

SECOND DIVISION

[G.R. No. 189456, April 02, 2014]

**CHIANG KAI SHEK COLLEGE AND CARMELITA ESPINO,
PETITIONERS, VS. ROSALINDA M. TORRES, RESPONDENT.**

D E C I S I O N

PEREZ, J.:

Assailed in this Petition for Review is the 29 May 2009 Decision^[1] and 2 September 2009 Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 105576 declaring respondent Rosalinda M. Torres to have been constructively dismissed and awarding her separation pay. The challenged Decision and Resolution reversed and set aside the Decision of the National Labor Relations Commission (NLRC).

The facts are as follow:

Petitioner Chiang Kai Shek College is a private educational institution that offers elementary to college education to the public. Individual petitioner Carmelita Espino is the Vice-President of the school. Respondent had been employed as a grade school teacher of the school from July 1970 until 31 May 2003. The manner of her severance from employment is the matter at hand.

Respondent was accused of leaking a copy of a special quiz given to Grade 5 students of *HEKASI* (*HEKASI* 5). *HEKASI* stands for *Heograpiya, Kasaysayan at Sibika* (Geography, History and Civics). Petitioners came to know about the leakage from one of the teachers of *HEKASI* 5, Aileen Benabese (Ms. Benabese). Ms. Benabese narrated that after giving a special quiz, she borrowed the book of one of her students, Aileen Regine M. Anduyan (Aileen), for the purpose of making an answer key. When she opened Aileen's book, a piece of paper fell. Said paper turned out to be a copy of the same quiz she had just given and the same already contained answers.

Ms. Benabese informed the school's Assistant Supervisor Mrs. Gloria Caneda (Mrs. Caneda) about the incident. Mrs. Caneda conferred with Assistant Supervisor Encarnacion Koo (Mrs. Koo), who was in charge of the *HEKASI* area, and Supervisor Luningning Tibi (Ms. Tibi). Mrs. Koo confronted respondent, who had initially denied leaking the test paper but later on admitted that she gave the test paper to Mrs. Teresita Anduyan (Mrs. Anduyan), her co-teacher and the mother of Aileen. Respondent and Mrs. Anduyan were both directed to submit their written statement on the incident.

Respondent explained that she was busy checking the writing workbook when somebody handed her the special quiz for *HEKASI* 5, thus:

Yesterday morning, before the bell rings, I was busy checking the writing workbook when somebody handed me the special quiz for Hekasi 5. I placed them on the table and continued with what I'm doing. Mrs. Anduyan got one paper and read it. When I finished checking the books I got the papers and went upstairs forgetting about the paper Mrs. Anduyan got.

Then, this morning (July 30), Mrs. Koo confronted me about the two answered test papers of Aileen Anduyan, I knew one of them was the paper Mrs. Anduyan borrowed from me. I admitted it to Mrs. Koo and I was so sorry and apolog[e]tic for any carelessness and for what happened.^[3]

Mrs. Anduyan, in her statement dated 17 August 2002, denied that she took the test paper from petitioner without the latter's permission:

Last July 29, 2000 it happened in the Faculty Rm.

This event was not intensional [sic] it just happened. I just asked Mrs. Torres to look for the special quiz in Hekasi, but she gave it to me and I let my daughter to [sic] see the test paper and she answered it.^[4]

On 5 August 2002, Mrs. Koo, Mrs. Caneda and Ms. Tibi executed a written statement stating that when confronted by Mrs. Koo, respondent initially denied leaking a copy of the quiz but later on admitted to doing the same.^[5]

In three (3) separate Letters,^[6] Mrs. Koo, Mrs. Caneda and Ms. Tibi stated that respondent admitted to Mrs. Koo that she leaked the special quiz and directed respondent and Mrs. Anduyan to give their comment.

Mrs. Anduyan, in her Comment dated 19 August 2002, denied that she asked for the special quiz from respondent and that the latter forgot about the paper that she allegedly took. Mrs. Anduyan stated:

x x x Doon po sa salita ni Gng. Gloria Caneda na ayon kay Gng. Rosalinda Torres "I asked for the special quiz # 1 in Hekasi 5" ay wala pong katotohanan. Tulad din po ng sinabi ni Gng. Rosalinda Torres "She went upstairs forgetting about the paper that I got" ay hindi po rin totoo.

Sa katunayan, ito po ang tunay na nangyari noong Hulyo 29, 2002 ng umaga sa Faculty Room. Totoo pong nagche-check ng Writing Book si Gng. Torres nang hiniraman ko yuon Special Quiz #1 sa Hekasi 5. Ang sabi ko "Linda, patingin nga ng test ninyo" So, ibinigay naman niya ito "willingly" at hindi ko kinuha tulad ng kanyang salaysay. Sabi ko pahiram at hindi ko kinuha ng walang pahintulot. Sa katunayan inabot niya ito sa akin. Nagulat nga ako ng sabihin niya sa iyo na lang. So, kinuha ko po at umakyat na ako sa room ko x x x. (Italics supplied).^[7]

Respondent submitted her Comment. She insisted that Mrs. Anduyan asked her to see the special quiz. She was not aware that Mrs. Anduyan did not return the copy of the special quiz back to her. She made the following statement:

x x x While I was very busy and deeply engrossed with my checking, Mrs. Teresita Anduyan approached my desk. By chance, Mrs. Anduyan saw copies of the Special Quiz # 1 on my desk. Mrs. Anduyan told me, "*Patinghin, pabasa lang.*" Among faculty members, it is usual that teachers look into the type of questions to be given to pupils without necessarily divulging them. I did not expect that Mrs. Anduyan would be divulging test questions, since she is a faculty member herself and is bound to such duty of confidentiality.

When I finished checking the Writing Workbooks, I took all copies of the Special Quizzes that were handed over to me and left to attend my first class last 29 July 2002. I did not intend for Mrs. Anduyan to have a copy of Special Quiz # 1. I am not even aware that Mrs. Anduyan took a copy of Special Quiz # 1. It did not occur to me that Mrs. Anduyan could have taken a copy of the test. Neither did I hand over a copy of the test questions with the answers already indicated therein.

On 30 July 2002, when Mrs. Koo confronted me about this incident what I relayed to her are the circumstances as explained above. In my written narration dated 30 July 2002 and during my conversation with Mrs. Koo, I did not admit that I intentionally gave Mrs. Anduyan a copy of the test paper. I was candid to relay to Mrs. Koo the relevant circumstances that led to the subject incident. To clarify, I expressed my concern that Mrs. Anduyan could have taken a copy of the test paper without my permission and without my knowledge.^[8]

An administrative hearing was conducted on 28 August 2002 wherein respondent and Mrs. Anduyan were asked questions by the Investigating Committee relative to the leakage of test paper.

On 30 August 2002, the Investigating Committee held a meeting and found respondent and Mrs. Anduyan guilty of committing a grave offense of the school policies by leaking a special quiz. As shown in the Minutes of the Meeting on 30 August 2002, the Committee decided to impose the penalty of one-month suspension without pay on respondent and forfeiture of all the benefits scheduled to be given on Teacher's Day.^[9]

According to petitioners, their Investigating Committee had actually decided to terminate respondent and had in fact prepared a memorandum of termination,^[10] but respondent allegedly pleaded for a change of punishment in a short letter dated 5 September 2002, to wit:

Request for change of punishment from termination to suspension and I am resigning at the end of the school year.

Mrs. Rosalinda M. Torres^[11]

Petitioners acceded to the request and suspended respondent and Mrs. Anduyan effective 16 September to October 2002. The duo was directed to report to work on 4 November 2002.^[12] Respondent continued her employment from 4 November 2002 until the end of the school year on 26 March 2003.

On 14 February 2003 however, respondent's counsel sent a letter to petitioners containing the following demands:

- (1) To pay backwages to Mrs. Torres for the period of 16 September 2002 to 31 October 2002 at the rate of her current salary of Sixteen Thousand Three Hundred Thirty-Five Pesos (P16,335.00) or the total amount of at least TWENTY-FOUR THOUSAND FIVE HUNDRED TWO PESOS and 50/100 (P24,502.50);
- (2) To pay Mrs. Torres her September bonus given by the Alumni Association that was released last September 2002 during the Teacher's Recognition Day in the amount of at least THREE THOUSAND PESOS (P3,000.00);
- (3) To pay Mrs. Torres her "Teacher's Day Gift" given by the Students' Council of the Elementary Department that was released last September 2002 during the Teachers' Recognition Day in the amount of at least SIX HUNDRED PESOS (P600.00);
- (4) To cease and desist from calling for our client's resignation at the end of School Year 2002-2003 or on 31 May 2003
- (5) Moral damages in the amount of at least TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00); and
- (6) Exemplary damages in the amount of at least TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00).^[13]

Petitioners, through counsel, wrote to respondent's counsel asserting that respondent was being terminated but the latter requested that "she be suspended instead on condition that she will tender her voluntary resignation at the end of the school year."^[14]

On 10 June 2003, respondent filed a complaint for constructive dismissal and illegal suspension with the Labor Arbiter. She also sought payment of unpaid salary, backwages, holiday pay, service incentive leave pay, 13th month pay, separation pay, retirement benefits, damages and attorney's fees.^[15]

In her Position Paper, respondent alleged that she was forced and pressured to submit the written request for a change of penalty and commitment to resign at the end of the school year. She was threatened by the school management with immediate dismissal from service if she did not submit the written statement. She claimed that she was not formally charged with any offense and she was not served a copy of the notice of the school's decision to terminate her services.