Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

COCOPLANS, INC. and CAESAR T. MICHELENA,	**G.R. No. 183129**
Petitioners,	**Present:**
- *versus* -	VELASCO, JR., *J.*, *Chairperson*, PERALTA, PEREZ, REYES, and JARDELEZA,* *JJ.*
	Promulgated:
MA. SOCORRO R. VILLAPANDO, Respondent.	May 30, 2016

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DECISION

PERALTA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision[1] dated February 4, 2008 and Resolution[2] dated May 27, 2008 of the Court of Appeals (*CA*) in CA-G.R. SP No. 88759, which reversed the Decision[3] dated July 30, 2004 of the National Labor Relations Commission (*NLRC*) in NLRC Case CA No. 039310-04 and NLRC Case No. SRAB-IV-11-7279-02-B, which, in turn, reversed the Decision[4] dated January 30, 2004 of the Labor Arbiter NLRC Case No. SRAB-IV-11-7279-02-B.

The factual antecedents are as follows.

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* On leave.

1 Penned by Associate Justice Romeo F. Barza, with Associate Justices Mariano C. Del Castillo (now Associate Justice of the Supreme Court) and Arcangelita M. Romilla-Lontok, concurring; *rollo*, pp. 31-56.

2 *Id.* at 66.

3 Penned by Commissioner Romeo L. Go, with Commissioners Roy V. Señeres and Ernesto S. Dinopol, concurring; *id.* at 150-162.

4 Penned by Labor Arbiter Numeriano D. Villena, *id.* at 120-132.

Respondent Ma. Socorro R. Villapando, began working as a Financial Advisor for petitioner Cocoplans, Inc., (*Cocoplans*) in 1995. On October 11, 2000, she was eventually promoted to Division Head/Senior Sales Manager. On November 4, 2002, however, her employment was terminated by Cocoplans, through its President, Caesar T. Michelena, on the alleged ground that she was deliberately influencing people to transfer to another company thereby breaching the trust and losing the confidence given to her by Cocoplans.[5] Consequently, Villapando filed an action for illegal dismissal alleging that she was dismissed without the just cause mandated by law. In her Position Paper,[6] Villapando alleged the following pertinent facts:

> 2. On September 25, 2002, respondent Michelena talked to complainant and accused the latter of ordering her subordinates to "stop selling" and of influencing them to "leave the company" by way of sympathy to Dario B. Martinez who was compelled to resign from the company due to a personal quarrel with respondent Michelena. In the said conversation, respondent Michelena told complainant that "we cannot work together" and "I want your resignation tomorrow."
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> 3. In a written statement signed by a number of officers of COCOPLANS, a copy of which is hereto attached as Annex "B," it was attested that complainant did not order a "stop selling" and that complainant did not influence her subordinates to leave the company.
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> 4. On September 26, 2002, and September 27, 2002, Jaclyn Yang, the Secretary of respondent Michelena persistently followed up from complainant the resignation letter being required by respondent Michelena.
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> 5. Harassed and pressured, complainant wrote a letter dated October 3, 2002 to Atty. Alfredo Tumacder, Jr., the Managing Director of COCOPLANS, INC., a copy of which is hereto attached as Annex "C." In said letter, complainant categorically denied that she ordered "stop selling." She also denied that she influenced her subordinates to leave the company. She also expressed that she is resigning as required by respondent Michelena.
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> 6. On October 4, 2002, respondent Michelena sent a letter to complainant, a copy of which is hereto attached as Annex "D," changing his original position. Surprisingly, respondent Michelena did not accept the resignation that he originally asked for and instead convened a Committee on Employee Discipline. Complainant was also placed under preventive suspension in said letter. Obviously, respondents realized that they erred in not investigating the issues first before asking complainant to resign.
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> 7. In a letter dated October 9, 2002, a copy of which is hereto attached as Annex "E," complainant stated –

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5 *Rollo*, p. 32.

6 *Id.* at 89-99.

> "x x x I also do not understand why you want an investigation while you have effectively convicted me and terminated me during the said meeting on September 25, 2002. As far as I know, I have already been terminated.
>
> In any event, may I know what are the accusations against me and who are accusing me. May I also know your reason and basis for the preventive suspension."

8. COCOPLANS sent a letter to complainant on October 22, 2002, a copy of which is hereto attached as Annex "F," asking complainant to submit a written explanation and extending the preventive suspension. She was then furnished with a Sworn Statement of Mila Perez and David Sandoval, a copy of which is hereto attached as Annex "G." There was no explanation given as to the imposition of preventive suspension, much less for the extension thereof.

9. In response, complainant submitted an explanation letter dated October 25, 2002, a copy of which is hereto attached as Annex "H." She denied the accusations that she ordered to stop selling and that she was influencing her subordinates to leave COCOPLANS and transfer to Pioneer Allianz.

10. Thereafter, complainant was furnished with a letter dated October 28, 2002, a copy of which is hereto attached as Annex "I" and an Affidavit of respondent Michelena, a copy of which is hereto attached as Annex "J." Respondent Michelena alleged that complainant was the one who wanted to resign although he admitted that he asked his secretary to follow up the resignation letter from complainant.

11. In response, complainant sent a letter dated October 29, 2002, copy hereto attached as Annex "K," denying the allegations of respondent Michelena and reiterating her previous statement that she was being forced to resign.

12. In a letter dated November 4, 2002 signed by respondent Michelena, a copy of which is hereto attached as Annex "L," complainant was formally terminated.[7]

Thus, Villapando maintained that she was illegally dismissed for her employment was terminated on baseless and untruthful grounds. According to her, Michelena simply wanted to oust her from the company because he felt that she was sympathizing with the Vice-President for Marketing, Dario B. Martinez, an officer with whom Michelena had a personal quarrel.[8] That she was influencing the company's employees to transfer to another company, particularly, Pioneer Allianz, was improbable and preposterous for she never invited nor encouraged anyone to leave the company. In fact, up until the present time, not a single subordinate nor Villapando, herself, has transferred to said other company.

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7 *Id.* at 90-92.

8 *Id.* at 92.

In support of her stance, Villapando submitted a written statement[9] signed by Ms. Milagros Perez, Senior Area Manager, together with six (6) other officers of the company, wherein they attested that Villapando never influenced them to resign or join another company. With respect to a contradictory Joint Affidavit[10] likewise executed by the same Ms. Perez, together with Senior Area Manager David M. Sandoval, wherein they stated that Villapando, indeed, motivated them to transfer to another company, Villapando alleged that the written statement earlier signed by Ms. Perez belies the Joint Affidavit she subsequently executed.[11] Thus, the contents of the written statement should be controlling. In view of the baseless allegations the company dismissed her on, Villapando prayed that her termination from employment be declared illegal and that she be awarded full backwages, separation pay, and moral damages.

In their opposing Position Paper,[12] however, petitioners Cocoplans and Michelena attested to a different set of factual antecedents, to wit:

> It has been discovered by herein respondents that the Complainant has instigated the Sales Force of COCOPLANS in her area of responsibility, to either slow down sales production or completely stop selling, then join a mass resignation and transfer to a competitor company which was allegedly much better than COCOPLANS.
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> This sinister plot started sometime in the middle of February 2002, when a meeting was presided by the then First Vice-President for Marketing of COCOPLANS, who instead of discussing new trends in marketing strategies and how to improve sales production, concentrated more on his sentiments and personal problems with the company. One month thereafter, the Complainant called a Managers' meeting and informed them that the said First Vice-President for Marketing and his group, will transfer to another company. As a member of that group, the Complainant was motivating the Sales Managers to join the said transfer as the other company was purportedly better than COCOPLANS. The Complainant was also convincing the Sales Managers to join the mass resignations nationwide thereby paralyzing sales production for COCOPLANS. Attached hereto as Annex "A" and made integral part of this position paper is the joint affidavit of two (2) sales managers who attended that crucial meeting and attested to the truth of what transpired thereat.
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> Again, in March 2002, the Complainant officiated a division meeting in Lipa City, together with the said First Vice-President for Marketing, attended by sales associates from Lipa, Lucena, Mindoro and San Pablo branches of COCOPLANS, as well as by the Branch Cashier, Ms. Sharon Gurango. In that meeting, the cashier, Ms. Gurango was told that 70-80% of the Sales Force will move out of COCOPLANS and the Complainant asked her if [she] was willing to join the group, and her

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9 *Id.* at 106-107.
10 *Id.* at 133.
11 *Id.* at 93.
12 *Id.* at 67-71.

answer was yes. Thereafter, Ms. Gurango was kept constantly updated on the developments on the said plan by the Complainant and that the group might leave COCOPLANS either June or July 2002. Attached also hereto as Annex "B" and made integral part hereof is the sworn report of the said Branch Cashier, Ms. Sharon Gurango, dated September 19, 2002.

Because of the persistent flow of information that the Sales Force will proceed with their planned mass resignations as agitated by the Complainant, the President of COCOPLANS confronted her on September 20, 2002 and when asked –

"Did you at any time during this year tell your people of leaving COCOPLANS for another company?"

The Complainant replied "Yes Sir!" thereby directly admitting the truth of the information received by the President himself. Attached as Annex "C" and made integral part hereof is the affidavit of the President of COCOPLANS. Having been embarrassed, the Complainant later on filed a resignation letter, which was not accepted, as the Committee on Employee Discipline was already convened to conduct a hearing on the alleged acts committed by the complainant, and to receive any further explanation on the matter.

Attached hereto and marked as Annex "D" and likewise made integral part of this position paper, is the notice to the Complainant dated October 4, 2002 regarding the meeting scheduled by the Committee on Employee Discipline setting the date, October 10, 2002 for Complainant to give her explanation, and putting her on preventive suspension for three (3) weeks. Notwithstanding receipt of said notice, the Complainant, for reasons known only to her, did not attend said meeting. However, the witnesses who submitted their sworn statements attended the meeting, as shown in the minutes of the meeting, hereto attached marked as Annex "E" and made integral part hereof. Still, the complainant was given another opportunity to explain why no disciplinary action should be taken against her for her deliberate attempt to encourage sales staff to move to another company. Attached hereto and marked as Annex "F" is another notice to the Complainant giving her until October 25, 2002 to explain her position.

While the Complainant did file a written explanation, the Committee on Employee Discipline decided to schedule another meeting for further clarification, and notice about this meeting was duly received by the Complainant. Attached hereto as Annex "G" and made integral part hereof is said notice of hearing. However, on said date of hearing, Complainant again failed to appear. Consequently, on November 4, 2002 the Committee on Employee Discipline rendered a final recommendation, a copy of which is also hereto attached marked as Annex "H," and thereupon the President of COCOPLANS advised the Complainant of her termination for cause. x x x [13]

Based on the aforequoted set of facts, together with the supporting evidence submitted, petitioners insist that Villapando's suspension and

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[13] *Id.* at 68-69.

eventual termination was for just cause due to the fact that she wilfully breached petitioners' trust in her when she deliberately encouraged her very own sales staff to move to another company.[14]

On January 30, 2004, the Labor Arbiter ruled in favor of Villapando finding that she was illegally terminated from her employment. According to the Labor Arbiter, evidence clearly shows that the initial investigation conducted by the Committee on Employee Discipline was merely to determine the truth about the allegations of Villapando in her resignation letter that she was being forced to resign. But in Michelena's desire to terminate Villapando's employment, he instructed the committee to expand the scope of investigation to her alleged acts of motivating her subordinates to transfer to another company. He fished for evidence resulting in conflicting testimonies made by the same witnesses. But as between the written statement and the joint affidavit, the Labor Arbiter found that the written statement earlier signed by Ms. Perez was more credible.[15] Hence, he granted Villapando's prayer for full backwages and separation pay and further ordered the payment of attorney's fees in the dispositive portion of his Decision which provides:

> WHEREFORE, judgment is hereby rendered ordering the respondent to pay complainant her full backwages to until the finality of this decision which partially computed as of this date in the amount of ₱678,291.92 and to pay her separation pay equivalent to one month salary per year of service in the amount of ₱336,000.00.
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> Respondent is likewise ordered to pay 10% of the total monetary award as attorney's fees in the amount of ₱101,429.19.
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> All other claims are hereby dismissed.
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> SO ORDERED.[16]

On July 30, 2004, however, the NLRC disagreed with the Labor Arbiter in its Decision holding that the matter of resignation is a non-issue as the termination of Villapando's employment was affected for reasons other than her resignation.[17] According to the NLRC, the two essential elements of a lawful termination of employment, namely: (1) that the employee be afforded due process, *i.e.*, he must be given an opportunity to be heard and to defend himself; and (2) that the dismissal must be for valid cause, are present in this case.

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14 *Id.* at 70.
15 *Id.* at 129.
16 *Id.* at 132.
17 *Id.* at 154.

With regard to the first requisite, the NLRC held that while initially, Villapando was being investigated on her allegation that she was being forced to resign, the records clearly reveal that she was nonetheless duly informed of the accusations against her as well as the requisite opportunity to be heard and to defend herself. This was shown by a series of letters Villapando received informing her of her alleged acts of betrayal and consequently inviting her to appear before the Committee on Employee Discipline to give her explanations thereon.

As for the second requisite, the NLRC found sufficient basis positively establishing its existence. According to the Commission, the Labor Arbiter failed to mention that there were two other competent witnesses, namely, Mr. David Sandoval and Ms. Sharon Gurango, who not only executed their affidavits, but who likewise presented themselves before the investigating panel and attested as to the veracity of their sworn statements.[18] Thus, as between the written statement of Villapando's witnesses and the sworn statements of Cocoplans, the NLRC opined that the latter ought be given greater credence and probative value in view of the jurisprudential teaching that affidavits are generally considered inferior to the testimony given in open court.[19] Considering, therefore, that Villapando was sufficiently proven to have surreptitiously engaged in activity gravely adverse to and patently inimical to the legitimate business interests of herein company, said company's right to dismiss a managerial employee for breach of trust and loss of confidence is upheld.

Yet, in its February 4, 2008 Decision, the CA disagreed with the NLRC and reinstated the Labor Arbiter's Decision, finding that while Villapando was duly afforded the required due process mandated by law, the evidence adduced by herein petitioners was not substantial enough to support their allegation that Villapando deliberately influenced people to transfer to another company.[20] First of all, the appellate court held that the Joint Affidavit executed by Mr. Sandoval and Ms. Perez was put in doubt and cannot be relied on in view of the fact that Ms. Perez is also a signatory to an earlier letter which directly contradicts her sworn statements in said affidavit.[21] Secondly, the CA noted that as regards the Affidavit of the company's branch cashier, Ms. Sharon Gurango, the same cannot also be considered for it was never presented during the time the Committee on Employee Discipline was still investigating the charges against Villapando as it only surfaced during the proceedings before the Labor Arbiter. Thus, Villapando never had the opportunity to answer the charges therein. Finally, the CA found no probative value in the Affidavit of petitioner Michelena for the same merely contained hearsay information. Considering, therefore, that the evidence against Villapando was not substantial enough to prove the

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18 *Id.* at 157.
19 *Id.* at 159.
20 *Id.* at 49.
21 *Id.* at 50.

alleged disloyal acts, the appellate court held that petitioners failed to discharge the burden of proving its just and valid cause for dismissing Villapando. Thus, her dismissal was unjustified.[22]

In its Resolution dated May 27, 2008, the CA further denied petitioners' Motion for Reconsideration finding no cogent reason to revise or reverse its Decision. Hence, this petition invoking the following grounds:

> I.
> THE HONORABLE SUPREME COURT MAY PASS UPON THE QUESTION OF FACT OF THE CASE CONSIDERING THE CONFLICTING DECISIONS OF THE COURT OF APPEALS AND THE NLRC.
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> II.
> PRIVATE RESPONDENT WAS TERMINATED FOR JUST CAUSE.

Petitioners ask the Court to give due course to its petition and review the factual scenario of the instant case considering the disparity in the findings of the tribunals below. They essentially argue that contrary to the ruling of the CA, the pieces of evidence they presented sufficiently prove that Villapando is guilty of instigating its employees to engage in a mass resignation and to transfer to a competitor company. First, they claim that the Joint Affidavit of Mr. Sandoval and Ms. Perez cannot be said to be doubtful by the mere fact that Ms. Perez is a signatory to an earlier letter which contradicts her sworn statement. This is because, on the one hand, said earlier written statement was not notarized nor affirmed by Ms. Perez during the administrative investigation.[23] On the other hand, the Joint Affidavit was notarized and affirmed by its affiants before the investigating panel. Thus, as between the two pieces of evidence, the Joint Affidavit should be given probative weight and credence. Petitioners add that even assuming that the contradiction of statements put in doubt the Joint Affidavit, this should not be the case as to Mr. Sandoval who did not make any prior inconsistent statement. Hence, as to him, at least, his statements therein should be given credence.

Second, petitioners assert that the non-presentation of Ms. Gurango's Affidavit to the investigation panel is immaterial for it still serves as substantial evidence for petitioners to believe that Villapando was indeed guilty of breaching their trust.[24] Third, petitioners reiterate the probative value of the petitioner Michelena's Affidavit wherein he alleged that when he asked Villapando if she told her people to leave Cocoplans for another

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22 *Id.* at 52.
23 *Id.* at 16.
24 *Id.* at 19.

company, she answered in the affirmative.[25] In view of the foregoing, petitioners insist that Villapando's dismissal was valid and just.

The Court, however, is not convinced.

At the outset, the Court notes that as a rule, the findings of fact of the CA are final and conclusive, and this Court will not review them on appeal. This is because under the Rules of Court and settled jurisprudence, a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited to questions of law.[26] When, however, the following instances occur, these factual issues may be resolved by the Court:

> x x x (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) **the findings of fact are conflicting**; (6) the CA goes beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellee; (7) **the findings of fact of the CA are contrary to those of the trial court**; (8) said findings of facts are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) the findings of fact of the CA are premised on the supposed absence of evidence and contradicted by the evidence on record.[27]

In light of the fact that the findings of the CA and the Labor Arbiter are contrary to those of the NLRC, the Court deems it necessary to make its own evaluation of the findings of fact of the instant case.

Settled is the rule that to constitute a valid dismissal from employment, two (2) requisites must concur, *viz.*: (a) the employee must be afforded due process, *i.e.*, he must be given an opportunity to be heard and defend himself; and (b) the dismissal must be for a valid cause, as provided in Article 282 of the Labor Code, or for any of the authorized causes under Articles 283 and 284 of the same Code.[28] In the case before the Court, it is already undisputed that petitioners duly afforded Villapando the opportunity to be heard and defend herself, thereby complying with the first requisite. The issue that remains, therefore, is whether Villapando was dismissed for valid and just cause.

Article 282(c) of the Labor Code provides that an employer may terminate an employment for fraud or willful breach by the employee of the

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25 *Id.* at 15.

26 *Manarpiis v. Texan Philippines, Inc. et. al.*, G.R. No. 197011, January 28, 2015.

27 *Id.*

28 *Lima Land, Inc. et al. v. Cuevas*, 635 Phil. 36, 44-45 (2010).

trust reposed in him by his employer or duly authorized representative. As firmly entrenched in our jurisprudence, loss of trust and confidence, as a just cause for termination of employment, is premised on the fact that an employee concerned holds a position where greater trust is placed by management and from whom greater fidelity to duty is correspondingly expected. The betrayal of this trust is the essence of the offense for which an employee is penalized.[29]

To be a valid ground for dismissal, loss of trust and confidence must be based on a willful breach of trust and founded on clearly established facts. A breach is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion; otherwise, the employee would eternally remain at the mercy of the employer. Loss of confidence must not also be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary. And, in order to constitute a just cause for dismissal, the act complained of must be work-related and show that the employee concerned is unfit to continue working for the employer.[30]

It must also be noted that in termination cases, the burden of proving just and valid cause for dismissing an employee from his employment rests upon the employer. Failure by the employer to discharge this burden shall result in the finding that the dismissal is unjustified.[31] In fact, a dismissed employee is not even required to prove his innocence of the charges levelled against him by his employer. This is because the determination of the existence of a just cause must be exercised with fairness and in good faith and after observing due process for loss of trust and confidence, as a ground of dismissal, has never been intended to afford an occasion for abuse due to its subjective nature. It should not be used as a subterfuge for causes which are illegal, improper, and unjustified. It must be genuine and not a mere afterthought intended to justify an earlier action taken in bad faith. Let it not be forgotten that what is at stake is the means of livelihood, the name, and the reputation of the employee. To countenance an arbitrary exercise of that prerogative is to negate the employee's constitutional right to security of tenure.[32]

In the instant case, the Court does not find the evidence presented by petitioners to be substantial enough to discharge the burden of proving that Villapando was, indeed, dismissed for just cause. As borne by the records,

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29 *Wesleyan University-Philippines v. Reyes,* G.R. No. 208321, July 30, 2014, 731 SCRA 516, 533.

30 *e Pacific Global Contact Center, Inc. v. Cabansay,* 563 Phil. 804, 821 (2007).

31 *Loon, et al. v. Power Master, Inc., and/or Sison*, G.R. No. 189404, December 11, 2013, 712 SCRA 440, 442.

32 *Lima Land, Inc. et al. v. Cuevas*, *supra* note 28, at 49.

petitioners submitted the following pieces of evidence in support of their claims: (1) Affidavit of Ms. Gurango dated September 19, 2002; (2) Affidavit of petitioner Michelena dated October 21, 2002; and (3) Joint Affidavit of Mr. Sandoval and Ms. Perez dated October 9, 2002. Yet, as clearly discussed by the CA, the documents fail to convince.

First of all, there exist certain discrepancies surrounding the presentation of Ms. Gurango's affidavit that warrant the Court's attention. In the words of the appellate court:

> Regarding the Affidavit of Sharon H. Gurango, dated September 19, 2002, the Court notes that **this affidavit was never presented during the time that the Committee on Employee Discipline was still investigating the charges against the petitioner as the said affidavit surfaced only during the proceedings before the labor arbiter.** The Court further notes that the **said affidavit's date (September 9, 2002) is even way before the convening of the Committee on Employee Discipline (October 10, 2002), thus, the Court is curious as to why the said affidavit was never presented during the committee's investigatory hearings.** In fact, based on the final report of the said committee entitled "Final Recommendation on the Case of Ma. Socorro R. Villapando, Senior Sales Manager – South Tagalog Operations," dated November 4, 2002, **the affidavit of Ms. Gurango was never considered by the committee since all that was brought before it was only the joint affidavit of Milagros Perez and David Sandoval and the affidavit of private respondent Michelena**. Having not been brought before the committee, therefore, the **petitioner never had the opportunity to answer the charges against her in the Gurango affidavit.** As such, the said affidavit should not be considered.
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> At any rate, **even if the Gurango affidavit would be considered, the said affidavit does not, in any way, prove that the petitioner influenced people to join another company. All that the affidavit proves is that it was the First Vice-President Dario B. Martinez who tried to influence Sharon H. Gurango to move to another company and not the petitioner [Socorro] R. Villapando.** While the said affidavit appears to show that the petitioner knew of Mr. Martinez's plans of moving to another company, mere knowing and deliberately influencing people to leave the company are two very different things.[33]

Thus, in view of the irregularities identified by the CA, the Court cannot take Ms. Gurango's affidavit into account. In dismissing an employee for just cause, it must be shown that the employer fairly made a determination of just cause in good faith, taking into consideration all of the evidence available to him. But as the appellate court noted, the affidavit of Ms. Gurango was never presented before the investigation panel, merely surfacing only during the proceedings before the Labor Arbiter, in spite of the fact that the same was supposedly executed as early as September 9,

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[33] *Rollo*, pp. 50-51. (Emphasis ours)

2002, an entire month before the time the Committee on Employee Discipline convened. Thus, not only is there no showing that said affidavit was considered by petitioners in arriving at their decision to dismiss Villapando, Villapando never had the opportunity to address the accusations stated therein. As such, the Court cannot consider the same.

Neither can the Court give due regard to the affidavit of petitioner Michelena for as the CA mentioned, he did not witness first-hand Villapando's alleged disloyal acts of influencing people to transfer to a competing company.[34] Moreover, Michelena's allegation that Villapando answered in the affirmative when he asked her if she told her subordinates to leave Cocoplans for another company can hardly suffice as convincing proof in light of the obvious hostility between him and Villapando as well as Villapando's categorical and repeated denials of the imputations against her.

Thus, bearing in mind the fact that the Court cannot take into consideration the foregoing documentary proof submitted by petitioners for the aforestated reasons, it appears that the only remaining piece of evidence that petitioners could have used in arriving at their decision to dismiss Villapando is the Joint Affidavit executed by Ms. Perez and Mr. Sandoval. Yet, as pointed out by the appellate court, the probative value of the same is rather doubtful.

It is not disputed that apart from the Joint Affidavit, records reveal another document likewise executed by Ms. Perez containing statements directly contradictory to those found in the Joint Affidavit. To this Court, the same, indeed, casts doubt on the reliability of the Joint Affidavit. The fact that the earlier written statement was not notarized nor affirmed by Ms. Perez does not automatically make it fabricated, especially since no proof was offered to sufficiently dispute its authenticity. In the face of two conflicting pieces of evidence, the Court is curious as to why petitioners did not exert any effort in verifying with Ms. Perez the reliability of said documents. Moreover, even granting the Joint Affidavit to be valid as to Mr. Sandoval, such affidavit cannot adequately amount to instigating a "mass resignation" with the end goal of completely abandoning petitioner Cocoplans.[35] If there were really multiple invitations to join "nationwide mass resignations," petitioners could have easily found many other witnesses, apart from Mr. Sandoval, to categorically attest thereto. Also, if Villapando truly desired to boycott Cocoplans and convince Mr. Sandoval in transferring to another company, why is it that she promoted him to Senior Area Manager in May 2002,[36] an act that might even encourage him to stay?

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34 *Id.* at 52.
35 *Id.* at 7.
36 *Id.* at 115.

To repeat, in justifying dismissals due to loss of trust and confidence, there must be an actual breach of duty committed by the employee, established by substantial evidence.[37] The Court is of the view, however, that a single Joint Affidavit of doubtful probative value can hardly be considered as substantial. Had petitioners provided the Court with other convincing proof, apart from said Joint Affidavit, that Villapando had, indeed, wilfully influenced her subordinates to transfer to a competing company, their claims of loss of confidence could have been sustained. As the Court now sees it, petitioners terminated the services of Villapando on the mere basis of the Joint Affidavit executed by Ms. Perez and Mr. Sandoval, which, as previously discussed, is put in doubt by conflicting evidence. Hence, in the absence of sufficient proof, the Court finds that petitioners failed to discharge the onus of proving the validity of Villapando's dismissal.

Indeed, while an employer may terminate managerial employees for just cause to protect its own interest, such prerogative must be exercised with compassion and understanding bearing in mind that, in the execution of said prerogative, what is at stake is not only the employee's position, but his very livelihood, his very breadbasket.[38] As such, when there is doubt between the evidence submitted by the employer and that submitted by the employee, the scales of justice must be tilted in favor of the employee. This is consistent with the rule that an employer's cause could only succeed on the strength of its own evidence and not on the weakness of the employee's.[39] Thus, when the breach of trust or loss of confidence alleged is not borne by clearly established facts, an employee's dismissal on said ground cannot be sustained.

In view of the foregoing, the Court finds proper the CA's award of backwages in favor of Villapando computed from the date of her dismissal on November 4, 2002 up to the finality of this decision, the deletion of attorney's fees, as well as the award of separation pay in lieu of reinstatement computed from the time of her engagement up to the finality of this decision. Due to petitioners' contention in their Memorandum of Appeal[40] dated February 19, 2004, however, that the Labor Arbiter erred in his determination of the exact date of the start of Villapando's employment with the company, the Court deems it necessary to remand the case to the Labor Arbiter for purposes of computing the proper amount of separation pay due to Villapando, with due regard to the evidence presented by the parties as to the beginning date of Villapando's engagement.

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37 *Lima Land, Inc. et al. v. Cuevas, supra* note 28, at 50.

38 *Id.* at 53

39 *Misamis Oriental II Electric Service Cooperative (MORESCO II) v. Cagalawan*, 694 Phil. 268, 283 (2012).

40 *Rollo*, p. 133.

WHEREFORE, premises considered, the instant petition is **DENIED.** The assailed Decision dated February 4, 2008 and Resolution dated May 27, 2008 of the Court of Appeals in CA-G.R. SP No. 88759 are **AFFIRMED** with **MODIFICATION**. Petitioners Cocoplans, Inc. and Caesar T. Michelena are hereby **ORDERED** to **PAY** respondent Ma. Socorro R. Villapando the following: (1) backwages computed from the date of her dismissal on November 4, 2002 up to the finality of this Decision; (2) separation pay in lieu of reinstatement computed from the time of her engagement up to the finality of this Decision; and (3) legal interest at six percent (6%) *per annum* of the total monetary awards, computed from the finality of this Decision until full satisfaction thereof.

For this purpose, the records of this case are hereby **REMANDED** to the Labor Arbiter for the proper computation of the aforestated awards, with due regard to the evidence presented by the parties as to the beginning date of Villapando's engagement.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

On leave
FRANCIS H. JARDELEZA
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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

CERTIFIED TRUE COPY
EDO V. LAPITAN
Division Clerk of Court
Third Division

JUN 27 2016