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*Wilfredo V. Lapihan*  
WILFREDO V. LAPIHAN  
Division Clerk of Court  
Third Division



JUL 26 2017

Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

RAMON MANUEL T. JAVINES,  
Petitioner,

G.R. No. 214301

Present:

VELASCO, JR., J.,  
*Chairperson,*

BERSAMIN,  
REYES,  
JARDELEZA, and  
TIJAM, JJ.

- versus -

XLIBRIS a.k.a. AUTHOR  
SOLUTIONS, INC., JOSEPH  
STEINBACH, and STELLA MARS  
OUANO,  
Respondents.

Promulgated:

June 7, 2017

*Wilfredo V. Lapihan*

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DECISION

**TIJAM, J.:**

Challenged in this Petition for Review<sup>1</sup> under Rule 45 are the Decision<sup>2</sup> dated June 26, 2014 and Resolution<sup>3</sup> dated August 28, 2014 of the Court of Appeals<sup>4</sup> (CA) in CA G.R. SP No. 08126, which affirmed the decision of the National Labor Relations Commission (NLRC) of Cebu City holding that petitioner Ramon T. Javines (Javines) had been dismissed with just cause but lacked compliance with procedural due process. For lack of procedural due process, the CA modified the NLRC's award of nominal damages from PhP10,000 to PhP1,000.

<sup>1</sup> *Rollo*, pp. 3-18, with Annexes.

<sup>2</sup> *Id.* at 19-29.

<sup>3</sup> *Id.* at 30-32.

<sup>4</sup> Penned by Associate Justice Pamela Ann Abella Maxino and concurred in by Associate Justices Gabriel T. Ingles and Renato C. Francisco.

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The facts of the instant case are simple and undisputed:

Javines was hired by respondent Xlibris as Operations Manager on September 1, 2011. Approximately 10 months after, or on July 27, 2012, Javines was terminated for falsifying/tampering three meal receipts.

The falsification was discovered on July 5, 2012 when Javines submitted the meal receipts for reimbursement to the finance department. Prompted by said discovery, the company's Finance Officer prepared an incident report on the same day.

Consequently, a Notice to Explain was issued on July 6, 2012 to Javines for alleged violation of Sections 9.5 and 9.6 of the Employee's Code of Conduct and charging him with acts constituting dishonesty.<sup>5</sup> Xlibris obtained certified copies of the meal receipts from the fast food chains concerned and Javines was notified that the following receipts were tampered:

- a. Franckfort, Inc. (KFC) O.R. No. 3452 dated 3/31/12 from PhP 540.00 to PhP 5,450.00;
- b. McDonald's O.R. No. 027900 from PhP 107.00 to PhP 2,207.00; and
- c. McDonald's O.R. No. 027822 dated 4/3/12 from PhP 164.00 to PhP 3,164.00.

On July 10, 2012, Javines submitted his written explanation, denying having tampered the receipts. He explained that as Operations Manager, he is responsible for securing reimbursement for expenses incurred by the supervisors under him. He further explained that it is the supervisors who submit the receipts to him and for which, he prepares a reimbursement request. Once the reimbursement is made, Javines distributes the cash to the supervisor concerned. Javines argued that while he prepares the request for reimbursement, he has no knowledge or part in the tampered receipts.<sup>6</sup>

On July 13, 2012, an administrative hearing was held. Javines failed to explain why and how the incident transpired. Instead, Javines requested for further investigation since, at that time, he allegedly could not recall who submitted the receipts to him.<sup>7</sup>

Consequently, on the same day, notices to explain were sent to the supervisors under Javines. In their written accounts, the supervisors denied participation in the tampered receipts.<sup>8</sup>

<sup>5</sup> Supra note 2, at 20

<sup>6</sup> Id. at 21.

<sup>7</sup> Id.

<sup>8</sup> Id.

On July 27, 2012, Xlibris terminated Javines' employment through an "end of employment notice."<sup>9</sup>

Javines then filed a complaint<sup>10</sup> for illegal dismissal. The complaint was, however, dismissed by the Labor Arbiter who found that Javines' dismissal was for just cause and with due process.

On appeal<sup>11</sup>, the NLRC modified the decision of the Labor Arbiter, finding that, while Javines was dismissed for just cause, he was not afforded procedural due process. In particular, the NLRC noted that after the administrative hearing, notices to explain were immediately sent to the supervisors who denied participation in the falsification of the receipts. The NLRC noticed that no other hearing was called thereafter so as to afford Javines the opportunity to confront the witnesses against him before he was dismissed. As such, the NLRC awarded nominal damages in the amount of PhP10,000 in Javines' favor.<sup>12</sup>

Javines failed to move for reconsideration<sup>13</sup> of the NLRC's decision while Xlibris' motion for partial reconsideration was denied. Thus, only Xlibris elevated the case to the CA on *certiorari* on the sole issue that the NLRC gravely abused its discretion in holding that it failed to comply with the requirements of procedural due process.<sup>14</sup>

By way of comment<sup>15</sup>, Javines reiterated his position that he was not afforded procedural due process because his request for further investigation for purposes of identifying the source of the questioned meal receipts was never granted. Additionally, Javines questioned the cause of his dismissal on the argument that Xlibris failed to prove by substantial evidence the misconduct imputed against him.<sup>16</sup>

### The Ruling of the CA

The CA partially granted the petition.<sup>17</sup> It observed that while Javines was given a chance to explain his side and adduce evidence in his defense through his written explanation and through the administrative hearing, he was nevertheless not given the opportunity to rebut the additional pieces of evidence secured by Xlibris thereafter and considered by Xlibris in arriving at the decision to terminate him.

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<sup>9</sup> Id.

<sup>10</sup> Docketed as NLRC RAB Case No. 08-1185-12.

<sup>11</sup> Docketed as NLRC Case No. VAC-05-000300-13.

<sup>12</sup> Supra note 2, at 22.

<sup>13</sup> See Javines' *Comments and Opposition to the Petition (for Certiorari)*; Rollo, p. 53.

<sup>14</sup> Id. at 71.

<sup>15</sup> Supra note 13, at 56.

<sup>16</sup> Id., at 58.

<sup>17</sup> Supra note 2.

However, the CA reduced the award of nominal damages from PhP10,000 to PhP1,000 considering that the altered meal receipts show a discrepancy of PhP10,010.

The CA thus disposed:

IN LIGHT OF ALL THE FOREGOING, the instant petition for *certiorari* is PARTIALLY GRANTED. The Decision dated July 16, 2013 and Resolution dated September 30, 2013 of the NLRC of Cebu City in NLRC Case No. VAC-05-000300-2013 (RAB Case No. VII-08-1185-2012), are MODIFIED, in that the NLRC's award of nominal damages in favor of Ramon Manuel T. Javines is REDUCED to PhP1,000.00.

SO ORDERED.<sup>18</sup>

Only Javines moved for reconsideration<sup>19</sup> of the CA Decision, arguing that he was not dismissed for just cause. Xlibris opposed<sup>20</sup> Javines' motion for reconsideration on the ground that the issue as to whether or not Javines was dismissed for cause was never raised in its *petition for certiorari* filed before the CA nor discussed in the CA Decision. Xlibris further argued that the Labor Arbiter and the NLRC unanimously found that Javines was dismissed for just cause, which findings Javines failed to challenge by interposing a timely appeal therefrom.

The CA denied<sup>21</sup> Javines' motion for reconsideration, prompting Javines to file the instant Petition.

### **The Issue**

The lone issue to be resolved is whether the CA erred in affirming the NLRC'S finding that Javines was dismissed for just cause.

### **The Ruling of this Court**

The petition lacks merit.

The Labor Arbiter and the NLRC uniformly held that Javines' employment was terminated for just cause under Article 297 (formerly Article 282) of the Labor Code. It is undisputed that from this unanimous finding, Javines failed to move for reconsideration nor challenged said ruling before the CA. Consequently, the NLRC decision finding Javines to have been dismissed for just cause became final. For failure to file the requisite

<sup>18</sup> Supra note 2, at 29.

<sup>19</sup> *Rollo*, pp. 33-40.

<sup>20</sup> See *Opposition/Comment Re: Private Respondent's "Motion for Reconsideration"*; id. at 41-45.

<sup>21</sup> Supra note 3.

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petition before the CA, the NLRC decision had attained finality and had been placed beyond the appellate court's power of review. Although appeal is an essential part of judicial process, the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Settled are the rules that a decision becomes final as against a party who does not appeal the same<sup>22</sup> and an appellee who has not himself appealed cannot obtain from the appellate court any affirmative relief other than those granted in the decision of the court below.<sup>23</sup> Hence, the finding that Javines was dismissed for just cause must be upheld.

Javines' insistence that the *petition for certiorari* filed by Xlibris throws open the entire case for review such that the issue of whether or not he was dismissed for just cause ought to have been addressed by the CA is entirely misplaced.

While it is true that the appellate court is given broad discretionary power to waive the lack of proper assignment of errors and to consider errors not assigned<sup>24</sup>, it has authority to do so in the following instances: (a) when the question affects jurisdiction over the subject matter; (b) matters that are evidently plain or clerical errors within contemplation of law; (c) matters whose consideration is necessary in arriving at a just decision and complete resolution of the case, or in serving the interests of justice or avoiding dispensing piecemeal justice; (d) matters raised in the trial court and are of record having some bearing on the issue submitted that the parties failed to raise or that the lower court ignored; (e) matters closely related to an error assigned; and (f) matters upon which the determination of a question properly assigned is dependent.<sup>25</sup>

None of the aforesaid instances exists in the instant case. Thus, the CA cannot be faulted for no longer discussing the issue of whether indeed there exists just cause for his dismissal.

Instead, in the *petition for certiorari* filed before the CA, Xlibris only questioned the award of nominal damages for failure to comply with procedural due process. Emphatically, neither Xlibris nor Javines further questioned the CA's award on this point. As such, the issue as to whether the requirements of procedural due process to constitute a valid dismissal were complied with has been resolved with finality. In any event, such involves a question of fact which the Court does not allow in a petition filed under Rule

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<sup>22</sup> *WT Construction, Inc. v. Province of Cebu*, G.R. Nos. 208984 & 209245, September 16, 2015; See *Singh v. Liberty Insurance Corp.*, 118 Phil. 532, 535 (1963).

<sup>23</sup> *Manese v. Jollibee Foods Corporation*, G.R. No. 170454, October 11, 2012, 684 SCRA 34, 49; *Hiponia-Mayuga v. Metropolitan Bank and Trust Co.*, G.R. No. 211499, June 22, 2015.

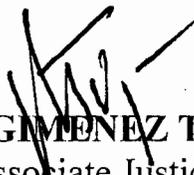
<sup>24</sup> *Martires v. Chua*, G.R. No. 174240, March 20, 2013, 694 SCRA 38, 54, citing *Mendoza v. Bautista*, G.R. No. 143666, March 18, 2005, 453 SCRA 691, 702-703.

<sup>25</sup> *Tolentino-Prieto v. Elvas*, G.R. Nos. 192369 & 193685, November 9, 2016, citing *Macaslang v. Zamora*, G.R. No. 156375, May 30, 2011, 649 SCRA 92, 102-103.

45.<sup>26</sup> It has been consistently held that the jurisdiction of the Court in cases brought before it from the CA *via* Rule 45 is generally limited to reviewing errors of law and does not extend to a re-evaluation of the sufficiency of evidence upon which the courts *a quo* had based its determination.<sup>27</sup> What is more, findings of fact of labor tribunals when affirmed by the CA bind this Court. We find no compelling reason in this case to depart from the foregoing settled rules.

**WHEREFORE**, the petition is **DENIED**. The Decision dated June 26, 2014 and Resolution dated August 28, 2014 of the Court of Appeals finding petitioner Ramon Manuel T. Javines to have been dismissed for just cause and awarding nominal damages in the amount of PhP1,000 in his favor are **AFFIRMED *in toto***.

**SO ORDERED.**

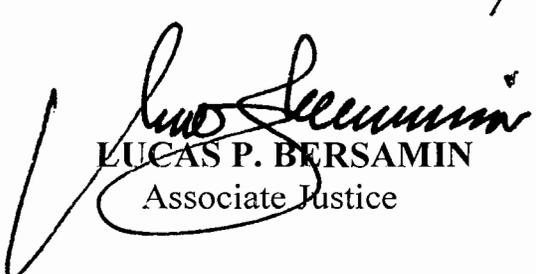


**NOEL GIMENEZ TIJAM**  
Associate Justice

**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**LUCAS P. BERSAMIN**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice

<sup>26</sup> *NDC Tagum Foundation, Inc. v. Sumakote*, G.R. No. 190644, June 13, 2016.

<sup>27</sup> *Felicilda v. Uy*, G.R. No. 221241, September 14, 2016.

**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.



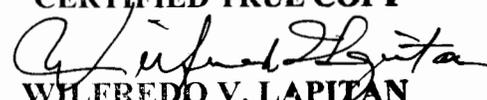
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

**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

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