Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NORTHWEST AIRLINES, INC., Petitioner,	**G.R. No. 157633**
	Present:
-versus-	VELASCO, JR.,* LEONARDO-DE CASTRO,** Acting Chairperson, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
MA. CONCEPCION M. DEL ROSARIO, Respondent.	Promulgated: SEP 10 2014

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D E C I S I O N

BERSAMIN, *J.*:

Under review is the decision promulgated on June 21, 2002,[1] whereby the Court of Appeals (CA) dismissed the petition for *certiorari* filed by Northwest Airlines, Inc. to assail on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction the adverse decision of the National Labor Relations Commission (NLRC).

Antecedents

Petitioner Northwest Airlines, Inc. employed respondent Ma. Concepcion M. Del Rosario on December 10, 1994 as one of its Manila-based flight attendants. On May 18, 1998, Del Rosario was assigned at the Business Class Section of Northwest Flight NW 26 bound for Japan. During the boarding preparations, Kathleen Gamboa, another flight attendant assigned at the First Class Section of Flight NW 26, needed to borrow a

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* In lieu of Chief Justice Maria Lourdes P.A. Sereno, who is on Wellness Leave, per Special Order No. 1772.

** Per Special Order No. 1771 dated August 28, 2014.

[1] *Rollo*, p. 11; penned by Associate Justice Elvi John S. Asuncion and concurred in by Associate Justice Portia Aliño-Hormachuelos and Associate Justice Edgardo F. Sundiam.

wine bottle opener from her fellow attendants because her wine bottle opener was dull. Vivien Francisco, Gamboa's runner, went to the Business Class Section to borrow a wine bottle opener from Del Rosario, but the latter remarked that any flight attendant who could not bring a wine bottle opener had no business working in the First Class Section. Upon hearing this, Aliza Ann Escaño, another flight attendant, offered her wine bottle opener to Francisco. Apparently, Gamboa overheard Del Rosario's remarks, and later on verbally confronted her. Their confrontation escalated into a heated argument. Escaño intervened but the two ignored her, prompting her to rush outside the aircraft to get Maria Rosario D. Morales, the Assistant Base Manager, to pacify them.

The parties differed on what happened thereafter. Del Rosario claimed that only an animated discussion had transpired between her and Gamboa, but Morales insisted that it was more than an animated discussion, recalling that Del Rosario had even challenged Gamboa to a brawl (*sabunutan*). Morales asserted that she had tried to pacify Del Rosario and Gamboa, but the two did not stop; that because the two were still arguing although the Business Class passengers were already boarding, she ordered them out of the plane and transfer to another nearby Northwest aircraft; that she inquired from them about what had happened, and even asked if they were willing to fly on the condition that they would have to stay away from each other during the entire flight; that because Del Rosario was not willing to commit herself to do so, she decided not to allow both of them on Flight NW 26, and furnished them a Notice of Removal from Service (effectively informing Del Rosario of her dismissal from the service pending an investigation of the fighting incident between her and Gamboa).

On May 19, 1998, Morales sent a letter to Del Rosario telling her that Northwest would conduct an investigation of the incident involving her and Gamboa. The investigation was held on May 28, 1998 before Atty. Ceazar Veneracion III, Northwest's Legal Counsel and Head of its Human Resources Department. All the parties attended the investigation

On June 19, 1998, Del Rosario was informed of her termination from the service. Northwest stated that based on the results of the investigation, Del Rosario and Gamboa had engaged in a fight on board the aircraft, even if there had been no actual physical contact between them; and that because fighting was strictly prohibited by Northwest to the point that fighting could entail dismissal from the service even if committed for the first time, Northwest considered her dismissal from the service justified and in accordance with the Rules of Conduct for Employees, as follows:

> **Section 1, General**
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> x x x. Rule infractions will be dealt with according to the seriousness of the offense and violators will be subjected to appropriate disciplinary action up to and including discharge. *Some acts of misconduct, even if committed for the first time, are so serious that, standing alone, they justify immediate discharge*. Some examples of these offenses are violations of rules regarding theft, alcohol and drugs, insubordination, dishonesty, *fighting*, falsification of records, sleeping on the job, failure to cooperate or lying in a Company investigation, intentional destruction or abuse of property, threatening, intimidating or interfering with other employees, abuse of nonrevenue and reduced rate travel privileges and unauthorized use of Company communications systems.
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> x x x x
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> **Section 24 (c), Disturbing Others, which states that:**
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> Harassing, threatening, intimidating, assaulting, *fighting or provoking a fight or similar interference with other employees at any time, on or off duty is prohibited*." (Italics supplied)

Del Rosario subsequently filed her complaint for illegal dismissal against Northwest.[2]

Decision of the Labor Arbiter

In her decision dated January 18, 1999,[3] Labor Arbiter Teresita D. Castillon-Lora ruled in favor of Northwest, holding that the dismissal of Del Rosario had been justified and valid upon taking into account that Northwest had been engaged in the airline business in which a good public image had been demanded, and in which flight attendants had been expected to maintain an image of sweetness and amiability; that fighting among its employees even in the form of heated arguments or discussions were very contradictory to that expected image;[4] and that it could validly dismiss its employees like the respondent because it had been entitled to protect its business interests by putting up an impeccable image to the public.

Ruling of the NLRC

Upon appeal, the NLRC reversed the decision of the Labor Arbiter, and ruled in favor of Del Rosario, declaring that the incident between her and Gamboa could not be considered as synonymous with fighting as the

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2 Id. at 123.
3 Id. at 280-289.
4 Id. at 287-288.

activity prohibited by Northwest's Rules of Conduct; that based on Black's Law Dictionary, *fight* referred to a hostile encounter, affray, or altercation; a physical or verbal struggle for victory, pugilistic combat; that according to Bouvier's Law Dictionary, *fighting* did not necessarily imply that both parties should exchange blows, for it was sufficient that they voluntarily put their bodies in position with that intent;[5] and that the incident between Del Rosario and Gamboa could not be held similar to the *fight* that Northwest penalized under its Rules of Conduct.

The NLRC further ratiocinated as follows:

> Evident in the definition of fighting is the existence of an underlying hostility between the parties which is so intense that there is an imminent danger of a physical conflict (if there is none yet). In other words, when we say two people are fighting, at the very least, they should project a general appearance of wanting to physically strike each other. Was this the image that appellant and FA Gamboa projected when they were facing each other during the incident of May 18, 1998[?] We do not think so.
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> x x x Almost unanimously, the witnesses of NWA refer to the incident as "arguing" or a "serious or animated discussion." An argument is an effort to establish belief by a course of reasoning (Bouvier's Law Dictionary). In ordinary parlance, arguing is merely talking or debating about a certain issue. There are no underpinnings of animosity in the discussion nor (sic) between the parties. These witnesses never saw any hostility between the appellant and FA Gamboa. Neither did they see these two ladies wanting to strike each other. What they saw were two FAs engaged in an animated verbal exchange, arguing but not fighting.[6]

The NLRC ordered the reinstatement of Del Rosario to her former position without loss of seniority rights and with payment of backwages, per diems, other lost income and benefits from June 19, 1998; as well as the payment of attorney's fees equivalent to 10% of the monetary award.

Decision of the CA

Aggrieved, Northwest elevated the adverse decision of the NLRC to the CA on *certiorari*, averring that the NLRC thereby committed grave abuse of discretion in reversing the decision of the Labor Arbiter, and submitting that Del Rosario's dismissal from the service had been for a just cause, with the evidence presented against her being more than sufficient to substantiate its position that there had really been a fight between her and Gamboa; and that the NLRC likewise gravely abused its discretion in

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5 Id. at 348.
6 Id. at 348-349.

ordering the reinstatement of Del Rosario and the payment of her backwages and attorney's fees.

As stated, the CA sustained the NLRC through its decision promulgated on June 21, 2002, observing that Northwest did not discharge its burden to prove not merely reversible error but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC; and that, indeed, the NLRC had correctly held that Del Rosario's conduct did not constitute serious misconduct, because the NLRC, in determining the usual, ordinary and commonly understood meaning of the word *fighting*, had resorted to authoritative lexicons that supported its conclusion that the exchange of words between Del Rosario and Gamboa did not come within the definition of the word *fighting.* [7]

The CA disposed thusly:

> **WHEREFORE**, for lack of merit, the instant petition is **DISMISSED**. Accordingly, the decision of the NLRC dated January 11, 2000, is hereby **AFFIRMED** with the **MODIFICATION** that in lieu of reinstatement, petitioner is ordered to pay private respondent separation pay equivalent to one month's salary for every year of service plus full backwages without deduction or qualification, counted from the date of dismissal until finality of this decision including other benefits to which she is entitled under the law. Petitioner is likewise ordered to pay respondent Del Rosario attorney's fees consisting of five (5%) per cent of the adjudged relief.
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> **SO ORDERED.** [8]

Issues

The issues are the following, namely: (1) Was Del Rosario's dismissal from the service valid?; and (2) Were the monetary awards appropriate?

Ruling

The Court **AFFIRMS** the decision of the CA.

As provided in Article 282 of the *Labor Code*, an employer may terminate an employee for a just cause, to wit:

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7 Id. at 602-603.
8 Id. at 605.

> Art. 282. *TERMINATION BY EMPLOYER*
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> An employer may terminate an employee for any of the following causes:
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> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
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> (b) Gross and habitual neglect by the employee of his duties;
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> (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
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> (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
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> (e) Other causes analogous to the foregoing.

Northwest argues that Del Rosario was dismissed on the grounds of serious misconduct and willful disobedience. Misconduct refers to the improper or wrong conduct that transgresses some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment. But misconduct or improper behavior, to be a just cause for termination of employment, must: (*a*) be serious; (*b*) relate to the performance of the employee's duties; and (*c*) show that the employee has become unfit to continue working for the employer.[9]

There is no doubt that the last two elements of misconduct were present in the case of Del Rosario. The cause of her dismissal related to the performance of her duties as a flight attendant, and she became unfit to continue working for Northwest. Remaining to be determined is, therefore, whether the misconduct was serious as to merit Del Rosario's dismissal. In that respect, the *fight* between her and Gamboa should be *so serious* that it entailed the termination of her employment even if it was her first offense. Northwest insists that what transpired on May 18, 1998 between her and Gamboa was obviously a form of *fight* that it strictly prohibited, but Del Rosario disputes this by contending that it was only an animated discussion between her and Gamboa. She argues that as settled in American jurisprudence *fight* pertained to combat or battle, like the hostile encounter or engagement between opposing forces, suggesting primarily the notion of

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[9] *Nissan Motors Phils., Inc. v. Angelo*, G.R. No. 164181, September 14, 2011, 657 SCRA 520, 528.

a brawl or unpremeditated encounter, or of a pugilistic combat;[10] while *argument* was a connected discourse based upon reason, or a course of reasoning tending and intended to establish a position and to induce belief.[11]

In several rulings where the meaning of *fight* was decisive, the Court has observed that the term *fight* was considered to be different from the term *argument*. In *People v. Asto*,[12] for instance, the Court characterized *fight* as not just a merely verbal tussle but a physical combat between two opposing parties, to wit:

> Well into their second bottle of gin, at about eleven o'clock that morning, Fernando Aquino and Peregrino had a *verbal tussle*. Fernando Aquino declared that he was going to run for councilor of Alcala, Pangasinan. Peregrino countered by saying: "If you will run for that post, cousin, I will fight you." After a *brief exchange of words*, Fernando Aquino, laughing, went to sit beside Abagat. As Aquino continued with his mirth, Abagat stared at Peregrino with contempt.
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> xxx. A few minutes later, he heard a commotion in the plantation some two hundred meters away. He claims to have seen several people *fighting* each other with pieces of wood but did not go to the field to check what was happening.[13] (Italics supplied.)

Similarly, in *Pilares, Sr. v. People*,[14] *fight* was held to be more than just an exchange of words that usually succeeded the provocation by either party, thus:

> When the petitioner was about to hand over the bottles of beer to the private complainant, the latter called him "coward" and dared him to get out for a *fight*. Insulted, the petitioner went out of his store and chased the private complainant. (Italics supplied.)

Based on the foregoing, the incident involving Del Rosario and Gamboa could not be justly considered as akin to the *fight* contemplated by Northwest. In the eyes of the NLRC, Del Rosario and Gamboa were arguing but not fighting. The understanding of *fight* as one that required physical combat was absent during the incident of May 18, 1998. Moreover, the claim of Morales that Del Rosario challenged Gamboa to a brawl (*sabunutan*) could not be given credence by virtue of its being self-serving

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10 *Gitlow v. Kiely*, D.C.N.Y., 44 F.2d 227, 232 as cited in *WORDS AND PHRASES*, Permanent Edition 16A, Fence to Financing, p. 97.

11 *Rahles v. J. Thompson & Sons MFG. Co*., 119 N.W. 289, 290, 137 Wis. 506, 23 L.R.A., N.S., 296, as cited in *WORDS AND PHRASES*, Permanent Edition 4, Arc to Azotize, p. 7.

12 G.R. No. 108611, August 20, 1997, 277 SCRA 697.

13 Id. at 702.

14 G.R. No. 165685, March 12, 2007, 518 SCRA 143, 145-146.

in favor of Northwest, and of its being an apparent afterthought on the part of Morales during the investigation of the incident, without Del Rosario having the opportunity to contest Morales' statement. In that context, the investigation then served only as Northwest's means to establish that the grounds of a valid dismissal based on serious misconduct really existed.

Moreover, even assuming *arguendo* that the incident was the kind of *fight* prohibited by Northwest's Rules of Conduct, the same could not be considered as of such seriousness as to warrant Del Rosario's dismissal from the service. The gravity of the *fight*, which was not more than a verbal argument between them, was not enough to tarnish or diminish Northwest's public image.

Under the circumstances, therefore, the CA properly ruled that the NLRC did not gravely abuse its discretion amounting to lack or excess of jurisdiction by declaring Del Rosario's dismissal unjustified. Northwest as the petitioner for *certiorari* must demonstrate grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC. *Grave abuse of discretion*, according to *De los Santos v. Metropolitan Bank and Trust Company*,[15] "must be grave, which means either that the judicial or quasi-judicial power was exercised in an arbitrary or despotic manner by reason of passion or personal hostility, or that the respondent judge, tribunal or board evaded a positive duty, or virtually refused to perform the duty enjoined or to act in contemplation of law, such as when such judge, tribunal or board exercising judicial or quasi-judicial powers acted in a capricious or whimsical manner as to be equivalent to lack of jurisdiction." Alas, Northwest did not show how the NLRC could have abused its discretion, let alone gravely, in ruling adversely against it.

WHEREFORE, the Court **AFFIRMS** the decision of the Court of Appeals promulgated on June 21, 2002; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

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[15] G.R. No. 153852, October 24, 2012, 684 SCRA 410, 422-423.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
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.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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.

ANTONIO T. CARPIO
Acting Chief Justice