

TWENTY-SECOND DIVISION

[CA-G.R. SP NO. 02634-MIN, February 03, 2014]

**UNIVERSAL ROBINA CORPORATION, PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION AND DOMINADOR
C. CABRALES, JR., RESPONDENTS.**

DECISION

INTING, J.:

Before Us is a Petition for Certiorari^[1] filed by Universal Robina Corporation (URC) assailing the Resolution^[2] of the National Labor Relations Commission, Fifth Division, Cagayan de Oro City, reversing the Decision^[3] of the Labor Arbiter dismissing the complaint of illegal dismissal with money claims against URC, the dispositive portion of the resolution states:

WHEREFORE, premises considered, the decision is hereby SET ASIDE and a new one entered as follows:

1. Declaring the dismissal of the complainant illegal;
2. Ordering respondent UNIVERSAL ROBINA CORPORATION, through its authorized officers to pay complainant separation pay equivalent to his one (1) month salary for every year of service and up to the time his separation pay shall have been fully paid; and
3. Ordering respondent UNIVERSAL ROBINA CORPORATION through its authorized officers to pay the complainant backwages computed from the date of his dismissal up to the finality of this resolution.

SO ORDERED.

The facts of the case are as follows:

Dominador C. Cabrales Jr. (Dominador) was employed as Unit Sales Manager of URC.^[4] In October 2006, his immediate supervisor, Roger P. Galon, found shortages in the liquidation of Dominador's Transportation and Lodging Fund (TLF) for the months of April, May and June amounting to P76,512.50.^[5] Consequently, URC issued a letter to Dominador asking him to explain the discrepancy.^[6] In his letter to URC, Dominador admitted that he failed to liquidate the amount.^[7] He further explained that he suffered some financial difficulties during that time and promised that he will try his best to settle the amount on or before December 2006.^[8] To further afford Dominador to explain his side, an administrative investigation was conducted by URC.^[9] Dominador participated in the investigation and admitted that he used his TLF for some personal use brought about by his tight financial situation.^[10] As a result of the investigation, URC sent a letter of termination to Dominador

for misappropriating company funds and for breach of trust and confidence pursuant to their Code of Discipline.^[11]

Two months after the effectivity of his termination, Dominador instituted a complaint for illegal dismissal against URC.^[12] The Labor Arbiter ruled against Dominador and found his dismissal in order after finding that Dominador misappropriated company funds and that he lost the trust and confidence reposed in him as a managerial employee.^[13] The NLRC reversed the decision of the Labor Arbiter reasoning that: (1) Dominador did not misappropriate his TLF but only failed to liquidate it; (2) the TLF is a cash advance and therefore its ownership has transferred to Dominador but only subject to liquidation; (3) there appears to be no serious violation of company rules and regulations since Dominador was allowed to continue to work; and (4) it was not shown that Dominador was remiss of his job.^[14]

Aggrieved, URC filed the instant petition and raised following errors:

I.

THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT ERRONEOUSLY RULED THAT THE PETITIONER DID NOT FILE ITS COMMENT ON PRIVATE RESPONDENT'S APPEAL MEMORANDUM;

II.

THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT RULED THAT THE OFFENSE COMMITTED BY THE PRIVATE RESPONDENT WAS MERELY HIS FAILURE TO PROPERLY LIQUIDATE HIS TRANSPORT AND LODGING FUNDS (TLF) AND NOT ESTAFA UNDER ARTICLE 315, PAR. 1-B OF THE REVISED PENAL CODE.

Our Ruling

Essentially, the issue before this Court is whether or not Dominador was legally dismissed.

The petition is meritorious.

Dominador was employed as a Unit Sales Manager.^[15] He admitted that he failed to liquidate P76,512.50 of his TLF.^[16] He also admitted that he used his TLF other than its intended purpose which is for his transportation and lodging expenses.^[17]

"Salesmen are highly individualistic personnel who have to be trusted and left essentially on their own. A high degree of confidence is reposed in them when they are entrusted with funds or properties of their employer."^[18] Clearly, this trust was breached by Dominador. While this Court sympathizes with the financial constraints suffered by Dominador, the fact remains that he used the TLF for his own use. The use of the fund other than its intended purpose constitutes misappropriation.^[19]

It was therefore an error of the public respondent to consider that Dominador only failed to liquidate his TLF. He misappropriated his TLF which then led to his failure to liquidate it. A necessary consequence of these acts would be losing the trust and