

ELEAZAR C. MAPILI, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, MUSTANG SECURITY AGENCY, INC., ANTONIO ELEAZAR AND FRANCIS ELEAZAR, RESPONDENTS.

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the Petition for Certiorari[1] under Rule 65 of the Rules of Court, filed by Eleazar C. Mapili (“petitioner Mapili”), imputing grave abuse of discretion on the part of the National Labor Relations Commission, Sixth Division (“public respondent NLRC”) for issuing: 1) the Decision dated 13 February 2012[2] (“assailed Decision”) which reversed the Decision issued by Labor Arbiter Corazon B. Borbolla dated 29 April 2011;[3] and the Resolution dated 30 April 2012[4] (“assailed Resolution”) which denied petitioner Mapili’s Motion for Reconsideration.[5]

The undisputed facts are as follows: on 22 June 2000, the Mustang Security Agency, Inc., (“private respondent MSAI”) hired petitioner Mapili as a security guard, and initially assigned him to Region IV; on 16 January 2008, private respondent MSAI, Antonio Eleazar (“private respondent Antonio”), and Francis Eleazar (“private respondent Francis”) transferred petitioner Mapili to the National Capital Region (“NCR”); on 25 December 2009, petitioner Mapili resigned.

On 1 July 2010, petitioner Mapili filed the Complaint[6] against private respondents with the NLRC. The Complaint prayed for: payment of unpaid salaries, overtime pay, 13[th] month pay, night shift differential, holiday pay, holiday premium, rest day premium and emergency cost of living allowance (“money claims”).

Petitioner Mapili alleged in his Position Paper/Affidavit of the Complainant,[7] filed before the Labor Arbiter: private respondents underpaid petitioner Mapili of his wages, as evidenced by his payslips which show that private respondents paid him lower than the prescribed minimum wage (i.e., Php 5,250.00 per month in 2002 and 2003; Php 6,500.00 per month in 2004; Php 4,375.00 per month in 2005; Php 5,000.00 per month in 2006; Php 7,000.00 per month in 2007; Php 6,000.00 per month in 2008 and 2009); private respondents did not pay petitioner Mapili holiday pay, premiums for holidays, and rest days, overtime pay, night shift differential and emergency cost of living allowance (“ECOLA”); petitioner Mapili sought clarification from the management, however private respondents instead punished petitioner Mapili by assigning him to different places without change in his salary and benefits.

Private respondents alleged in their Position Paper[8] before the Labor Arbiter: private respondents paid petitioner Mapili in accordance with the applicable minimum wage, and paid him all the benefits due; when petitioner Mapili was assigned at Region IV, he was paid the daily wage of Php 300.00, and when petitioner Mapili was transferred to NCR on 16 January 2008, his daily wage was adjusted to Php 362.00, and increased to Php 382.00 in October 2008; petitioner Mapili’s claims for unpaid overtime pay, holiday, and rest day premiums, have no basis because petitioner Mapili did not adduce evidence to prove his entitlement to the said benefits; petitioner Mapili is not entitled to holiday pay, because it was already incorporated in his monthly pay; private respondents

are not liable for the payment of ECOLA, because the minimum wage in the NCR does not provide for payment of ECOLA.

Petitioner Mapili alleged in the Reply[9] before the Labor Arbiter: private respondents denied petitioner Mapili's claims, without evidence; private respondents underpaid petitioner Mapili of his 13[th] month pay and overtime pay, because the computation was based on a wrong daily wage; private respondents did not furnish petitioner Mapili his daily time record ("DTR"), because private respondents withheld the DTRs to avoid payment of holiday and rest day premiums.

Private respondents alleged in the Reply to Complainant's Position Paper[10] before the Labor Arbiter: petitioner Mapili's money claims should be limited to three years from the filing of the Complaint on 1 July 2010, or from 1 July 2007, based on the prescriptive period under Article 291 of the Labor Code; petitioner Mapili's Computation of Payroll Summary[11] ("Payroll Summary") showed the number of days, overtime hours worked, in a given payroll period, legal deductions in his wages and the payment of service incentive leave pay, holiday and rest day premiums; the Authority to Debit documents show that private respondents' account was debited by the total wages of its employees and these wages were then deposited to the individual account of the employees; petitioner Mapili's Payroll Summary and the corresponding Authorities to Debit show that petitioner Mapili's net pay were deposited to his account.

On 29 April 2009, the Labor Arbiter issued the Decision[12] which ruled in favor of petitioner Mapili. Its dispositive portion read:

WHEREFORE, foregoing considered, respondents are hereby ordered to pay jointly and severally complainant ELEAZAR C. MAPILI the following:

Underpayment of wages

-

P 431,808.00

Underpayment of 13th mo. Pay

-

35,984.00

TOTAL

-

P 467,792.00

All other claims are dismissed for lack of merit.

SO ORDERED.

Private respondents filed Appeal Memorandum[13] before the public respondent NLRC.

On 13 February 2012, the public respondent NLRC issued the assailed Decision.[14] The dispositive portion read:

WHEREFORE, the Appeal is GRANTED. The Decision of the Labor Arbiter dated April 29, 2011 is hereby REVERSED AND SET ASIDE and a new one entered ordering the Respondents to pay the Complainant his service incentive leave pay only from July 1, 2007 to April 15, 2008 in the amount of P 1,379.31, per attached computation.

SO ORDERED.

Petitioner Mapili filed Motion for Reconsideration[15] before the NLRC. On 30 April 2012, the public respondent NLRC denied petitioner Mapili's Motion for Reconsideration.[16]

Thus, this Petition for Certiorari,[17] petitioner Mapili making the following assignment of errors:

ASSIGNMENT OF ERRORS

I. WHETHER PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING PETITIONER'S MONEY CLAIMS BASED ON PRIVATE RESPONDENTS' PAYROLL SUMMARY AND RELATED, SELF-SERVING DOCUMENTS.

II. WHETHER PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION IN LIMITING THE AWARD OF SERVICE INCENTIVE LEAVE PAY FROM 01 JULY 2007 TO 15 APRIL 2008 ONLY, PURSUANT TO SECTION (sic) 291 OF THE LABOR CODE.

III. WHETHER PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT PETITIONER'S MONEY CLAIMS PRIOR TO 01 JULY 2007 IS BARRED BY PRESCRIPTION.

The issues are: (1) whether petitioner Mapili's money claims prior to 1 July 2007 have prescribed; (2) whether prescription applies to unpaid service incentive leave; and (3) whether petitioner Mapili is entitled to his money claims.

THE PETITIONER'S ARGUMENTS

Anent the first issue, petitioner Mapili answers in the negative. Petitioner Mapili's money claims have not prescribed.

The Petition for Certiorari[18] thrusts: during petitioner Mapili's employment, he consistently claimed payment of correct wages and benefits, however private respondents did not definitely deny petitioner Mapili's complaints, and instead private respondents made petitioner Mapili rely on false promises of payment, and detailed him elsewhere; jurisprudence provides that the three-year prescriptive period should be reckoned only from the employer's definite denial, being the precise time when the employee's cause of action accrued.

With respect to the second issue, petitioner Mapili answers in the negative. Prescription does not apply to payment of unpaid service incentive leave pay.

The Petition for Certiorari thrusts: the award of service incentive leave pay should not have been limited to three years from petitioner Mapili's resignation in December 2009, because private respondents failed to prove that petitioner Mapili's service incentive leave was either used up or commuted to its monetary value.

Regarding the final issue, petitioner Mapili answers in the affirmative. Petitioner Mapili is entitled to his money claims (i.e., unpaid wages, holiday pay, premiums for holidays and rest days, overtime pay, night shift differential and ECOLA).

The Petition for Certiorari thrusts: private respondents merely presented petitioner Mapili's Payroll Summary, and Authority to Debit documents, which do not prove that private respondents paid petitioner Mapili's specific money claims; perusal of the Payroll Summary reveals non-compliance with the minimum wage; the items which constituted petitioner Mapili's net pay should have been properly scrutinized because the entries in petitioner Mapili's payslip were different from the entries in private respondents' Payroll Summary; the bank certification

merely stated that petitioner Mapili's salaries were deposited to his individual account, however it did not certify that the correct wages were paid.

Petitioner Mapili filed Reply to Respondents' Comment,[19] and Memorandum for Petitioner,[20] which both reiterated his previous arguments.

THE PRIVATE RESPONDENTS' ARGUMENTS

Anent the first and second issues, private respondents answer in the affirmative. Petitioner Mapili's money claims and service incentive leave pay have prescribed.

The Comment To Petition[21] parries: jurisprudence provides that the amount which can be demanded by an aggrieved employee shall be limited to the amount of benefits withheld within 3 years before the filing of the complaint; petitioner Mapili filed the complaint on 1 July 2010, hence on that date, money claims for the period prior to 1 July 2007 had prescribed; petitioner Mapili's allegations that he consistently claimed payment of correct wages, and that private respondents denied him assistance, were mere speculations; contrary to petitioner Mapili's allegations that his re-assignment was meant to punish him, his transfer from Region IV to NCR was beneficial to him, because petitioner Mapili was assigned to Mandaluyong City, which is near his residence; prescription is raised for the first time on appeal, hence it should not be allowed.

Regarding the final issue, private respondents answer in the negative. Petitioner Mapili is not entitled to his money claims.

The Comment To Petition parries: private respondents' evidence complied with the substantial evidence requirement in administrative proceedings before the NLRC; private respondents' evidence show that private respondents paid all of petitioner Mapili's money claims; petitioner Mapili never denied receiving the amounts indicated in the Authorities to Debit which represent his wages every payroll period; private respondents' evidence complied with the substantial evidence requirement in administrative proceedings before the NLRC; while there were discrepancies in the Payroll Summary and petitioner Mapili's payslips, the discrepancies were mere typographical errors, without adverse effect on petitioner Mapili because he still received the correct wages; only petitioner Mapili's payslips for payroll period April 1 to 15, 2008 and for October 16 to 31, 2008 contained typographical errors, while all the rest of petitioner Mapili's payslips were correct.

Private respondents filed Memorandum[22] which reiterated their arguments.

THE COURT'S RULING

Anent the first issue, we rule in the affirmative. Petitioner Mapili's money claims prior to 1 July 2007 have prescribed.

Applicable is Article 291 of the Labor Code, which reads:

Article 291. Money Claims. - All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever be barred.

xxx xxx xxx

As above-quoted, money claims arising from an employer-employee relationship should be filed within 3 years from the time the cause of action accrued, otherwise, the money claims are forever barred by prescription.

Petitioner Mapili sought to collect money claims arising from his employment relationship with private

respondents covering the period 22 June 2000 (the date his employment began) to 25 December 2009 (the date of his resignation), through the Complaint[23] filed on 1 July 2010. On the date petitioner Mapili filed the Complaint on 1 July 2010, the 3-year prescriptive period reckoned from the time the employer refuses to pay,[24] had expired, and money claims from 22 June 2000 to 30 June 2007 had prescribed. Thus, the NLRC did not commit grave abuse of discretion when it ruled as it did.

With respect to the second issue, we rule in the negative. Prescription does not apply to the unpaid service incentive leave.

Applicable is Article 95 of the Labor Code, as amended. It reads:

Article 95. Right to Service Incentive Leave. - (a) Every employee who has rendered at least one year of service shall be entitled to a yearly service incentive leave of five days with pay.

xxx xxx xxx

Thus, under Article 95 above quoted, an employee who has worked for at least one year, is entitled to an incentive leave of 5 days with pay. Further, under the Omnibus Rules Implementing the Labor Code, the service incentive leave shall be commutable to its money equivalent if not used or exhausted at the end of the year.[25]

In *Auto Bus Transport Systems, Inc. v. Bautista*,[26] the Supreme Court clarified the distinction between money claims and service incentive leave pay for purposes of prescription. As stated therein, in cases of nonpayment of allowances and other monetary benefits, the amount that can only be demanded by the aggrieved employee shall be limited to the amount of benefits withheld within 3 years before the filing of the complaint. In contrast, the Supreme Court noted that in light of the peculiarity of the service incentive leave, “the 3-year prescriptive period commences, not at the end of the year when the employee becomes entitled to the commutation of his service incentive leave, but from the time when the employer refuses to pay its monetary equivalent after demand of commutation or upon termination of the employee’s services, as the case may be.”

In this case, petitioner Mapili was entitled to service incentive leave pay after one year of service with private respondents or on 22 June 2001 until his resignation on 25 December 2009. Pursuant to the ruling in *Auto Bus*, the 3-year prescriptive period did not apply to petitioner Mapili's service incentive leave pay. Absent proof of petitioner Mapili's availment, or private respondents' payment of the service incentive leave's monetary value since 22 June 2001, private respondents are liable for payment of petitioner Mapili's service incentive leave pay. Clearly, the NLRC committed grave abuse of discretion when it held that the 3-year prescriptive period applied to petitioner Mapili's service incentive leave pay.

Regarding the final issue, we rule in the affirmative. Petitioner Mapili is entitled to his money claims.

Well-settled is the rule that once the employee has set out with particularity in his complaint, position paper, affidavits and other documents the labor standard benefits he is entitled to, and which he alleged that the employer failed to pay him, it becomes the employer's burden to prove that it has paid these money claims. One who pleads payment has the burden of proving it, and even where the employees must allege non-payment, the general rule is that the burden rests on the employer to prove payment, rather than on the employees to prove non-payment.[27] The reason for the rule is that the pertinent personnel files, payrolls, records, remittances, and other similar documents — which will show that overtime, differentials, service incentive leave, and other claims of the worker have been paid — are not in the possession of the worker but in the custody and absolute control of the employer.[28]

A review of the records shows that private respondents presented petitioner Mapili's Payroll Summary which indicates: (1) payroll periods from 1-15 July 2007 until 15-31 December 2009; (2) private respondents' client

where petitioner Mapili was assigned to work; (3) region where petitioner Mapili was assigned to work – either Region 4 or NCR; (4) daily minimum wage; (5) amount of ECOLA; (6) number of regular hours worked; (7) amount of ECOLA; (8) basic pay; (9) payment of ECOLA; (10) overtime pay; (11) night differential pay; (12) SIL pay; (13) uniform allowance; (14) holiday pay; (15) other pay; (16) gross pay; (17) legal deductions; (18) other deductions; and (19) net pay.

Private respondents also presented as evidence: (1) Authority to Debit executed by the authorized representative of private respondents; (2) Report of all private respondents' salaried employees, and their respective account numbers, and net pay; (3) Bank Certification[29] issued by the Philippine National Bank which stated that the salaries of petitioner Mapili for the period July 2007 to December 2009 were credited to his PNB payroll account.

We hold that the evidence of private respondents showed by a preponderance of evidence that private respondents paid petitioner Mapili's money claims. Notably, petitioner Mapili did not deny that he received his wages through the ATM. However, petitioner Mapili questions whether private respondents paid him the claims as required by law.

Petitioner Mapili argues private respondents did not implement the wage increases provided under Wage Order No. NCR-14, and in so doing, private respondents underpaid petitioner Mapili of his wages. According to petitioner Mapili, Wage Order No. NCR-14 adjusted the minimum wage from Php 362.00 to Php 377.00 from 14 June 2008 to 27 August 2008, and this was increased to Php 382.00 from 28 August 2008. However, as shown by the Payroll Summary, private respondents used the minimum wage of Php 362.00 from June 2008 to September 2008. Thus, according to petitioner Mapili, for this particular period alone, he was deprived of at least Php 15.00 per day of his basic pay, and this resulted to the underpayment of his other benefits which were based on the erroneous basic pay.

We agree with petitioner Mapili.

Applicable is the Rule II, Sections 1 and 2 of the Rules Implementing Wage Order No. NCR-14 (“Implementing Rules”) issued by the Regional Tripartite Wages and Productivity Board, NCR. These provisions read:

RULE II

NEW MINIMUM WAGE RATES

Section 1. AMOUNT OF INCREASE. Effective 14 June 2008, all minimum wage workers in the private sector in the National Capital Region shall receive an increase of Twenty Pesos (P 20.00) per day consisting of Fifteen Pesos (P15.00) Basic Wage and Five Pesos (P5.00) Cost of Living Allowance.

Section 2. MINIMUM WAGE RATES EFFECTIVE 14 June 2008. The new daily minimum wage rates in the National Capital Region shall be as follows:

INDUSTRY/SECTOR

MINIMUM WAGE UNDER W.O. NCR-13

BASIC WAGE UNDER W.O. NCR-13

COLA UNDER W.O. NCR-13

TOTAL

Non-agriculture Php 362.00 Php 15.00 Php 5.00 Php 382.00

xxx

Section 3. MINIMUM WAGE RATES EFFECTIVE 28 AUGUST 2008. The Five Pesos (P5.00) COLA shall be automatically integrated into the Basic Wage on 28 August 2008. The minimum wage rates in the National Capital region shall therefore be as follows:

INDUSTRY/ SECTOR

MINIMUM WAGE UNDER W.O. NCR-13

ADJUSTED BASIC WAGE UNDER W.O. NCR-13

TOTAL

Non-agriculture Php 362.00 Php 20.00 Php 382.00

xxx

As above-quoted, effective 14 June 2008, all minimum wage workers under the non-agriculture sector in the NCR shall have a basic wage of Php 277.00 and COLA of Php 5.00. On 28 August 2008, the Php 5.00 was integrated in the basic wage, making the minimum wage, Php 382.00.

Perusal of the Payroll Summary shows that private respondents failed to comply with the wage increases under Wage Order No. NCR-14. Petitioner Mapili's basic wage from 1-15 June 2008 to 15-30 September 2008 was only Php 362.00. However, under the Implementing Rules, starting 14 June 2008 to 27 August 2008, petitioner Mapili's basic wage should have been Php 377.00, and petitioner Mapili's COLA should have been P 5.00, and effective 28 August 2008, the Php 5.00 COLA was integrated in the basic wage, thus the minimum wage became Php 382.00. However, private respondents implemented the wage increase beginning the 1-15 October 2008 payroll period only.

It is clear that private respondents underpaid petitioner Mapili's wages since 14 June 2008 until 30 September 2008. Petitioner Mapili's basic wage should have been increased to Php 377.00 starting 14 June 2008 to 27 August 2008, and thereafter increased to Php 382.00 starting 28 August 2008. Private respondents also underpaid petitioner Mapili of the applicable overtime pay, night differential pay, holiday pay, holiday and rest day premiums for 14 June 2008 until 30 September 2008.

We limit the award of 13[th] month pay to 3 years, in accordance with Article 291 of the Labor Code, as amended.

A review of private respondents' evidence shows that private respondents paid petitioner Mapili his 13[th] month pay for the years 2007 (Php 6,679.50),[30] 2008 (Php 8,679.25),[31] and 2009 (Php 9,454.50).[32] However, due to the non-implementation of the wage increases under Wage Order No. NCR-14, private respondents underpaid petitioner Mapili his 13[th] month pay.

On the matter of service incentive leave pay, the public respondent NLRC ruled that the service incentive leave is also subject to the 3-year prescriptive period. The NLRC found that private respondents paid petitioner Mapili his service incentive leave pay, except for the period covering July 2007 to 30 April 2008.

We modify public respondent NLRC's award of service incentive leave pay.

As discussed above, the 3-year prescriptive period does not apply to service incentive leave pay. Thus, if unused or unpaid, petitioner Mapili is entitled to service incentive leave pay one year from his employment, or from 22 June 2001 until his resignation on 25 December 2009.

Perusal of the Payroll Summary shows that it is only limited to payroll periods 1-15 July 2007 until 16-31

December 2009. We affirm the findings of the NLRC that private respondents did not pay petitioner Mapili his service incentive leave pay for July 2007 to 30 April 2008, based on the Payroll Summary. However, since the claims for service incentive leave pay have not prescribed, it was incumbent upon private respondents to prove that they paid petitioner Mapili's service incentive leave pay from 22 June 2001.

Thus, we order private respondents to pay the service incentive leave pay of petitioner Mapili from 22 June 2001 until 30 April 2008.

The Court rules as follows:

- 1) GRANTS the Petition for Certiorari, and ORDERS private respondent Mustang Security Agency, Inc. to pay petitioner Eleazar C. Mapili's unpaid wages, overtime pay, holiday pay, holiday and rest day premium, 13[th] month pay and service incentive leave;
- 2) REMANDS this case to the Labor Arbiter for the computation of the following money claims: (a) unpaid wages and COLA for 14 June 2008 to 30 September 2008; (b) unpaid overtime pay, holiday pay, holiday and rest day premiums for 14 June 2008 to 30 September 2008; (c) unpaid 13[th] month pay for 2008 considering the underpayment of wages in the period 14 June 2008 to 30 September 2008; and (d) service incentive leave pay from 22 June 2001 until 30 April 2008.

IT IS SO ORDERED.

Veloso (Chairperson) and Lantion, JJ., concur.

[1] C.A. Rollo, pp. 2-123.

[2] Annex A to the Petition, C.A. Rollo, pp. 31-45.

[3] Annex L to Petition, C.A. Rollo, pp. 96-99.

[4] Annex E to the Petition, C.A. Rollo, pp. 54-55.

[5] Annex D to the Petition, C.A. Rollo, pp. 50-53.

[6] Annex G of the Petition, C.A. Rollo, pp. 59-61.

[7] Annex H of the Petition, C.A. Rollo, pp. 62-78.

[8] Annex I to Petition, C.A. Rollo, pp. 79-87.

[9] Annex J to Petition, C.A. Rollo, pp. 88-90.

[10] Annex K to Petition, C.A. Rollo, pp. 91-93.

[11] C.A. Rollo, pp. 158-159.

[12] Supra note 3.

[13] Annex M to Petition, C.A. Rollo, pp. 100-113.

[14] Supra note 2.

[15] Annex D to Petition, C.A. Rollo, pp. 50-53.

[16] Supra note 4.

[17] Supra note 1.

[18] Supra note 1.

[19] C.A. Rollo, pp. 994-999.

[20] C.A. Rollo, pp. 1031-1043.

[21] C.A. Rollo, pp. 130-993.

[22] C.A. Rollo, pp. 1015-1030.

[23] Supra note 6.

[24] Auto Bus Transport System, Inc. v. Bautista, G.R. No. 156367, 16 May 2005.

[25] SECTION 5. Treatment of Benefit. - The service incentive leave shall be commutable to its money equivalent if not used or exhausted at the end of the year.

[26] Supra note 24.

[27] Ridad et al., v. Gregorio Araneta University Foundation, G.R. No. 188659, 13 February 2013 citing De Guzman v. National Labor Relations Commission, G.R. No. 167701, 12 December 2007, 540 SCRA 21, 35 citing Mayon Hotel & Restaurant v. Adana, 497 Phil. 892, 923-924 (2005) citing further Sevillana v. I.T. (International) Corp., 408 Phil. 570, 588 (2001).

[28] Ibid. citing E.G. & I. Construction Corporation v. Sato, G.R. No. 182070, 16 February 2011, 643 SCRA 492, 501 citing Agabon v. National Labor Relations Commission, 485 Phil. 248, 289 (2004).

[29] C.A. Rollo, p. 23.

[30] Annex 2-C-1 of the Comment, C.A. Rollo, p. 322.

[31] Annex 3-Y-1 of the Comment, C.A. Rollo, p. 759.

[32] C.A. Rollo, p. 990.

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