



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JOVITA S. MANALO,
Petitioner,

G.R. No. 185058

Present:

-versus-

CARPIO, *Chairperson*,
VELASCO, JR.,*
BRION,
DEL CASTILLO, and
LEONEN, *JJ.*

ATENEO DE NAGA UNIVERSITY,
FR. JOEL TABORA AND MR.
EDWIN BERNAL,
Respondent.

Promulgated:

09 NOV 2015

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DECISION

LEONEN, *J.*:

At the core of the issue of constructive dismissal is the matter of whether an employer's action is warranted. Not every inconvenience, disruption, difficulty, or disadvantage that an employee must endure sustains a finding of constructive dismissal. When professionals and educators violate the ethical standards of the profession to which they belong and for which they train students, educational institutions employing them are justified in relieving them of their teaching posts and in taking other appropriate precautionary or punitive measures.

This resolves a Petition for Review on Certiorari¹ praying that the assailed April 30, 2008 Decision² and October 7, 2008 Resolution³ of the

* Designated additional member per Raffle dated September 29, 2014.

¹ The Petition was filed under Rule 45 of the 1997 Rules of Civil Procedure.

² *Rollo*, pp. 36-45. The Decision was penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Jose Catral Mendoza (now Associate Justice of this court) and Pampio A. Abarintos.

³ *Id.* at 66-68.

Court of Appeals Former Special First Division in CA-G.R. No. 74899 be reversed and set aside, and that the December 13, 2000 Decision⁴ of Labor Arbiter Jesus Orlando M. Quiñones (Labor Arbiter Quiñones) be reinstated.

In his December 13, 2000 Decision, Labor Arbiter Quiñones ruled that petitioner Jovita S. Manalo (Manalo) was constructively dismissed. He ordered that Manalo be reinstated to her former position, that the applicable increases to her salary and benefits be effected, and that attorney's fees be paid to her. However, Labor Arbiter Quiñones denied Manalo's prayer for moral and exemplary damages.⁵

Labor Arbiter Quiñones' Decision was sustained by the National Labor Relations Commission Second Division in its March 26, 2002 Resolution.⁶ In its August 30, 2002 Resolution,⁷ the National Labor Relations Commission denied the Motion for Reconsideration of respondents Ateneo de Naga University, Fr. Joel Tabora, S.J. (Fr. Tabora) and Edwin P. Bernal (Bernal).

In its assailed April 30, 2008 Decision, the Court of Appeals reversed and set aside the ruling of Labor Arbiter Quiñones and of the National Labor Relations Commission and dismissed Manalo's Complaint.⁸ In its assailed October 7, 2008 Resolution, the Court of Appeals denied Manalo's Motion for Reconsideration.⁹

Manalo was a regular and permanent full-time faculty member of the Accountancy Department of Ateneo de Naga University's College of Commerce. She was employed on June 3, 1993 and was granted permanent status in 1996. As recounted by Manalo in the Position Paper she filed before the Labor Arbiter, she taught subjects such as "Auditing Theory, Auditing Practice, Financial Accounting, [and] Elementary Accounting."¹⁰ In the Reply to respondents' Position Paper which she, too, filed before the Labor Arbiter, Manalo similarly acknowledged that in 1994, she taught subjects in Ateneo de Naga University's Economics Department (i.e., International Trade and Philippine Economic Development), albeit insisting that she did not have the required aptitude and competence.¹¹

Manalo was also a part-time Manager of the Ateneo de Naga Multi-Purpose Cooperative (Cooperative) before it was evicted from holding office

⁴ Id. at 135–150.

⁵ Id. at 149–150.

⁶ Id. at 155–167. The Resolution was penned by Presiding Commissioner Raul T. Aquino and concurred in by Commissioners Victoriano R. Calaycay and Angelita A. Gacutan.

⁷ Id. at 168–169.

⁸ Id. at 44.

⁹ Id. at 66–68.

¹⁰ Id. at 80, Position Paper.

¹¹ Id. at 85.

inside campus in 1999.¹²

In her Position Paper, Manalo recounted that during her stint as Cooperative Manager, she came into conflict with Bernal, Dean of Ateneo de Naga University's College of Commerce. Bernal supposedly charged Manalo with various offenses as regards the management of the Cooperative before the Cooperative's Board of Directors. The Board of Directors dismissed Manalo on the basis of these charges. However, on November 30, 1999, Manalo's dismissal was recalled by the Cooperative's General Assembly.¹³

Manalo further recounted that on December 14, 1999, Bernal wrote to Fr. Tabora, Ateneo de Naga University President, recommending the termination of her employment on the grounds of serious business malpractice, palpable dishonesty, and questionable integrity.¹⁴

Acting on the charges against Manalo, Fr. Tabora constituted a Grievance Committee. The Grievance Committee later found Manalo guilty and recommended her dismissal.¹⁵ As recounted in the Comment filed by respondents before this court, Manalo's offenses were: "fraud in issuance of official receipts, collection of cash without documented remittance to the cooperative, use of inappropriate forms of documents cash receipts, 16 instances of bouncing checks issued by the cooperative . . . fraud in the issuance of an official receipt, unauthorized cash advances[.]"¹⁶

Acting on the Grievance Committee's recommendation as the University President had the "final say on the matter,"¹⁷ Fr. Tabora instead opted to transfer Manalo to teach Economics in the Department of Social Sciences of Ateneo de Naga University's College of Arts and Science.¹⁸

Alleging that her transfer constituted constructive dismissal, Manalo filed a Complaint¹⁹ on April 3, 2000.

On December 13, 2000, Labor Arbiter Quiñones rendered the Decision²⁰ finding that Manalo was constructively dismissed. He faulted the action taken on Manalo's case for being anchored on "private affairs . . . which clearly has [sic] no bearing on the employment relationship between [Ateneo de Naga University] and [Manalo]."²¹ He similarly faulted

¹² Id. at 37, Court of Appeals Decision dated April 30, 2008.

¹³ Id. at 80–82, Position Paper.

¹⁴ Id. at 82.

¹⁵ Id. at 38, Court of Appeals Decision dated April 30, 2008.

¹⁶ Id. at 215, Comment.

¹⁷ Id. at 38, Court of Appeals Decision dated April 30, 2008.

¹⁸ Id.

¹⁹ Id. at 75–76.

²⁰ Id. at 135–150.

²¹ Id. at 143.

Manalo's transfer to teach Economics—a subject that she was supposedly not qualified to teach—as unduly burdensome, inconvenient, and even embarrassing, and construed it as a badge of constructive dismissal.²²

Labor Arbiter Quiñones ordered that Manalo be reinstated to her former position in the Accountancy Department, that the increases in salaries and benefits effected during the pendency of the case be applied to Manalo, and that Ateneo de Naga University pay her attorney's fees. However, noting that Manalo failed to show that respondents acted out of manifest bad faith, he denied Manalo's prayer for moral and exemplary damages.²³ The dispositive portion of Labor Arbiter Quiñones' Decision reads:

WHEREFORE, in view of the foregoing, and finding complainant Jovita S. Manalo to have been constructively dismissed, judgment is hereby rendered against respondents Ateneo de Naga University, Fr. Joel Tabora, S.J., and Mr. Edwin P. Bernal, as follows:

- a. Respondent Ateneo de Naga University is ordered, upon receipt of this decision, to immediately reinstate complainant to her former position as faculty member of the Accountancy Department, College of Commerce, without loss of seniority rights and other privileges, or at the option of respondent, effect payroll reinstatement;
- b. Payment of complainant's salaries as part of full backwages provided under Article 279 of the Labor Code, is deemed moot and academic, it being admitted on record that complainant's salaries have been regularly deposited with complainant's ATM account with Equitable PCIBank for the period that complainant stopped working with respondents, which as of the date of this decision should amount to Php 108,869.40;
- c. Additionally, respondent Ateneo de Naga University is ordered to effect and pay complainant's additional annual across the board increase equivalent to six percent (6%) of complainant's monthly salary, allowances, and other benefits or their monetary equivalent computed from the time her compensation was withheld from her up to the time of her actual reinstatement or payroll reinstatement, as the maybe [sic], as part of complainant's full backwages provided under Article 279 of the Labor Code;
- d. Respondent Ateneo de Naga University is ordered to pay complainant ten percent (10%) of the total amount awarded representing attorney's fees.

All other claims and charges are dismissed for lack of merit.

²² Id. at 143–144.

²³ Id. at 149–150.

SO ORDERED.²⁴

Manalo and respondents appealed before the National Labor Relations Commission.²⁵

Labor Arbiter Quiñones' Decision was affirmed in toto by the National Labor Relations Commission Second Division in its March 26, 2002 Resolution.²⁶ In its August 30, 2002 Resolution,²⁷ the National Labor Relations Commission denied respondents' Motion for Reconsideration.

Respondents then filed a Petition for Certiorari before the Court of Appeals.²⁸

On April 30, 2008, the Court of Appeals rendered the assailed Decision.²⁹ It reversed and set aside the rulings of Labor Arbiter Quiñones and of the National Labor Relations Commission and ordered Manalo's Complaint dismissed. The Court of Appeals noted that there was ample factual basis for Manalo's transfer, and that such transfer was well within the scope of Ateneo de Naga University's prerogatives as an employer and as an educational institution.

In its assailed October 7, 2008 Resolution,³⁰ the Court of Appeals denied Manalo's Motion for Reconsideration.

Aggrieved, Manalo filed the present Petition.³¹ She assails the supposed impropriety of the Court of Appeals' ruling that set aside the findings of Labor Arbiter Quiñones and of the National Labor Relations Commission. She insists that their findings are conclusive and binding on the Court of Appeals and that alternative findings could not have been the basis for reversing their rulings.³² She insists that she was constructively dismissed and anchors this conclusion on how it was supposedly improper for the Ateneo de Naga University to transfer her based on actions imputed to her in her capacity as Cooperative Manager and not in her capacity as a member of the University's faculty.³³

For resolution are the following issues:

²⁴ Id. at 148–150.

²⁵ Id. at 155.

²⁶ Id. at 155–167.

²⁷ Id. at 168–169.

²⁸ Id. at 35, Court of Appeals Decision dated April 30, 2008.

²⁹ Id. at 35–45.

³⁰ Id. at 66–68.

³¹ Id. at 11–32.

³² Id. at 19–22.

³³ Id. at 22–31.

First, whether the Court of Appeals was in error for entertaining alternative findings to those made by Labor Arbiter Quiñones and the National Labor Relations Commission; and

Second, whether the shift in petitioner Jovita S. Manalo's teaching load from mainly Accountancy subjects to Economics subjects constituted constructive dismissal.

I

Petitioner's argument that the findings of a Labor Arbiter and of the National Labor Relations Commission are so binding on the Court of Appeals that they are practically immutable require a clarification of the procedural parameters of judicial review of decisions of the National Labor Relations Commission. As this court's resolution of the present Petition itself proceeds from actions taken by the Court of Appeals, the same procedural parameters delineate what is permissible in this review.

As clarified in *St. Martin Funeral Homes v. National Labor Relations Commission*,³⁴ judicial review of decisions of the National Labor Relations Commission is permitted. However, this review is through a petition for certiorari (i.e., special civil action for certiorari) under Rule 65 of the Rules of Court, rather than through an appeal. Moreover, although this court has concurrent jurisdiction with the Court of Appeals as regards petitions for *certiorari*, such petitions are filed before the Court of Appeals (following, of course, the National Labor Relations Commission's denial of the appropriate Motion for Reconsideration), rather than directly before this court. This is consistent with the principle of hierarchy of courts. It is only from an adverse ruling of the Court of Appeals that a party may come to this court, which shall then be by way of a petition for *review* on certiorari (i.e., appeal by certiorari) under Rule 45 of the Rules of Court.³⁵

In *Odango v. National Labor Relations Commission*,³⁶ this court explained that a special civil action for certiorari is an extraordinary remedy that is allowed "only and restrictively in truly exceptional cases."³⁷ Consistent with this, the remedy of a writ of certiorari may be used only when there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law. Nevertheless, this requirement has been relaxed in cases where what is at stake is public welfare and the advancement of public

³⁴ 356 Phil. 811 (1998) [Per J. Regalado, En Banc].

³⁵ SECTION 1. *Filing of petition with Supreme Court.*—A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

³⁶ G.R. No. 147420, June 10, 2004, 431 SCRA 633 [Per J. Carpio, First Division].

³⁷ *Id.* at 639.

policy.³⁸

So too, parties who avail themselves of such a remedy are not at liberty to assail an adverse ruling on grounds of their own choosing. Rather, a petition for certiorari is “confined to issues of jurisdiction or grave abuse of discretion.”³⁹ Its sole office is “the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction.”⁴⁰

A petition for certiorari under Rule 65 is an original action. It is independent of the action that gave rise to the assailed ruling. In contrast, a petition for *review* on certiorari under Rule 45 is a mode of appeal. Thus, it is a continuation of the case subject of the appeal. It follows then that it cannot go beyond the issues that were properly the subject of the original action from which it arose.

The nature, parameters, and framework of judicial review of decisions of the National Labor Relations Commission both by this court and by the Court of Appeals were exhaustively and deftly discussed in this court’s Decision in *Brown Madonna Press v. Casas*:⁴¹

Mode of review in illegal dismissal cases

The present petition involves mixed questions of fact and law, with the core issue being one of fact. This issue — from which the other issues arise — relates to the nature of Casas’ termination of employment relationship with BMPI. Did she voluntarily resign from, or abandon her work at, BMPI, or was she summarily dismissed by Cabangon?

This question of fact is an issue that we cannot resolved [sic] in a Rule 45 petition, except in the course of determining whether the [Court of Appeals] correctly ruled in determining that the [National Labor Relations Commission] did not commit grave abuse of discretion. In other words, the question we ask in resolving the present case is not whether Casas abandoned her work or was illegally dismissed; instead, we ask whether the [Court of Appeals] erred in not finding grave abuse of discretion in the [National Labor Relations Commission’s] decision finding that Casas was dismissed from work.

Should we find that Casas had indeed been summarily dismissed, the next question involves the nature of her dismissal — did it comply with the procedural and substantial requirements of the law, or was it an illegal dismissal that should warrant the award to Casas of backwages and

³⁸ *Metropolitan Bank & Trust Company, v. Abad Santos*, 623 Phil. 134, 143 (2009) [Per J. Brion, Second Division], citing *Jose v. Zulueta*, 112 Phil. 470 (1961) [Per J. Barrera, En Banc].

³⁹ *Odango v. National Labor Relations Commission*, G.R. No. 147420, June 10, 2004, 431 SCRA 633, 639 [Per J. Carpio, First Division], citing *Sea Power Shipping Enterprises, Inc. v. Court of Appeals*, 412 Phil. 603 (2001) [Per J. Buena, Second Division].

⁴⁰ *Id.*, citing *Oro v. Judge Diaz*, 413 Phil. 416 (2001) [Per J. Panganiban, Third Division].

⁴¹ G.R. No. 200898, June 15, 2015 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/june2015/200898.pdf>> [Per J. Brion, Second Division].

separation pay?

Keen awareness of the lens used to review this question is critical, given the jurisdiction of this Court and the nature of review employed in labor cases appealed to the Court under Rule 45. The Court, save for exceptional cases, is not a trier of facts; as a general rule, it resolves only questions of law. Additionally, the [National Labor Relations Commission's] decision is final and executory, and can be reviewed by the [Court of Appeals] only when the [National Labor Relations Commission] committed a grave abuse of discretion amounting to a lack or excess of jurisdiction.

Thus, the [Court of Appeals], in a Rule 65 petition assailing the [National Labor Relations Commission's] decision, examines whether the [National Labor Relations Commission] acted in such a “capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law.” This is in contrast with appeals reaching the [Court of Appeals] . . . where it has more leeway in reviewing both questions of fact and of law, and where the appealed decision may be reversed because of an error in judgment.

Once the [Court of Appeals] decision reaches the Court through a Rule 45 petition, the question presented before us carries with it the mode of review applied when the case has been appealed before the [Court of Appeals]. Although we are asked to determine whether the [Court of Appeals] committed an error in judgment, we necessarily have to consider that the judgment made by the [Court of Appeals] involves the question of determining grave abuse of discretion. Unlike other petitions for review on certiorari where we determine errors of law (and in exceptional cases, errors of fact), our appellate jurisdiction in labor cases involves the determination of whether there had been an error in finding grave abuse of discretion on the part of the [National Labor Relations Commission].

With these considerations in mind, the *onus probandi* in assailing a question of fact as determined by the [National Labor Relations Commission] and upheld by the [Court of Appeals] becomes heavier. Not only must an exceptional circumstance allowing the Court to review a question of fact exist; it must also be shown that the [National Labor Relations Commission's] resolution of the factual issue must have been tainted with grave abuse of discretion, such that the [Court of Appeals] erred in affirming it.⁴² (Citations omitted)

From these, it is a clear error for petitioner to insist that the figurative hands of the Court of Appeals were tied just because the findings of the Labor Arbiter and of the National Labor Relations coincided with each other. Precisely because it was confronted with a Rule 65 Petition, it was the Court of Appeals' business to determine whether there had been grave abuse of discretion amounting to lack or excess of jurisdiction. Had it found that there was none, the proper course of action would have been to dismiss respondents' Rule 65 Petition and to sustain the rulings of Labor Arbiter Quiñones and of the National Labor Relations Commission. In the intervening period, however, when the Court of Appeals was going about its

⁴² Id. at 5–6.

task of arriving at a resolution, petitioner should not fault the Court of Appeals both for examining the records and evidence at its disposal and for embarking on its own analysis of whether Labor Arbiter Quiñones and the National Labor Relations Commission properly performed their duties and were circumspect in concluding that petitioner was constructively dismissed. A judicious resolution of the controversy confronting it called for nothing less.

Going about its task, the Court of Appeals concluded that Labor Arbiter Quiñones' and the National Labor Relations Commission's disposition of the case were attended with grave abuse of discretion amounting to lack or excess of jurisdiction.

We sustain the conclusion of the Court of Appeals.

Labor Arbiter Quiñones and the National Labor Relations Commission concluded that petitioner was constructively dismissed because the action—that is, her transfer—taken on her designation was supposedly not warranted by matters that seemed to have been extraneous to her having been a faculty member teaching Accountancy subjects. Labor Arbiter Quiñones and the National Labor Relations Commission are grossly mistaken. They divorced petitioner's manifest breach of the ethical standards binding accountancy professionals from petitioner's role as an educator of prospective accounting professionals. Petitioner's role as an educator made it imperative for her to impart her profession's values and ideals to her students, not least of all by her own example. Because she had failed in this, respondents were well in a position to seek to prevent one whom they considered to have engaged in unethical and unprofessional behavior from pursuing her didactic engagement with their students. As such, Labor Arbiter Quiñones and the National Labor Relations Commission committed such gross errors as amounting to an evasion of their positive duty to render judgment after only a meticulous consideration of the circumstances of a case.

II

Constructive dismissal arises “when continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank and/or a diminution in pay; or when a clear discrimination, insensibility or disdain by an employer becomes unbearable to the employee.”⁴³ In such cases, the impossibility, unreasonableness, or unlikelihood of continued employment leaves an employee with no other viable recourse but to terminate his or her employment.

⁴³ *Tan v. National Labor Relations Commission*, 359 Phil. 499, 511 (1998) [Per J. Panganiban, First Division].

However, it is not necessary for an employee to actually resign or abandon his or her employment in order for an employer to be adjudged as having constructively dismissed an employee. In *Hyatt Taxi Services v. Catinoy*,⁴⁴ this court frowned upon an overly strict construction of what makes for constructive dismissal:

[T]he strict adherence by the NLRC to the definition of constructive dismissal is erroneous. Apparently, the NLRC ruled out constructive dismissal in this case mainly because according to it “constructive dismissal consists in the act of quitting because continued employment is rendered impossible, unreasonable or unlikely as in the case of an offer involving demotion in rank and a diminution in pay.” Based on this definition, the NLRC concluded that since respondent neither resigned nor abandoned his job and the fact that respondent pursued his reinstatement negate constructive dismissal. What makes this conclusion tenuous is the fact that constructive dismissal does not always involve forthright dismissal or diminution in rank, compensation, benefit and privileges. There may be constructive dismissal if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment.⁴⁵

By definition, constructive dismissal can happen in any number of ways. At its core, however, is the gratuitous, unjustified, or unwarranted nature of the employer’s action. As it is a question of whether an employer acted fairly, it is inexorable that any allegation of constructive dismissal be contrasted with the validity of exercising management prerogative.

Not every inconvenience, disruption, difficulty, or disadvantage that an employee must endure results in a finding of constructive dismissal. Indeed, basic is the recognition that even as our laws on labor and social justice impel a “preferential view in favor of labor,”⁴⁶

[e]xcept as limited by special laws, an employer is free to regulate, according to his own discretion and judgment, all aspects of employment, including hiring, work assignments, working methods, time, place and manner of work, tools to be used, processes to be followed, supervision of workers, working regulations, transfer of employees, work supervision, lay-off of workers and the discipline, dismissal and recall of work.⁴⁷

⁴⁴ 412 Phil. 295 (2001) [Per J. Gonzaga-Reyes, Third Division].

⁴⁵ Id. at 306, citing *Masagana Concrete Products v. NLRC*, 372 Phil. 459, 593 (1999) [Per J. Gonzaga-Reyes, Third Division] and *Blue Dairy Corporation v. NLRC*, 373 Phil. 179 (1999) [Per J. Bellosillo, Second Division].

⁴⁶ See *Rivera v. Genesis Transport*, G.R. No. 209835, August 3, 2015 [Per J. Leonen, Second Division].

⁴⁷ *San Miguel Brewery Sales Force Union v. Ople*, 252 Phil. 27, 30 (1989) [Per J. Grino-Aquino, First Division], citing *Perfecto V. Hernandez, Labor Relations Law*, 1985 Ed., p. 44. See also *Philippine Telegraph and Telephone Corp. v. Laplana*, 276 Phil. 527 (1991) [Per J. Narvasa, First Division]; *GTE Directories Corp. v. Sanchez*, 274 Phil. 738 (1991) [Per J. Narvasa, First Division]; and *Habana v. NLRC*, 359 Phil. 65 (1998) [Per J. Kapunan, Third Division].

Jurisprudence has long recognized that transferring employees, to the extent that it is done fairly and in good faith, is a valid exercise of management prerogative and will not, in and of itself, sustain a charge of constructive dismissal:

[T]he transfer of an employee from one area of operation to another is a management prerogative and is not constitutive of constructive dismissal, when the transfer is based on sound business judgment, unattended by demotion in rank or a diminution of pay or bad faith. Thus, in *Philippine Japan Active Carbon Corp. v. NLRC*, the Court ruled:

“It is the employer’s prerogative, based on its assessment and perception of its employees’ qualifications, aptitudes, and competence, to move them around in the various areas of its business operations in order to ascertain where they will function with maximum benefit to the company. An employee’s right to security of tenure does not give him such a vested right in his position as would deprive the company of its prerogative to change his assignment or transfer him where he will be most useful. When his transfer is not unreasonable, nor inconvenient, nor prejudicial to him, and it does not involve a demotion in rank or a diminution of his salaries, benefits, and other privileges, the employee may not complain that it amounts to a constructive dismissal.”⁴⁸

As with all allegations of constructive dismissal, the resolution of this case hinges on whether, given the circumstances, the employer acted fairly in exercising a prerogative that is indisputably vested in it. Specifically, with respect to the recognized badges of constructive dismissal, we must look into whether the employer was motivated not by sound judgment but by bad faith and unduly withheld or diminished status, benefits, or privileges that otherwise should have been duly accruing to the employee.

Petitioner capitalizes on how the allegations of wrongdoing that prompted the conduct of inquiries and dismissal proceedings against her pertained to her affiliation with the Ateneo de Naga Multi-Purpose Cooperative, of which she was a part-time Manager, and not with her employment with respondent Ateneo de Naga University. Asserting that the Cooperative and the University are distinct entities, she argues that her supposed offenses are not work-related and cannot be the bases of any prospective termination or of any other action taken on her employment as a faculty member.⁴⁹

⁴⁸ *Tan v. National Labor Relations Commission*, 359 Phil. 499, 511–512 (1998) [Per J. Panganiban, First Division].

⁴⁹ *Rollo*, p. 23, Petition for Review on Certiorari.

We disagree.

Respondents aptly note that the offenses petitioner committed show “clear transgressions of the Code of Ethics of Accountants, which rendered petitioner disqualified to teach Accounting.”⁵⁰

III

“Every profession is defined by the knowledge, skills, *attitude and ethics* of those in the profession.”⁵¹ In purporting one’s self as a professional, a person does more than merely make a statement as to an activity that preoccupies him or her—an occupation—which may serve as a means for earning a living, that is, a livelihood. Rather, he or she proclaims or professes to count himself or herself among a select class of learned, trained, competent, and proficient individuals adhering to an established and commonly held set of standards:

‘Profession’ derives from the Latin word ‘profiteor,’ to profess, which can also have the connotation of making a formal commitment in the sense of taking a monastic oath. This root might suggest that a professional is someone who claims to possess knowledge of something and has a commitment to a particular code or set of values, both of which are fairly well-accepted characteristics of professions.⁵²

Persons claiming themselves to be professionals hold themselves out to others and to society itself as being faithful to benchmarks of quality. Being a professional is, thus, a matter of credibility and trustworthiness. Accordingly, ethics and values are as inherent to professions as are training and technical competence. Standards of integrity can never be divorced from standards of workmanship, technique, and operation.

It is precisely with the public interest in mind that professional regulation—whether by the state or by members of the professions themselves, i.e., self-regulation—is an accepted norm. In legal parlance and where the state apparatus is employed, professional regulation is a matter of police power. Regardless, whether through the state apparatus or through self-imposed mechanisms, all professions continually strive for the ideal of making themselves and their members exemplary and beyond reproach. “Regulation of a profession is a specific response to the need for certain standards to be met by the members of that profession[;] [albeit] [t]he need for and nature of such regulation is dependent on the specific profession and

⁵⁰ Id. at 220, Comment.

⁵¹ Policy Position, Regulation of the Accountancy Profession 4 (2007) <<http://www.iasplus.com/en/binary/ifac/0712regulationpaper.pdf>> [visited October 21, 2015].

⁵² Lester, Stan, On Professions and Being Professional 1 (2010) <<http://devmts.org.uk/profnal.pdf>> [last visited August 15, 2015].

the market conditions in which it operates.”⁵³

As with all other professions, the accountancy profession finds its mooring in qualitative and ethical norms. In a Position Paper prepared in 2007, the International Federation of Accountants expounded on how integral regulations, as well as technical and ethical standards, are to the accountancy profession:

11. Like other professions, the sustainability of the accountancy profession depends upon the quality of the services provided by its members and on the profession’s capacity to respond effectively and efficiently to the demands of the economy and society. Regulation seeks to ensure the right quality and, where appropriate, consistency in the quality of accountancy services.
12. There are a number of reasons why regulation might be necessary to ensure that appropriate quality is provided in the market for accounting services. These include enforcement of ethical rules and technical standards and the need to represent non-contracting users of accounting services, such as investors and creditors. In recent years, for example, ethical failures on the part of some members of the profession, and the resulting lack of confidence in financial reporting resulted in changes in the regulation of the profession in many parts of the world.⁵⁴

The International Federation of Accountants cited “two general cases” that illustrate how the public, left with no recourse but to repose its trust in accounting professionals, can best be protected by regulatory measures that ensure compliance with standards of proficiency and integrity:

13. While the specific triggers for regulatory intervention will differ over time, there are two general cases that provide useful illustrations of why regulation may be an effective means of ensuring quality and addressing issues in the operation of the market for accounting services. The first general case arises from the situation where there is a knowledge imbalance between the client who is acquiring accounting services and the provider of those services, who has professional expertise. The second general case is where there are significant benefits or costs from the provision of accounting services that accrue to third parties, not to those acquiring and producing the services.
14. Regulation can address the knowledge imbalance between the provider and purchaser of professional services by providing assurance to the purchaser that the provider has the necessary qualifications and will meet the appropriate professional standards in his or her work. In this way, the purchaser is given assurance that they are receiving services of the right

⁵³ Policy Position, Regulation of the Accountancy Profession 4 (2007) <<http://www.iasplus.com/en/binary/ifac/0712regulationpaper.pdf>> [visited October 21, 2015].

⁵⁴ Policy Position, Regulation of the Accountancy Profession 4 (2007) <<http://www.iasplus.com/en/binary/ifac/0712regulationpaper.pdf>> [visited October 21, 2015].

quality.

15. The second generic issue that regulation can address is where parties outside the contracting parties (the purchaser and provider of services) either receive benefits or incur costs as a result of the transaction. Regulation can ensure that those benefits and costs to third parties are taken into account in determining what service is to be produced, and at what quality. Because financial statements have a much wider use than by the company acquiring an audit, for example, regulation of financial reporting and audit ensures that investors or potential investors (the third parties) receive the information they require. Regulation acts to ensure that the benefits to these third parties are “built in,” when a company contracts for an audit.⁵⁵

Relevant as it is, ethical behavior takes on even greater significance in the education and training of individuals who are prospective members of the profession. Professionals who concurrently take on the role of educators act as gatekeepers to the esteemed ranks of a profession or as channels of skills and knowledge. Moreover, they manifest by example the ideals of their profession. Often, it is with these educators that students have their first authentic and personal encounters with the professionals they seek be counted amongst. Professionals educate students and open their eyes to what it means to be lawyers, teachers, doctors, nurses, or engineers, not only by theory, but even by the very examples of their lives.

Regarding ethics and education in the accountancy profession, the International Federation of Accountants states:

21. While regulation is important, it is not on its own enough to achieve the objective of assuring quality and consistency of quality in the provision of professional services. IFAC recognizes that values also are critical in driving behavior. No regulation can be truly effective unless it is accompanied by ethical behavior.
22. It is the ethical behavior of the professional accountant that is the ultimate guarantee of good service and quality. *Education in values, especially through example and the appropriate use of experience and professional judgment, based on a solid educational foundation, and reinforced through continuing professional education, will be essential to the future of the accountancy profession.*⁵⁶ (Emphasis supplied)

Values and ethics are paramount pedagogical concerns. It is for this reason that training in various fields is considered a “discipline.” Were it all

⁵⁵ Policy Position, Regulation of the Accountancy Profession 4–5 (2007) <<http://www.iasplus.com/en/binary/ifac/0712regulationpaper.pdf>> [visited October 21, 2015].

⁵⁶ Policy Position, Regulation of the Accountancy Profession 6 (2007) <<http://www.iasplus.com/en/binary/ifac/0712regulationpaper.pdf>> [visited October 21, 2015].

a matter of operational deftness, mere “how-to” instructionals would perhaps suffice. This, however, is not the way of genuine education. Educational institutions are founded on the fundamental notion of how students grow as apprentices following the lived example of their mentors.

Here in the Philippines, professional regulation by the state finds basis in Article XII, Section 14 of the 1987 Constitution.⁵⁷ More specifically, the accountancy profession is regulated by Republic Act No. 9298, otherwise known as the Philippine Accountancy Act of 2004.

The centrality of ethics in the practice of accountancy is evident in the Philippine Accountancy Act of 2004. Its declaration of policy states:

Section 2. Declaration of Policy. - The State recognizes the importance of accountants in nation building and development. Hence, it shall develop and nurture competent, *virtuous*, productive and *well rounded* professional accountants whose standard of practice and service shall be excellent, qualitative, world class and globally competitive though *inviolable*, *honest*, effective, and *credible* licensure examinations and though regulatory measures, programs and activities that foster their professional growth and development. (Emphasis supplied)

Conformably, the Philippine Accountancy Act of 2004 created the Professional Regulatory Board of Accountancy,⁵⁸ the powers and functions of which include the adoption of measures to ensure ethical practice:

Section 9. Powers and Functions of the Board. - The Board shall exercise the following specific powers, functions and responsibilities:

....

To prescribe and/or adopt a Code of Ethics for the practice of accountancy;

To monitor the conditions affecting the practice of accountancy

⁵⁷ SECTION 14. The sustained development of a reservoir of national talents consisting of Filipino scientists, entrepreneurs, professionals, managers, high-level technical manpower and skilled workers and craftsmen in all fields shall be promoted by the State. The State shall encourage appropriate technology and regulate its transfer for the national benefit.

The practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law.

⁵⁸ Section 5. The Professional Regulatory Board of Accountancy and its Composition. - The Professional Regulatory Board of Accountancy, hereinafter referred to as Board, under the supervision and administrative control of the Professional Regulation Commission, hereinafter referred to as the Commission, shall be composed of a Chairman and six (6) members to be appointed by the President of the Philippines from a list of three (3) recommendees for each position and ranked by the Commission from a list of five (5) nominees for each position submitted by the accredited national professional organization of certified public accountant. The Board shall elect a vice-chairman from among each members for a term of one (1) year. The chairman shall preside in all meetings of the Boards and in the event of a vacancy in the office of the chairman, the vice-chairman shall assume such duties and responsibilities until such time as a chairman is appointed.

and adopt such measures, including promulgation of accounting and auditing standards, rules and regulations and best practices as may be deemed proper for the enhancement and maintenance of high professional, ethical, accounting and auditing standards: That domestic accounting and auditing standards rules and regulations shall include the international accounting and auditing standards, and generally accepted best practices[.]

The Code of Ethics for Professional Accountants in the Philippines⁵⁹ spells out a “conceptual framework . . . on fundamental ethical principles.”⁶⁰ First of these is integrity, i.e., being “straightforward and honest in all professional and business relationships.”⁶¹ Second, objectivity, or “not allow[ing] bias, conflict of interest or undue influence of others to override professional or business judgments.”⁶² Third, professional competence and due care in “maintain[ing] professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques.”⁶³ Fourth, confidentiality, or “respect[ing] the confidentiality of information acquired as a result of professional and business relationships and . . . not disclos[ing] any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose.”⁶⁴ Lastly, professional behavior in one’s “compl[iance] with relevant laws and regulations and . . . avoid[ing] any action that discredits the profession.”⁶⁵

IV

Petitioner’s indiscretions were noted to have been “fraud in issuance of official receipts, collection of cash without documented remittance to the cooperative, use of inappropriate forms of documents cash receipts, 16 instances of bouncing checks issued by the cooperative . . . fraud in the issuance of an official receipt, unauthorized cash advances[.]”⁶⁶ Details regarding these are matters of record and are spelled out in the Grounds for Dismissal of Mrs. Jovita S. Manalo, which form part of Annex “E” of petitioner’s own Position Paper before the Labor Arbiter. To reiterate, petitioner capitalizes on all but how these acts are supposedly not work-related, thereby failing to sustain any action taken on her employment as a faculty member.

We fail to see how petitioner can avoid the conclusion that these

⁵⁹ See <http://www.picpa.com.ph/sites/default/files/Code_of_Ethics_2008-Complete_final.pdf> [visited December 1, 2015].

⁶⁰ CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS IN THE PHILIPPINES (2008), sec. 100.2.

⁶¹ CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS IN THE PHILIPPINES (2008), sec. 100.4 (a).

⁶² CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS IN THE PHILIPPINES (2008), sec. 100.4 (b).

⁶³ CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS IN THE PHILIPPINES (2008), sec. 100.4 (c).

⁶⁴ CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS IN THE PHILIPPINES (2008), sec. 100.4 (d).

⁶⁵ CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS IN THE PHILIPPINES (2008), sec. 100.4 (e).

⁶⁶ *Rollo*, p. 215, Comment.

indiscretions do not reflect her fitness as an educator for the accountancy profession and her employment with respondent Ateneo de Naga University. These acts run afoul of the first and most basic of the fundamental ethical principles of the accountancy profession: integrity. Her having sanctioned unauthorized advances demonstrates a violation of the second fundamental ethical principle: objectivity. Even assuming that these acts do not evince a premeditated scheme, they nevertheless manifest that petitioner failed to act diligently, that is, competently and with due care. The totality of the indiscretions imputed to petitioner reflects negatively on the accountancy profession and indicates anything but professional behavior.

Worse, these acts indicate that petitioner failed to demonstrate to students and to live by her own example the ideals of the accountancy profession. Even if we were to assume that petitioner remained an exemplar of technical proficiency, she failed to educate in respect of the values that are integral to the training that she was supposed to impart to future professional accountants. We again emphasize that practicing a profession and educating a profession are not only technical or operational matters; they are as much a matter of ethics.

If at all, petitioner should be grateful to her employer that she was only transferred and her employment was not completely terminated. At the heart of the issue of constructive dismissal is the matter of whether the employer's actions are warranted. Here, we find ample basis not only for the precautionary measures actually taken on petitioner, but even for other heavier penalties that could have been imposed on her. It is true that petitioner may have been inconvenienced by the mandated transfer, but, to reiterate, not every inconvenience, disruption, difficulty, or disadvantage that an employee must endure sustains a finding of constructive dismissal. With the backdrop of petitioner's professional indiscretions, respondent Ateneo de Naga University, through its President, respondent Fr. Tabora, validly exercised a management prerogative.

In any case, we fail to appreciate petitioner's contention that her transfer to the Economics Department entailed an assignment to something in which she was not competent or qualified. As underscored by Labor Arbiter Quiñones, "[petitioner] was both a major of accounting and economics, and she was a magna cum laude to boot."⁶⁷ Petitioner similarly admits to having previously taught Economics subjects, even as she emphasizes that her concentration and the bulk of her teaching load remained to be Accountancy subjects.

Neither does her lack of a Master's Degree in Economics automatically render her unqualified. The 1992 Manual of Regulations for Private Schools, which was in effect during the material incidents of this

⁶⁷ Id. at 143, Labor Arbiter Decision dated December 13, 2000.

case, did not absolutely prevent non-holders of master's degrees from teaching in undergraduate programs.⁶⁸ The same is true of the present Manual of Regulation for Private Higher Education.⁶⁹

Ultimately, there were more than ample reasons for taking precautionary measures against petitioner. Respondent Ateneo de Naga University could not be said to have acted in an arbitrary, unjustified, or unwarranted manner in preventing petitioner from teaching Accountancy subjects. Having failed to prove this crucial element of what amounts to constructive dismissal, petitioner's Complaint against respondents was rightly dismissed by the Court of Appeals.

WHEREFORE, the Petition for Review on Certiorari is **DENIED**. The assailed Decision dated April 30, 2008 and Resolution dated October 7, 2008 of the Court of Appeals in CA-G.R. No. 74899 are **AFFIRMED**.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


PRESBITERO J. VELASCO, JR.
Associate Justice


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

⁶⁸ Section 44(c)(1)(a) allowed non-holders of master's degrees to teach "subject to regulation" by the then Department of Education, Culture and Sports.

⁶⁹ Section 35 specifically provides that "in specific fields where there is dearth of holders of Master's degree, a holder of a professional license requiring at least a bachelor's degree may be qualified to teach." The same section leaves room for other exceptions "subject to regulation by the Commission [on Higher Education]."

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.



ANTONIO T. CARPIO
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.



MARIA LOURDES P. A. SERENO
Chief Justice