REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **September 28, 2022** *which reads as follows*:

"G.R. No. 205784 (*Perpetual Succor Hospital and Maternity Inc. and/or John Paul Quilendrino, petitioners v. Rosalinda Dela Peña, respondent*). — This Court resolves a Petition for Review on *Certiorari*[1] assailing the Decision[2] dated February 29, 2012 and the Resolution[3] dated July 17, 2012 of the Court of Appeals (*CA*) in CA-G.R. SP No. 104507, which reversed the Decision[4] dated March 14, 2008 and the Resolution[5] dated April 30, 2008 of the National Labor Relations Commission (*NLRC*), Third Division. The CA found that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in reversing the Decision[6] dated November 29, 2007 of the Labor Arbiter (*LA*), which earlier found that Rosalinda Dela Peña (*Dela Peña*) was illegally dismissed.

Facts

Dela Peña was hired as an Information Clerk at Perpetual Succor Hospital and Maternity Inc. (*PSHM*) on July 13, 1971. She was employed there for 35 years until her employment was terminated on June 16, 2006. At the time of the termination, Dela Peña held the position of PhilHealth Staff[7] which put her in charge of processing PSHM's claims with PhilHealth.[8]

On March 20, 2006, she underwent a chest x-ray examination at PSHM and she was diagnosed with cardiomegaly, atheromatous aorta, basal emphysema, bilateral.[9] On March 29, 2006, Dela Peña filed a Sickness Notification[10] form (*SN form*) with the Social Security System (*SSS*) Recto

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1 *Rollo*, pp. 3-23.
2 Penned by Associate Justice Rosalinda Asuncion-Vicente, with Associate Justices Antonio L. Villamor and Ramon A. Cruz, concurring; id. at 32-42.
3 Penned by Associate Justice Rosalinda Asuncion-Vicente, with Associate Justices Rodil V. Zalameda (now a Member of this Court) and Ramon A. Cruz, concurring; id. at 44-45.
4 Penned by Commissioner Gregorio O. Bilog III, with Commissioners Lourdes C. Javier and Tito F. Genilo, concurring; id. at 56-61.
5 Id. at 215-216.
6 Penned by Labor Arbiter Madjayran H. Ajan; id. at 162-167.
7 Id. at 162.
8 Id. at 8.
9 CA *rollo*, p. 57.
10 Id. at 56.

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Branch. Her SN form indicated that she was examined by the SSS physician and was diagnosed to be suffering from chronic "obstructive pulmonary disease, emphysema & cardiomegaly." The form further provided that she had been confined at home starting March 20, 2006 and that it was the medical opinion of the attending physician that she would be fit to work on May 21, 2006, or 60 days after. However, the SSS granted her only 30 days of sickness benefit and gave her ₱7,300.00.

On May 26, 2006, PSHM gave Dela Peña a Notice of Violation,[11] requiring Dela Peña to explain in writing within 24 hours why she should not be terminated for violating company rules and regulations, particularly Rule No. 9 or "Falsification of SSS Sickness Notification for the purpose of entitlement." According to PSHM, Dela Peña committed falsification when she stated in her SN form that she was confined at home when in truth and in fact she was reporting for duty at PSHM. On the same date, Dela Peña replied that she was examined by the SSS physician and her x-ray plates were submitted to the SSS Head Office for evaluation. She stated that she filed a SN form since she was entitled to this as a paying member of SSS and that she had no intention of violating any rules or policy of the company as she was merely availing of what was due to her as an SSS member.[12]

On June 6, 2006, Dela Peña was seen in the PhilHealth/SSS records section of PSHM by a hospital staff who allegedly saw documents in one of her bags.[13] The hospital staff reported this to Genevieve Ronatay (*Ronatay*), Personnel Manager, who then approached Dela Peña and asked her to proceed to the Administrative Office. However, while Ronatay's back was turned, Dela Peña allegedly tried to leave the premises of PSHM. She was stopped by Security Guard Deniega (*SG Deniega*) who checked her bag and recovered hospital documents consisting of "receipts, a medical certificate and communications." SG Deniega delivered these to the Administrative Office, during which time Dela Peña left the premises.[14] On the same date, Dela Peña received a Memo[15] putting her on preventive suspension while an investigation was being conducted on the alleged stealing of hospital documents.

Aggrieved, Dela Peña filed a complaint before the Conciliation and Mediation Center of the NLRC.[16]

On June 13, 2006, another Notice of Violation[17] was issued to Dela Peña, requiring her to explain in writing within 36 hours why no

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11 Id. at 60.
12 Id. at 40 and 61.
13 Id. at 7.
14 Id.
15 Id. at 36.
16 Id. at 37; *rollo*, p. 495.
17 CA *rollo*, p. 72.

administrative charges should be filed against her for violating company rules and regulations, particularly Rule No. 3 or "Stealing or attempting to steal from company premises at any time."

On June 16, 2006, PSHM terminated the employment of Dela Peña on the alleged grounds of falsification of SSS sickness benefit claim, theft of hospital documents, and negligence. The Notice of Termination dated July 16, 2006 provides:[18]

> Upon investigation, we find you guilty of **falsifying your SSS claim** in violation of Rule # 09 of the Company House Rules (OFFENSE AGAINST COMPANY GOALS) and Article 282 (a) and/or (c) of the Labor Code.
>
> We also find you guilty of **theft of company property** in violation of Rule # 03 of Company Rules and Regulations (OFFENSE AGAINST COMPANY PROPERTY) and Article 282 (a) and/or (c) of the Labor Code.
>
> Based on the records, we also cannot help but notice that during the course of your employment, you have committed numerous violations of the Hospital's rules and regulations. To make matters worse, you have also caused the Hospital losses in the amount of [₱]368,340.52 due to your negligence in handling Philhealth claims, which you duly admit.[19]

When the conciliation case failed, the case was referred to Honorable LA Madjayran H. Ajan for proper disposition. The initial conference before the LA did not produce results, and both parties were required to submit their respective position papers.[20]

On November 29, 2007, the LA rendered a Decision[21] in favor of Dela Peña. The dispositive portion of this Decision reads:

> WHEREFORE, the respondent Perpetual Succor Hospital, Inc./Maternity Clinic is hereby ordered to pay complainant the following:
>
> 1. Backwages – [₱]143,712
> June 7, 2006 to November 7, 2007
>
> 2. 13th Month pay – [₱]7,984.00
>
> 3. Separation pay – [₱]289,440.00
> ([₱]7,984 x 35)
>
> 4. Moral damages – [₱]200,000.00
>
> 5. Exemplary damages – [₱]100,000.00

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18 *Rollo*, p. 78.
19 Id. (Emphasis supplied)
20 Id. at 495.
21 CA *rollo*, pp. 110-115.

6. Plus 10% attorney's fees of the total monetary award.

SO ORDERED.[22]

PSHM appealed to the NLRC.[23]

On March 14, 2008, the NLRC issued a Decision,[24] reversing the findings of the LA. Dela Peña filed a motion for reconsideration,[25] which was denied in a Resolution dated April 30, 2008.[26]

On July 4, 2008, Dela Peña filed a Petition for *Certiorari*[27] under Rule 65 before the CA, claiming that the NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the dispositions reversing the decision of the LA.

In the assailed Decision[28] dated February 29, 2012, the CA ruled in favor of Dela Peña and ordered the reinstatement of the November 29, 2007 Decision of the LA. The *fallo* reads:

> **WHEREFORE,** in view of the foregoing, the instant petition is hereby **GRANTED.** Accordingly, the March 14, 2008 Decision and April 30, 2008 Resolution of the NLRC are **REVERSED and SET ASIDE.** The Decision of the Labor Arbiter dated November 29, 2007 is **REINSTATED** and **AFFIRMED.**
>
> **SO ORDERED.**[29]

A motion for reconsideration was filed, but it was denied in the assailed Resolution[30] dated July 17, 2012.

Hence, the present Petition for Review on *Certiorari* filed by PSHM.

Issue

Whether the CA correctly determined that the NLRC committed grave abuse of discretion in reversing the Decision of the LA.

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22 Id. at 114-115.
23 *Rollo*, pp. 168-177.
24 Id. at 56-61.
25 Id. at 197-212.
26 Id. at 215-216.
27 Id. at 217-238.
28 Id. at 32-42.
29 Id. at 41. (Emphasis in the original)
30 Id. at 44-45.

Our Ruling

The petition is denied.

In a Rule 45 review of a CA labor decision rendered under Rule 65 of the Rules of Court, the point of inquiry is whether the CA correctly determined whether the NLRC committed grave abuse of discretion in ruling on the case.[31]

As a preliminary matter, we note that this Court is not a trier of facts. It is not duty bound to review the entirety of the case records and make its own factual determination. The factual findings of administrative or quasi-judicial bodies, including labor tribunals are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence.[32] However, this rule admits of exceptions, as in this case where the variance between the factual findings and conclusions of the LA and CA, on one hand, and the NLRC, on the other, compels this Court to re-examine the facts underlying their findings.[33]

Considering the foregoing, this Court finds that the CA did not commit any reversible error in giving due course to the respondent's Petition for *Certiorari*. This Court agrees that the NLRC gravely abused its discretion in reversing the decision of the LA.

In *Madrio v. Atlas Fertilizer Corporation*,[34] this Court clarified that no grave abuse of discretion exists if the NLRC's ruling has basis in the evidence and the applicable law and jurisprudence:

> For decisions of the NLRC, there is grave abuse of discretion "when its findings and conclusions are not supported by substantial evidence, which refers to that amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion. Thus, if the NLRC's ruling has basis in the evidence and the applicable law and jurisprudence, then no grave abuse of discretion exists and the CA should so declare and accordingly, dismiss the petition."[35]

While we agree with the petitioner that a difference of opinion does not justify the issuance of a writ of *certiorari*,[36] we note that the variations

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31 *Inocente v. St. Vincent Foundation for Children and Aging, Inc./ Veronica Manguito*, 788 Phil. 62, 73 (2016).

32 *The Peninsula Manila v. Jara*, G.R. No. 225586, July 29, 2019, 911 SCRA 115, 123. (Citation omitted)

33 See *Convoy Marketing Corporation v. Albia*, 770 Phil. 654, 664 (2015). (Citations omitted)

34 G.R. No. 241445, August 14, 2019, 914 SCRA 332.

35 Id at 339. (Citation omitted)

36 *Rollo*, p. 14.

between the conclusions arrived at by the LA and NLRC are not merely indicative of a difference of opinion, but point toward factual findings on the part of the latter not adequately supported by the evidence on record nor by applicable law and jurisprudence.[37]

With regard to respondent's alleged falsification of SSS claim, the NLRC disagreed with the rationale of the LA that the failure of petitioner to advance the sickness benefit of respondent eclipses any act of dishonesty or falsification on the part of petitioner.[38] However, the NLRC merely stated that petitioner is not duty bound to advance the sickness benefit, without any further explanation as to the basis of this conclusion.[39] Given that respondent's defense against the claim of falsification hinges on necessity and the absence of bad faith on her end, the NLRC should have provided its legal basis, especially considering how this finding merited a reversal of the decision of the LA.

In connection with the charge of theft, the NLRC gave considerable weight to respondent being unable to "meet head-on the statements made against her" by her coemployees, over their failure to identify the documents alleged to have been stolen.[40] To recall, it is the party-litigant who alleges the existence of a fact or thing necessary to establish a claim that has the burden of proving the same by the amount of evidence required by law, which, in labor proceedings, is substantial evidence, or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[41] Not only did the NLRC err in placing the burden on respondent, it also diminished the importance of establishing the identity of the supposedly stolen documents which is essential to substantiate a charge of theft.

The NLRC likewise considered the negligence allegations against respondent in attributing motive against her for stealing documents from the PhilHealth / SSS records section of the hospital.[42] However, a mere theory cannot hurdle the requirement to prove the commission of theft by substantial evidence:[43]

> The burden of proof rests upon the employer to show that the disciplinary action was made for lawful cause or that the termination of employment was valid. **Unsubstantiated suspicions, accusations, and conclusions of the employer do not provide legal justification for dismissing the employee.** When in doubt, the case should be resolved in favor of labor pursuant to the social justice policy of our labor laws and the 1987 Constitution.[44]

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37 *Garcia v. NLRC*, 491 Phil. 136, 147 (2005).
38 *Rollo*, p. 60.
39 Id.
40 *Rollo*, p. 59.
41 *JR Hauling Services v. Solamo*, G.R. No. 214294, September 30, 2020. (Citation omitted)
42 *Rollo*, p. 60.
43 *Princess Talent Center Production, Inc. v. Masagca*, 829 Phil. 381, 407.
44 Id at 411. (Emphasis supplied and citation omitted)

Having identified the gaps in the analysis of the NLRC justifying the exercise of *certiorari* power, we proceed to determine whether sufficient grounds exist to justify the dismissal of respondent.

Article 297 (formerly Article 282) of the Labor Code enumerates the just causes for termination of employment:

> Art. 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 orders of his employer or representative in connection with his work;**
>
> (b) Gross and habitual neglect by the employee of his duties;
>
> **(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;**
>
> (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
>
> (e) Other causes analogous to the foregoing.[45]

Based on these grounds, petitioner alleges that through falsifying her SSS claim, theft of company property, and acts of negligence, respondent violated the rules and regulations of the company and committed serious misconduct and/or performed actions that would warrant the loss of trust and confidence reposed upon her by petitioner.[46]

This Court has clarified that for misconduct or improper behavior to be a just cause for dismissal, the following elements must concur: (a) the misconduct must be serious; (b) it must relate to the performance of the employee's duties showing that the employee has become unfit to continue working for the employer; and (c) it must have been performed with wrongful intent.[47] For misconduct to justify termination of employment, it must be so severe as to make it evident that no other penalty but the termination of the employee's livelihood is viable.[48]

As for loss of trust and confidence, to be a valid ground for the dismissal of employees, it must be substantial and not arbitrary, whimsical,

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45 Emphasis supplied.

46 *Rollo*, p. 17.

47 *Sterling Paper Products Enterprises, Inc. v. KMM-Katipunan*, 815 Phil. 425, 436 (2017). (Citation omitted)

48 *Rivera v. Genesis Transport Service, Inc.*, 765 Phil. 544, 555 (2015).

capricious or concocted.[49] The requisites for dismissal on the ground of loss of trust and confidence are: (a) the employee concerned must be holding a position of trust and confidence; (b) there must be an act that would justify the loss of trust and confidence relates to the employee's performance of duties.[50]

Falsification of SSS claim

Petitioner alleges that there is indisputable evidence that respondent committed falsification. [51] Petitioner highlights that contrary to the information stated in the SN form, respondent had been reporting for work since March 20, 2006, the date stated in the SN form as the beginning of her confinement.[52] For respondent's part, she does not deny the contents of the SN form nor dispute having reported for work. By way of defense, respondent argues that she never deceived petitioner considering that she underwent her medical check-up in petitioner's hospital, with her illnesses certified by petitioner's doctor. [53] According to respondent, she felt compelled to report to work to earn a living by reason of petitioner's failure to advance her much-needed sickness benefit.[54]

Considering the foregoing and after a judicious review of the records, this Court finds that the requirements for serious misconduct and loss of trust and confidence were not met.

In determining whether the alleged falsification amounts to serious misconduct to the extent justifying the termination of employment, the misconduct must be of such grave and aggravated character and not merely trivial or unimportant.[55] As for loss of trust and confidence, the misdeed attributed to the employee must be a genuine and serious breach of the established expectations required by the exigencies of the position regardless of its designation, and not a mere distaste, apathy, or petty misunderstanding.[56]

In this light, this Court cannot turn a blind eye to the realities faced by respondent, which requires an assessment of the totality of the attending circumstances.

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49 Id. at 557., citing *China City Restaurant Corporation v. National Labor Relations Commission*, 291 Phil. 468 (1993).
50 *San Miguel Corporation v. Gomez*, G.R. No. 200815, August 24, 2020. (Citation omitted)
51 *Rollo*, pp. 16-17.
52 Id.
53 *Rollo*, pp. 223 and 497.
54 Id.
55 *Philippine National Bank v. Velasco*, 586 Phil. 444, 462 (2008). (Citation omitted)
56 *Manrique v. Delta Earthmoving, Inc.*, G.R. No. 229429, November 9, 2020.

This Court emphasized in *Ascent Skills Human Resources Services, Inc. v. Manuel*[57] that in every labor case, the courts and labor tribunals should always endeavor to assiduously assess the totality of the circumstances to ensure that the rights and interests of our labor force are not unduly compromised or undermined, in line with the State's policies of affording full protection to labor and upholding the dignity of the Filipino workers.[58]

Guided by this principle, the alleged falsification in this instance could not be the serious misconduct nor an act justifying the loss of trust and confidence of petitioner as contemplated under Article 297 of the Labor Code.

Here, what made the SN form inaccurate was the remedial measure undertaken by respondent of reporting for work, which stems from the underlying issue on the nonadvancement of her sickness benefit. The SN form itself did not contain any indicators of deceit or misrepresentations of any kind. As correctly observed by the CA, the treatment of respondent as an outpatient is permissible and it was the attending physician at the SSS who, after due examination of respondent, gave her medical opinion and indicated the period of recuperation in the SN form.[59] At any rate, the information provided in the SN form is not conclusive and is subject to further evaluation, with the assessment of the examining physician treated as a mere jump-off point to determine the entitlement of the SSS member to the claimed sickness benefit.

Further, while we are not inclined to adopt the finding of the LA that any dishonesty or falsification is eclipsed by petitioner's failure to advance respondent's sickness benefit, [60] we nevertheless find that had petitioner attempted to resolve this issue on advancement of sickness benefit, or at least address the same, respondent would not have reported to work and the falsification issue would have been avoided altogether. Considering that respondent already duly notified petitioner regarding the submission of her claim for sickness benefit, petitioner could have easily monitored and, in turn, addressed the matter of her continuous reporting for work. Instead, petitioner pursued the falsification claim and resolved to dismiss the respondent from employment.

Although respondent should not have taken matters into her own hands, the reality of her sickness and her need to make a living, together with the fact that it was not shown that petitioner incurred any damage from the act complained of, leads us to the conclude that the alleged falsification does not constitute serious misconduct nor amount to an act resulting in loss

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57 G.R. No. 249843, October 6, 2021.
58 Id.
59 *Rollo*, p. 39.
60 Id. at 60.

of trust and confidence to justify respondent's termination from employment.

Further, serious misconduct requires the employee to have committed the act complained of with wrongful intent. According to this Court in *Adamson University Faculty and Employees Union v. Adamson University*,[61] misconduct is not considered serious or grave when it is not performed with wrongful intent. Accordingly, if the misconduct is only simple, not grave, the employee cannot be validly dismissed:

> In order to constitute serious misconduct which will warrant the dismissal of an employee under paragraph (a) of [Article 297] of the Labor Code, it is not sufficient that the act or conduct complained of has violated some established rules or policies. It is equally important and required that the act or conduct must have been *performed with wrongful intent.* x x x
>
> **Misconduct is not considered serious or grave when it is not performed with wrongful intent. If the misconduct is only simple, not grave, the employee cannot be validly dismissed.**[62]

Here, there is no showing that respondent acted with wrongful intent.

Petitioner claims that respondent intended to embezzle the SSS and the public coffers.[63] On the other hand, the respondent consistently and categorically explained the reason for her reporting to work even after her filing her claim for sickness benefit:

> It must likewise be noted that [petitioner] did not advance the amount of complainant's application for SSS sickness benefit. Pending approval thereof by the SSS, complainant need[ed] to earn a living, whose only source of livelihood is her job with [petitioner]. **Thus, she was compelled to be on duty at the time of her supposed sickness until such time that her entitlement to the SSS sickness benefit has been approved.**[64]

Notably, petitioner never denied the existence of the underlying issue on the advancement of respondent's sickness benefit. Further negating the presence of wrongful intent, and as earlier discussed, respondent underwent a medical examination where the examining physician indicated her findings, based on her medical opinion, in the SN form thereafter. As correctly observed by the LA[65] and echoed by the CA,[66] "[b]ad faith never crept in to validate the charge of dishonesty or falsification."[67] Given that the

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61 G.R. No. 227070, March 09, 2020.
62 Id. (Emphasis supplied and citations omitted)
63 *Rollo*, p. 17.
64 Id. at 151.
65 Id. at 165.
66 Id. at 8.
67 Id. at 165.

absence of wrongful intent betrays the charge of serious misconduct, respondent cannot be validly dismissed on this ground.

This is in contrast to the case of *Pancho v. Metro Legazpi Development Corporation*, [68] which involved the petitioner-employee imputing criminal acts on the part of the employer over the radio and similarly involved the falsification of an SN form. Petitioner-employee claimed 30-day sickness benefits but was on sick leave for only 7 days. Her sole defense was that her superiors allowed her to file the SN form and compelled her to report to the office, which was categorically denied by her supervisors. No further justification was provided and her wrongful intent was sufficiently demonstrated. Thus, this Court concluded that the falsification of the SN form constitutes serious misconduct that warrants the penalty of dismissal and is also an act of fraud or dishonesty against the employer.

The same conclusion cannot be arrived at in the present case in view of the defense of respondent and the surrounding circumstances, as duly established by the case records.

Theft of company property and negligence

Petitioner further cites theft of company property to justify respondent's dismissal from employment, claiming that substantial evidence exists to support this.[69] Petitioner alleges that SG Deniega recovered hospital documents consisting of receipts, a medical certificate, and several communications.[70] In support of its claim, petitioner cites the affidavits of hospital staff who corroborated the narration of SG Deniega.[71] However, as observed by the LA, nothing on record shows which specific hospital documents were recovered.[72]

Petitioner argues that the CA erred in discrediting the statement of SG Deniega for failing to enumerate the hospital documents allegedly recovered, emphasizing that the standard to be applied is substantial evidence, not proof beyond reasonable doubt. In its view, the testimonies of the hospital staff meet the standard of substantial evidence to establish the commission of theft.[73]

We disagree. The alleged theft in the case at bar was not proven by substantial evidence.

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68 243 Phil. 795 (2018).
69 *Rollo*, p. 19.
70 Id. at 9.
71 Id. at 19-20.
72 Id. at 165.
73 Id. at 21.

Theft, to constitute a ground for dismissal, cannot be sufficiently established by the mere say-so of respondent's employees,[74] regardless of motive, absent proper identification of the missing documents and an enumeration of what was actually found in the possession of petitioner.[75]

Notably, nothing prevented petitioner from accounting for these documents upon their recovery which would have settled any doubts on whether what were found in respondent's possession were, in fact, hospital documents. Considering that the incident occurred in petitioner's premises and involved petitioner's staff, records, and resources, petitioner was in the best position to substantiate the theft allegation, but instead, as correctly observed by the LA, failed to identify the documents confiscated by the security guard, their relevance, and their ownership.[76]

On this basis, even with the lower burden of proof in labor cases,[77] we find that theft of company property was not sufficiently proven by substantial evidence.

On the charge of negligence, we agree with the CA's observation that the employment of respondent was terminated without her being informed of this violation, to wit:

> With regard to petitioner's negligence, she was likewise terminated without being notified of the said violation. The May 26, 2006 and June 13, 2006 Notices of Violation do not include negligence as a ground for investigation. [PSHM] averred that [Dela Peña] stole the hospital documents in an attempt to hide her negligence in handling Philhealth claims. This is purely suspicion that was never substantiated.[78]

As the petitioner no longer belabored this issue in its Petition for *Certiorari*, neither shall this Court.

Finally, this Court has held in earlier cases that it will not hesitate to disregard a penalty manifestly disproportionate to the infraction committed.[79] According to this Court, dismissal, without doubt, is the ultimate penalty that can be meted to an employee. Hence, where a penalty less punitive would suffice, whatever missteps may be committed by labor

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74 Id. at 40.

75 The CA Decision provides, "[i]n his written letter-report, the security guard (SG Deniega E.) said that he recovered from petitioner different documents of the hospital. However, he did not enumerate the documents recovered and Perpetual Succor did not submit as evidence alleged hospital documents." See *rollo*, p. 40; CA *rollo*, p. 196.

76 *Rollo*, p. 165.

77 *Panaligan v. Phyvita Enterprises Corporation*, 811 Phil. 465, 485 (2017).

78 *Rollo*, p. 41.

79 See *Verizon Communications Philippines, Inc. v. Margin*, G.R. No. 216599, September 16, 2020, and *Cavite Apparel, Incorporated v. Marquez*, 703 Phil. 46, 56 (2013).

ought not to be visited with a consequence so severe.[80] In fact, even when there is a deliberate violation of the company's rules, as alleged by petitioner,[81] this Court may deem the penalty of dismissal too harsh and not proportionate to the wrongdoing committed. Considering the dearth of evidence to support the claims of petitioner and giving due credit to respondent's 35 years of dedicated service, we thus conclude that there is no just and valid cause to terminate the employment of respondent.

FOR THESE REASONS, the instant Petition for Review on *Certiorari* is **DENIED**. The Decision and Resolution of the Court of Appeals promulgated on February 29, 2012 and July 17, 2012, respectively, in CA-G.R. SP No. 104507, are **AFFIRMED.**

SO ORDERED." (Lopez, M., *J.*, on official business)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:

MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court
25 JUL 2023

[80] Id at 57-58.
[81] *Rollo*, p. 16.

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