revealed Subaldo's poor performance as regional sales manager,<sup>23</sup> as follows:<sup>24</sup>

**Romel Subaldo – Visayas Regional Sales Manager**  
Performance Assessment  
January to June 2015

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<sup>10</sup> Id. at 29.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

\* Referred to as Alaine in some parts of the records.

<sup>15</sup> Id. at 29, 58.

<sup>16</sup> Id. at 29.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id. at 58.

<sup>21</sup> Id.

<sup>22</sup> Id. at 30.

<sup>23</sup> Id.

<sup>24</sup> Id. at 32-33, 86-87.

**I. Area Sales Performance**

- a. Cebu Area consistently not able to achieve their target with **-13% sales growth** versus 2014.
- b. Total area posted a total of **-6% sales growth** versus 2014.

x x x x

**III. Team Coaching and People Handling Skills**

- a. **Cebu sales team [has] no sense of teamwork between Sales Coordinator and Sales Executive.** It seems that Sales Coordinator did not understand her role and function.
- b. Sales Executive especially Iloilo and Bacolod directly brought up their concerns to Manila office since **they could not be able [sic] to get a clear direction or instruction from him.**
- c. Assistance needed by a newly hired Sales Executive in terms of proper way of saturating the market, account handling is very vague and blurry. Newly hired AE especially the one assigned to printer customers was not properly guided.
- d. Not following through the Sales Executive about the development of the project or task being assigned.

**IV. Feedback and Reporting**

- a. **No initiative to submit feedback unless being asked to do so.**
- b. **Sales analysis not being done diligently.** Some of our customers like CT Business Printer no longer ordering carbonless reels from us, despite several follow up from Manila office reason given were CT has no project yet using carbonless reels. Upon our visit last week July 24 we found out that they have already ordered carbonless reels from other supplier.
- c. **Always on field either after lunch or by 10 am and yet no feedback and report given regarding his fi[el]d work.**
- d. **Instructed to accompany his Sales Executive assigned to printer to visit Hotel customer last June but according to the Sales Executive assigned Romel never accompanied her.** (Emphases supplied)

Prepared by:

[unsigned] (Emphasis added)  
Alaine Mae D. Lozada<sup>25</sup>

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<sup>25</sup> Id. at 87.

Fine Paper alleged that when Subaldo was confronted with the Performance Assessment, Subaldo “acknowledged the accuracy of the performance evaluation and hinted that maybe he was not fit for the position. Subaldo initiated a talk about his possible resignation and inquired how much he would receive if he [resigned].”<sup>26</sup> Fine Paper determined that Subaldo’s separation pay was ₱48,750.00.<sup>27</sup> However, since Subaldo used corporate money amounting to ₱37,527.66, then the separation pay due him amounted to ₱11,000.00 only.<sup>28</sup>

Subaldo’s Complaint was dismissed in the Single Entry Approach.<sup>29</sup> Thus, he re-filed the Complaint with the Labor Arbiter (LA).<sup>30</sup>

Both parties submitted their respective Position Papers<sup>31</sup> to the LA. Subaldo presented his Affidavit<sup>32</sup> to support his allegations. On the other hand, Fine Paper attached a copy of the unsigned Performance Assessment,<sup>33</sup> a signed computation of separation pay,<sup>34</sup> a signed document entitled “Final Liquidation of Revolving Fund” for Subaldo,<sup>35</sup> and a copy of the cashier’s check for Subaldo to counter Subaldo’s arguments.<sup>36</sup>

### **Ruling of the Labor Arbiter**

In the Decision<sup>37</sup> rendered on July 28, 2016, the LA ruled that Subaldo was illegally dismissed and was awarded various monetary sums, as Subaldo established the fact of his dismissal.<sup>38</sup> The arbiter did not give credence to Fine Paper’s presentation of a “x x x machine copy of an unsigned [Performance Assessment] x x x.”<sup>39</sup> For this reason, the arbiter found it “as highly improbable for [Subaldo] to initiate resignation with claims for separation pay due to only one so-called [Performance Assessment] after-all [sic] [Subaldo] has been employed since 2012 and the records are bereft of any other poor performance evaluations.”<sup>40</sup>

Thus, the LA found that Subaldo was “removed for alleged poor performance and his employment was terminated without observance of due process.”<sup>41</sup> Subaldo was awarded the twin reliefs of reinstatement (or

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<sup>26</sup> Id. at 30.

<sup>27</sup> Id.

<sup>28</sup> Id.

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

<sup>30</sup> Id.

<sup>31</sup> Id. at 67-75, 76-92.

<sup>32</sup> Id. at 74-75.

<sup>33</sup> Id. at 86-87.

<sup>34</sup> Id. at 88.

<sup>35</sup> Id. at 89.

<sup>36</sup> Id. at 90.

<sup>37</sup> Id. at 54-66. Penned by Labor Arbiter Milagros B. Bunagan-Cabatingan.

<sup>38</sup> Id. at 62.

<sup>39</sup> Id.

<sup>40</sup> Id.

<sup>41</sup> Id. at 63.

separation pay in lieu of reinstatement) and backwages,<sup>42</sup> as well as 13<sup>th</sup> month pay and attorney's fees.<sup>43</sup> All other claims were denied for lack of merit.<sup>44</sup>

The dispositive portion of the LA Decision reads:

WHEREFORE, judgment is hereby rendered finding that [Subaldo] was Illegally Dismissed. [Subaldo] is thus entitled to monetary award. [Fine Paper is] hereby ordered to pay [Subaldo] the total monetary award of **PESOS: FOUR HUNDRED EIGHTY-THREE THOUSAND EIGHT HUNDRED TWENTY-SIX [sic] AND 50/100 (P)483,826.50**.

SO ORDERED.<sup>45</sup>

The Computation<sup>46</sup> of the LA, which forms an integral part of the Decision,<sup>47</sup> is roughly reproduced below:

### COMPUTATION

**A) BACKWAGES:**

a. Period covered:	August 03, 2015 to July 28, 2016
Rate per Month:	₱32,500.00 x 11mos.

<b>BACKWAGES:</b>	<b>₱357,500.00</b>
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**B) SEPARATION PAY:**

a. Period covered:	December 13, 2012 to August 03, 2015
Rate per Month:	₱32,500.00 x 3yrs.

<b>SEPARATION PAY:</b>	<b>₱97,500.00</b>
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**C) PROPORTIONATE 13<sup>th</sup> MONTH PAY:**

a. Period covered:	January 2015 to August 2015
Rate per Month:	<u>₱32,500.00 x 07mos. = ₱227,500.00</u>
	12

<b>13<sup>th</sup> MONTH PAY DUE:</b>	<b>₱18,958.33</b>
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<b>Sub Total Monetary Award:</b>	<b>₱473,958.33</b>
<b><u>Attorney's fees (10%)</u></b>	<b><u>₱47,395.83</u></b>
<b>TOTAL</b>	<b>₱521,345.16<sup>48</sup></b>

<sup>42</sup> Id.

<sup>43</sup> Id. at 64.

<sup>44</sup> Id.

<sup>45</sup> Id. at 64-65.

<sup>46</sup> Id. at 66. Issued by Labor Arbiter Milagros B. Bunagan-Cabatingan.

<sup>47</sup> Id. at 64.

<sup>48</sup> Upon review of the computation, the total amount should be ₱521,354.16. However, the same does not change the grand total award as computed by the LA.

<b><u>LESS: ADVANCES:</u></b>	<b><u>₱37,527.66</u></b>
<b>GRAND TOTAL AWARD</b>	<b>₱483,826.50</b>

Aggrieved, Fine Paper appealed<sup>49</sup> the LA's Decision to the National Labor Relations Commission (NLRC).<sup>50</sup>

### **Ruling of the National Labor Relations Commission**

On November 29, 2016, the NLRC rendered its Decision.<sup>51</sup> The NLRC affirmed the LA's Decision but with modification as to the backwages and attorney's fees to cover the period from Subaldo's actual dismissal until the promulgation of the NLRC's Decision. The dispositive portion states:

**WHEREFORE**, the foregoing considered, [Fine Paper's] appeal is **DISMISSED**. The Decision of the [LA] is **AFFIRMED WITH MODIFICATION**, as to the recomputation of backwages and attorney's fees.

**SO ORDERED.**<sup>52</sup>

The NLRC's computation is reproduced below:<sup>53</sup>

<b>a. Separation Pay (December 13, 2012 to August 3, 2015)</b>	
₱32,500.00/month x 3 years	= ₱97,500.00
<b>b. Backwages (August 4, 2015 to November 29, 2016)</b>	
₱32,500.00/month x 15.83 months	= ₱514,475.00
<b>b.i. 13<sup>th</sup> Month Pay</b>	
₱2,708.33/month x 15.83 months	= ₱42,872.86
<b>c. Proportionate 13<sup>th</sup> Month Pay (January to August 3, 2015)</b>	
₱2,708.33/month x 7 months	= <u>₱18,958.31</u>
	₱673,806.17
<b>d. 10% Attorney's Fees</b>	<u>₱67,380.61</u>
	₱711,333.83
<b>Less: Advances</b>	<u>₱37,527.66</u>
<b>Total Award</b>	<b>₱673,806.17</b> <sup>54</sup>

Further aggrieved, Fine Paper sought reconsideration<sup>55</sup> of the NLRC Decision, but the same was denied in a Resolution<sup>56</sup> promulgated on February 15, 2017.

<sup>49</sup> Id. at 93-109.

<sup>50</sup> Id. at 30.

<sup>51</sup> Id. at 115-121. Penned by Commissioner Julie C. Rendoque and concurred in by Presiding Commissioner Violeta Ortiz-Bantug and Commissioner Jose G. Gutierrez.

<sup>52</sup> Id. at 121.

<sup>53</sup> Id. at 120-121.

<sup>54</sup> Id.

<sup>55</sup> Id. at 122-127.

<sup>56</sup> Id. at 128-130. Penned by Commissioner Julie C. Rendoque and concurred in by Presiding Commissioner Violeta Ortiz-Bantug and Commissioner Jose G. Gutierrez.

Fine Paper then appealed<sup>57</sup> to the CA under Rule 65 of the Rules of Court.

### **Ruling of the Court of Appeals**

On March 28, 2018, the appellate court rendered its assailed Decision.<sup>58</sup> The CA found merit in Fine Paper's petition and reversed the uniform decisions of the labor tribunals.<sup>59</sup> Subaldo's poor performance, evidenced by the unsigned Performance Assessment, is a just cause for termination of his employment with Fine Paper.<sup>60</sup> Despite the lack of signature on the Performance Assessment, the appellate court ruled that Subaldo was apprised of the existence and contents of the Performance Assessment yet never attempted to dispute the same in any of his pleadings.<sup>61</sup>

However, despite the existence of a just cause, Fine Paper did not observe procedural due process in the termination of Subaldo's employment which entitled Subaldo to nominal damages.<sup>62</sup>

The dispositive portion of the assailed CA Decision reads:

WHEREFORE, the Petition is GRANTED. The Decision and Resolution of the NLRC dated November 29, 2016 and February 15, 2017, respectively, in NLRC Case No. VAC-10-000591-2016, are SET ASIDE. [Subaldo's Complaint] for illegal dismissal, monetary claims, damages and attorney's fees is DISMISSED. [Fine Paper], however, is ORDERED to pay [Subaldo] nominal damages of Thirty Thousand Pesos (P30,000.00) for violation of his right to procedural due process.

SO ORDERED.<sup>63</sup>

Both parties sought reconsideration of the CA Decision.<sup>64</sup> Subaldo, in his Motion for Reconsideration,<sup>65</sup> maintained that he was illegally dismissed and attached screenshots of text messages<sup>66</sup> and actual sales reports from May, June, and July 2015<sup>67</sup> to substantiate his arguments. On the other hand, in their Partial Motion for Reconsideration,<sup>68</sup> Fine Paper sought restitution of the excess monetary award that Subaldo withdrew from the NLRC<sup>69</sup> as evidenced by the corresponding Disbursement Voucher.<sup>70</sup>

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<sup>57</sup> Id. at 131-159.

<sup>58</sup> Id. at 26-36.

<sup>59</sup> Id. at 31.

<sup>60</sup> Id. at 31-32.

<sup>61</sup> Id. at 33-34.

<sup>62</sup> Id. at 34-35.

<sup>63</sup> Id. at 35.

<sup>64</sup> Id. at 39.

<sup>65</sup> CA *rollo*, pp. 255-266.

<sup>66</sup> Id. at 262-263.

<sup>67</sup> Id. at 264-266.

<sup>68</sup> Id. at 236-246.

<sup>69</sup> Id. at 238.

<sup>70</sup> Id. at 246.

The dispositive portion of the Resolution<sup>71</sup> promulgated on January 7, 2019 states:

IN THE LIGHT OF ALL THE FOREGOING, the Motion for Reconsideration of [Subaldo] is DENIED. Meanwhile, the Partial Motion for Reconsideration of [Fine Paper] is GRANTED. [Subaldo] is hereby DIRECTED TO RESTITUTE to [Fine Paper] the sum of [P]610,115.86, which is the excess of the P30,000.00-award for nominal damages that he is legally entitled.

SO ORDERED.<sup>72</sup>

Aggrieved, Subaldo filed his Petition<sup>73</sup> before Us. Subaldo essentially argues that the appellate court gravely erred in reversing the uniform decisions of the labor tribunals. In maintaining that he was illegally dismissed, Subaldo prays for the reinstatement of the NLRC Decision favorable to him.

In a Resolution<sup>74</sup> dated November 17, 2021, We directed both parties to submit their respective memoranda within thirty (30) days from notice. Both parties complied.<sup>75</sup>

### Issue

The issue is whether the appellate court committed grave abuse of discretion in reversing the uniform decisions of the labor tribunals.

### Our Ruling

The Petition is meritorious. We find that the appellate court erred in reversing the uniform rulings of the labor tribunals. Accordingly, We hold that Subaldo was illegally dismissed by Fine Paper.

**The Supreme Court is not a trier of facts, except where, as in the instant case, there is a conflict between the findings of the labor tribunals and the appellate court, and when there is grave abuse of discretion**

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<sup>71</sup> *Rollo*, pp. 37-42.

<sup>72</sup> *Id.* at 42.

<sup>73</sup> *Id.* at 9-25.

<sup>74</sup> *Id.* at 236-237.

<sup>75</sup> *Id.* at 245-264, 266-279.



Before We delve into the merits of this case, We emphasize that the issues raised by Subaldo in his Petition are factual in nature and not within the office of a petition for review on *certiorari*.<sup>76</sup> Since this Court is not a trier of facts,<sup>77</sup> We have recognized the expertise and authority of the NLRC in ascertaining labor matters.<sup>78</sup> Thus, the NLRC's conclusions relating to questions of fact set forth in the case are accorded great weight and respect, and even clothed with finality and binding on this Court especially if they are supported by sufficient and substantial evidence.<sup>79</sup>

As an exception to the general rule on resolving factual issues of the case, it is equally settled that this Court may exercise its equity jurisdiction, review the facts, and re-examine the records of the case, where, as in the instant case, there is a conflict between the findings of the labor tribunals and the appellate court<sup>80</sup> or when there is grave abuse of discretion,<sup>81</sup> among other exceptions.<sup>82</sup>

Grave abuse of discretion is defined in jurisprudence as such capricious and arbitrary exercise of judgment as equivalent, in the eyes of the law, to lack of jurisdiction.<sup>83</sup> There is grave abuse of discretion where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility amounting to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law.<sup>84</sup> Through time, the meaning of grave abuse of discretion has been expanded to include any action done contrary to the Constitution, the law, or jurisprudence.<sup>85</sup>

Accordingly, when a labor case is brought to Us for final review, We are tasked to resolve a pure question of law: has the CA correctly determined whether grave abuse of discretion attended the determination and resolution of the NLRC?<sup>86</sup>

In this case, the labor tribunals ruled that Subaldo was illegally dismissed, while the appellate court ruled that there was just cause to dismiss Subaldo despite non-compliance with procedural due process. Considering that the findings and rulings of the labor tribunals and the appellate court are

<sup>76</sup> *Ledesma v. National Labor Relations Commission*, 562 Phil. 939, 948 (2007), citing *Limketkai Sons Milling, Inc. v. Llamera*, 501 Phil. 546, 552 (2005).

<sup>77</sup> *JR Hauling Services v. Solamo*, G.R. No. 214294, September 30, 2020.

<sup>78</sup> *Philam Homeowners Association, Inc. v. De Luna*, G.R. No. 209437, March 17, 2021.

<sup>79</sup> *Id.*, citing *Eastern Shipping Lines, Inc. v. Canja*, 771 Phil. 169, 176 (2015).

<sup>80</sup> *JR Hauling Services v. Solamo*, *supra*.

<sup>81</sup> *Noblado v. Alfonso*, 773 Phil. 271, 280 (2015), citing *Merck Sharp and Dohme (Phils.) v. Robles*, 620 Phil. 505, 512 (2009).

<sup>82</sup> *Id.*

<sup>83</sup> *Bacelonia v. Court of Appeals*, 445 Phil. 300, 307-308 (2003); *Vda. De Bacaling v. Laguda*, 153 Phil. 524, 533-534 (1973).

<sup>84</sup> *Benito v. Commission on Elections*, 402 Phil. 764, 773 (2001); *Cuison v. Court of Appeals*, 351 Phil. 1089, 1102 (1998).

<sup>85</sup> *Republic v. COCOFED*, 423 Phil. 735, 774 (2001).

<sup>86</sup> *Philam Homeowners Association, Inc. v. De Luna*, *supra*.

conflicting, the Court finds sufficient basis to review the factual matters of the case in relation to the questions of law involved.

**Substantial evidence is the quantum of proof required in illegal dismissal cases. However, in case of doubt or ambiguity in the evidence presented by the employer and the employee, law and jurisprudence rule in favor of labor and the protection of the employee, as in the case at bar**

It is a well-established rule that the party-litigant who alleges the existence of a fact or thing necessary to establish his or her claim has the burden of proving the same by the amount of evidence required by law.<sup>87</sup> In labor proceedings, the quantum of proof required is substantial evidence or “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. X x x. [E]ven if other [reasonable] minds x x x might conceivably opine otherwise.”<sup>88</sup>

Upon presentation of substantial evidence in illegal dismissal cases, labor tribunals and courts alike must assess whether the employee sufficiently established by substantial evidence the fact of his or her dismissal from service.<sup>89</sup> Thereafter, the burden shifts to the employer to prove that the dismissal was legal.<sup>90</sup> Logically, if there is no dismissal, then there can be no question as to its legality or illegality.<sup>91</sup> As an allegation is not evidence, it is elementary that a party alleging a critical fact must support his or her allegation with substantial evidence.<sup>92</sup> Bare allegations of dismissal, when uncorroborated by the evidence on record, cannot be given credence.<sup>93</sup> Moreover, the evidence to prove the fact of dismissal must be clear, positive and convincing.<sup>94</sup>

The employer’s case must succeed or fail on the strength of its own evidence and not the weakness of that adduced by the employee.<sup>95</sup> This is

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<sup>87</sup> *JR Hauling Services v. Solamo*, supra.

<sup>88</sup> *Id.*, citing *Functional, Inc. v. Granfil*, 676 Phil. 279, 287 (2011).

<sup>89</sup> *Rodriguez v. Sintron Systems, Inc.*, G.R. No. 240254, July 24, 2019, citing *Philippine Rural Reconstruction Movement v. Pulgar*, 637 Phil. 244, 256 (2010).

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*, citing *Ledesma, Jr. v. National Labor Relations Commission (Second Division)*, 562 Phil. 939, 951 (2007).

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

<sup>93</sup> *Id.*, citing *Philippine Rural Reconstruction Movement v. Pulgar*, supra.

<sup>94</sup> *Id.*, citing *Tri-C General Services v. Matuto*, 770 Phil. 251, 262 (2015).

<sup>95</sup> *Functional, Inc. v. Granfil*, supra, citing *Philippine Long Distance Telephone Company, Inc. v. Tiamson*, 511 Phil. 384, 394 (2005).

consistent with the principles in the Constitution<sup>96</sup> and the Labor Code of the Philippines (Labor Code)<sup>97</sup> that the scales of justice should be tilted in favor of the employee in case of doubt in the evidence presented by them.<sup>98</sup> Pertinently, Articles 3 and 4 of the Labor Code read:

Art. 3. *Declaration of Basic Policy.* — The State shall afford protection to labor, promote full employment, ensure equal opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work.

Art. 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.

In the case at bar, Subaldo presented his Affidavit in his Position Paper,<sup>99</sup> as well as screenshots of text messages from his supervisor<sup>100</sup> and print-outs of actual sales reports from May, June, and July 2015 annexed to his Motion for Reconsideration<sup>101</sup> before the CA.<sup>102</sup> On the other hand, Fine Paper attached a copy of the unsigned Performance Assessment,<sup>103</sup> a signed computation of separation pay,<sup>104</sup> a signed document entitled “Final Liquidation of Revolving Fund” for Subaldo,<sup>105</sup> and a copy of the cashier’s check for Subaldo to its Position Paper.<sup>106</sup> However, the labor tribunals and the appellate court only appreciated the Performance Assessment which led to different conclusions.

The appellate court greatly appreciated the unsigned Performance Assessment presented by Fine Paper, but found no probative value in the screenshots of text messages and print-outs of actual sales reports adduced by Subaldo.<sup>107</sup> To justify its disposition of the additional pieces of evidence from Subaldo, the appellate court ruled that “[a]side from being unauthenticated, the print-outs do not even bear the name or signature of the one who prepared them.”<sup>108</sup> We agree that the additional pieces of evidence from Subaldo have

<sup>96</sup> CONSTITUTION, Art. II, Sec. 18 and Art. XIII, Sec. 3. The provisions state:

SECTION 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

x x x x

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.

<sup>97</sup> Presidential Decree No. 442 of 1974, as Amended and Renumbered. Entitled “LABOR CODE OF THE PHILIPPINES.” Approved: May 1, 1974.

<sup>98</sup> *Functional, Inc. v. Granfil*, supra, citing *Triple Eight Services, Inc. v. National Labor Relations Commission*, 359 Phil. 955, 964 (1998).

<sup>99</sup> *Rollo*, pp. 74-75.

<sup>100</sup> *CA rollo*, pp. 262-263.

<sup>101</sup> *Id.* at 255-266.

<sup>102</sup> *Id.* at 264-266.

<sup>103</sup> *Rollo*, pp. 86-87.

<sup>104</sup> *Id.* at 88.

<sup>105</sup> *Id.* at 89.

<sup>106</sup> *Id.* at 90.

<sup>107</sup> *Id.* at 41.

<sup>108</sup> *Id.*

no probative value. However, the appellate court should have reached the same conclusion upon its own assessment of the unsigned Performance Assessment from Fine Paper.

Based on Our independent assessment of the entire records, We find that there exists doubt in the evidence presented by both parties. Hence, We rule in favor of labor and the protection of Subaldo as an illegally dismissed employee of Fine Paper.

**The CA erred in reversing the uniform decisions of the labor tribunals on the basis of an unsigned Performance Assessment. Hence, Subaldo was illegally dismissed from employment**

We find that the CA committed grave abuse of discretion in reversing the uniform decisions of the labor tribunals on the basis of an unsigned Performance Assessment.

For a dismissal to be valid, the rule is that the employer must comply with both the substantive and the procedural due process requirements of the law.<sup>109</sup> Substantive due process requires that the dismissal is based on a just cause<sup>110</sup> or an authorized cause<sup>111</sup> under the Labor Code. On the other hand, procedural due process mandates observance with the requirements of notice and hearing. Moreover, in illegal dismissal cases, the consistent rule is that the employer must affirmatively show rationally adequate evidence that the dismissal was for a justifiable cause, failing in which makes the termination illegal.<sup>112</sup>

The requirements of both substantive and procedural due process were absent in the case at bar. Worse, Fine Paper failed to adduce substantial

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<sup>109</sup> *Noblado v. Alfonso*, supra note 81 at 281, citing *ALPS Transportation v. Rodriguez*, 711 Phil. 122, 129 (2013).

<sup>110</sup> See LABOR CODE, Art. 297. The provision states:  
ARTICLE 297. [282]. *Termination by Employer*. – An employer may terminate an employment for any of the following causes:

- (a) Serious misconduct or willful disobedience by the employee of the lawful order of his [or her] employer or representative in connection with his [or her] work;
- (b) Gross and habitual neglect by the employee of his [or her] duties;
- (c) Fraud or willful breach by the employee of the trust reposed in him [or her] by his [or her] employer or duly authorized representative;
- (d) Commission of a crime or offense by the employee against the person of his [or her] employer or any immediate member of his [or her] family or his [or her] duly authorized representatives; and
- (e) Other causes analogous to the foregoing.

<sup>111</sup> See LABOR CODE, Arts. 298 and 299.

<sup>112</sup> *Hantex Trading Co., Inc. v. Court of Appeals*, 438 Phil. 737, 747 (2002).

evidence to prove that Subaldo's dismissal was for a just cause. Thus, Subaldo's dismissal was illegal.

Contrary to the appellate court's appreciation of the evidence on record, the labor tribunals held that Subaldo was able to prove the fact of his dismissal.<sup>113</sup> Thus, although poor performance may be a just cause for termination of employment, Fine Paper failed to substantiate its allegation of legal dismissal because the Performance Assessment was self-serving, dubious, and not authenticated.

This is consistent with prevailing jurisprudence, where We previously disregarded unsigned computer print-outs presented in evidence by the employer to prove just cause in the termination of its employee:<sup>114</sup>

We find that the x x x unsigned computer print-outs were unauthenticated and, hence, unreliable. Mere self-serving evidence of which the x x x print-outs are of that nature should be rejected as evidence without any rational probative value even in administrative proceedings. x x x<sup>115</sup>

Even if the unsigned Performance Assessment were genuine, poor performance is a just cause for termination only when it amounts to gross and habitual neglect of duties.<sup>116</sup> In *Eastern Overseas Employment Center, Inc. v. Bea*,<sup>117</sup> We ruled as follows:

We take cognizance of the fact that in any given workplace, not all of the employees perform in accordance with what is expected of them. X x x. **As a general concept, "poor performance" is equivalent to inefficiency and incompetence in the performance of official duties.** Under [Art. 297] of the Labor Code, **an unsatisfactory rating can be a just cause for dismissal only if it amounts to gross and habitual neglect of duties.** The fact that an employee's performance is found to be poor or unsatisfactory does not necessarily mean that the employee is grossly and habitually negligent of his [or her] duties. **Gross negligence implies a want or absence of or failure to exercise slight care or diligence, or the entire absence of care. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them.**<sup>118</sup> (Emphases supplied)

Although the unsigned Performance Assessment covered a period of six months in 2015, there are no other performance assessments or evaluations from years prior or other months in 2015 to corroborate the claim of poor performance. Absent reliable and reasonable proof that Subaldo performed his duties poorly, this Court cannot conclude that his poor performance is a just cause for termination of employment.

<sup>113</sup> *Rollo*, pp. 62, 120.

<sup>114</sup> *Systems and Plan Integrator and Development Corporation v. Ballesteros*, G.R. No. 217119, April 25, 2022.

<sup>115</sup> *Career Philippines Shipmanagement, Inc. v. Godinez*, 819 Phil. 86, 114-115 (2017), citing *Asuncion v. National Labor Relations Commission*, 414 Phil. 329, 337 (2001).

<sup>116</sup> *Eastern Overseas Employment Center, Inc. v. Bea*, 512 Phil. 749, 758 (2005).

<sup>117</sup> 512 Phil. 749 (2005).

<sup>118</sup> *Id.* at 758. (Citations omitted)

Apart from a just cause for termination, procedural due process requires the service of two notices and the conduct of a hearing.<sup>119</sup> Here, despite contrasting findings on the existence of a just cause for termination, the labor tribunals and the appellate court were nonetheless unanimous in their ruling that procedural due process was not observed by Fine Paper.<sup>120</sup> Notably, Fine Paper did not refute the fact of non-compliance with due process in any of their pleadings. Since Fine Paper failed to categorically deny the allegations, the same are deemed admitted according to Rule 8, Section 11 of the Rules of Court,<sup>121</sup> in relation to the NLRC Rules of Procedure.<sup>122</sup>

The disciplinary authority of Fine Paper is recognized but should be tempered with compassion and understanding. In light of the foregoing, there being no just cause for dismissal and without observance of procedural due process in terminating Subaldo's employment, We find that Subaldo was illegally dismissed.

Art. 294 of the Labor Code<sup>123</sup> states that illegally dismissed employees are entitled to reinstatement without loss of seniority rights and other privileges and to full backwages, inclusive of allowances, and to other benefits or their monetary equivalent from the time their compensation was withheld from them up to the time of their actual reinstatement.

Additionally, since Subaldo was forced to protect his rights and litigate his claims, there is basis for the award of attorney's fees under Art. 2208 (2) of the Civil Code.<sup>124</sup>

<sup>119</sup> *King of Kings Transport, Inc. v. Mamac*, 553 Phil. 108, 114-115 (2007). See also LABOR CODE, Art. 292; Book V, Rule XXIII, Sec. 2 (I) of the "Rules to Implement the Labor Code." Approved: February 16, 1974.

<sup>120</sup> *Rollo*, pp. 34-35, 63.

<sup>121</sup> SECTION 11. *Allegations Not Specifically Denied Deemed Admitted.* – **Material averment** in the complaint, other than those as to the amount of unliquidated damages, **shall be deemed admitted when not specifically denied.** x x x. (Emphasis supplied)

<sup>122</sup> See Rule I, Sec. 3 of the 2011 NLRC Rules of Procedure. Approved: May 31, 2011. It provides: SECTION 3. *Suppletory Application of the Rules of Court.* – In the absence of any applicable provision in these Rules, and in order to effectuate the objectives of the Labor Code, as amended, **the pertinent provisions of the Rules of Court of the Philippines, as amended, may, in the interest of expeditious dispensation of labor justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.** (Emphasis supplied)

<sup>123</sup> ART. 294 [279]. *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.** (Emphasis supplied)

<sup>124</sup> Article 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 plaintiff to litigate with third persons or to incur expenses to protect his interest;

Subaldo deserves no less. Thus, We affirm that Subaldo is entitled to reinstatement (or separation pay in lieu of reinstatement), backwages, 13<sup>th</sup> month pay, and attorney's fees as computed by the NLRC.

The Court adds that, following *Nacar v. Gallery Frames*,<sup>125</sup> the total monetary award shall earn legal interest at the rate of six percent (6%) per *annum* from the date of finality of this Resolution until fully paid by Fine Paper.

**WHEREFORE**, the Petition for Review on *Certiorari* is **GRANTED**. Accordingly:

1. The March 28, 2018 Decision and January 7, 2019 Resolution of the Court of Appeals in CA-G.R. SP No. 10871 are **REVERSED** and **SET ASIDE**. Consequently, the award of nominal damages is **DELETED**.
2. The November 29, 2016 Decision of the National Labor Relations Commission in NLRC Case No. VAC-10-000591-2016 is **REINSTATED**. Petitioner Romel L. Subaldo is hereby **DECLARED** to have been **ILLEGALLY DISMISSED**. Consequently, Petitioner Romel L. Subaldo is entitled to reinstatement (or separation pay in lieu of reinstatement), backwages, 13<sup>th</sup> month pay, and attorney's fees.
3. In addition, respondent International Fine Paper Exchange, Inc. is **ORDERED** to **PAY** legal interest on the total monetary award at the rate of six percent (6%) per *annum* from the date of finality of this Resolution until fully paid to petitioner Romel L. Subaldo.

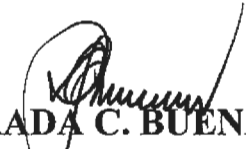
The petitioner's Compliance with the Resolution dated August 10, 2022, submitting the thereto attached compact disc containing the soft copy of the signed Memorandum dated March 7, 2022 in portable document format, and the printed copy of the e-mail (with attached copy of said Memorandum) sent on March 8, 2022 and confirmation of said e-mail, is **NOTED**; and the petitioner is required to **SUBMIT**, within five (5) days from notice hereof, an electronic copy in PDF file of the signed compliance pursuant to the Resolution dated February 22, 2022 in A.M. Nos. 10-3-7-SC and 11-9-4-SC.

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<sup>125</sup> 716 Phil. 267, 283 (2013). See also *Dela Fuente v. Gimenez*, G.R. No. 214419, November 17, 2021; *Dumapis v. Lepanto Consolidated Mining Co.*, G.R. No. 204060, September 15, 2020.

**SO ORDERED.”** *Rosario, J., on leave.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *gls*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**224**  
**MAY 08 2023**

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