

## THIRD DIVISION

[ CA-G.R. SP No. 111415, January 29, 2010 ]

**LA SALLE COLLEGE INTERNATIONAL, PETITIONER, VS.  
NATIONAL LABOR RELATIONS COMMISSION AND THELMA L.  
BADON, RESPONDENTS.**

### DECISION

## Court of Appeals

Before this Court is a Petition for Certiorari<sup>[1]</sup> under Rule 65 of the 1997 Revised Rules of Civil Procedure seeking to annul and set aside the decision<sup>[2]</sup> dated March 12, 2009 and Resolution<sup>[3]</sup> dated September 8, 2009 of the National Labor Relations Commission, Sixth Division, in NLRC LAC Case No. 04-001269-08, NLRC Case No. NCR-06-06119-07, entitled "Thelma Badon, Complainant- Appellant, versus La Salle College International/Dr. Norma Cruz, Respondents-Appellees", the dispositive portions of which read:

March 12, 2009 Decision

"WHEREFORE, premises considered, judgment is hereby rendered finding the appeal impressed with merit. The decision of the Labor Arbiter dated October 31, 2007 is hereby VACATED and SET ASIDE. Accordingly, respondents-appellees Lasalle College International et al. are hereby found jointly and severally liable to pay complainant-appellant the amount of P1,067,958.33 representing her backwages and separation pay and 10% of such aggregate amount as attorney's fees. Attached is the computation prepared by this Commission and made an integral part of this Decision.

SO ORDERED."

September 8, 2009 Resolution

"ACCORDINGLY, let the instant Motion for Reconsideration be, as it is hereby PARTIALLY GRANTED with respect to the personal liability of respondent-appellee Dr. Norma Cruz, and thus, she is hereby relieved thereof. The rest of the Decision of this Commission dated 24 September 2008 STANDS undisturbed.

No further motion of similar nature shall be entertained.

SO ORDERED."

The facts are:

Private respondent Thelma L. Badon (Badon for brevity) was hired in July 2000 by

petitioner La Salle College International (La Salle for brevity) as teacher/instructor. In May 2004, she was promoted as Program Director until May 2006 when Dr. Norma Cruz (Dr. Cruz for brevity) assumed directorship of the school. On January 2, 2007, private respondent Badon was made to sign an Employment Agreement<sup>[4]</sup> demoting her to the position of Program Coordinator.<sup>[5]</sup>

On the other hand, petitioner La Salle contended that private respondent Badon worked as part-time academic employee since July 2000 and her performance was less productive. To address this situation, and to give private respondent Badon a chance to prove her capability, Dr. Cruz asked her to work on a full-time basis beginning January 2007. Private respondent Badon allegedly agreed to serve as Program Coordinator. However, after five (5) months of probationary employment, Dr. Cruz, upon consultation with her immediate superiors from the head office in Canada, decided to terminate her services due to her failure to meet the standards set forth in her Employment Agreement, specifically paragraphs 4 and 6 thereof as she was found creating rumors about the present administration, inciting other academic employees to criticize the policies of Dr. Cruz. Private respondent Badon's tenure as part-time employee has no bearing on her probationary employment as she failed to live-up to the standards set forth by petitioner La Salle for her to qualify as regular employee. Thus, on June 14, 2007, private respondent Badon was served a notice of termination. Aggrieved, private respondent Badon filed a complaint for illegal dismissal and other monetary claims before the Labor Arbiter.

The Labor Arbiter conducted a mandatory conference purposely to convince the parties to settle amicably, but the same proved futile. Hence, after the parties have filed their pleadings, the Labor Arbiter rendered a decision<sup>[6]</sup> dismissing the complaint for lack of merit.

On appeal, public respondent NLRC reversed the decision and petitioner La Salle and Dr. Cruz were found jointly and severally liable to private respondent Badon.

Petitioner La Salle and Dr. Cruz moved for the reconsideration of the aforementioned decision which was partially granted in the assailed resolution dated September 8, 2009 absolving Dr. Cruz from liability.

Undaunted, petitioner La Salle filed this petition assigning the following errors:

“THE HONORABLE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION WHEN IT RULED THAT HEREIN PRIVATE RESPONDENT WAS HIRED AS A REGULAR EMPLOYEE AND NOT ON A STATUS OF PROBATIONARY EMPLOYMENT.

THE HONORABLE PUBLIC RESPONDENT COMMITTED A GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT THERE IS NO JUST CAUSE IN THE TERMINATION OF EMPLOYMENT OF HEREIN PRIVATE RESPONDENT.

THE HONORABLE PUBLIC RESPONDENT GRIEVOUSLY ERRED WHEN IT AWARDED SEPARATION PAY, IN LIEU OF REINSTATEMENT, BACKWAGES, AND ATTORNEY'S FEES IN FAVOR OF HEREIN PRIVATE RESPONDENT.”<sup>[7]</sup>

The petition is devoid of merit.