

ERRAND BOYS DELIVERY SERVICES, INC AND/OR JEFFREY PAUL JOAQUIN, PETITIONERS, V. NATIONAL LABOR RELATIONS COMMISSION (4TH DIVISION) AND REYNALDO R. LAZARTE, PATRICK MENESES, JAY-...

Ponente: DIAMANTE, F. N., J.

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DIAMANTE, F. N., J.:

For the Court's resolution is the present Petition for Certiorari[1] under Rule 65 of the 1997 Revised Rules of Civil Procedure filed by petitioners Errand Boys Delivery Services, Inc. and/or Jeffrey Paul Joaquin (petitioners) which seeks to annul the National Labor Relations Commission's (NLRC) Fourth Division: 1) April 29, 2013 Decision;[2] and, 2) July 15, 2013 Resolution[3] (denying petitioners' Partial Motion for Reconsideration to the April 29, 2013 NLRC's Decision), in NLRC-LAC Case No. 02-000674-13 (NLRC-NCR Cases Nos. 01-01579-12, 01-01741-12 and 02-03149-12).

As found by the NLRC, the antecedents are as follows:

“Complainants allege[d] that respondent company hired them in 2010 and 2011, respectively, and signed a contract with the respondent company for a period of five (5) months. Upon hiring, they were issued motorcycles and agreed to give 'Bike Contribution' every payday. Several deductions were also made from their salaries such as gas over, absence, RSP, motorcycle spare parts, motorcycles registration, drug test, oil, brake pad and brake shoe, insurance, side mirror, headlight, permit processing, rubber dumper and tires.

“Complainants questioned the propriety of the deductions, and respondents replied that they had to pay the gas if they exceeded the gas allowance provided them every day. As to the motorcycle parts, the deductions was (sic) for its maintenance. As to the P50.00 'absent charge', respondents did not advance any explanation.

“Complainants further allege[d] that their SSS, Pag-ibig and Philhealth contributions were not regularly remitted.

“Upon learning [about] the non-remittance of their contributions, complainants talked to the respondents, and the latter promised to settle them with the respective agencies. Upon expiration of their contracts, they renewed the same but under Overdrive Services. They assured them that they were still employees of the respondent company.

“Fearing of losing their jobs, complainants renewed their contracts with Overdrive Services. As assured, they continued to work for respondent company and the latter paid for their services.

“In December 2011, complainants demanded for the refund of the amounts illegally deducted from their salaries, but to no avail. Thus, on December 28, 2011, they filed a complaint before the National Conciliation and Mediation Board (NCMB) of the DOLE for money claims. They also decided to go to broadcaster Raffy Tulfo of TV5 to air their grievances.

“The complainants deny having demanded transfer of ownership of the motorcycles. They also deny having allowed the deductions for its maintenance.

“The sending of the AWOL letters dated March 2012 was a mere afterthought.

“Upon knowledge of the complaint, respondents directed them to report to the office. They were told that they no longer had work, unless they would withdraw their complaint with NCMB.

“For lack of jurisdiction, the complaint with NCMB was dismissed.

“On January 27, 2012, complainants filed this complaint for illegal dismissal and money claims.

“Respondents, on the other hand, admit the complainants' employment but deny the charge of illegal dismissal. They aver that the complainants were not dismissed and could report for work anytime.

“In the course of their operations, the concept 'Piso per Minute' was introduced and McDonald's is one of its clients. To streamline the corporate account, some of the employees were assigned to Overdrive Delivery Services, including the complainants, and were posted to McDonald's various branches.

“Prior to the filing of this case, employees started complaining about the delay of payments of their labor standards benefits. While in the process of a dialogue, respondents explained that they were experiencing financial problems. Some employees staged a sporadic walk-outs and threatened to leave their work with their motorcycles which resulted in disruption of its clients' business operations. McDonald's complained.

“Respondents asked the complainants to understand the company's problems but they could not wait and did not report for work anymore. Not content[ed] with the walk-out, they went to the NCMB and a radio program to humiliate the respondent company. 'On air', they demanded ownership of the motorcycles assigned to them.

“Despite respondents' numerous phone calls and text messages for them to report back to work, the complainants refused. Instead they went to the office to demand payment of their benefits informing respondents that they would not report back to work unless all their benefits were paid. They also demanded transfer of the motorcycles in their names as payment of their unpaid benefits. They did not return their assigned motorcycles to respondents. When their demands were not met, they filed this case.

“In finding the respondents guilty of illegal dismissal, the Labor Arbiter ruled that it was the respondents who refused to give them work after they aired their grievances with the NCMB and refused to withdraw the complaint. The Labor Arbiter opined that the respondents' act of sending AWOL letters as a mere afterthought.”[4]

When appealed, the NLRC dismissed the petitioners' appeal. It affirmed the Labor Arbiter's (LA) Decision but modified the same by deleting the award of damages. It explained among others, that, indeed, the petitioners refused to give them work after they: 1) aired their grievances with the National Conciliation and Mediation Board (NCMB); and, 2) refused to withdraw their complaint.[5]

The petitioners pleaded for partial reconsideration[6] of the above findings but to no avail,[7] consequently, the present Petition on grounds that the NLRC committed grave abuse of discretion amounting to lack of or in excess of jurisdiction when it: 1) rendered the assailed Decision and Resolution relying solely on the false, bare, unsubstantiated and self-serving allegations of private respondents without taking into consideration the facts of the case, the evidence presented by petitioners and the applicable jurisprudence on the matter; 2) awarded the money claims without any basis and/or even when not supported by the evidence on record; and, 3) did not take into consideration the applicable jurisprudence relating to the liability of Corporate officers.[8]

From the foregoing, the fundamental issue to be resolved is: whether the private respondents were illegally dismissed by the petitioners.

In the main, the petitioners argued that the private respondents were not dismissed but it was them who failed and/or refused to report for work despite notice.

We disagree.

Time and again, in labor cases, the employer has the burden of proving that the dismissal was for a just cause; failure to show this would necessarily mean that the dismissal was unjustified and, therefore, illegal. To allow an employer to dismiss an employee based on mere allegations and generalities would place the employee at the mercy of his employer; and the right to security of tenure, which this Court is bound to protect, would be unduly emasculated.[9]

In the case at bench, the petitioners wanted to impress upon Us that the private respondents, in effect, abandoned their work since they failed and/or refused to report back to work despite the numerous opportunities given to them to do so.[10]

We are not convinced. Jurisprudence holds that for abandonment of work to exist, it is essential: (1) that the employee must have failed to report for work or must have been absent without valid or justifiable reason; and (2) that there must have been a clear intention to sever the employer-employee relationship manifested by some overt acts. Deliberate and unjustified refusal on the part of the employee to go back to his work post and resume his employment must be established. Absence must be accompanied by overt acts unerringly pointing to the fact that the employee simply does not want to work anymore. And the burden of proof to show that there was unjustified refusal to go back to work rests on the employer.[11]

Abandonment is a matter of intention and cannot lightly be presumed from certain equivocal acts. To constitute abandonment, there must be clear proof of deliberate and unjustified intent to sever the employer-employee relationship.[12] Clearly, the operative act is still the employee's ultimate act of putting an end to his employment.

Settled is the rule that mere absence or failure to report for work is not tantamount to abandonment of work. In fact, even the failure to report for work after a notice to return to work has been served does not necessarily constitute abandonment nor does it bar reinstatement.[13]

In the case at bench, We agree with the NLRC's findings that "[t]here is nothing on record that previous notices were earlier sent." [14] Verily, the petitioners failed to present proof to support that the private respondents indeed failed to report for work. The record is bereft of any showing that they in fact abandoned their work. Moreover, We find no indication that they had shown by some overt acts their intention to sever their employment. It was unlikely that the private respondents had abandoned their job for no reason at all considering the hardship of the times. If they had truly forsaken their job, they would not have bothered to file a complaint for illegal dismissal against the petitioners. It is a settled doctrine that the filing of a complaint for illegal dismissal is inconsistent with the charge of abandonment, for an employee who takes steps to protest his dismissal cannot by logic be said to have abandoned his work.[15]

In sum, We find that the private respondents did not abandon their job but was illegally dismissed by the petitioners. An employee who is unjustly dismissed from work is entitled to reinstatement without loss of seniority rights and other privileges as well as to his full backwages, inclusive of allowances, and to other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.[16]

Let it be emphasized that, if doubts exist between the evidence presented by the employer and the employee, the scales of justice must be tilted in favor of the latter—the employer must affirmatively show rationally adequate evidence that the dismissal was for a justifiable cause. It is a time-honored rule that in controversies between a laborer and his master, doubts reasonably arising from the evidence should be resolved in the former's favor. The policy is to extend the doctrine to a greater number of employees who can avail of the benefits under the law,

which is in consonance with the avowed policy of the State to give maximum aid and protection of labor.[17]

At any rate, We find no reason to hold liable Mr. Jeffrey Paul Joaquin, an officer of the petitioner Company, for the dismissal of the private respondents' employment. A corporation is an artificial being invested by law with a personality separate and distinct from that of its stockholders and from that of other corporations to which it may be connected.[18]

While a corporation may exist for any lawful purpose, the law will regard it as an association of persons or, in case of two corporations, merge them into one, when its corporate legal entity is used as a cloak for fraud or illegality. This is the doctrine of piercing the veil of corporate fiction. The doctrine applies only when such corporate fiction is used to defeat public convenience, justify wrong, protect fraud, or defend crime,[19] or when it is made as a shield to confuse the legitimate issues, or where a corporation is the mere alter ego or business conduit of a person, or where the corporation is so organized and controlled and its affairs are so conducted as to make it merely an instrumentality, agency, conduit or adjunct of another corporation.[20]

To disregard the separate juridical personality of a corporation, the wrongdoing must be established clearly and convincingly. It cannot be presumed.[21] In the case at bench, We do not find any of the evils sought to be prevented by the doctrine of piercing the corporate veil. Thus, the rule is still that the doctrine of piercing the corporate veil applies only when the corporate fiction is used to defeat public convenience, justify wrong, protect fraud, or defend crime. In the absence of malice, bad faith, or a specific provision of law making a corporate officer liable, such corporate officer cannot be made personally liable for corporate liabilities.[22]

In fine, the Court is of the opinion, and so holds, that petitioner Mr. Jeffrey Paul Joaquin cannot be held personally liable for damages on account of the employees' dismissal because the employer corporation has a personality separate and distinct from its officers who merely acted as its agents.[23]

Personal liability of corporate directors, trustees or officers attaches only when (1) they assent to a patently unlawful act of the corporation, or when they are guilty of bad faith or gross negligence in directing its affairs, or when there is a conflict of interest resulting in damages to the corporation, its stockholders or other persons; (2) they consent to the issuance of watered down stocks or when, having knowledge of such issuance, do not forthwith file with the corporate secretary their written objection; (3) they agree to hold themselves personally and solidarily liable with the corporation; or (4) they are made by specific provision of law personally answerable for their corporate action.[24]

Considering that none of the foregoing exceptions is present in this case, petitioner Mr. Jeffrey Paul Joaquin cannot be made solidarily liable with the petitioner Errand Boys Delivery Services, Inc.

WHEREFORE, the present Petition is hereby DENIED. The assailed National Labor Relations Commission's (Fourth Division) April 29, 2013 Decision and July 15, 2013 Resolution in NLRC-LAC Case No. 02-000674-13 (NLRC-NCR Cases Nos. 01-01579-12, 01-01741-12 and 02-03149-12) are AFFIRMED with the only MODIFICATION that petitioner Mr. Jeffrey Paul Joaquin is ABSOLVED from liability in the payment of monetary claims to the private respondents. Costs against petitioner Errand Boys Delivery Services, Inc.

SO ORDERED.

Peralta, Jr.,[*][**] and Sadang, JJ., concur.

[***] Also spelled as “Estiamba” and “Estambia” in other pleadings in the Record

[*] Justice Jane Aurora C. Lantion Vice Justice Librea-Leagogo, C. per Office Order No. 160-14-AGT dated

April 24, 2014

[**] Justice Eduardo B. Peralta, Jr. Vice Justice Jane Aurora C. Lantion per Office Order No. 182-14-ABR dated May 05, 2014

[1] Rollo, pages 3-31

[2] Rollo, pages 424-435

[3] Id. at 435-443

[4] NLRC's April 29, 2013 Decision, pages 5-8; Rollo, pages 428-431

[5] Id. at 8-11; Id. at pages 431-434

[6] Rollo, pages 444-463

[7] Id. at 437-443

[8] Petition, pages 13-14; Rollo, pages 16-17

[9] Pascua v. National Labor Relations Commission, 287 SCRA 554

[10] Petition, page 14; Rollo, page 17

[11] MSMG-UWP v. Ramos, G.R. No. 113907, February 28, 2000

[12] Samarca v. ARC-MEN Industries, Inc., G.R. No. 146118, October 8, 2003

[13] Philippine Industrial Security Agency Corp. v. Virgilio Dapiton, G.R. No. 127421, December 8, 1999, citing Samahan ng mga Manggagawa sa Bandolino-LMLC v. NLRC, 275 SCRA 633

[14] NLRC's Decision, page 10; Rollo, page 433

[15] KAMS International, Inc. v. NLRC, G.R. No. 128806, September 28, 1999

[16] Imelda B. Damasco v. NLRC, G.R. Nos. 115755 & 116101, December 4, 2000

[17] Mayon Hotel and Restaurant v. Adana, 458 SCRA 609

[18] Martinez v. Court of Appeals, 438 SCRA 130

[19] Jardine Davies, Inc. v. JRB Realty, Inc., 463 SCRA 555; Development Bank of the Philippines v. Court of Appeals, 415 Phil. 538

[20] Indophil Textile Mill Workers Union v. Calica, 205 SCRA 697

[21] Lim v. Court of Appeals, 380 Phil. 60; Del Rosario v. National Labor Relations Commission, 187 SCRA 777

[22] Sunio vs. National Labor Relations Commission, 127 SCRA 390

[23] Malayang Samahan ng mga Manggagawa sa M. Greenfield [MSMG-UWP], et al. v. Hon. Cresencio J. Ramos, G.R. No. 113907, February 28, 2000

[24] H.L. Carlos Construction, Inc. v. Marina Properties Corporation, 421 SCRA 428; Powton Conglomerate, Inc. v. Agcolicol, 448 Phil. 643

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