



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

**INTERNATIONAL SCHOOL
MANILA AND/OR BRIAN
McCAULEY,**

Petitioners,

- versus -

**INTERNATIONAL SCHOOL
ALLIANCE OF EDUCATORS
(ISAE) AND MEMBERS
REPRESENTED BY RAQUEL
DAVID CHING, PRESIDENT,
EVANGELINE SANTOS,
JOSELYN RUCIO AND
METHELYN FILLER,**

Respondents.

G.R. No. 167286

Present:

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

Promulgated:

FEB 05 2014

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DECISION

LEONARDO-DE CASTRO, J.:

In this petition for review on *certiorari*,¹ petitioners International School Manila (hereafter the School) and Brian McCauley seek to set aside the Decision² dated November 17, 2004 and the Resolution³ dated February 23, 2005 of the Court of Appeals in CA-G.R. SP No. 79031. The decision of the appellate court upheld the illegality of respondent **Evangeline Santos's** termination from employment in the School, while the assailed resolution denied the petitioners' motion for reconsideration.

The complaint filed before the Labor Arbiter involved three individual complainants, aside from the International School Alliance of Educators (ISAE).⁴ However, the instant petition concerns only the case of Santos as the causes of action of the other complainants, Joselyn Rucio and Methelyn

¹ Rollo, pp. 2-39.

² Id. at 41-64; penned by Associate Justice Renato C. Dacudao with Associate Justices Edgardo F. Sundiam and Japar B. Dimaampao, concurring.

³ Id. at 66-67.

⁴ The ISAE was the certified bargaining agent of the School's faculty members.

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Filler, had since been dismissed by the Labor Arbiter and the Court of Appeals, respectively.

The Material Facts

Santos was first hired by the School in 1978 as a full-time Spanish language teacher. In April 1992, Santos filed for and was granted a leave of absence for the school year 1992-1993. She came back from her leave of absence sometime in August 1993.⁵ Upon Santos's return to the School, only one class of Spanish was available for her to teach. Thus, for the school year 1993-1994, Santos agreed to teach one class of Spanish and four other classes of Filipino that were left behind by a retired teacher.⁶

Since it was Santos's first time to teach Filipino, the School's high school administrators observed the way she conducted her classes. The results of the observations on her classes were summarized in Classroom Standards Evaluation Forms accomplished by the designated observers. In accordance with said forms, Santos was evaluated in the areas of Planning, the Teaching Act, Climate, Management and Communication.

On October 26, 1993, Dale Hill, then Assistant Principal, observed Santos's Filipino II class. In the Classroom Standards Evaluation Form,⁷ Hill remarked that the lesson plan that Santos provided "was written with little detail given." Santos was also noted as needing improvement in the following criteria: (1) uses effective questioning techniques; (2) is punctual and time efficient; (3) states and enforces academic and classroom behavior expectations in a positive manner; and (4) reinforces appropriate behavior. Hill also stated that Santos's management of the class left much to be desired. Hill added that "[t]he beginning and the end of the class were poorly structured with students both coming late and leaving early with no apparent expectations to the contrary."

On January 17, 1994, Santos submitted to the Personnel Department of the School a memorandum/form,⁸ which stated her assignment preference for the school year 1994-1995. She indicated therein that she planned to return to the School staff for the said school year and she did not prefer a change of teaching assignment.

On March 11, 1994, Hill observed Santos's Spanish I class. In the Classroom Standards Evaluation Form⁹ he accomplished, Hill stated that Santos needed improvement on the following areas: (1) uses effective questioning techniques; (2) uses appropriate praise; (3) deals with students in a fair and consistent manner; (4) is punctual and time efficient; (5) states

⁵ According to respondents' Position Paper before the Labor Arbiter, the school year at the International School Manila commences in the month of August. (CA *rollo*, p. 151.)

⁶ *Rollo*, pp. 428-429.

⁷ Id. at 230.

⁸ Id. at 355.

⁹ Id. at 231.

and enforces academic and classroom behavior expectations in a positive manner; (6) reinforces appropriate behavior; (7) organizes the classroom to enhance learning and minimize disruption; and (8) states expectations and ideas clearly.

On May 30, 1994, Hill completed a Summary Evaluation Form¹⁰ of Santos's performance. Hill stated, among others, that Santos should improve on managing the students' punctuality and time efficiency. Hill added that instructions were not well stated and presented to the class. He said that Santos needed to identify and state positively the expectations she has for the students. In a Professional Standards Form¹¹ accomplished on the same date, Santos was found to be in need of improvement in these areas: (1) has in-depth knowledge of the appropriate subject matter; and (2) clearly defines consequences of inappropriate behavior and is consistent in follow through.

In the meantime, for the school year 1994-1995, Santos agreed to teach five classes of Filipino.¹² On November 7, 1994, Santos also informed the School of her assignment preference for the incoming school year 1995-1996. In a memorandum/form¹³ submitted to the Personnel Department of the School, Santos indicated that she did not prefer a change of teaching assignment. In the school year 1995-1996, Santos again taught five classes of Filipino.¹⁴

On February 1, 1996, then Assistant Principal Peter Loy observed a Filipino IBS1 class of Santos. In the Classroom Standards Evaluation Form¹⁵ he completed thereafter, Loy noted that Santos needed improvement on the following aspects: (1) has daily lesson plans written out; (2) incorporates a variety of activities, resources and teaching strategies into the lesson; (3) plans for the entire instructional period; (4) provides an instructional sequence which is clear and logical, leading to stated objectives; (5) uses effective questioning techniques; (6) develops rapport with and between students by creating a supportive environment; (7) is punctual and time efficient; and (8) reinforces appropriate behavior. Loy also observed that Santos did not meet the minimum standards in these areas of concern: (1) has clearly defined lesson objectives that tie into unit objectives as well as into the school curriculum; and (2) states and enforces academic and classroom behavior expectations in a positive manner.

On February 2, 1996, Loy wrote a memo¹⁶ to Santos, calling her attention to the deficiencies in her planning, to wit:

¹⁰ Id. at 199.

¹¹ Id. at 232.

¹² Id. at 429, 476.

¹³ Id. at 356.

¹⁴ Id. at 476.

¹⁵ Id. at 236.

¹⁶ Id. at 375-376.

Good teaching is not something that happens spontaneously all the time. Good teaching is the result, in part, of hard work and planning. **Clearly the planning for your classes, as indicated by the absence of detailed lesson plans, has resulted in below standard instruction. This is simply not acceptable.** A review of your planning book shows less-than-skeletal entries with no detail or unification of direction of syllabus. You said that you had other written plans, but these were not visible nor used for reference during class. Relying solely on memory is not always the best approach. Although you are a veteran teacher with three decades of experience, you have been teaching Filipino for only two years during which time there have been important changes in the International Bacc[al]aureate structure. It is crucial that your plans, both medium and long range, be well constructed and written and then utilized. (Emphasis ours.)

In a memo¹⁷ dated March 25, 1996, Loy commented on the outline of goals and activities of Santos as follows:

1. You do not address any of the comments made in the Classroom Standards Evaluation Form, nor how you plan to address those concerns. At present, your outline of activities for this semester is sketchy. That is, your general lesson topics are listed, but without any daily substance or sequence. One example, the area of planning, along with objectives and activities, is an area of major concern for us. It is vital to your growth plan that you submit your detailed lesson plans to Mrs. Villajuan daily and discuss these with her before the lesson and after to ensure direction and implementation. Thus, a daily meeting with your department chair is required.

On March 29, 1996, Loy sent another memo¹⁸ to Santos, which required her to undergo the remediation phase¹⁹ of the evaluation process through a Professional Growth Plan. Thus:

Given that planning is one of the areas of major concern, it is all the more disturbing that you have shown virtually no written planning for this quarter.

For the record, please note that we met on February 2, 1996, the day after I observed your class for the second time this school year. At that meeting,

¹⁷ Id. at 377.

¹⁸ Id. at 382.

¹⁹ Id. at 191. According to the School's Position Paper Regarding Professional Growth, Supervision and Evaluation of Faculty:

Category 3. Evaluation and Remediation.

Faculty members whose performance level is below the school's minimum level of expectations at any time will enter the "remediation" phase of the evaluation process. A faculty member will be clearly notified that he/she has entered remediation. During remediation, the faculty member and administrative supervisor will establish and carefully monitor a program designed to bring the faculty member's performance above the minimum level of expectations. If this program is successful, the employee will be informed that he/she has been removed from remediation. A faculty member who exits remediation successfully will be considered for further employment without prejudice. Should more time be needed to meet the school's expectations, the administration may extend a foreign hired expatriate's contract by one year instead of two. **If a faculty member is not able to meet the school's minimum performance expectations and exit remediation successfully, appropriate action regarding the faculty member's further employment will be taken.** (Emphasis ours.)

you were given a draft of my comments and concerns, along with a two[-] page memo. Since that date, I have received a mere outline of your fourth quarter syllabus which contains virtually no specific plan of activity, action, or means of addressing the concerns. My memo of March 25 reiterates some of the concerns, while elaborating on the shortcomings of the outline you submitted that same day.

X X X X

The impression you are creating is that planning for your classes is not taking place, nor is there any immediate movement towards improvement. This lack of attention on your part only serves to heighten our concern. Please find attached, therefore, my draft of your Growth Plan.

The March 29, 1996 Professional Growth Plan²⁰ of Santos, which she signed with then Principal Jeffrey Hammett, Assistant Principal Peter Loy, and Modern Languages Department Chair Normelita Villajuan, reads:

Goals:

Improve classroom instruction through the implementation of the areas marked as “does not meet minimum standards,” “needs improvement,” or “not observed” in classroom observations from October 1993 through February 1996, as well as concerns noted in your Summary Evaluation of May 30, 1994. These areas include PLANNING, THE TEACHING ACT, CLIMATE, MANAGEMENT as specified and dated below.

Initial focus for the first part of this GROWTH PLAN, namely the fourth quarter of SY 1995-96 will be on PLANNING. By focusing on planning first, other issues relative to climate and management may also be assisted. This Growth Plan will be reviewed and revised as necessary for SY 1996-97.

Actions:

1. Write daily lesson plans (2/96)
2. Have clearly defined lesson objectives that tie into unit objectives as well as into the school curriculum (2/96)
3. Incorporate a variety of activities, resources and teaching strategies into the lesson (2/96)
4. Plan for the entire instructional period (2/96)
5. Provide an instructional sequence which is clear and logical, leading to stated objectives (2/96)
6. Use effective questioning techniques (2/96, 3/94, 10/93)
7. Provide sufficient guided practice and modeling to ensure success, particularly homework assignments (11/95)

²⁰

NLRC Records, Vol. I, Exhibit 24.

8. Develop rapport with and between students by creating a supportive environment (2/96, 11/95)

9. Be punctual and time efficient (2/96, 3/94, 10/93)

10. State and enforce academic and classroom behavior expectations in a positive manner (2/96, 3/94, 10/93)

[11.] Reinforce appropriate behavior (2/96, 3/94, 10/93)

[12.] Organize the classroom to enhance learning and minimize disruption (11/95, 3/94)

In the memo²¹ to Santos dated April 18, 1996, Loy commented that since the implementation of Santos's Professional Growth Plan, it was observed that there was noticeable improvement in the writing of her lesson plans and the same had a clearer sense of direction for her classes. Likewise, in the memo²² dated April 26, 1996, Loy noted that Santos was observed to be taking steps to address the concerns in her Professional Growth Plan. In the succeeding memos to Santos dated May 10, 1996²³ and May 16, 1996,²⁴ Loy expressed his gladness at the progress of Santos and the positive effect of the Professional Growth Plan on her performance. Accordingly, in a memo²⁵ dated May 24, 1996, Loy advised Santos that her Professional Growth Plan had been revised as a result of her efforts and improvements.

The May 24, 1996 Revised Professional Growth Plan²⁶ of Santos states:

Goals:

Improve classroom instruction through the implementation of the areas marked as "does not meet minimum standards," "needs improvement," or "not observed" in classroom observations from October 1993 through February 1996, as well as concerns noted in your Summary Evaluation of May 30, 1994. These areas include PLANNING, THE TEACHING ACT, CLIMATE, MANAGEMENT as specified and dated below.

Initial focus for the first part of this GROWTH PLAN was on PLANNING. Ms. Santos has shown improvement in areas #1-4 under Short Term Planning during the fourth quarter of SY 1995-1996. Having focused on planning first, other issues relative to climate and management may also have assisted and can now be directly addressed in the 1996-97 school year.

²¹ *Rollo*, p. 385.

²² *Id.* at 386.

²³ *Id.* at 388.

²⁴ *Id.* at 389.

²⁵ *Id.* at 390.

²⁶ NLRC Records, Vol. I, Exhibit 25.

Actions:

I. Continue the following, which was an area of focus in SY 1995-96:

A. Short Term Planning

1. Write daily lesson plans (2/96)
2. Have clearly defined lesson objectives that tie into unit objectives as well as into the school curriculum (2/96)
3. Incorporate a variety of activities, resources and teaching strategies into the lesson (2/96)
4. Plan for the entire instructional period (2/96)

II. Focus on the following areas in need of improvement:

(Note: these items have been grouped by topic area in this revised growth plan and therefore re-numbered from the listing in the original growth plan)

B. Medium and Long Range Planning

5. Provide an instructional sequence which is clear and logical, leading to stated objectives (2/96)
6. Be punctual and time efficient (2/96, 3/94, 10/93)

C. Classroom Climate and Management

7. Develop rapport with and between students by creating a supportive environment (2/96, 11/95)
8. State and enforce academic and classroom behavior expectations in a positive manner (2/96, 3/94, 10/93)
9. Reinforce appropriate behavior (2/96, 3/94, 10/93)
10. Organize the classroom to enhance learning and minimize disruption (11/95, 3/94)

D. Teaching Techniques

11. Use effective questioning techniques (2/96, 3/94, 10/93)
12. Provide sufficient guided practice and modeling to ensure success, particularly homework assignments (11/95)

For the school year 1996-1997, Santos again taught five classes of Filipino.²⁷

²⁷ Rollo, p. 477.

In a memo²⁸ dated September 6, 1996, Loy reminded Santos that, to support her planning and instruction, they agreed, among others, that she “would keep detailed daily lesson plans, medium and long range plans and syllabi, and copies of instructional materials used.” Subsequently, in a memo²⁹ dated September 19, 1996, Loy noted that there seemed to be progress as regards the instruction that Santos would keep detailed lesson plans. Santos was then advised to continue and improve her focus on medium and long range plans.

Thereafter, it seemed that the positive reviews of Santos’s performance were gradually replaced by renewed concerns on her planning. In a memo³⁰ dated October 4, 1996, Loy stated that:

[Santos] submitted a plan for the semester using a form from Anne Marie that will be used by the department to review the curriculum. **A review of the plan submitted by [Santos] indicates that the plan is vague; it needs additional thought and revision with regards to detail and timelines.** The vagueness of this plan is of concern because proper planning is one of the key areas in [Santos’s] Professional Growth Plan. Proper planning was also noted in Mr. Hammett’s observation comments x x x. [Santos] needs to revise this semestral plan for our next meeting. (Emphasis ours.)

In the following memo³¹ dated October 18, 1996, Loy noted that Santos revised her plan for the semester, but the same could use another revision. Santos was directed to add more details to her plan.

On October 29, 1996, Loy observed the Conversational Filipino class of Santos. In the Classroom Standards Evaluation Form³² he accomplished for that day, Loy observed that Santos needed improvement on the following areas: (1) has daily lesson plans written out; (2) has clearly defined lesson objectives that tie into unit objectives as well as into the school curriculum; and (3) reinforces appropriate behavior. Loy also remarked to Santos that:

[T]here is still noted deficiency in the planning of your classes overall. Although your lesson plans for Conversational Filipino and Filipino III are better organized than previously, **they are still vague, lack detail and are not clear as to how they fit into a well-sequenced unit.** They are still stand-alone lessons. **In addition, your last written lesson plan for Filipino I was for October 24 -- two class meetings ago. For Filipino A IBS2, there was only one written lesson plan -- for October 17, the first day of the quarter.** (Emphases ours.)

Thereafter, Loy’s memo³³ dated November 14, 1996 sternly told Santos the following words:

²⁸ Id. at 391.
²⁹ Id. at 392.
³⁰ Id. at 393.
³¹ Id. at 394.
³² Id. at 237.
³³ Id. at 395.

Vangie, you stated that you had not revised your lesson plans, yet there was no reason. In light of my observation of your class on October 29 which followed, planning remains a major concern. I voiced concern that, given the draft of my October 29 observation which had three notations which did not meet expectations, you had not responded to my request for a follow-up conference. x x x

Vangie, you need to plan thematic units and daily lessons for each class which are well sequenced and relevant to the unit. This is one of the major areas of concern in your Professional Growth Plan. For you not to address this issue from our previous meetings, and to have a planning book that does not reflect proper planning, does not address the concerns of that Growth Plan; instead the concerns not only persist, they become more problematic. Vangie, to quote you, you “play it by ear.” Flexibility only works when you are flexible within a clear plan. Otherwise, “playing it by ear” is synonymous with “winging it day-by-day.” You must plan, and you need to begin your second semester outlines now. To this end, I am asking that you present a draft of your second semester syllabi and plans at our next meeting.”

The memo³⁴ of Loy on November 15, 1996, further stated:

Thank you for coming to speak with me as follow-up to our meeting yesterday and to share your impressions. You stated that you feel I am being too hard on you. However, when we reviewed your lesson planning book which you brought with you we noted the following:

- **For your Filipino 1 classes, there were lesson plans for November 6, 7 and 13, but no lesson plans for November 11 and 12.**
- **For your Conversational Filipino and Filipino 3 classes, there were at least three “lesson plans” with no activities listed.**
- **For your Filipino A1/S2, you had gone back to write, using a pen with a slightly different colored ink to fill in parts of the lesson plan which I noted as deficient in my observation report of October 29.**
- **There are no lesson plans for any class beyond today’s date.**

Clearly, this indicates a lack of planning. With this as your planning guide, I cannot agree that I am “being too hard on you.” As I have stated, your daily planning is often vague at best; your long term planning does not exist in writing. A review of your planning book today only supports this. (Emphases ours.)

In the memo³⁵ dated December 6, 1996, Loy disclosed to Santos that:

Concern was expressed by both Mr. Hammett and myself that, after eight months working with your Professional Growth Plan, we are still focused on but one of the four major areas of concern. Still to be addressed, following Planning, are concerns under the Teaching Act, Climate and

³⁴ Id. at 396.

³⁵ Id. at 397.

Management. The third quarter is a crucial one for you, Vangie. We need to move beyond the initial concern in the Growth Plan to work in the other areas as well.

On January 22, 1997, Loy observed the Filipino 3 class of Santos. The Classroom Standards Evaluation Form³⁶ he accomplished stated that Santos still needed improvement on the following aspects: (1) has daily lesson plans written out; (2) incorporates a variety of activities, resources and teaching strategies into the lesson; (3) provides an instructional sequence which is clear and logical, leading to stated objectives; and (4) states and enforces academic and classroom behavior expectations in a positive manner. Loy also remarked that Santos's "lesson plans do not give a clear sense of direction towards a specified goal other than to reach the end of the chapter and the book."

In his memo³⁷ dated January 24, 1997, Loy made known his apparent frustration at Santos's performance in this manner:

As I said today, Vangie, I find myself continuing to use the phrases "vague" and "lacking specifics" in reviewing your daily, unit, or semestral plans. Moreover, suggestions and contributions made in our meetings to address those concerns do not seem to affect your planning. In your lesson plans, your objectives are basic and elementary; your activities, vacuous. Objectives such as "enrich vocabulary," "identify the theme of the chapter," and "participate actively in discussion" (for a class of 7) are not fitting of a high school lesson plan, much less a pre-International Baccalaureate course. Your activities do not specify the format, criteria, analytical features, or relationship to the day's/course's objectives.

While you claim that you are doing much more than what you have in your lesson plans, my contention is then, that the plans do not accurately reflect the lesson. As it is, I entered a question mark next to "plans for the entire instructional period" because your plan gave so little direction about what you were planning that day. If you know what the specific objectives are, based on assessment goals, and you plan to include an activity as part of the lesson, include it in the plan and be specific about what it is, what the criteria are, and why it is important. (Emphasis ours.)

Since then, Loy continued to voice his concerns on the planning process of Santos. He noted on his memo³⁸ dated February 7, 1997 that the objectives in Santos's daily lesson plans were very generic and the activities listed were elementary and very basic. Judging from the lesson plans, Loy concluded that Santos's planning is still substandard. On February 28, 1997, Loy sent another memo³⁹ to Santos, which informed her in no uncertain terms that the growth they see was insufficient. Other than the substandard lessons, Loy commented that there was virtually no written work nor

³⁶ Id. at 373.

³⁷ Id. at 399.

³⁸ Id. at 401.

³⁹ Id. at 402.

adequate direction in her syllabus. Loy also warned her that “[c]ontinuance in this manner without marked improvement cannot be tolerated.”

In a memo⁴⁰ dated March 14, 1997, Loy called Santos’s attention about a problem they discovered in one of her classes. Loy said:

With regards to IBS2 Filipino, three of the eight students did not submit world literature papers as required by the International Baccalaureate syllabus. Why? You have had these students for the past two years and know the syllabus of the course. This required component should have been part of the planning of the course throughout. Although these students are not IB diploma candidates, the paper should have been drafted, revised, reviewed and polished throughout the course of the past two years. As you admitted, you did not know until the day the papers were due that these students were not submitting a paper.

With regards to your lesson planning, there is still a marked absence of writing activities in all your classes. x x x

Vangie, I hear that you feel you are doing a good job. What worries me, then, is your perception of how problematic this situation is. You are now one year into a Professional Growth Plan with incremental movement in just one of several areas of concern. I am disappointed that you believe that I do not want to have you continue as a member of our faculty. I have worked with you for the past twelve months on this growth plan, meeting with you no fewer [than] fifteen times since August 1996. Throughout this time, I have offered observations on the areas of deficiency and suggestions for ways to improve. Ms. Butt and Mr. Hammett have also been supportive of your stated desire to improve. We want you to be a successful teacher in the area you teach for the sake of our students. If, as you have confided, Filipino is not the language you would choose to teach, what are the options? Mr. Hammett said again for the record that he did try to schedule a section of Spanish this year, but was unable to do so. That situation may also exist next year as we already have four other teachers teaching Spanish. Knowing all this, it may be difficult to consider your placement next year.

I look forward to continued discussions with you, Vangie, as we search for ways to assist your improvement toward success as a teacher. I think we all realize, however, that we are running out of time.

On April 2, 1997, Jeffrey Hammett sent a memo⁴¹ to Santos, likewise expressing his disappointment with the latter’s performance. Hammett stated:

Vangie, we have been focusing on your planning for just over one year now, and this is just the first of four areas we wanted to address in your growth plan of last March. We have met with you more than thirty times this past year to check-on, discuss, and help improve your planning processes. Your planning has become our number one concern. **Still, as I look at the three-day plan you presented me today for this pre-IB Filipino 3 class (see attached) – note that this “plan” covers last**

⁴⁰ Id. at 403.

⁴¹ Id. at 207.

Monday (31 March), today (2 April), and this coming Friday (4 April) - this one-page planning sheet is less than half complete. In fact, the “objectives” section contains nothing more than an unfinished sentence. You list no activities, no student outcomes. What’s more, I found nothing but blank pages for any future class sessions.

In all honesty, Vangie, this illustrates to me even more explicitly than ever before how justified we are in focusing our concerns on your planning. You cannot keep the daily objectives, activities, and expected student outcomes only “in your head” and “wing it” as you did today. Frankly speaking, you know how concerned we are with your planning, and you also know that you and I have had informal conversations relative to your continued employment with us. I would have hoped and expected, therefore, to see the complete plans for this quarter in your folder, or at the very least, a thoroughly planned unit on Noli Me Tangere, the material being presented and covered this week. Your “plan” shows me very little, and what I do see is completely unacceptable!

For me, the reality of this unacceptable lesson plan only reinforces the concerns being expressed by Mr. Loy. You do not plan in any written and complete way for the success of your students, and this lack of planning is now, has been, and always will be unacceptable in our school and in our profession. (Emphasis ours.)

Subsequently, on April 10, 1997, McCauley sent a letter⁴² to Santos directing her to explain in writing why her employment from the School should not be terminated because of her failure to meet the criteria for improvement set out in her Professional Growth Plan and her substandard performance as a teacher.

In her reply letter⁴³ dated April 14, 1997, Santos blamed the School for her predicament. She said that, in the last few years, she had been forced to teach Filipino, a subject which she had no preparation for. The School allegedly made this happen against her objections and despite the fact that she had no training in Filipino linguistics and literature. Santos also asked for clarification on why she was being asked to explain and the reasons therefor.

On April 21, 1997, McCauley wrote a letter⁴⁴ to Santos informing her that the School considered her letter dated April 14, 1997 as her explanation. The School also set a formal administrative investigation on April 23, 1997 in order to further clarify matters and accord Santos the opportunity to explain her side. Santos was given the choice of bringing a representative or counsel to assist her.

According to the Minutes of the Administrative Investigation⁴⁵ conducted on April 23, 1997, Santos was accompanied by Raquel David

⁴² Id. at 208-209.

⁴³ Id. at 210.

⁴⁴ Id. at 211.

⁴⁵ Id. at 212.

Ching, the President of the ISAE. Ching first sought clarification as regards the specific charge against Santos. McCauley referred to the letter dated April 10, 1997, which asked Santos to explain why her employment should not be terminated by reason of her performance that fell below the acceptable standards of the School. The charge against Santos was gross inefficiency or negligence in the performance of her assigned work. After the parties made known their positions, the investigating committee informed Santos and Ching that they would consider the views presented and they would advise Santos of the School's action on her case.

In a letter⁴⁶ dated May 29, 1997, McCauley informed Santos that he was adopting the recommendation of the investigation committee that Santos's employment from the School cannot be continued. According to McCauley, the committee found that the numerous consultations of Santos with her supervisors for the last three school years did not result in any appreciable improvement on her part. McCauley pointed out that Santos categorically indicated that she preferred to continue teaching Filipino for the school years 1994-1995 and 1995-1996. Given that Santos was duly licensed to teach Filipino, McCauley stated that the committee could not accept her claim that she was ill-equipped to teach the language. McCauley then told Santos that her employment with the School would cease effective June 7, 1997.

On June 26, 1997, the ISAE filed a complaint⁴⁷ against the petitioners, alleging the following causes of action: (1) unfair labor practice; (2) illegal dismissal; (3) moral and exemplary damages; (4) violation and refusal to comply with grievance procedures in the CBA; and (5) unresolved grievance matter. The reliefs prayed for included reinstatement and the payment of backwages and damages. The complaint was docketed as NLRC-NCR Case No. 00-06-04491-97. The complaint was subsequently amended⁴⁸ to include as complainants Evangeline Santos, Joselyn Rucio and Methelyn Filler.⁴⁹

The Ruling of the Labor Arbiter

On April 3, 2001, the Labor Arbiter rendered a Decision⁵⁰ finding, among others, that Santos was illegally terminated from her employment. The relevant portions of the ruling state that:

The law is clear that for an employee to be validly dismissed, it must be shown that the inefficiency or incompetency of the employee must be "gross or serious" and "habitual." What is gathered from the submission made by the respondent is the fact that complainant Santos

⁴⁶ Id. at 213.

⁴⁷ NLRC Records, Volume I.

⁴⁸ Id.

⁴⁹ In the Position Paper of the complainants before the Labor Arbiter, Evangeline Santos, Joselyn Rucio and Methelyn Filler invoked separate causes of action against the School. (CA *rollo*, pp. 149-162.)

⁵⁰ *Rollo*, pp. 89-127; penned by Labor Arbiter Patricio P. Libo-on.

does not have the skill and competency to teach Filipino as she was observed by her superior and peers to be lacking in “preparation” of her lesson plan; she was not in control of her classes as observed since students come in late; and, she has not communicated well with her students what the expectations and objectives of the class were.

Based on the above arguments, it is this Office’s finding, that if she was measured against them, the complainant could not be considered as grossly or seriously inefficient or incompetent and therefore her dismissal is unwarranted. It is unwarranted since her being caught once for not preparing her lesson plan for the day is not and could not be, by itself as “gross or serious” as defined by law. Likewise, the observations made by her superior and peers could not be the basis for concluding or finding that she is grossly incompetent or inefficient.

The attendance of students to a greater extent is outside the control of the teacher. To hold her grossly incompetent on account of the late coming of students under her class is erroneous application of the intent of the law.

x x x x

This Office observed first hand (sic) the strained relations that developed and at times consumed the parties, making reinstatement a not prudent disposition of the case, for it will only inflame so far the subdued and subsiding emotions.

This Office was witness to the long and emotional and loud arguments that transpire every hearing. This Office had to step in most of the times to control flying tempers and emotions. Thus, in lieu of reinstatement, the respondent is directed to pay complainant separation pay equivalent to one-half (1/2) month salary for every year of service.

Full backwages will not be awarded as well considering the fact that complainant is not without fault. Partly, she contributed to the problem she found herself in only that, it is not “serious” or “gross” to make a finding of legality of her termination. She is, therefore, awarded a limited backwages not to exceed a year and a half in backwages as a form of penalty.

x x x x

WHEREFORE, judgment is hereby rendered as follows:

1. The complaint for unfair labor practice is dismissed for lack of merit;
2. The complaint of Rucio is dismissed for lack of merit;
3. The dismissal of Santos is declared unwarranted, and in view thereof, she is ordered paid separation pay in lieu of reinstatement in the amount of Seven Hundred Fifty[-]Six Thousand Five Hundred Thirty[-]Six and 55/100 (₱756,536.55) Pesos, and, she is likewise ordered [paid] a limited backwages equivalent to one and a half (1 ½) year in the amount of One Million One Hundred Fifty[-]Two Thousand Eight

Hundred Seventeen and 60/100 (₱1,152,817.60) Pesos (please see computation Annex "A");

4. Ms. Filler is declared a regular employee. She is ordered paid backwages and benefits due a regular employee covering the period from July 25, 1994 to the time of the rendition of this decision in the total amount of One Million Thirty[-]Three Thousand Three Hundred Seventy Five and 80/100 (₱1,033,375.80) Pesos (please see computation Annex "A").

All other claims are denied for lack of merit.⁵¹ (Emphasis ours.)

Both parties appealed the Labor Arbiter's Decision to the National Labor Relations Commission (NLRC).⁵² The appeals were docketed as NLRC CA No. 028558-01.

The Judgment of the NLRC

On February 28, 2003, the NLRC issued a Resolution,⁵³ which affirmed the decision of the Labor Arbiter in this wise:

WHEREFORE, premises considered, the appeal is dismissed for lack of merit and the Decision appealed from is affirmed en toto.

The NLRC upheld the ruling of the Labor Arbiter that Santos's dismissal from employment was not warranted given that "her being caught once for not preparing her lesson plan for the day is not and could not be, by itself, as gross or serious as defined by law. Likewise, the observations made by her superior and peers could not be the basis for concluding or finding that she is grossly incompetent or inefficient."⁵⁴ The NLRC found the conclusion of the Labor Arbiter to be supported by substantial evidence.

Petitioners moved for a reconsideration⁵⁵ of the NLRC Resolution but the same was denied in a Resolution⁵⁶ dated June 30, 2003. Petitioners then filed a petition for *certiorari*⁵⁷ before the Court of Appeals.

The Decision of the Court of Appeals

On November 17, 2004, the Court of Appeals promulgated the assailed decision the decretal portion of which provides:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the instant petition is **PARTLY GRANTED**. The Resolution of public respondent National Labor Relations Commission dated February 28,

⁵¹ Id. at 119-126.

⁵² CA *rollo*, pp. 321-346, 483-493.

⁵³ *Rollo*, pp. 128-148; penned by Commissioner Victoriano R. Calaycay with Commissioner Angelita A. Gacutan, concurring.

⁵⁴ Id. at 146.

⁵⁵ CA *rollo*, pp. 608-624.

⁵⁶ *Rollo*, pp. 149-150.

⁵⁷ CA *rollo*, pp. 2-43.

2003, in NLRC CA No. 028558-01, and its Resolution of June 30, 2003 on the partial motion for reconsideration are **AFFIRMED** subject to the **MODIFICATION** that the award to private respondent METH[E]LYN FILLER of backwages and benefits due a regular employee from July 25, 1994 until the rendition of the Labor Arbiter's decision on April 3, 2001 is hereby **DELETED**. Without costs.⁵⁸

Brushing aside the argument that Santos did not exercise slight care or diligence in the performance of her duties, the Court of Appeals pointed out that Santos did exert efforts to improve her performance, which led to a revision of her original Professional Growth Plan. Echoing the findings of the Labor Arbiter and the NLRC, the Court of Appeals agreed that Santos could not be said to be habitually neglectful of her duties after she was "caught once with an inadequately prepared lesson plan in 1997."⁵⁹ Although the Court of Appeals acknowledged that Santos's performance as a teacher was not at all satisfactory, it ruled that the same did not warrant the penalty of dismissal. To the appellate court, a penalty of suspension from work was more equitable under the circumstances. As a matter of right, Santos was adjudged to be entitled to reinstatement and backwages. However, given the deep antagonism between her and the petitioners, the Court of Appeals ordered the award of separation pay in lieu of reinstatement.

Both parties filed their respective motions for reconsideration⁶⁰ of the above decision of the Court of Appeals, but the same were denied in the assailed Resolution dated February 23, 2005.

The Petitioners' Arguments

In challenging the assailed decision of the appellate court, petitioners raise for our consideration the following issues:

- a) WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT RESPONDENT EVANGELINE SANTOS WAS ILLEGALLY DISMISSED; and
- b) WHETHER OR NOT RESPONDENT EVANGELINE SANTOS IS ENTITLED TO REINSTATEMENT OR SEPARATION PAY WITH BACKWAGES.⁶¹

Petitioners argue that Santos's repeated failure to maintain the standards of quality teaching expected from every faculty member of the School illustrates her gross and habitual neglect of her duties, which is a just cause for dismissal under Article 282 of the Labor Code. Petitioners lament the fact that the Court of Appeals allegedly substituted its own judgment with the reasonable standards of teaching set by the School. Petitioners

⁵⁸ *Rollo*, pp. 63-64.

⁵⁹ *Id.* at 60.

⁶⁰ *CA rollo*, pp. 806-812, 813-832.

⁶¹ *Rollo*, pp. 439-440.

point out that there was neither a finding that such standards were arbitrary, nor was the evaluation process biased or that the School or any of its personnel was motivated by ill will against Santos. Petitioners stress that Santos was not dismissed solely on the ground that she failed to prepare her lesson plan for **one particular day**. On the contrary, petitioners assert that Santos was dismissed from employment because she repeatedly failed to meet the standards required by the school from 1993 to 1997. According to petitioners, this repeated failure, especially after the one-year remediation period wherein school administrators met with Santos no less than thirty (30) times to check on her, clarify and discuss her planning process, and help her improve her performance, was clearly overlooked by the Court of Appeals.

Despite the application of the Professional Growth Plan, petitioners insist that Santos was still repeatedly found to be lacking in preparation and planning. Petitioners claim that Santos's failure to improve, most especially in the planning area of her teaching, justified the School's decision to terminate her services. Otherwise, to retain her in the roster of faculty would be tantamount to sacrificing the welfare of the School's very own students. At the very least, petitioners aver that Santos was guilty of gross inefficiency in the performance of her teaching duties. Petitioners further state that the School observed procedural due process before dismissing Santos. Since her employment was lawfully terminated, petitioners posit that an award of separation pay with backwages is not proper.

The Respondents' Arguments

Respondents argue that the Court cannot examine anymore the factual findings of an administrative tribunal, such as the Labor Arbiter, which has already gained expertise in its field. This holds truer if the factual findings had been affirmed upon review by the NLRC and the Court of Appeals. According to the respondents, it cannot be said that Santos did not exercise slight care or diligence in the performance of her duties as she did exert efforts to make the necessary adjustments. That Santos was shown to have inadequately prepared a lesson plan in 1997 did not necessarily show that she was habitually neglectful of her duties. For the said reasons, respondents also rejected the charge of gross inefficiency. Respondents aver that the administrative superiors of Santos found that she had greatly improved on her preparations and she was never found wanting in the other areas of her teaching. Respondents also stress that petitioners only brought up the claim of gross inefficiency in the petition for *certiorari* before the Court of Appeals. Although respondents admit that Santos did indeed perform her duties unsatisfactorily, they argue that the same does not warrant dismissal. Considering that she had worked with the School for 17 long years with no known previous bad record, they allege that the ends of social and compassionate justice would be better served if she was merely suspended from work rather than terminated.

The Judgment of the Court

The Court finds the appeal meritorious.

Generally, on appeal, the findings of fact of an administrative agency like the NLRC are accorded not only respect but also finality if the findings are supported by substantial evidence. Such rule, however, is by no means absolute. As held in *San Miguel Corporation v. Aballa*,⁶² “when the findings of fact of the labor arbiter and the NLRC are not supported by substantial evidence or their judgment was based on a misapprehension of facts, the appellate court may make an independent evaluation of the facts of the case.” The Court finds the said exceptions extant in this case.

In *Janssen Pharmaceutica v. Silayro*,⁶³ we stated that “[t]o constitute a valid dismissal from employment, two requisites must concur: (1) the dismissal must be for any of the causes provided in Article 282 of the Labor Code; and, (2) the employee must be given an opportunity to be heard and to defend himself.”

In the collective bargaining agreement (CBA) between the School and ISAE for the years 1992-1995, Section 13 of Appendix A thereof expressly states that “[t]ermination of employment shall be in accordance with the laws of the Philippines as presented in the LABOR CODE (Book VI, Art. 282).”⁶⁴

Article 282⁶⁵ of the Labor Code provides:

ART. 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 representative; and

(e) Other causes analogous to the foregoing.

⁶² 500 Phil. 170, 194 (2005).

⁶³ 570 Phil. 215, 226 (2008).

⁶⁴ NLRC Records, Vol. I; CBA, p. 38.

⁶⁵ Now renumbered as Article 296 pursuant to Republic Act No. 10151 (An Act Allowing the Employment of Night Workers, thereby Repealing Articles 130 and 131 of Presidential Decree Number Four Hundred Forty-Two, As Amended, Otherwise known as the Labor Code of the Philippines).

In all cases involving termination of employment, the burden of proving the existence of the above just causes rests upon the employer.⁶⁶ The quantum of proof required in these cases is substantial evidence, that is, such relevant evidence that a reasonable mind might accept as adequate to support a conclusion, even if other equally reasonable minds might conceivably opine otherwise.⁶⁷

The Court had occasion to explain in *Century Iron Works, Inc. v. Bañas*⁶⁸ the concept of gross and habitual neglect of duties. Thus:

Gross negligence connotes want or absence of or failure to exercise slight care or diligence, or the entire absence of care. **It evinces a thoughtless disregard of consequences without exerting any effort to avoid them. Fraud and willful neglect of duties imply bad faith of the employee in failing to perform his job, to the detriment of the employer and the latter's business.** Habitual neglect, on the other hand, implies repeated failure to perform one's duties for a period of time, depending upon the circumstances. (Citations omitted, emphasis supplied.)

We also reiterated in *Union Motor Corporation v. National Labor Relations Commission*⁶⁹ that in dismissing an employee for gross and habitual neglect of duties, the negligence should not merely be gross, it should also be habitual.

On gross inefficiency, we ruled in *Lim v. National Labor Relations Commission*⁷⁰ that:

[G]ross inefficiency falls within the purview of "other causes analogous to the foregoing," and constitutes, therefore, just cause to terminate an employee under Article 282 of the Labor Code. One is analogous to another if it is susceptible of comparison with the latter either in general or in some specific detail; or has a close relationship with the latter. **"Gross inefficiency" is closely related to "gross neglect,"** for both involve specific acts of omission on the part of the employee resulting in damage to the employer or to his business. In *Buiser vs. Leogardo*, this Court ruled that **failure to observe prescribed standards of work, or to fulfill reasonable work assignments due to inefficiency may constitute just cause for dismissal.** (Emphases ours; citations omitted.)

Viewed in light of the above doctrines, the Court is not convinced that the actuations of Santos complained of by the petitioners constituted gross and habitual neglect of her duties.

From the very beginning of her tenure as a teacher of the Filipino language, the recurring problem observed of Santos was that her lesson

⁶⁶ *Lopez v. National Labor Relations Commission*, 358 Phil. 141, 150 (1998).

⁶⁷ *Functional, Inc. v. Granfil*, G.R. No. 176377, November 16, 2011, 660 SCRA 279, 285.

⁶⁸ G.R. No. 184116, June 19, 2013.

⁶⁹ 487 Phil. 197, 209 (2004).

⁷⁰ 328 Phil. 843, 858 (1996).

plans lacked details and coherent correlation to each other, to the course, and to the curriculum, which in turn affected how lessons and instructions were conveyed to the students.⁷¹ After Santos was placed in a Professional Growth Plan on March 29, 1996, petitioners observed a noticeable improvement on her part. In his memo⁷² dated May 24, 1996, then Assistant Principal Loy even stated that Santos's improvement was a result of her positive attitude in approaching her growth plan. Unfortunately, though, Santos could not sustain this progress. Not long after, the School administrators were again admonishing Santos for her vague lesson plans that lacked specifics.

What can be gathered from a thorough review of the records of this case is that the inadequacies of Santos as a teacher did not stem from a reckless disregard of the welfare of her students or of the issues raised by the School regarding her teaching. Far from being tainted with bad faith, Santos's failings appeared to have resulted from her lack of necessary skills, in-depth knowledge, and expertise to teach the Filipino language at the standards required of her by the School.

Be that as it may, we find that the petitioners had sufficiently proved the charge of gross inefficiency, which warranted the dismissal of Santos from the School.

The Court enunciated in *Peña v. National Labor Relations Commission*⁷³ that "it is the prerogative of the school to set high standards of efficiency for its teachers since quality education is a mandate of the Constitution. As long as the standards fixed are reasonable and not arbitrary, courts are not at liberty to set them aside." Moreover, the prerogative of a school to provide standards for its teachers and to determine whether these standards have been met is in accordance with academic freedom, which gives the educational institution the right to choose who should teach.⁷⁴

The CBA between ISAE and the School for the years 1992-1995 also recognized the exclusive right of the School to "hire and appoint qualified faculty subject to such reasonable rules and regulations as it may prescribe,"⁷⁵ as well as the right of the School to discipline its faculty and determine reasonable levels of performance.⁷⁶ Section 8 of Appendix A⁷⁷ of

⁷¹ *Rollo*, pp. 230, 199, 232, 236, 375-376, 377, 382.

⁷² *Id.* at 390.

⁷³ 327 Phil. 673, 676 (1996).

⁷⁴ *Mercado v. AMA Computer College-Parañaque City, Inc.*, G.R. No. 183572, April 13, 2010, 618 SCRA 218, 236.

⁷⁵ Section 1, Article III of the CBA states:

SECTION 1. The SCHOOL has the exclusive right to hire and appoint qualified faculty subject to such reasonable rules and regulations as it may prescribe. (NLRC Records, Vol. I; CBA, p. 6.)

⁷⁶ Section 2, Article III of the CBA provides:

SECTION 2. Except as otherwise provided in this Agreement the [ISAE] recognizes the right of the SCHOOL to supervise, manage, and conduct the effective administration of the SCHOOL, including but not limited to, the direction of the teaching force, the hiring, re-hiring,

the CBA also states that “[a]ll faculty members must meet the high standard of performance expected by the SCHOOL and abide by all its policies, procedures and contractual terms.”

Contrary to the ruling of the Labor Arbiter, it is not accurate to state that Santos was dismissed by the School for inefficiency on account of the fact that she was caught only once without a lesson plan. The documentary evidence submitted by petitioners, the contents of which we laid down in detail in our statement of facts, pointed to the numerous instances when Santos failed to observe the prescribed standards of performance set by the School in several areas of concern, not the least of which was her lack of adequate planning for her Filipino classes. Said evidence established that the School administrators informed Santos of her inadequacies as soon as they became apparent; that they provided constructive criticism of her planning process and teaching performance; and that regular conferences were held between Santos and the administrators in order to address the latter’s concerns. In view of her slow progress, the School required her to undergo the remediation phase of the evaluation process through a Professional Growth Plan. Despite the efforts of the School administrators, Santos failed to show any substantial improvement in her planning process. Having failed to exit the remediation process successfully, the School was left with no choice but to terminate her employment.

The Court finds that, not only did the petitioners’ documentary evidence sufficiently prove Santos’s inefficient performance of duties, but the same also remained unrebutted by respondents’ own evidence. On the contrary, Santos admits in her pleadings that her performance as a teacher of Filipino had not been satisfactory but she prays for leniency on account of her prior good record as a Spanish teacher at the School. Indeed, even the Labor Arbiter, the NLRC and the Court of Appeals agreed that Santos was not without fault but the lower tribunals deemed that termination was too harsh a penalty.

Nonetheless, the Court finds that petitioners had satisfactorily discharged the burden of proving the existence of gross inefficiency on the part of Santos, warranting her separation from the school.

Anent the conclusion of the Labor Arbiter that “the observations made by [Santos’s] superior and peers could not be the basis for concluding or finding that she is grossly incompetent or inefficient,”⁷⁸ the Court finds the same utterly baseless. Far from being random and unstructured exercises,

assignment, transfer, promotion, laying-off, recalling, suspension, discharge and disciplining its faculty; the determination and use of testing, selection and placement procedures, the establishment and revision of reasonable SCHOOL rules, regulations and a CODE OF ETHICS attached hereto as Appendix B; the activities to be conducted in the SCHOOL, the determination of the required jobs within the SCHOOL, and the determination of reasonable levels of performance. (Id.)

⁷⁷ NLRC Records, Vol. I; CBA, pp. 33-36.

⁷⁸ *Rollo*, p. 146.

said observations were borne out of the evaluation procedures set up by the School in order to assist the members of its faculty to improve their performance. In their petition before this Court, petitioners attached a copy of their Reply/Position Paper⁷⁹ before the Labor Arbiter. Annexed to said pleading is the School's Position Paper Regarding Professional Growth, Supervision and Evaluation of Faculty,⁸⁰ which expressly states that:

It is the policy of the International School Manila to assist teachers in the improvement of classroom instruction at all levels in order to provide the highest quality educational program at ISM. To that end, procedures have been established which include 1) the promotion of on-going professional growth, 2) on-going supervision including regular monitoring, improvement of instructional practices and evaluation for continuing employment or tenure, and 3) evaluation (performance assessment, directed assistance, remediation and, if necessary, termination of employment).⁸¹

Included in the supervision and evaluation process are formal and informal observations of a faculty member's performance in his/her classes. Thus,

2.1 Formal observations will take several forms. Some will be total [sic] unannounced, with or without a pre-observation conference. Others will be scheduled in advance, possibly including a pre-observation conference, and with a post observation conference. One component of the formal observation will always be a written commentary by the supervisor or colleague making the observation.

X X X X

2.3 Drop-in, informal observations, will be a part of the supervision and evaluation process. Drop-ins may be of any length, from a few minutes to an hour or more. A note from the observer confirming his or her impressions will be helpful to the teacher observed.⁸²

From the foregoing, it is clear that the Labor Arbiter erred in not giving weight to the observations made by Santos's superiors and peers in determining whether she was grossly inefficient or not.

In view of the acts and omissions of Santos that constituted gross inefficiency, the Court finds that the School was justified in not keeping her in its employ. At this point, the Court needs to stress that Santos voluntarily agreed to teach the Filipino classes given to her when she came back from her leave of absence. Said classes were not forced upon her by the School. This much she admitted in the hearing of the case before the Labor Arbiter. She stated therein that for the school year 1993-1994, she was given the option to teach only one Spanish class and not have any Filipino teaching

⁷⁹ Id. at 151-189.

⁸⁰ Id. at 190-198.

⁸¹ Id. at 190.

⁸² Id. at 197.

loads. She, however, said that if she took that option she would have been underpaid and her salary would not have been the same.⁸³ Moreover, for the school years 1994-1995 and 1995-1996, she made known to the School that she did not prefer a change in teaching assignment. Thus, when she consented to take on the Filipino classes, it was Santos's responsibility to teach them well within the standards of teaching required by the School, as she had done previously as a teacher of Spanish. Failing in this, she must answer for the consequences.

As held in *Agabon v. National Labor Relations Commission*⁸⁴:

The law imposes many obligations on the employer such as providing just compensation to workers, observance of the procedural requirements of notice and hearing in the termination of employment. On the other hand, the law also recognizes the right of the employer to expect from its workers not only good performance, adequate work and diligence, but also good conduct and loyalty. The employer may not be compelled to continue to employ such persons whose continuance in the service will patently be inimical to his interests. (citations omitted.)

As regards the requirements of procedural due process, Section 2(d) of Rule 1 of The Implementing Rules of Book VI states that:

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. (Emphases ours.)

In this case, the School complied with the above requirements. After a thorough evaluation of Santos's performance, the School held a series of conferences and meetings with Santos, in order to improve her performance. On March 29, 1996, the School required Santos to undertake a Professional Growth Plan. Thereafter, when the intervention of the School failed to yield any considerable improvement on Santos, McCauley wrote her a letter on April 10, 1997, which required her to explain in writing within forty-eight (48) hours why her employment should not be terminated in view of her failure to meet the standards of the School on very specific areas of concern. On April 16, 1997, Santos responded to McCauley's letter, asking why she

⁸³ NLRC Records, Vol. II; TSN, June 18, 1998, pp. 129-131.

⁸⁴ 485 Phil. 248, 279 (2004).

was being required to explain. On April 21, 1997, McCauley wrote Santos a letter informing her that an administrative investigation would be conducted on April 23, 1997 where she would be given the opportunity to be heard. On April 23, 1997, an administrative investigation was conducted. Santos appeared therein with the assistance of ISAE President Ching. In a letter dated May 29, 1997, the School informed Santos of its decision to terminate her employment on the ground of her failure to meet the standards of the School, which as discussed was tantamount to gross inefficiency.

In view of the finding that Santos was validly dismissed from employment, she would not ordinarily be entitled to separation pay.⁸⁵ An exception to this rule is when the court finds justification in applying the principle of social justice according to the equities of the case. The Court explained in *Philippine Long Distance Telephone Co. (PLDT) v. National Labor Relations Commission*⁸⁶ that:

We hold that henceforth separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Where the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever other name it is called, on the ground of social justice.

X X X X

The policy of social justice is not intended to countenance wrongdoing simply because it is committed by the underprivileged. At best it may mitigate the penalty but it certainly will not condone the offense. Compassion for the poor is an imperative of every humane society but only when the recipient is not a rascal claiming an undeserved privilege. Social justice cannot be permitted to be refuge of scoundrels any more than can equity be an impediment to the punishment of the guilty. Those who invoke social justice may do so only if their hands are clean and their motives blameless and not simply because they happen to be poor. This great policy of our Constitution is not meant for the protection of those who have proved they are not worthy of it, like the workers who have tainted the cause of labor with the blemishes of their own character.

In *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*,⁸⁷ we modified our ruling in *PLDT* in this wise:

⁸⁵ Section 7, Rule I of the Implementing Rules of Book VI of the Labor Code provides:

SEC. 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 the Code, without prejudice, however, to whatever rights, benefits and privileges he may have under the applicable individual or collective agreement with the employer or voluntary employer policy or practice.

⁸⁶ 247 Phil. 641, 649-650 (1988).

⁸⁷ 562 Phil. 759, 812 (2007).

In all of the foregoing situations, the Court declined to grant termination pay because the causes for dismissal recognized under Art. 282 of the Labor Code were serious or grave in nature and attended by willful or wrongful intent or they reflected adversely on the moral character of the employees. We therefore find that in addition to serious misconduct, in dismissals based on other grounds under Art. 282 like willful disobedience, gross and habitual neglect of duty, fraud or willful breach of trust, and commission of a crime against the employer or his family, separation pay should not be conceded to the dismissed employee.

In analogous causes for termination like inefficiency, drug use, and others, the NLRC or the courts may opt to grant separation pay anchored on social justice in consideration of the length of service of the employee, the amount involved, whether the act is the first offense, the performance of the employee and the like, using the guideposts enunciated in *PLDT* on the propriety of the award of separation pay. (Emphasis ours.)

In the instant case, the Court finds equitable and proper the award of separation pay in favor of Santos in view of the length of her service with the School prior to the events that led to the termination of her employment. To recall, Santos was first employed by the School in 1978 as a Spanish language teacher. During this time, the records of this case are silent as to the fact of any infraction that she committed and/or any other administrative case against her that was filed by the School. Thus, an award of separation pay equivalent to one-half (1/2) month pay for every year of service is awarded in favor of Santos on grounds of equity and social justice.⁸⁸

WHEREFORE, the instant petition is **GRANTED**. The assailed Decision and the Resolution of the Court of Appeals in CA-G.R. SP No. 79031 are hereby **REVERSED** and a new one is entered ordering the dismissal of the complaint of Evangeline Santos in NLRC-NCR Case No. 00-06-04491-97. Petitioner International School Manila is **ORDERED** to pay respondent Evangeline Santos separation pay equivalent to one-half (1/2) month pay for every year of service. No costs.

SO ORDERED.

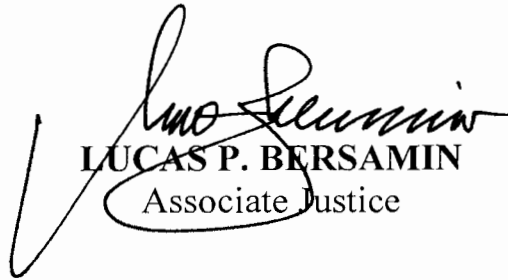
Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

⁸⁸ See *Philippine Airlines, Inc. v. National Labor Relations Commission*, G.R. No. 123294, October 20, 2010, 634 SCRA 18, 46.

WE CONCUR:



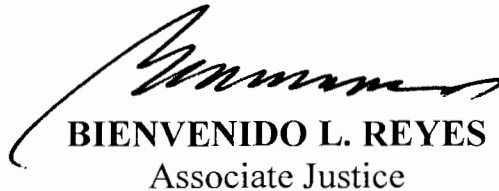
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



LUCAS P. BERSAMIN
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