Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROBUSTAN, INC., as represented by HENRY HYOUNG KI KIM, Petitioner,	**G.R. No. 223854** Present:
-versus-	LEONEN, *J., Chairperson,* HERNANDO, INTING, DELOS SANTOS, and LOPEZ, J., *JJ.*
COURT OF APPEALS and WILFREDO WAGAN, Respondents.	**Promulgated:** March 15, 2021

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DECISION

LEONEN, *J.*:

This Court resolves a Petition for Review on Certiorari[1] filed by Robustan, Inc. (Robustan), questioning the Decision[2] and Resolution[3] of the Court of Appeals, which affirmed with modification the National Labor

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1 *Rollo*, pp. 14–40.

2 Id. at 43–56. The May 29, 2015 Decision was penned by Associate Justice Marie Christine Azcarraga-Jacob, and concurred in by Associate Justices Marilyn B. Lagura-Yap and Ma. Luisa C. Quijano-Padilla of the Special Nineteenth Division, Court of Appeals, Cebu City.

3 Id. at 58–60. The March 17, 2016 Resolution was penned by Associate Justice Marilyn B. Lagura-Yap with the concurrence of Associate Justices Edgardo L. Delos Santos and Pamela Ann Abella Maxino of the Former Special Nineteenth Division, Court of Appeals, Cebu City.

Relations Commission's Decision[4] and Resolution[5] finding Wilfredo Wagan (Wagan) to have been illegally dismissed.

Robustan is a domestic corporation engaged in importing refurbished medical equipment.[6] In 2008, it employed Wagan as a service engineer and tasked him with resolving customer "needs, concerns and problems for a particular medical/hospital equipment."[7] Aside from this, Wagan was also tasked to carry out various maintenance and construction works for Robustan and its clients.[8]

Wagan first worked at the Manila office, but in October 2009, he was assigned to Robustan's newly opened Cebu branch, and was tasked with painting the new office. Since he could not find a place to stay in Cebu, he was allowed to sleep in the new office.[9] Until the hiring of a new branch manager, Wagan was the only employee on site.[10]

On December 21, 2009, Wagan allegedly received an inter-office memorandum notifying him that two fire extinguishers had gone missing from the Cebu branch office and that he was noted for using office equipment for his personal use. Thus, Robustan asked Wagan to explain why his employment should not be terminated. Wagan explained that the fire extinguishers must have been stolen while he was busy painting the office and offered to pay for their value in installments. However, on January 4, 2010, Wagan received another memorandum terminating his employment for "violation of trust and confidence."[11]

Thus, Wagan filed a Complaint for illegal dismissal, claiming backwages, separation pay, monetized service inventive leave pay, and damages.[12]

Robustan countered that Wagan was dismissed for loss of trust and confidence. It claimed to have sent Wagan at least three inter-office memoranda asking him to explain client complaints about his poor work performance. It alleged that on November 30 and December 9, 2009, a client complained of Wagan's inefficient repair of an x-ray machine.[13] On

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4 Id. at 66–73. The April 30, 2012 Decision 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.

5 Id. at 66–73. The June 29, 2012 Resolution 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.

6 Id. at 68–69.

7 Id. at 67.

8 Id.

9 Id.

10 Id. at 68.

11 Id.

12 Id. at 45.

13 Id. at 69.

December 11, 2009,[14] Robustan sent Wagan another memorandum regarding a machine that Wagan purportedly fixed, but which eventually required Robustan to send another engineer from Manila to fix. When asked to explain his work performance, Wagan allegedly sent an e-mail on December 18, 2009[15] admitting his lapses and requesting "that he be given more time to sharpen his skills."[16]

Finally, on December 21, 2009, Robustan received a notice from its Cebu branch manager for the loss of the two fire extinguishers and Wagan's personal use of an office electric fan. Thus, Robustan sent Wagan yet another inter-office memorandum requiring him to explain the losses. When Wagan admitted to losing the fire extinguishers, Robustan sent him the memorandum on January 4, 2010, terminating his employment.[17]

In a July 11, 2011 Decision, the Labor Arbiter dismissed Wagan's Complaint, finding just cause for his dismissal. To the Labor Arbiter, Wagan's written admissions "showed his incompetence and his tendency to lie" when he said that the problem was fixed, when in truth it was not. Additionally, the loss of the fire extinguishers convinced the Labor Arbiter of Wagan's lack of honesty.[18]

On appeal, the National Labor Relations Commission reversed the Labor Arbiter's Decision. It found that Wagan's authorization from his employer to stay within the enclosed premises of the offices he was tasked with painting reasonably included his use of office equipment to ward the smell of paint.[19] As to the loss of the fire extinguishers, the Commission ruled that Wagan's negligence was not so "gross to be lawful ground for termination" of his employment.[20] Robustan's suspicion that "Wagan benefited from such loss" was also deemed unsubstantiated.[21]

The National Labor Relations Commission noted that while Wagan's poor work performance was not listed as one of the causes for his dismissal, the circumstances indicated strained relations between the parties which made reinstatement unreasonable. Thus, it awarded Wagan separation pay but denied his prayers for back wages and damages.[22]

Both parties moved for reconsideration, but were both denied. Thus, Wagan filed a Petition for Certiorari with the Court of Appeals.[23]

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14 Id. at 46.
15 Id. at 46.
16 Id. at 69.
17 Id. at 46.
18 Id. at 47.
19 Id. at 71.
20 Id. at 72.
21 Id. at 71–72.
22 Id. at 72–73.
23 Id. at 48 and 74.

In its May 29, 2015 Decision,[24] the Court of Appeals found merit in Wagan's Petition, ruling that the conflicting findings of the labor tribunals merited a re-examination of which among the parties' claims were supported by substantial evidence.[25] It went on to affirm the National Labor Relations Commission's ruling that Wagan had been illegally dismissed.

The Court of Appeals found that, as a service engineer, Wagan was not routinely entrusted with fiduciary matters such that the loss of Robustan's trust and confidence would be just cause for his dismissal. In any event, Robustan failed to establish that Wagan committed a "willful breach of trust" because its evidence only showed carelessness.[26] Neither did Robustan present any evidence that Wagan consented to or benefited from the loss of the fire extinguishers.[27] Thus, the Court of Appeals found that Robustan failed to overcome its burden of showing that Wagan's employment was legally terminated.[28]

As such, the Court of Appeals partially granted Wagan's Petition. It awarded Wagan backwages in addition to separation pay, but rejected Wagan's prayer for damages for his failure to show that his dismissal was "attended by explicit oppressive, humiliating or demeaning acts."[29]

Robustan moved for reconsideration, arguing that the Petition for Certiorari was filed out of time and failed to comply with necessary procedural requirements. On the substantive issues, Robustan argued that Wagan was not illegally dismissed because there was just cause for his dismissal and sufficient compliance with procedural due process.[30]

In its March 17, 2016 Resolution,[31] the Court of Appeals denied Robustan's Motion for Reconsideration, finding its arguments to be rehashed from its prior pleadings. Hence, Robustan filed this Petition.[32]

Petitioner argues that respondent Wagan's Petition with the Court of Appeals should have been outright dismissed for its procedural deficiencies. It notes that the Petition was filed beyond the 60-day period based on the registry return receipts indicating when respondent's two counsels received

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24 Id. at 43–56.
25 Id. at 50.
26 Id. at 51–52.
27 Id. at 52.
28 Id. at 53.
29 Id. at 55.
30 Id. at 59.
31 Id. at 58–60.
32 Id. at 14–40.

their respective copies of the National Labor Relations Commission's Resolution denying his Motion for Reconsideration.[33]

Since respondent's first counsel failed to formally withdraw from the proceedings, petitioner says that notice received by her on July 25, 2012 should determine the filing period. Even if the period were to be counted from the second counsel's receipt of notice on August 7, 2012, petitioner says that respondent's Petition for Certiorari, filed only on October 9, 2012, would have still been filed out of time.[34]

Petitioner also points out that respondent's Certificate of Non-Forum Shopping was notarized on September 26, 2012, earlier than the Petition for Certiorari's filing on October 9, 2012.[35]

On the substantive issues, petitioner argues that respondent was validly dismissed for his gross negligence and inefficiency. It notes the National Labor Relations Commission's recognition that respondent had been negligent in allowing the loss of the fire extinguishers, as well as its due notice of the memoranda reprimanding respondent's poor work performance. Together with respondent's disappearance and refusal to undergo the proper work turnover procedure upon receiving the notice of his dismissal, petitioner argues that there was a valid termination of the employer-employee relationship.[36] Finally, petitioner argues that respondent's failure to secure the office premises, resulting in the loss of the fire extinguishers, was tantamount to gross negligence—a just cause for terminating his employment.[37]

In his Comment,[38] respondent argues that while the National Labor Relations Commission's Resolution was received at his counsel's old residence, the person who received the document was not authorized to do so. In any event, he argues that receipt of the notice by registered mail could only be deemed complete upon receipt by the specific addressee.[39]

On the merits, respondent argues that the Court of Appeals properly granted his Petition for Certiorari. He argues that his dismissal was "hastily concluded . . . despite lack of sufficient evidence that [he] was involved in the loss of company assets."[40] Respondent insists that petitioner's decision to terminate his employment was based solely on conjecture, and without sufficient basis to amount to just cause.[41]

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33 Id. at 23–24.
34 Id. at 28.
35 Id. at 31.
36 Id. at 33–35.
37 Id. at 35–36.
38 Id. at 79–83.
39 Id. at 80.
40 Id. at 81.
41 Id. at 82.

Petitioner, in its Reply,[42] reiterates the arguments on the indispensability of the procedural requirements for appeals. It repeats that respondent's first counsel never withdrew her appearance; thus, proof of notice upon the latter should have already started the period for filing the petition. As to respondent's second counsel, petitioner says she never indicated any change in address in any of her pleadings and the person who received the notice had apparent authority to do so. Thus, the service duly made on her address of record should have been sufficient to determine the filing period.[43] According to petitioner, these procedural infirmities, together with the errors in dating respondent's Certification of Non-Forum Shopping, are all evident acts of bad faith meant to mislead the courts. Thus, it prays that the Court of Appeals' rulings be reversed and respondent's counsel be held administratively liable.[44]

The issue before this Court is whether or not the Court of Appeals committed reversible error in partially granting respondent Wilfredo Wagan's Petition for Certiorari.

The Petition is denied. The Court of Appeals validly affirmed the National Labor Relations Commission's finding that respondent was illegally dismissed.

I

Petitioner raises factual questions beyond the scope of a petition for review on certiorari.[45] By arguing for a strict application of procedural rules, petitioner negates its own prayer for a review of the ruling on respondent's illegal dismissal. However, even if this Court were to pass upon the petition's merits under Rule 45, Section 6 of the Rules of Court, the Petition would still fail to convince.

While petitioner is correct that a party's recourse to the extraordinary writ of certiorari is generally governed by mandatory procedural rules,[46] giving due course to a petition ultimately depends on the reviewing court's discretion. In *Serrano v. Galant Maritime Services*:[47]

> *Needless to state, the acceptance of a petition for certiorari as well as the grant of due course thereto is, in general, addressed to the sound*

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42 Id. at 102–120.
43 Id. at 106–107.
44 Id. at 114–115.
45 *Pascual v. Burgos*, 776 Phil. 167, 182–183 (2016) [Per J. Leonen, Second Division].
46 *Serrano v. Galant Maritime Services, Inc.*, 455 Phil. 992, 998–999 (2003) [Per J. Sandoval-Gutierrez, Third Division].
47 455 Phil. 992 (2003) [Per J. Sandoval-Gutierrez, Third Division].

> *discretion of the court.* Although the court has absolute discretion to reject and dismiss a petition for certiorari, in general, it does so only (1) when the petition fails to demonstrate grave abuse of discretion by any court, agency, or branch of the government; or (2) when there are procedural errors, like violations of the Rules of Court or Supreme Court Circulars.[48] (Emphasis supplied, citations omitted)

Tan v. Bausch & Lomb, Inc.,[49] citing *Serrano*, then qualified the rules for the court's exercise of its discretion in giving due course to a petition for certiorari:

> *Needless to state, the acceptance of a petition for certiorari as well as the grant of due course thereto is, in general, addressed to the sound discretion of the court.*
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> *Besides, the provisions of the Rules of Court, which are technical rules, may be relaxed in certain exceptional situations.* Where a rigid application of the rule that certiorari cannot be a substitute for appeal will result in a manifest failure or miscarriage of justice, it is within our power to suspend the rules or exempt a particular case from its operation.
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> . . . .
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> *Likewise, the one-day delay in the filing of the petition may be excused on the basis of equity to afford respondent the chance to prove the merits of the complaint.*[50] (Emphasis supplied, citations omitted)

Petitioner insists that the Court of Appeals should have immediately dismissed the Petition for Certiorari for being filed out of time. However, the Court of Appeals acted well within its discretion in appreciating the merits of the Petition despite its procedural discrepancies. It explained that it gave due course to the Petition and reviewed factual questions, despite these questions being beyond the scope of the Petition, because the labor tribunals made conflicting findings of fact:

> However, in its expanded jurisdiction over labor cases elevated through a petition for *certiorari*, the Court is empowered to evaluate the materiality and significance of evidence which is alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC in relation to all other evidence on record. *This Court can grant or deny a petition when the factual findings complained of are not supported by the evidence on record; when it is necessary to prevent a substantial wrong or to do substantial justice; when the findings of the NLRC contradict those of the Labor Arbiter; and when necessary to arrive at a just decision of the case.*[51] (Emphasis supplied, citations omitted)

The Court of Appeals did not mention the Petition for Certiorari being

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48 Id. at 998–999.
49 514 Phil. 307 (2005) [Per J. Corona, Third Division].
50 Id. at 313.
51 *Rollo*, pp. 49–50.

filed out of time. However, its reasoning for giving the pleading due course allowed the liberal application of the rule on filing periods. Rules of procedure "facilitate the orderly administration of justice";[52] however, their application should not result in a denial of substantial justice. *Serrano* is again instructive:

> In *Cusi-Hernandez vs. Diaz*, this Court, speaking through Mr. Justice Artemio V. Panganiban, held that "cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections. In that way, the ends of justice would be served better."
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> *Indeed, "procedural rules are created not to hinder or delay but to facilitate and promote the administration of justice. It is far better to dispose of the case on the merits which is a primordial end rather than on a technicality, if it be the case, that may result in injustice."*
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> In *Paras vs. Baldado and Alberto vs. Court of Appeals*, this Court held that "(w)hat should guide judicial action is the principle that a party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on technicalities. . . . *(T)he rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed.*"[53] (Emphasis supplied, citations omitted)

Thus, the Court of Appeals correctly gave due course to respondent's Petition for Certiorari.

II

As to whether petitioner illegally dismissed respondent from employment, Article 297 of the Labor Code provides when an employer may validly dismiss an employee:

> ARTICLE 297 [282]. Termination by Employer. — An employer may terminate an employment for any of the following causes:
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> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
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> (b) Gross and habitual neglect by the employee of his duties;
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> (c) Fraud or willful breach by the employee of the trust reposed in

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[52] *Republic v. National Labor Relations Commission*, 783 Phil. 62, 77 (2016) [Per J. Leonen, Second Division].

[53] *Serrano v. Galant Maritime Services, Inc.*, 455 Phil. 992, 997 (2003) [Per J. Sandoval-Gutierrez, Third Division].

> him by his employer or duly authorized representative;
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> (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 representatives; and
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> (e) Other causes analogous to the foregoing.

Petitioner argues that respondent's employment was validly terminated because of respondent's "incorrect report" and the "disappearance of fire extinguishers and broken office door lock[.]"[54] It also argues that respondent "acted in bad faith when he abandoned his work" without a proper turnover of responsibilities.[55] Thus, petitioner insists that respondent was dismissed for loss of trust and confidence, gross neglect of duty, and abandonment of work.

Petitioner's arguments are untenable.

First, loss of trust and confidence may be just cause for termination of employment only upon proof that: (1) the dismissed employee occupied a position of trust and confidence; and (2) the dismissed employee committed "an act justifying the loss of trust and confidence."[56]

Here, both the National Labor Relations Commission and the Court of Appeals established that respondent did not hold a position of trust and confidence. Moreover, the second element, pertaining to the act that breached the employer's trust and confidence, was never established in prior proceedings. *Rivera v. Genesis Transport Services, Inc.* explains:

> The position an employee holds is not the sole criterion. *More important than this formalistic requirement is that loss of trust and confidence must be justified.* As with misconduct as basis for terminating employment, breach of trust demands that a degree of severity attend[s] the employee's breach of trust. In *China City Restaurant Corporation v. National Labor Relations Commission*, this court emphasized the need for caution:
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> > *For loss of trust and confidence to be a valid ground for the dismissal of employees, it must be substantial and not arbitrary, whimsical, capricious or concocted.*
> >
> > Irregularities or malpractices should not be allowed to escape the scrutiny of this Court. Solicitude for the protection of the rights of the working class [is] of prime importance. Although this is not [a] license to disregard the rights of management, still the Court must be wary of

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54 *Rollo*, p. 34.
55 Id. at 35.
56 *Bravo v. Urios College*, 810 Phil. 603, 620–621 (2017) [Per J. Leonen, Second Division].

> the ploys of management to get rid of employees it considers as undesirable.[57] (Emphasis supplied, citations omitted)

Petitioner itself states that it could "only surmise that the [loss of the fire extinguishers] was with [respondent's] consent and [that respondent] may have benefited from it[.]"[58] This is not proof of respondent's alleged breach of petitioner's trust and confidence, which, in the first place, was never reposed in him.

Second, *Anvil Ensembles Garment v. Court of Appeals*[59] provides the standard for establishing gross neglect of duty as just cause for terminating employment:

> Thus, under the Labor Code, to be a valid ground for dismissal, the negligence must be gross and habitual. *Gross negligence has been defined as the want or absence of even slight care or diligence as to amount to a reckless disregard of the safety of the person or property. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them.* Put differently, gross negligence is characterized by want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally with a conscious indifference to consequences insofar as other persons may be affected.[60] (Emphasis supplied, citations omitted)

Therefore, even if respondent were negligent, such negligence must be proven to be gross and habitual. Neither the records nor the Petition establishes the required wantonness and habituality of respondent's neglect that would merit his dismissal. Petitioner refers to facts allegedly established in prior proceedings and concludes that the simple fact of loss of property amounted to gross negligence.[61] However, the records indicate that respondent was willing to admit the consequences of the loss and even offered to pay for the lost properties' value. This directly contradicts the "conscious indifference to consequences"[62] indicative of gross and habitual neglect. Thus, there was no basis to terminate respondent's employment for gross and habitual neglect of duty.

Third, abandonment, as just cause for dismissal from work, is analogous to gross and habitual neglect of duty. It must likewise be proven by the employer:

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57 *Rivera v. Genesis Transport Services, Inc.*, 765 Phil. 544, 556–557 (2015) [Per J. Leonen, Second Division].
58 *Rollo*, p. 35.
59 497 Phil. 205 (2005) [Per J. Callejo, Sr., Second Division].
60 Id. at 211–212.
61 *Rollo*, p. 35.
62 *Reyes v. Maxim's Tea House*, 446 Phil. 389, 402 (2003) [Per J. Quisumbing, Second Division].

In *Agabon v. National Labor Relations Commission*, this court discussed the concept of abandonment:

> *Abandonment is the deliberate and unjustified refusal of an employee to resume his employment. It is a form of neglect of duty, hence, a just cause for termination of employment by the employer.* For a valid finding of abandonment, these two factors should be present: (1) the *failure to report for work or absence without valid or justifiable reason*; and (2) *a clear intention to sever employer-employee relationship*, with the second as the more determinative factor which is *manifested by overt acts from which it may be deduced that the employees has [sic] no more intention to work.* The intent to discontinue the employment must be shown by clear proof that it was deliberate and unjustified.
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> The burden to prove whether the employee abandoned his or her work rests on the employer. Thus, *it is incumbent upon petitioner to prove the two (2) elements of abandonment. First, petitioner must provide evidence that respondent failed to report to work for an unjustifiable reason. Second, petitioner must prove respondent's overt acts showing a clear intention to sever his ties with petitioner as his employer.*[63] (Emphasis supplied, citations omitted)

Petitioner argues that respondent abandoned his work when he failed to complete the company's turnover procedure after receipt of the January 4, 2010 termination notice.[64] *Mame v. Court of Appeals*[65] is instructive in the elements of abandonment as just cause for termination of employment:

> In cases where abandonment is the cause for termination of employment, two factors must concur: (1) there is *a clear, deliberate and unjustified refusal to resume employment*; and (2) *a clear intention to sever the employer-employee relationship. The burden of proof that there was abandonment lies with the employer. Where the employee takes steps to protest his layoff, it cannot be said that he has abandoned his work* because a charge of abandonment is totally inconsistent with the immediate filing of a complaint for illegal dismissal, more so when it includes a prayer for reinstatement.[66] (Emphasis supplied, citations omitted)

Thus, petitioner's argument fails to convince, as the records would indicate that respondent's employment had already been terminated by the time he supposedly abandoned his work. Nothing in the records shows respondent's failure to report for work prior to his receipt of the January 4, 2010 termination notice. It would have been unreasonable to expect him to continue reporting for work after having been notified of his dismissal.

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63 *Protective Maximum Security Agency, Inc. v. Fuentes*, 753 Phil. 482, 507–508 (2015) [Per J. Leonen, Second Division] citing *Agabon v. National Labor Relations Commission*, 485 Phil. 248 (2004) [Per J. Ynares-Santiago, En Banc].

64 *Rollo*, p. 35.

65 549 Phil. 337 (2007) [Per J. Callejo, Sr., Third Division].

66 Id. at 348.

Thus, petitioner's claim of abandonment is baseless, as in *Manarpiis v. Texan Philippines, Inc.*:[67]

> *Abandonment in this case was a trumped up charge, apparently to make it appear that petitioner was not yet terminated when she filed the illegal dismissal complaint* and to give a semblance of truth to the belated investigation against the petitioner. *Petitioner did not abandon her work but was told not to report for work anymore after being served a written notice of termination* of company closure on July 27, 2000 and turning over company properties to respondent Rialubin-Tan.[68] (Emphasis supplied)

Thus, respondent's order to complete the company's turnover procedure is not an order to return to work, as there was no longer any work to return to at that point. This claim of abandonment deserves no further consideration.

In any event, *Tan Brothers Corporation v. Escudero*[69] reiterates that abandonment of work is a "matter of intention" that must be proven by the employer with substantial evidence:

> *It is, on the other hand, doctrinal that abandonment is a matter of intention and cannot, for said reason, be lightly inferred, much less legally presumed from certain equivocal acts*. Viewed in the light of Escudero's persistence in reporting for work despite the irregular payment of her salaries starting July 2003, we find that her subsequent failure to do so as a consequence of Tan Brothers' non-payment of her salaries in May 2004 is hardly evincive of an intention to abandon her employment. Indeed, mere absence or failure to report for work, even after a notice to return work has been served, is not enough to amount to an abandonment of employment. Considering that a notice directing Escudero to return to work was not even issued in the premises, we find that the CA committed no reversible error in ruling out Tan Brother's defense of abandonment.[70] (Emphasis supplied, citations omitted)

Here, petitioner failed to prove respondent's intention to abandon his work. Per the records, respondent asked for leniency and time to improve his skills when he was cited for poor work performance.[71] Respondent also immediately offered to pay for the lost properties, indicating his intention to compensate petitioner for its losses. Moreover, he protested his layoff from work, negating the second element of a "clear intention to sever" the employer-employee relationship. Petitioner's insistence that respondent did not turn over his responsibilities after being dismissed proves neither abandonment nor bad faith.

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67 752 Phil. 305 (2015) [Per J. Villarama, Sr., Third Division].
68 Id. at 322.
69 713 Phil. 392 (2013) [Per J. Perez, Second Division].
70 Id. at 402.
71 *Rollo*, p. 46.

WHEREFORE, the Petition for Review on Certiorari is **DENIED** for failure to raise any reversible error. The assailed May 29, 2015 Decision and March 17, 2016 Resolution of the Court of Appeals in CA-G.R. SP No. 07130 are **AFFIRMED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

RAMON PAUL L. HERNANDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Chief Justice