Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MARIA LOURDES C. DE JESUS, **G.R. No. 164662**
Petitioner,

-versus-

HON. RAUL T. AQUINO, PRESIDING COMMISSIONER, NATIONAL LABOR RELATIONS COMMISSION, SECOND DIVISION, QUEZON CITY, and SUPERSONIC SERVICES, INC.,
Respondents.

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SUPERSONIC SERVICES, INC., **G.R. No. 165787**
Petitioner,

-versus-

MARIA LOURDES C. DE JESUS,
Respondent.

Present:

SERENO, *C.J.*,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

Promulgated:

FEB 18 2013

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D E C I S I O N

BERSAMIN, *J.*:

The dismissal of an employee for a just or authorized cause is valid despite the employer's non-observance of the due process of law the *Labor Code* has guaranteed to the employee. The dismissal is effective against the employee subject to the payment by the employer of an indemnity.

Under review on *certiorari*is the July 23, 2004 Decision promulgated in C.A.-G.R. SP No. 81798 entitled *Maria Lourdes C. De Jesus v. Hon. Raul T. Aquino, Presiding Commissioner, NLRC, Second Division, Quezon City, and Supersonic Services, Inc.*,[1]whereby the Court of Appeals (CA) affirmed the validity of the dismissal from her employment of Maria Lourdes C. De Jesus(petitionerin G.R. No. 164622), but directedher employer, Supersonic Services, Inc. (Supersonic), to pay her full backwages from the time her employment was terminated until the finality of the decision because of the failure of Supersonic to comply with the two-written notice rule, citing the rulinginSerrano v. National Labor Relations Commission.[2]

Antecedents

The antecedent facts, as summarized by the CA, follow:

> On February 20, 2002, petitioner Ma. Lourdes De Jesus (De Jesus for brevity) filed with the Labor Arbiter a complaint for illegal dismissal against private respondents Supersonic Services Inc., (Supersonic for brevity), Pakistan Airlines, Gil Puyat, Jr. and Divina Abad Santos praying for the payment of separation pay, full backwages, moral and exemplary damages, etc.
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> De Jesus alleged that: she was employed by Supersonic since February 1976 until her illegal dismissal of March 15, 2001; from 1976 to 1992, she held the position of reservation staff, and from 1992 until her illegal dismissal on March 15, 2001, she held the position of Sales Promotion Officer where she solicited clients for Supersonic and sold plane tickets to various travel agencies on credit; on March 12, 2001, she had an emergency hysterectomy operation preceded by continuous bleeding; she stayed at the Makati Medical Center for three (3) days and applied for a sixty-(60) day leave in the meantime; on June 1, 2001, she went to Supersonic and found the drawers of her desk opened and her personal belongings packed, without her knowledge and consent; while there, Divina Abad Santos (Santos for brevity), the company's general manager, asked her to sign a promissory note and directed her secretary, Cora Malubay (Malubay for brevity) not to allow her to leave unless she execute a promissory note; she was later forced to execute a promissory note which she merely copied from the draft prepared by Santos and Malubay; she was also forced to indorse to Supersonic her SSS check in the amount of ₱25,000.00 which represents her benefits from the hysterectomy operation; there was no notice and hearing nor any opportunity given her to explain her side prior to the termination of her employment; Supersonic even filed a case for Estafa against her for her alleged failure to remit collections despite the fact that she had completely

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1 *Rollo*(G.R. No. 164662), pp. 20-26; penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justice Cancio C. Garcia (later Presiding Justice, and a Member of the Court, but now retired) andAssociate Justice Hakim S. Abdulwahid concurring.

2 G.R. No. 117040, January 27, 2000, 323 SCRA 445.

remitted all her collections; and the termination was done in bad faith and in violation of due process.

Supersonic countered that: as Sales Promotion Officer, De Jesus was fully authorized to solicit clients and receive payments for and in its behalf, and as such, she occupied a highly confidential and financially sensitive position in the company; De Jesus was able to solicit several ticket purchases for Pakistan International Airlines (PIA) routed from Manila to various destinations abroad and received all payments for the PIA tickets in its behalf; for the period starting May 30, 2000 until September 28, 2000, De Jesus issued PIA tickets to Monaliza Placement Agency, a client under her special solicitation and account, in the amount of U.S.$15,085.00; on January 24, 2001, the company's general manager sent a memorandum to De Jesus informing her of the official endorsement of collectibles from clients under her account; in March 2001, another memorandum was issued to De Jesus reminding her to collect payments of accounts guaranteed by her and which had been past due since the year 2000; based on the company records, an outstanding balance of U.S.$36,168.39 accumulated under the account of De Jesus; after verifications with its clients, it discovered that the amount of U.S.$36, 168.39 were already paid to De Jesus but this was not turned over and duly accounted for by her; hence, another memorandum was issued to De Jesus directing her to explain in writing why she should not be dismissed for cause for failure to account for the total amount of U.S.$36, 168.39; De Jesus was informed that her failure to explain in writing shall be construed that she misappropriated said amount for her own use and benefit to the damage of the company; De Jesus was likewise verbally notified of the company's intention to dismiss her for cause; after due investigation and confrontation, De Jesus admitted that she received the U.S.$36,168.39 from their clients and even executed a promissory note in her own handwriting acknowledging her obligation; she was fully aware of her dismissal and even obligated herself to offset her obligation with any amount she would receive from her retirement; when De Jesus failed to comply with her promise to settle her obligation, a demand letter was sent to her; because of her persistent failure to settle the unremitted collections, it was constrained to suspend her as a precautionary measure and to protect its interests; despite demands, De Jesus failed to fulfill her promise, hence, a criminal case for estafa was filed against her; and in retaliation to the criminal case filed against her, she filed this illegal dismissal case.[3]

After due proceedings, on October 30, 2002, the Labor Arbiterruled against De Jesus,[4]declaring her dismissal to be for just cause and finding that she had been accorded due process of law.

Aggrieved, De Jesusappealed to the National Labor Relations Commission (NLRC), insisting that she had not been afforded the opportunity to explain her side.

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3 *Rollo*(G.R. No. 164662), pp. 21-23.
4 *Rollo*(G.R. No. 165787), pp. 149-154.

On July 31, 2003, however, the NLRC rendered its Resolution,[5] affirming the Labor Arbiter's Decision and dismissing De Jesus' appeal for its lack of merit, stating:

> Records show that pursuant to a Memorandum dated May 12, 2001, complainant was required to explain in writing why she should not be dismissed from employment for her failure to account for the cash collections in her custody (Records, p. 37). In a letter dated June 1, 2001, complainant acknowledged her failure to effect a turn-over of the amount of US$36,168.39 to the respondent (Records, p. 40). More than this, she offered no explanation for her failure to immediately account for her collections. Further, her allegation of duress may not be accorded credence, there being no evidence as to the circumstances under which her consent was allegedly vitiated. Having been given the opportunity to explain her side, complainant may not successfully claim that she was denied due process. Further, her admission and other related evidence, particularly the finding of a prima facie case for estafa against her, and corroborative statements from respondent's client, sufficiently controvert complainant's assertion that no just cause existed for the dismissal.
>
> WHEREFORE, premises considered, the decision under review is AFFIRMED, and complainant's appeal, DISMISSED, for lack of merit.
>
> SO ORDERED.

The NLRC denied the Motion for Reconsideration filed by De Jesus on October 30, 2003.[6]

De Jesusbrought a petition for *certiorari* to the CA, charging the NLRC with committing grave abuse of discretion amounting to lack or excess of jurisdiction in finding that she had not been denied due process; and in finding that her dismissal had been for just cause.

On July 23, 2004, the CA promulgated its assailed decision,[7]relevantly stating as follows:

> The petition is partly meritorious.
>
> In termination of employment based on just cause , it is not enough that the employee is guilty of misfeasance towards his employer, or that his continuance in service is patently inimical to the employer's interest. The law requires the employer to furnish the employee concerned with two written notices – one, specifying the ground or grounds for termination and giving said employee reasonable opportunity within which to explain his side, and another, indicating that upon due consideration of all the

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5 Id.at 175-178.
6 Id.at 194-195.
7 *Supra* note 1, at 24-26.

circumstances, grounds have been established to justify his termination. In addition to this, a hearing or conference is also required, whereby the employee may present evidence to rebut the accusations against him.

There appears to be no dispute upon the fact that De Jesus failed to remit and account for some of her collections. This she admitted and explained in her letters dated April 5, 2001 and May 15, 2001 to Santos, the company's general manager. Without totally disregarding her allegations of duress in executing the promissory note, the facts disclose therein also coincide with the fact that De Jesus was somehow remiss in her duties. Considering that she occupied a confidential and sensitive position in the company, the circumstances presented fairly justified her termination from employment based on just cause. De Jesus' failure to fully account her collections is sufficient justification for the company to lose its trust and confidence in her. Loss of trust and confidence as a ground for dismissing an employee does not require proof beyond reasonable doubt. It is sufficient if there is "*some basis*" for such loss of confidence, or if the employer has reasonable grounds to believe that the employee concerned is responsible for the misconduct, as to be unworthy of the trust and confidence demanded by his position.

Nonetheless, while this Court is inclined to rule that De Jesus' dismissal was for just cause, the manner by which the same was effected does not comply with the procedure outlined under the Labor Code and as enunciated in the landmark case of *Serrano vs. NLRC.*

The evidence on record is bereft of any indicia that the two written notices were furnished to De Jesus prior to her dismissal. The various memoranda given her were not the same notices required by law, as they were mere internal correspondence intended to remind De Jesus of her outstanding accountabilities to the company. Assuming for the sake of argument that the memoranda furnished to De Jesus may have satisfied the minimum requirements of due process, still, the same did not satisfy the notice requirement under the Labor Code because the intention to sever the employee's services must be made clear in the notice. Such was not apparent from the memoranda. As the Supreme Court held in *Serrano,* the violation of the notice requirement is not strictly a denial of due process. This is because such notice is precisely intended to enable the employee not only to prepare himself for the legal battle to protect his tenure of employment, but also to find other means of employment and ease the impact of the loss of his job and, necessarily, his income.

Conformably with the doctrine laid down in Serrano vs. NLRC, the dismissal of De Jesus should therefore be struck as ***ineffectual.***

WHEREFORE, premises considered, the Resolutions dated July 31, 2003 and October 30, 2003 of the NLRC, Second Division in NLRC NCR 30-02-01058-02 (CA NO. 033714-02) are hereby**MODIFIED,** in that while the dismissal is hereby held to be valid, the same must declaredineffectual. As a consequence thereof, Supersonic is hereby required to pay petitioner Maria Lourdes De Jesus full backwages from the time her employment was terminated up to the finality of this decision.

SO ORDERED.

De Jesusappealed by petition for review on *certiorari* to the Court (G.R. No. 164662), while Supersonic first sought the reconsideration of the Decision in the CA.Upon the denial of its motion for reconsideration on October 21, 2004, Supersonic likewise appealed to the Court by petition for review on *certiorari*(G.R. No. 165787).Theappeals were consolidated on October 5, 2005.[8]

In G.R. No. 164662, De Jesus avers that:

I. The Honorable Court of Appeals erred in finding that respondent Supersonic is liable only on the backwages and not for the damages prayed for.

II. The Honorable Court of Appeals erred in finding that the dismissal was valid and at the same time, declaring it ineffectual.[9]

In G.R. No. 165787,Supersonic ascribes the following errors to the CA, to wit:

I. Respondent Court of Appeals committed serious errors which are not in accordance with law and applicable decisions of the Honorable Supreme Court when it concluded that the two-notice requirement has not been complied with when respondent De Jesus was terminated from service.

II. Respondent Court of Appeals committed serious errors by concluding that the Serrano Doctrine applies squarely to the facts and legal issues of the present case which are contrary to the law and jurisprudence.

III. Serrano Doctrine has already been abandoned in the case of *Agabon v. NLRC*, which is prevailing and landmark doctrine applicable in the resolution of the present case.

IV. Respondent Court of Appeals committed serious errors by disregarding the law and jurisprudence when it awarded damages to private respondent which is excessive and unduly penalized petitioner SSI.[10]

Based on the foregoing, thedecisive issues to be passed upon are: (1) Whether or not Supersonic was justified in terminating De Jesus' employment; (2) Whether or not Supersonic complied with the two-written notice rule; and (3) Whether or not De Jesus was entitled to full backwages and damages.

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8 *Rollo*(G.R. No. 165787),p. 339.
9 *Rollo* (G.R. No. 164662), p. 12.
10 *Rollo*(*G*.R. No. 165787), pp. 31-32.

Ruling

We partially grant the petition for review of Supersonic in G.R. No. 165787.

Anent the first issue, Supersonic substantially proved that De Jesus had failed to remit and had misappropriated the amounts she had collected in behalf of Supersonic. In that regard, the factual findings of the Labor Arbiter and NLRC on the presence of the just cause for terminating her employment, being already affirmed by the CA, are binding if not conclusive upon this Court. There being no cogent reason to disturb such findings, the dismissal of De Jesus was valid.

Article 282 of the *Labor Code* enumerates the causes by which the employer may validly terminate the employment of the employee, *viz*:

> Article 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;
>
> (b) Gross and habitual neglect by the employee of his duties;
>
> **(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;**
>
> (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 representatives; and
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> (e) Other causes analogous to the foregoing.

The CA observed that De Jesus had not disputed her failure to remit and account for some of her collections, for, in fact, she herself had expressly admitted her failure to do so through her letters dated April 5, 2001 and May 15, 2001 sent to Supersonic's general manager. Thereby, the CA concluded, she defrauded her employer or willfully violated the trust reposed in her by Supersonic. In that regard, the CA rightly observed that proof beyond reasonable doubt of her violation of the trust was not required, for it was sufficient that the employer had "reasonable grounds to believe that the employee concerned is responsible for the misconduct as to be unworthy of the trust and confidence demanded by [her] position."[11]

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[11] *Supra* note 1.

Concerning the second issue, the NLRC and the CA differed from each other, with the CA concluding, unlike the NLRC, that Supersonic did not comply with the two-written notice rule. In the exercise of its equity jurisdiction, then, this Court should now re-evaluate and re-examine the relevant findings.[12]

A careful consideration of the records persuades us to affirm the decision of the CA holding that Supersonic had not complied with the two-written notice rule.

It ought to be without dispute that the betrayal of the trust the employer reposed in De Jesus was the essence of the offense for which she was to be validly penalized with the supreme penalty of dismissal.[13] Nevertheless, she was still entitled to due processin order to effectivelysafeguard her security of tenure. The law affording to her due process as an employee imposed on Supersonic as the employer the obligation to send to her two written notices before finally dismissing her. This requirement of two written notices is enunciated in Article 277of the *Labor Code*, as amended, which relevantly states:

> Article 277.*Miscellaneous provisions.*–xxx
>
> x xxx
>
> (b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, **the employer shall furnish the worker whose employment is sought to be terminateda written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment**. Any decision taken by the employer shall be without prejudice to the right of the worker to contest the validity or legality of his dismissal by filing a complaint with the regional branch of the National Labor Relations Commission. The burden of proving that the termination was for a valid or authorized cause shall rest on the employer. The Secretary of the Department of Labor and Employment may suspend the effects of the termination pending resolution of the dispute in the event of a *prima facie* finding by the appropriate official of the Department of Labor and Employment before

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[12] *Lopez v. Bodega City*, G.R. No. 155731, September 3, 2007, 532 SCRA 56, 64; *Tiu v. Pasaol, Sr*., G.R. No. 139876, April 30, 2003, 402 SCRA 312, 319; *Manila Water Company, Inc. v. Pena,* G.R. No. 158255, July 8, 2004, 434 SCRA 53, 58-59.

[13] *Caingat v. National Labor Relations Commission*, G.R. No. 154308, March 10, 2005, 453 SCRA 142,151-152; *Central Pangasinan Electric Cooperative, Inc. v. Macaraeg*, G.R. No. 145800, January 22, 2003, 395 SCRA 720, 727;*Quezon Electric Cooperative v. NLRC*, G.R. Nos. 79718-22, April 12, 1989, 172 SCRA 88, 94.

> whom such dispute is pending that the termination may cause a serious labor dispute or is in implementation of a mass lay-off.[14]
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and in Section 2[15] and Section7,[16] Rule I, Book VI of the *Implementing Rules of the Labor Code*. The firstwritten notice would inform her of the particular acts or omissions for which her dismissal was being sought. The second written notice would notify her of the employer's decision to dismiss her. But the second written notice must not be made until after she was given a reasonable period after receiving the first written notice within which to answer the charge, and after she was given the ample opportunity to be heard and to defend herself with the assistance of her representative, if she so desired.[17] The requirement was mandatory.[18]

Did Supersonic observe due process before dismissing De Jesus?

Supersonic contends that it gave the two written notices to De Jesus in the form of the memoranda dated March 26, 2001 and May 12, 2001, to wit:

Memorandum dated March 26, 2001

> 26 March 2001
>
> MEMORANDUM
>
> TO : MA LOURDES DE JESUS
> SALES PROMOTION OFFICER

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[14] As amended by Section 33, Republic Act No. 6715, March 21, 1989.

[15] Section 2. *Security of Tenure.* – xxx

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(d) In all cases of termination of employment, the following standards of due process shall be substantially observed:

For termination of employment based on just causes as defined in Article 282 of the Labor Code:

(i) A written notice served on the employee specifying the ground or grounds for termination, and giving said employee reasonable opportunity within which to explain his side.

(ii) A hearing or conference during which the employee concerned, with the assistance of counsel if he so desires is given opportunity to respond to the charge, present his evidence, or rebut the evidence presented against him.

(iii) A written notice of termination served on the employee, indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination.

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[16] Section 7. *Termination of employment by employer*. – The just causes for terminating the services of an employee shall be those provided in Article 282 of the Code. The separation from work of an employee for a just cause does not entitle him to the termination pay provided in Code, without prejudice, however, to whatever rights, benefits and privileges he may have under the applicable individual or collective bargaining agreement with the employer or voluntary employer policy or practice.

[17] *Lim v. National Labor Relations Commission*, G.R. No. 118434, July 26, 1996, 259 SCRA 485, 498.

[18] *Colegio de San Juan de Letran–Calamba v. Villas*, G.R. No. 137795, March 26, 2003, 399 SCRA 550, 559;*Equitable Banking Corporation v. NLRC*, G.R. No. 102467, June 13, 1997, 273 SCRA 352, 378.

FROM : DIVINA S. ABAD SANTOS

SUBJECT : PAST DUE ACCOUNTS

We have repeatedly reminded you to collect payment of accounts guaranteed by you and which have been past due since last year. You have assured us that these will be settled by the end of February 2001.

Our books show, that as of today, March 26, 2001, the following accounts have outstanding balances:

Wafa	$6,585
Monaliza/Ragab	4,326.39
Salah	1,950
Jerico	1,300
Rafat	4,730
Mahmood/Alhirsh	3,205
Amina	2,000
MMML	1,653
RDRI	361
HMD	2,100
Amru	1,388
Iyad Ali	97
Ali	740
Maher	675
Sharikat	350
Imad	905
Rubies	2,678
Adel	1,125
	$36,168.39

Please give us an updated report on your collection efforts and the status of each of the above accounts to enable us to take necessary actions. This would be submitted on or before April 2, 2001

(SGD) DIVINA ABAD SANTOS
General Manager[19]

Memorandum dated May 12, 2001

12 May 2001

MEMORANDUM

TO : MA. LOURDES DE JESUS
SALES PROMOTION OFFICER

FROM : DIVINA S. ABAD SANTOS
GENERAL MANAGER

SUBJECT : PAST DUE ACCOUNTS

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[19] *Rollo*(G.R. No. 165787), p. 120.

You are asked to refer to my memorandum dated 26 March 2001. We were informed that the following accounts have been paid to you but not accounted/turned over to the office:

NAME	AMOUNTS
Wafa	$6,585
Monaliza/Ragab	4,326.39
Salah	1,950
Jerico	1,300
Rafat	4,730
Mahmood/Alhirsh	3,205
Amina	2,000
MMML	1,653
RDRI	361
HMD	2,100
Amru	1,388
Iyad Ali	97
Ali	740
Maher	675
Sharikat	350
Imad	905
Rubies	2,678
Adel	1,125
	$36,168.39

You are hereby directed to explain in writing within 72 hours from receipt of this memorandum, why you should not be dismissed for cause for failure to account for above amounts.

By your failure to explain in writing the above accountabilities, within the set deadline, we shall assume that you have misappropriated the same for your own use and benefit to the damage of the office.

(SGD.)DIVINA S. ABAD SANTOS
General Manager[20]

Contrary to Supersonic's contention, however, the aforequotedmemoranda did not satisfy the requirement for the two written notices under the law. The March 26, 2001 memorandum did not specify the grounds for which her dismissal would be sought, and for that reasonwas at best a mere reminder to De Jesus to submit her report on the status of her accounts. The May 12, 2001 memorandumdid not provide the notice of dismissal under the law because itonly directed her to explain why she should not be dismissed for cause. The latter memorandum was apparently only the first written noticeunder the requirement.The insufficiency of the two memoranda as compliance with the two-written notices requirement of due process was, indeed, indubitable enough to impelthe CA to hold:

The evidence on record is bereft of any indicia that the two written notices were furnished to De Jesus prior to her dismissal. The various

[20]Id. at 121.

> memoranda given her were not the same notices required by law, as they were mere internal correspondences intended to remind De Jesus of her outstanding accountabilities to the company. Assuming for the sake of argument that the memoranda furnished to De Jesus may have satisfied the minimum requirements of due process, still, the same did not satisfy the notice requirement under the Labor Code because the intention to sever the employee's services must be made clear in the notice. Such was not apparent from the memoranda. As the Supreme Court held in *Serrano*, the violation of the notice requirement is not strictly a denial of due process. This is because such notice is precisely intended to enable the employee not only to prepare himself for the legal battle to protect his tenure of employment, but also to find other means of employment and ease the impact of the loss of his job and, necessarily, his income.
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> Conformably with the doctrine laid down in Serrano vs. NLRC, the dismissal of De Jesus should therefore be struck (down) as ***ineffectual***.[21]

On the third issue, Supersonicposits that the CA gravely erred in declaring the dismissal of De Jesus ineffectual pursuant to the ruling in*Serrano v. National Labor Relations Commission;*andinsiststhat the CA should have instead applied the ruling in *Agabonv. National Labor Relations Commission*,[22]which meanwhile abandoned *Serrano*.

In*Serrano*, the Court pronounced as follows:

> x xx, with respect to dismissals for cause under Art. 282, if it is shown that the employee was dismissed for any of the just causes mentioned in said Art. 282, then, in accordance with that article, he should not be reinstated. However, he must be paid backwages from the time his employment was terminated until it is determined that the termination of employment is for a just cause because the failure to hear him before he is dismissed renders the termination of his employment without legal effect.
>
> WHEREFORE, the petition is GRANTED and the resolution of the National Labor Relations Commission is MODIFIED by ordering private respondent Isetann Department Store, Inc. to pay petitioner separation pay equivalent to one (1) month pay for every year of service, his unpaid salary, and his proportionate 13th month pay and, in addition, full backwages from the time his employment was terminated on October 11, 1991 up to the time the decision herein becomes final. For this purpose, this case is REMANDED to the Labor Arbiter for computation of the separation pay, backwages, and other monetary awards to petitioner.
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> SO ORDERED.[23]

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21 *Supra* note 1, at 25.
22 G.R. No. 158693, November 17, 2004, 442 SCRA 573.
23 *Supra* note 2, at 476.

The CA did not err. Relying on *Serrano*,the CA precisely ruled that the violation by Supersonic of the two-written notice requirement renderedineffectual the dismissal of De Jesus for just cause under Article 282 of the *Labor Code*, and entitled her to be paid full backwages from the time of her dismissal until the finality of its decision.The Court cannot ignore thatthe applicable case law when the CA promulgated its decision on July 23, 2004, and when it denied Supersonic's motion for reconsideration on October 21, 2004 was still *Serrano*. Considering that the Court determines in this appeal by petition for review on *certiorari*only whether or not the CA committed an error of law in promulgating its assailed decision of July 23, 2004,the CA cannot be declared to have erred on the basis of *Serrano* being meanwhile abandoned through *Agabon*if all thatthe CA did was to fully apply the law and jurisprudence applicable at the time of its rendition of the judgment.As a rule, a judicial interpretation becomes a part of the law as of the date that the law was originally passed, subject only to the qualification that when a doctrine of the Court is overruled and the Court adoptsa different view, and more so when there is a reversal ofthe doctrine, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith.[24] To hold otherwise would be to deprive the law of its quality of fairness and justice, for, then, there is no recognition of what had transpired prior to such adjudication.[25]

Although *Agabon*,being promulgatedonly on November 17, 2004, ought to be prospective, not retroactive, in its operation because its language did not expressly state that it would also operate retroactively,[26] the Court has already deemed it to be the wise judicial course to let its abandonment of *Serrano*be retroactive as its means of giving effect to its recognition ofthe unfairness of declaring illegal or ineffectual dismissals for valid or authorized causes but not complying with statutory due process.[27]Under *Agabon*, the new doctrine is that the failure of the employer to observe the requirements of due process in favor of the dismissed employee (*that is*, the two-written notices rule) should not invalidate or render ineffectual the dismissal for just or authorized cause. The *Agabon* Court plainly saw the likelihood of *Serrano* producing unfair butfar-reaching consequences, such as, but not limited to, encouraging frivolous suits where even the most

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[24] *Columbia Pictures Entertainment, Inc. v. Court of Appeals*, G.R. No. 111267, September 20, 1996, 262 SCRA 219, 225; *Columbia Pictures, Inc. v. Court of Appeals*, G.R. No. 110318, August 28, 1996, 261 SCRA 144, 167;*People v. Jabinal*, No. L-30061, February 27, 1974, 55 SCRA 607, 612;*Unciano Paramedical College, Inc. v. Court of Appeals*, G.R. No. 100335, April 7, 1993, 221 SCRA 285, 293; *Philippine Constitution Association v. Enriquez*, G.R. No. 113888, August 19, 1994, 235 SCRA 506, 552.

[25] *De Agbayani v. Philippine National Bank*, No. L-23127, April 29, 1971, 38 SCRA 429, 435.

[26] See *Co v. Court of Appeals*, G.R. No. 100776, October 28, 1993, 227 SCRA 444, 448.

[27] *Culili v. Eastern TelecommunicationsPhilippines, Inc*., G.R. No. 165381, February 9, 2011, 642 SCRA 338, 363; *RTG Construction, Inc. v. Facto*, G.R. No. 163872, December 21, 2009, 608 SCRA 615, 623; *Coca-Cola Bottlers Philippines, Inc. v. Garcia*, G.R. No. 159625, January 31, 2008, 543 SCRA 364, 374; *Magro Placement and General Services v. Hernandez*, G.R. No. 156964, July 4, 2007, 526 SCRA 408, 417-418; *King of Kings Transport, Inc. v. Mamac*, G.R. No. 166208, June 29, 2007, 526 SCRA 116, 127; *Aladdin Transit Corporation v. Court of Appeals*, G.R. No. 152123, June 21, 2005, 460 SCRA 468, 472; *Jaka Food Processing Corporation v. Pacot*, G.R. No. 151378, March 28, 2005, 454 SCRA 119, 124.

notorious violators of company policies would be rewarded by invoking due process; to having the constitutional policy of providing protection to labor be used as a sword to oppress the employers; and to compelling the employers to continue employing persons who were admittedly guilty of misfeasance or malfeasance and whose continued employment would be patently inimical to the interest of employers.[28]

Even so, the *Agabon* Court still deplored the employer's violation of the employee's right to statutory due process by directing the payment of indemnity in the form of nominal damages, the amount of which would be addressed to the sound discretion of the labor tribunal upon taking into account the relevant circumstances. Thus, the *Agabon* Court designed such form of damages as a deterrent to employers from committing in the future violations of the statutory due process rights of employees, and, at the same time, as at the very least a vindication or recognition of the fundamental right granted to the employees under the *Labor Code* and its implementing rules.[29] Accordingly, consistent with precedent,[30] the amount of ₱50,000.00 as nominal damages is hereby fixed for the purpose of indemnifying De Jesus for the violation of her right to due process.

WHEREFORE, the Court **DENIES** the petition for review on *certiorari* in G.R. No. 164662 entitled *Maria Lourdes C. De Jesus v. Hon. Raul T. Aquino, Presiding Commissioner, NLRC, Second Division, Quezon City, and Supersonic Services, Inc.*; **PARTIALLY GRANTS** the petition for review on *certiorari* in G.R. No. 165787 entitled *Supersonic Services, Inc. v. Maria Lourdes C. De Jesus* and, accordingly, **DECLARES** the dismissal of Maria Lourdes C. De Jesus for just or authorized cause as valid and effectual; and **ORDERS** Supersonic Services, Inc. to pay to Maria Lourdes C. De Jesus ₱50,000.00 as nominal damages to indemnify her for the violation of her right to due process.

No pronouncements on costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

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28 *Supra* note 22, at 614.
29 Id. at 617.
30 *E.g., Culili v. Eastern Telecommunications Phils., Inc., supra* note 27.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
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