

Title:

****George S. Galbinez, Jr. vs. Mc Gerry's Restaurant, Hokian and Kim Co, and Gerry Velasquez****

Facts:

****1. Employment History and Terms:****

- January 6, 2006: George S. Galbinez, Jr. (petitioner) was hired by spouses Hokian and Kim Co as a delivery boy, dishwasher, and janitor at Mc Gerry's Restaurant with a daily wage of P100.00.
- Working hours: 7:00 a.m. to 8:00 p.m., Mondays to Sundays.
- Petitioner alleged non-payment of overtime, rest day premiums, and holiday pay.

****2. Change in Salary Management:****

- September 2006: Salary management shifted to Metro's Manpower Agency (MMA), and work hours adjusted to 7:00 a.m. to 4:30 p.m., Mondays to Fridays.

****3. Termination and Legal Actions:****

- December 30, 2007: Petitioner barred from Mc Gerry's premises and advised that his services were no longer needed.
- June 4, 2008: Filed amended complaint for illegal dismissal and monetary claims against Mc Gerry's, respondent spouses, Gerry Velasquez, and Bobby Velasco with the National Labor Relations Commission (NLRC).

****4. Procedural Posture:****

- Labor Arbiter Decision (June 2, 2009): Found no employer-employee relationship between Mc Gerry's and the petitioner but concluded that MMA was his employer.
- Petitioner appealed to NLRC.
- NLRC Decision (February 25, 2010): Reversed the Labor Arbiter's findings, ruling that petitioner was a regular employee of respondents, awarded separation pay, and other monetary benefits.
- Respondents filed a Petition for Certiorari in the Court of Appeals (CA).
- CA Decision (June 28, 2012): Partly granted the petition, ruling there was an employer-employee relationship but found no illegal dismissal. Deleted separation pay, back wages awards.
- Petitioner filed a Motion for Partial Reconsideration, denied by CA.
- Petition for Review on Certiorari filed by the petitioner with the Supreme Court on March 25, 2013.

Issues:

1. **Whether the petitioner was illegally dismissed by the respondents.**
2. **Whether the denial of separation pay, back wages, and other monetary claims to the petitioner is consistent with law and jurisprudence.**

Court's Decision:

1. Illegal Dismissal Claim:

- The Supreme Court determined that a valid cause for dismissal must first be proven by the employer, but the burden starts with substantial evidence from the employee to show actual dismissal.

- In this instance, the petitioner failed to provide sufficient evidence that he was dismissed. The respondents' claim of abandonment was not substantiated with clear evidence or overt acts indicative of intent to sever employment.

2. Abandonment:

- The allegation of abandonment requires proof of absence from work and a clear intention to sever employment, neither of which were adequately demonstrated by the respondents.

- The act of filing a complaint for illegal dismissal shows the petitioner had no intention to abandon his job.

3. Separation Pay and Monetary Claims:

- In lieu of reinstatement, given impracticality over time, separation pay was granted.

- The Supreme Court ordered the recalculation of monetary awards, including separation pay, underpaid wages, and attorney's fees equivalent to 10% of the total monetary claims.

- Gerry Velasquez, as the registered owner of Mc Gerry's, was held personally liable.

4. Attorney's Fees:

- Clarified to be 10% of the total monetary award rather than the entire amount recovered.

Doctrine:

1. Employer-Employee Relationship Test:

- Establishes control over work as the most crucial component to determine the existence of an employment relationship.

2. Burden of Proof in Illegal Dismissal Cases:

- The employee must establish substantial evidence of dismissal; the employer must prove the validity of the termination cause.

****3. Abandonment Doctrine:****

- Requires proof of unjustified refusal to work and clear intent to discontinue employment, which must be unequivocally established.

Class Notes:

****Elements of Employer-Employee Relationship Test:****

1. Selection and engagement of employee
2. Payment of wages
3. Power of dismissal
4. Power to control employee's conduct

****Illegal Dismissal and Burden of Proof:****

- **Substantial evidence from employee** for dismissal claim.
- **Valid and authorized causes** to be proven by an employer.

****Abandonment:****

- **Failure to report for work**
- **Clear intention to sever relationship**

****Legal Provisions:****

- Art 111 of Labor Code for attorney's fees - capped at 10% of recovered wages.

Historical Background:

This case reflects the Philippine labor law's focus on protecting worker rights, especially in employer-employee disputes. It emphasizes strict evidence standards in illegal dismissal and abandonment cases, underscoring the importance of fair labor practices. The Labor Code provisions aim to ensure just compensation and protective measures for laborers against unjust employment practices.