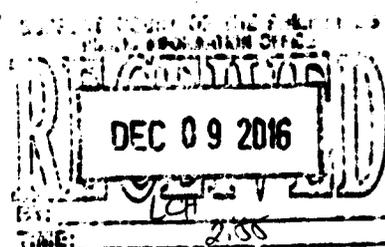




Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION



**JINKY S. STA. ISABEL,**  
 Petitioner,

**G.R. No. 219430**

Present:

- versus -

SERENO, *C.J.*, Chairperson,  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 PERLAS-BERNABE, and  
 CAGUIOA, *JJ.*

**PERLA COMPAÑIA\* DE**  
**SEGUROS, INC.,**  
 Respondent.

Promulgated:

**NOV 07 2016**

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**DECISION**

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>1</sup> are the Decision<sup>2</sup> dated March 25, 2015 and the Resolution<sup>3</sup> dated June 15, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 134676, which nullified and set aside the Decision<sup>4</sup> dated December 26, 2013 and the Resolution<sup>5</sup> dated February 27, 2014 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 06-001823-13 and, accordingly, reinstated the Decision<sup>6</sup> dated April 10, 2013 of the Labor Arbiter (LA) in NLRC NCR Case No. 12-17463-12 finding petitioner Jinky S. Sta. Isabel (Sta. Isabel) to have been

\* "Compañia" or "Compania" in some parts of the records.

<sup>1</sup> *Rollo*, pp. 11-56.

<sup>2</sup> *Id.* at 61-78. Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Stephen C. Cruz and Ramon Paul L. Hernando concurring.

<sup>3</sup> *Id.* at 80.

<sup>4</sup> *CA rollo*, pp. 76-101. Penned by Commissioner Isabel G. Panganiban-Ortiguerra with Presiding Commissioner Joseph Gerard E. Mabilog and Commissioner Nieves E. Vivar-De Castro concurring.

<sup>5</sup> *Id.* at 103-105.

<sup>6</sup> *Id.* at 510-523. Penned by LA Marcial Galahad T. Makasiar.

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validly dismissed from employment by respondent Perla Compañia de Seguros, Inc. (Perla).

### The Facts

On February 27, 2006, Perla, a corporation engaged in the insurance business, hired Sta. Isabel as a Claims Adjuster with the task of handling and settling claims of Perla's Quezon City Branch (QC Branch). Later on, Perla discovered that Sta. Isabel owned a separate insurance agency known as JRS Insurance Agency (JRS). To avoid conflict of interests, Perla instructed its QC Branch manager to: (a) allow the licensing of JRS as a licensed agent of the QC Branch at the soonest time possible; and (b) forward all claims coded under JRS to Perla's Claims Department at the Head Office for processing, evaluation, and approval.<sup>7</sup>

Pending the resolution of the JRS issue, Sta. Isabel received a Notice to Explain<sup>8</sup> dated October 19, 2012 why no disciplinary action should be taken against her for her poor services towards the clients of PAIS Insurance Agency (PAIS), to which she submitted her written explanation.<sup>9</sup> On October 29, 2012, Sta. Isabel attended a meeting with Perla's officers concerning the JRS and PAIS incidents. On even date, Perla issued a Report on Status of the Hearing for Jinky Sta. Isabel<sup>10</sup> wherein it resolved the foregoing incidents by agreeing that: (a) claims under JRS shall be approved by the Head Office; and (b) claims under PAIS will be transferred to the Head Office for processing.<sup>11</sup>

On November 9, 2012, Sta. Isabel received another Notice to Explain<sup>12</sup> why no disciplinary action should be taken against her for her poor services towards the clients of Ricsons Consultants and Insurance Brokers, Inc. (Ricsons). In view of Sta. Isabel's failure to submit a written explanation and to appear before the Head Office to explain herself, Perla issued a Final Written Warning<sup>13</sup> dated November 22, 2012 to be more circumspect with her claims servicing, with a stern admonition that "any repetition of the same offense or any acts analogous to the foregoing shall be dealt with more severely and shall warrant drastic disciplinary action including the penalty of Termination in order to protect the interest of the company."<sup>14</sup> On even date, Perla likewise issued a Final Directive to Report to Head Office<sup>15</sup> instructing Sta. Isabel to report to the Head Office and explain her alleged refusal to receive the afore-cited Final Written Warning.

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<sup>7</sup> Id. at 77-78.

<sup>8</sup> Id. at 157.

<sup>9</sup> Id. at 167-167.

<sup>10</sup> Id. at 171.

<sup>11</sup> See id. at 78 and 173-174.

<sup>12</sup> Id. at 182-183.

<sup>13</sup> Id. at 185.

<sup>14</sup> Id.

<sup>15</sup> Id. at 186.

On November 26, 2012, Perla issued the following to Sta. Isabel: (a) a Notice to Explain<sup>16</sup> why no disciplinary action should be taken against her for failing to report to the Head Office despite due notice; and (b) a Notice of Termination<sup>17</sup> dismissing Sta. Isabel from employment on the ground of insubordination. Consequently, Sta. Isabel filed the instant complaint<sup>18</sup> for: (a) illegal dismissal; (b) underpayment of wages; (c) non-payment of overtime pay, service incentive leave pay, accrued leave pay, and 13<sup>th</sup> to 16<sup>th</sup> month pay; (d) retirement pay benefits under the corporation's Provident Fund; (e) actual, moral, and exemplary damages; and (f) attorney's fees against Perla before the NLRC.<sup>19</sup> In relation to her claim for illegal dismissal, Sta. Isabel prayed for the grant of separation pay and backwages, maintaining that there is already strained relations between her and Perla which would render reinstatement impossible.<sup>20</sup>

In support of her complaint, Sta. Isabel claimed that Perla could no longer use the PAIS and Ricsons incidents against her, considering that she was already penalized with multiple warnings to be more circumspect with her claims servicing. She likewise alleged that after receipt of the Final Directive to Report to Head Office dated November 22, 2012, she met with Renato Carino (Carino), Perla's Vice-President for Operations,<sup>21</sup> albeit not at the Head Office, but at a nearby restaurant where Carino himself instructed her to proceed. At the restaurant, Carino asked Sta. Isabel if she would voluntarily resign over the Ricsons incident, to which the latter replied that the incident had already been dealt with. Finally, Sta. Isabel concluded that Perla was bent on easing her out of work, pointing out that the Notice to Explain and Notice of Termination regarding her alleged insubordination was dated on the same day.<sup>22</sup>

In its defense, Perla maintained that it validly terminated Sta. Isabel's employment on the ground of insubordination. It averred that since Sta. Isabel did not submit any written explanation regarding the Notice to Explain dated November 9, 2012 (pertaining to the Ricsons incident), it was constrained to issue the Final Written Warning dated November 22, 2012, which Sta. Isabel refused to accept. Carino then called her *via* telephone to get an explanation and, thereafter, sent a Final Directive to Report to Head Office. Instead of reporting at the Head Office, Sta. Isabel requested for an informal meeting with Carino at a restaurant as she did not want to see the faces of the other officers. Thereat, Carino asked Sta. Isabel if she was willing to voluntarily retire, and at the same time, reminded her to report to the Head Office. In view of Sta. Isabel's recalcitrance in complying with the aforesaid directives, Perla issued a Notice to Explain dated November 26, 2012 charging Sta. Isabel of insubordination. On November 27, 2012, Perla

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<sup>16</sup> Id. at 188.

<sup>17</sup> Id. at 192.

<sup>18</sup> Not attached to the *rollo*.

<sup>19</sup> CA *rollo*, pp. 81-82.

<sup>20</sup> Id. at 84.

<sup>21</sup> See id. at 77.

<sup>22</sup> See id. at 82-84.

received a letter<sup>23</sup> from Sta. Isabel saying that she will only report to the Head Office if Perla's President, Operations Head, Assistant Vice President, Human Resources Manager, and QC Branch Manager will all be present for a meeting/conference to clear all issues surrounding her. Thus, on November 28, 2012, Perla terminated Sta. Isabel's employment on the ground of insubordination. In this regard, Perla explained that due to a typographical error, it "wrongly" indicated November 26, 2012 as the date of issuance of Sta. Isabel's Notice of Termination instead of November 28, 2012.<sup>24</sup>

### **The LA Ruling**

In a Decision<sup>25</sup> dated April 10, 2013, the Labor Arbiter (LA) dismissed the complaint for lack of merit, but nevertheless, ordered Perla to pay Sta. Isabel the amounts of ₱8,778.00 and ₱7,442.30 representing her unpaid salary and service incentive leave pay, respectively.<sup>26</sup>

The LA found that since Perla's directives for Sta. Isabel to appear before the Head Office were in connection with the administrative proceedings against the latter, her refusal to comply therewith was not tantamount to willful disobedience or insubordination. At the most, it only amounted to a waiver of her opportunity to be heard in said proceedings. Nevertheless, the LA found just cause in terminating Sta Isabel's employment, opining that her disrespectful language in her letter dated November 27, 2012 not only constitutes serious misconduct, but also insubordination as it showed her manifest refusal to cooperate with Perla.<sup>27</sup>

Aggrieved, Sta. Isabel appealed<sup>28</sup> to the NLRC.

### **The NLRC Ruling**

In a Decision<sup>29</sup> dated December 26, 2013, the NLRC granted Sta. Isabel's appeal and, accordingly, ordered Perla to pay her separation pay, backwages, benefits under the Provident Fund, 14<sup>th</sup> month pay, and attorney's fees equivalent to 10% of all the monetary awards.<sup>30</sup>

The NLRC held that Sta. Isabel's refusal to report to the Head Office was not willful disobedience, considering that the directives were in connection with the administrative proceedings against her and, as such, her failure to appear was only tantamount to a waiver of her opportunity to be

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<sup>23</sup> Id. at 190.

<sup>24</sup> See id. at 85-89.

<sup>25</sup> Id. at 510-523.

<sup>26</sup> Id. at 520-521.

<sup>27</sup> See id. at 514-517.

<sup>28</sup> See Memorandum of Appeal dated May 14, 2013; id. at 524-571.

<sup>29</sup> Id. at 76-101.

<sup>30</sup> Id. at 100.

heard. Hence, she cannot be dismissed on such cause, which incidentally, was the sole ground for her termination as stated in the Notice of Termination. In this relation, the NLRC ruled that the LA could not use Sta. Isabel's November 27, 2012 letter as a ground for her termination as Perla itself did not invoke the same in the first place. Even assuming that the letter may be used as evidence against Sta. Isabel, the NLRC held that a careful perusal thereof would show that it was not discourteous, accusatory, or inflammatory. At the most, the language in the letter would show that Sta. Isabel had written it out of confusion and frustration over the matter the administrative proceedings against her were being handled, and not out of defiance and arrogance.<sup>31</sup> In sum, the NLRC concluded that Sta. Isabel's dismissal was without just cause, hence, unlawful.<sup>32</sup>

Upon Perla's motion for reconsideration,<sup>33</sup> the NLRC issued a Resolution<sup>34</sup> dated February 27, 2014 affirming its Decision with modification deleting the award of benefits under the Provident Fund. Dissatisfied, Perla filed a petition for *certiorari*<sup>35</sup> before the CA.

### The CA Ruling

In a Decision<sup>36</sup> dated March 25, 2015, the CA nullified and set aside the NLRC ruling, and reinstated that of the LA.<sup>37</sup> Essentially, it held that the NLRC gravely abused its discretion in failing to appreciate the evidence showing Sta. Isabel's sheer defiant attitude on the orders of Perla and its officers.<sup>38</sup> In this regard, the CA held that Sta. Isabel's conduct towards Perla's officers by deliberately ignoring the latter's directives for her to appear before the Head Office, coupled with her letter dated November 27, 2012, constitutes insubordination or willful disobedience.<sup>39</sup> Thus, the CA concluded that Sta. Isabel's dismissal was valid, it being a valid exercise of management prerogative in dealing with its affairs, including the right to dismiss its erring employees.<sup>40</sup>

Undaunted, Sta. Isabel moved for reconsideration,<sup>41</sup> which was, however, denied in a Resolution<sup>42</sup> dated June 15, 2015; hence, this petition.

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<sup>31</sup> Id. at 95.

<sup>32</sup> See id. at 92-98.

<sup>33</sup> Dated January 21, 2014. Id. at 646-696.

<sup>34</sup> Id. at 103-105.

<sup>35</sup> See Petition for *Certiorari* (with Urgent Prayer for Restraining Order and/or Injunction) dated March 31, 2014; id. at 3-71.

<sup>36</sup> *Rollo*, pp. 61-78.

<sup>37</sup> Id. at 77.

<sup>38</sup> See id.

<sup>39</sup> See id. at 75-76.

<sup>40</sup> Id. at 71-77.

<sup>41</sup> See motion for reconsideration dated April 16, 2015; CA *rollo*, pp. 864-906.

<sup>42</sup> *Rollo*, p. 80.

### The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA correctly ascribed grave abuse of discretion on the part of the NLRC in ruling that Sta. Isabel's dismissal was illegal.

### The Court's Ruling

The petition is meritorious.

To justify the grant of the extraordinary remedy of *certiorari*, the petitioner must satisfactorily show that the court or quasi-judicial authority gravely abused the discretion conferred upon it. Grave abuse of discretion connotes a capricious and whimsical exercise of judgment, done in a despotic manner by reason of passion or personal hostility, the character of which being so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.<sup>43</sup>

In labor disputes, grave abuse of discretion may be ascribed to the NLRC when, *inter alia*, its findings and conclusions are not supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.<sup>44</sup>

Guided by the foregoing considerations, the Court finds that the CA committed reversible error in granting Perla's *certiorari* petition considering that the NLRC's finding that Sta. Isabel was illegally dismissed from employment is supported by substantial evidence.

As may be gleaned from the records, Sta. Isabel received a total of three (3) Notices to Explain dated October 19, 2012,<sup>45</sup> November 9, 2012,<sup>46</sup> and November 26, 2012.<sup>47</sup>

In the Notice to Explain dated October 19, 2012, Sta. Isabel was charged with serious misconduct for her poor services towards the clients of PAIS.<sup>48</sup> After Sta. Isabel submitted her written explanation and attended the corresponding meeting, Perla resolved the matter through a Report on Status of the Hearing for Jinky Sta. Isabel<sup>49</sup> dated October 29, 2012 wherein she

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<sup>43</sup> See *Cebu People's Multi-Purpose Cooperative v. Carbonilla, Jr.*, G.R. No. 212070, January 27, 2016; citation omitted.

<sup>44</sup> See *id.*; citation omitted.

<sup>45</sup> *CA rollo*, p. 157.

<sup>46</sup> *Id.* at 182-183.

<sup>47</sup> *Id.* at 188.

<sup>48</sup> See *id.* at 157.

<sup>49</sup> *Id.* at 171.

was penalized with a “VERBAL WARNING to improve on the claims servicing of clients in QC Branch.”<sup>50</sup> Thus, the proceedings with regard to the PAIS incident should be deemed terminated.

In the Notice to Explain dated November 9, 2012, Sta. Isabel was charged with serious misconduct and gross neglect of duty for her poor services towards the clients of Ricsons.<sup>51</sup> Notwithstanding Sta. Isabel’s failure to submit her written explanation despite due notice, Perla went ahead and resolved the matter anyway in the Final Written Warning<sup>52</sup> dated November 22, 2012 wherein it penalized her with a “FINAL WARNING to be more circumspect in [her] claims servicing with agents, brokers, and assureds” with an admonition that “any repetition of the same offense or any acts analogous to the foregoing shall be dealt with more severely and shall warrant drastic disciplinary action including the penalty of Termination in order to protect the interest of the company.”<sup>53</sup> Hence, Perla’s issuance of the Final Written Warning should have likewise terminated the administrative proceedings relative to the Ricsons incident.

Finally, in the Notice to Explain dated November 26, 2012, Perla charged her of willful disobedience for her failure to appear before the Head Office despite due notice.<sup>54</sup> In the Notice of Termination<sup>55</sup> of even date – although Perla insists that the date indicated therein was a mere typographical error and that it was actually made on November 28, 2012<sup>56</sup> – Sta. Isabel was terminated from work on the ground of insubordination.<sup>57</sup>

Since Sta. Isabel was actually dismissed on the ground of insubordination, there is a need to determine whether or not there is sufficient basis to hold her guilty on such ground.

Insubordination or willful disobedience, is a just cause for termination of employment listed under Article 297 (formerly Article 282) of the Labor Code,<sup>58</sup> to wit:

Article 297 [282]. *Termination by Employer.* – An employer may terminate an employment for any of the following causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

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<sup>50</sup> Id.

<sup>51</sup> See id. at 182-183.

<sup>52</sup> Id. at 185.

<sup>53</sup> Id.

<sup>54</sup> See id. at 188.

<sup>55</sup> Id. at 192.

<sup>56</sup> Id. at 89.

<sup>57</sup> See id.

<sup>58</sup> See Department of Labor and Employment’s Department Advisory No. 01, series of 2015, entitled “RENUMBERING OF THE LABOR CODE OF THE PHILIPPINES, AS AMENDED” dated July 21, 2015.

Willful disobedience or insubordination, as a just cause for the dismissal of an employee, necessitates the concurrence of at least two (2) requisites, namely: (a) the employee's assailed conduct must have been willful, that is, characterized by a wrongful and perverse attitude; and (b) the order violated must have been reasonable, lawful, made known to the employee, and must pertain to the duties which he had been engaged to discharge.<sup>59</sup>

In this case, a plain reading of the Notice to Explain and Notice of Termination both dated November 26, 2012 reveals that the charge of insubordination against Sta. Isabel was grounded on her refusal to report to the Head Office despite due notice. While Perla's directives for Sta. Isabel to report to the Head Office indeed appear to be reasonable, lawful, and made known to the latter, it cannot be said that such directives pertain to her duties as a Claims Adjuster, *i.e.*, handling and settling claims of Perla's Quezon City Branch, regardless of whether her refusal to heed them was actually willful or not. The aforesaid directives, whether contained in the Notice to Explain dated November 9, 2012 or the Final Directive to Report to Head Office dated November 22, 2012, all pertain to Perla's investigation regarding the Ricsons incident and, thus, were issued in compliance with the requisites of procedural due process in administrative cases. Otherwise stated, such directives to appear before the Head Office were for the purpose of affording Sta. Isabel an opportunity to be heard regarding the Notice to Explain dated November 9, 2012.<sup>60</sup> As correctly pointed out by the labor tribunals, Sta. Isabel's failure or refusal to comply with the foregoing directives should only be deemed as a waiver of her right to procedural due process in connection with the Ricsons incident, and is not tantamount to willful disobedience or insubordination.

Besides, contrary to Perla's claim that it could not wrap up its investigation on the Ricsons incident due to Sta. Isabel's continuous disregard of said directives,<sup>61</sup> the Final Written Warning dated November 22, 2012 indubitably shows that Perla had already taken care of the Ricsons complaint despite Perla's non-cooperation. To recapitulate, the Final Written Warning stated that Perla: (a) took into consideration Sta. Isabel's refusal to appear before the Head Office or to submit her written explanation; (b) deemed such refusal as a waiver of her opportunity to be heard; and (c) resultantly resolved the matter by penalizing Sta. Isabel with, among others, a "FINAL WARNING to be more circumspect in [her] claims servicing with

<sup>59</sup> *Maersk-Filipinas Crewing, Inc. v. Avestruz*, G.R. No. 207010, February 18, 2015, 751 SCRA 161, 173-174.

<sup>60</sup> "The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard. In administrative proceedings, such as in the case at bar, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. 'To be heard' does not mean only verbal arguments in court; one may be heard also thru pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process." (*Vivo v. Phil. Amusement and Gaming Corporation*, 721 Phil. 34, 43 [2013], citing *Casimiro v. Tandog*, 498 Phil. 660, 666-667 [2005].)

<sup>61</sup> See CA rollo, pp. 86-87.

agents, brokers[,] and assureds.”<sup>62</sup> Clearly, Perla cannot base the charge of insubordination against Sta. Isabel in her refusal to report to the Head Office in connection with the Ricsons complaint.

As an additional basis for Sta. Isabel’s alleged insubordination, Perla argues that Sta. Isabel’s letter<sup>63</sup> dated November 27, 2012 signifies her outright defiance of management authority, considering that as an employee, she had no right to impose conditions on management on when and what circumstances she would explain her side.<sup>64</sup>

The Court finds the argument untenable and simply an afterthought to put some semblance of legality to Sta. Isabel’s dismissal.

A careful examination of the records reveals that Perla already issued Sta. Isabel’s Notice of Termination on November 26, 2012 – the same day the Notice to Explain charging her of insubordination was issued – even before Sta. Isabel wrote them the letter dated November 27, 2012. Evidently, Perla never took this letter into consideration in dismissing Sta. Isabel. In an attempt to cover up this mishap, Perla claimed that the date indicated on the Notice of Termination was only a typographical error, as it was actually issued on November 28, 2012, even presenting the private courier receipt<sup>65</sup> showing that it was only sent to Sta. Isabel on the latter date. While such private courier receipt indeed shows the date when the Notice of Termination was sent, it does not prove that it was made on the same day. More revealing is the fact that this November 27, 2012 letter allegedly showing insubordination on the part of Sta. Isabel was not even mentioned in her Notice of Termination. Verily, Perla’s excuse of typographical error in the date indicated on the Notice of Termination is simply unacceptable for being a mere self-serving assertion that deserves no weight in law.<sup>66</sup> Besides, as aptly put by the NLRC, a careful perusal of such letter reveals that the wordings used therein were not discourteous, accusatory, or inflammatory, nor was the letter written out of defiance and arrogance. Rather, it only exhibits Sta. Isabel’s confusion and frustration over the way the administrative proceedings against her were being handled.

In sum, the totality of the foregoing circumstances shows that Sta. Isabel was not guilty of acts constituting insubordination, which would have given Perla a just cause to terminate her employment. As such, the CA erred in holding that the NLRC gravely abuse its discretion in ruling that Sta. Isabel’s dismissal was illegal; hence, the NLRC ruling must be reinstated. However, since the NLRC erred in reckoning the computation of Sta. Isabel’s separation pay from February 27, 2007 instead of the actual date of

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<sup>62</sup> See *id.* at 185.

<sup>63</sup> *Id.* at 190.

<sup>64</sup> See *id.* at 87.

<sup>65</sup> See *id.* at 193.

<sup>66</sup> See *People v. Mangune*, 698 Phil. 759, 771 (2012), citing *People v. Espinosa*, 476 Phil. 42, 62 (2004).

the commencement of her employment with Perla, a modification of the NLRC ruling to reflect this correction is in order.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated March 25, 2015 and the Resolution dated June 15, 2015 of the Court of Appeals in CA-G.R. SP No. 134676 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Decision dated December 26, 2013 and the Resolution dated February 27, 2014 of the National Labor Relations Commission in NLRC LAC No. 06-001823-13 are **REINSTATED** with **MODIFICATION** in that the computation of separation pay due to petitioner Jinky S. Sta. Isabel should be counted from February 26, 2006, the actual date of the commencement of her employment with respondent Perla Compañia de Seguros, Inc., instead of February 27, 2007.

**SO ORDERED.**

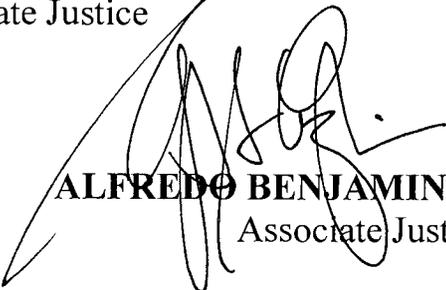
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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