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Appeals on this point. The "reformation" which the petitioner questions was, in fact, intended to favor her. Instead of declaring the deed of sale null and void for all purposes, the Court upheld its having passed ownership of Lot No. 5522 to the petitioner.

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is hereby DISMISSED for lack of merit with costs against the petitioner.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Paras, JJ.,* concur.

SECOND DIVISION

[G.R. No. 72207. August 6, 1986]

DIVINE WORD HIGH SCHOOL AND REV. VIC TIAM, SVD. DIRECTOR, *petitioners, vs.* **THE NATIONAL LABOR RELATIONS COMMISSION AND LUZ MALLBO CATENZA,** *respondents.*

SYLLABUS

1. **LABOR LAW; TERMINATION OF EMPLOYMENT; DISMISSAL OF EMPLOYEE FOR THE ALLEGED IMMORAL CONDUCT OF HER HUSBAND; CONSIDERED ILLEGAL.—** We agree with the following finding of the Labor Arbiter (which finding has also been affirmed by the NLRC): "A careful review and evaluation of the entire records of the case show clearly that complainant was dismissed without a valid cause. All throughout the records of the case it is very apparent that the main reason she was dismissed was because of the alleged immoral conduct of her husband. Granting that allegation is true, there being no clear showing that complainant's husband was ever investigated or convicted of

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the serious act alluded to him, why should his wife be made to suffer for her husband's indiscretion and infidelity."

2. **CONSTITUTIONAL LAW; BILL OF RIGHTS; ADMINISTRATIVE DUE PROCESS; OPPORTUNITY TO PRESENT ONE'S CASE; NOT DENIED IN CASE AT BAR.**— Devoid of merit is petitioners' contention that they were denied due process of law when the Labor Arbiter considered the case submitted for decision notwithstanding the fact that petitioners had not yet rested their case. Scrutiny of the records shows that petitioners were afforded every opportunity to present their evidence but they repeatedly failed to appear at the four (4) consecutive hearings scheduled for the purpose. It is settled that there is no denial of due process where petitioner was afforded an opportunity to present his case. (*Municipality of Daet v. Hidaldo Enterprises, Inc.*, 138 SCRA 265).

APPEARANCES OF COUNSEL

Pedro R. Perez, Jr. for petitioners.
Gregorio Mallabo for respondent.

DECISION

PARAS, *J.*:

Petition filed by Divine Word High School and its Director Rev. Vic Tiam to review and set aside the decision of public respondent National Labor Relations Commission (NLRC) dated August 5, 1985, which modified the decision of the Labor Arbiter. The pertinent portion of the assailed decision of the NLRC reads:

"Respondent-appellants stressed that their main reason in terminating complainant-appellee, was not because of the immoral conduct of her husband, but because of her act of covering-up the alleged immoral conduct, by advising and/or persuading Miss Remie Ignacio not to report the supposed immoral conduct of complainant-appellee's husband. Even assuming the act complained of by respondents-appellants to be true, WE hold that in the eyes of the

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law, complainant-appellee committed no crime and has not committed any act that would justify her outright dismissal from the service.

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However, considering the moral repercussions of complainant-appellee's act which it may have towards the mind of the entire studentry of respondents-appellants' institution and considering further that respondent-appellant Divine Word High School is a catholic institution set to inculcate into the minds of its students moral values as well as spiritual teachings and virtues of Christianity not only by word of mouth but also by example or deed, the act of complainant-appellee therefore, may not be held totally irreprehensible. Thus we deemed it wise to modify the challenged decision and therefore give complainant-appellee a choice of whether or not she be reinstated with full backwages and benefits from the time of her dismissal up to the time of her actual reinstatement, or she be separated from the service with termination pay equivalent of one month pay for every year of service plus backwages from the time of her dismissal up to the time of the finality of this Decision.

WHEREFORE, premises considered the Decision appealed from is hereby modified and respondents-appellants therefore are hereby ordered either to reinstate complainant-appellee to her former position without loss of seniority rights with full backwages and benefits from the time of her dismissal up to the time of her actual reinstatement and/or to pay complainant-appellee separation pay equivalent to one month pay for every year of service, plus her backwages from the time of the dismissal up to the time of the finality of this Decision, at the option of complainant-appellee.

SO ORDERED."

The instant proceeding stemmed from a complaint filed by herein private respondent Luz Catenza, a high school teacher of petitioner Divine Word College, for illegal dismissal. She alleged in her complaint that she went on a vacation leave but that when she tried to report back to work she was informed that she is not anymore allowed to teach because of the "misdeeds" and "immoral acts" of her husband Pablo Catenza, then the principal of petitioner school.

Answering the complaint, petitioners, then respondents, alleged that it was not the "misdeeds" and "immoral acts"

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committed by her husband, which was the reason or cause of her dismissal but her contemporaneous and subsequent conduct of covering up and concealing the immoral acts of her husband coupled with threats to kill made by said respondent on the person of student Remie Ignacio, the victim of her husband's immoral acts.

After trial, the Labor Arbiter rendered his Decision, the dispositive portion reading:

"WHEREFORE, in view of the foregoing, a Decision should be as it is hereby entered, in the above-entitled case, ORDERING respondents Divine Word High School and Rev. Father Vic Tiam, SVD. Director, within ten (10) days from receipt hereof, to REINSTATE complainant to her former position without loss of seniority rights and to pay her backwages for a period of (10) months. Thus, with a monthly salary of P700.00 respondents should pay her within the ten-day period Seven Thousand Pesos. (P7,000.00) as backwages and to pay her lawyer, Atty. Gregorio Mallabo, the amount of P700.00 as attorney's fee, the amount being ten percent of the total monetary award.

It is SO ORDERED."

The said decision was modified on appeal by respondent NLRC, hence, this petition for review after petitioner's motion for reconsideration had been denied.

After a review of the records of the case, We agree with the following finding of the Labor Arbiter (which finding has also been affirmed by the NLRC):

"A careful review and evaluation of the entire records of the case show clearly that complainant was dismissed without a valid cause. All throughout the records of the case it is very apparent that the main reason she was dismissed was because of the alleged immoral conduct of her husband. Granting that allegation is true, there being no clear showing that complainant's husband was ever investigated or convicted of the serious act alluded to him, why should his wife be made to suffer for her husband's indiscretion and infidelity."

Likewise devoid of merit is petitioners' contention that they were denied due process of law when the Labor Arbiter

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considered the case submitted for decision notwithstanding the fact that petitioners had not yet rested their case. Scrutiny of the records shows that petitioners were afforded every opportunity to present their evidence but they repeatedly failed to appear at the four (4) consecutive hearings scheduled for the purpose. It is settled that there is no denial of due process where petitioner was afforded an opportunity to present his case. (*Municipality of Daet v. Hidalgo Enterprises, Inc.*, 138 SCRA 265).

Nonetheless We hesitate ordering the reinstatement of private respondent Luz Ballano Catenza as a high school teacher in the petitioner high school, which is a Catholic institution, serving the educational and moral needs of its Catholic studentry. While herself innocent, the continued presence of Mrs. Catenza as a teacher in the school may well be met with antipathy and antagonism by some sectors in the school community.

WHEREFORE, the petitioners are hereby ORDERED to pay complainant-appellee separation pay equivalent to one month pay for every year of service, plus her backwages (not to exceed three years) from the time of the dismissal up to the time of actual payment.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Gutierrez, Jr., JJ.*, concur.