

CYBER CITY TELESERVICES (PHILS.) INC., AND RAYMOND M. GACHO, PETITIONERS, VS. CHRISTY JOY C. ARELLANO AND THE NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

Ponente: FRANCISCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6d434845c585/>

FRANCISCO, J.:

This RESOLVES the Motion for Reconsideration[1] filed by petitioners on November 19, 2013, praying to reconsider the September 24, 2013 Decision[2] and to reverse and set aside the Resolutions[3] dated September 18, 2009 and November 27, 2009 of public respondent NLRC.

Judicious review of the Motion is nothing but a mere rehash of the argument that had been carefully considered, evaluated and passed upon by this Court.

The issue was ruled by this Court in this manner:

It has been the settled rule that the factual findings of the Labor Arbiter, when affirmed by the NLRC are accorded to great weight and respect when supported by substantial evidence, and devoid of any unfairness and arbitrariness. Buttressed by no less that the Supreme Court in the case of NEECO II v. NLRC, it is said that findings of facts of quasi-judicial agencies like the NLRC are accorded not only with respect but even finality if they are supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

We have, however, carefully examined the records before us and found nothing therein to warrant Our departure from the common findings of the Labor Arbiter and the NLRC.

Constructive dismissal, as defined, is a cessation of work because continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or diminution in pay or both; or when a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee.

The test of constructive dismissal, said the Supreme Court in CRC AGRICULTURAL TRADING v. NLRC,[4] is whether a reasonable person in the employee's position would have felt compelled to give up his position under the circumstances. In addition, it is also said that:

“It is an act amounting to dismissal but is made to appear as if it were not. In fact, the employee who is constructively dismissed might have been allowed to keep coming to work. Constructive dismissal is therefore a dismissal in disguise. The law recognizes and resolves this situation in favor of employees in order to protect their rights and interests from the coercive acts of the employer.”

At the outset, it must be stressed that petitioners have not, in all their pleadings, categorically denied that Arellano reported to the HR department in the morning of July 23, 2008. It was not also categorically and specifically denied by petitioners that Casi and Abregana teamed up, and together lectured Arellano on her excessive unpaid absences despite her explanation in her letter dated July 13, 2008 that had she been apprised by them (HR personnel) that SSS only approved her leave of absence until November 31, 2007, she would have presumably reported back to office on December 2, 3 and 4, 2007 thus she would not have incurred leaves of absences in

excess of the allowable five (5) days unpaid leaves.

Also, Arellano's allegation that she was given options by these two (2) HR staff, that is, to file voluntary resignation letter or be terminated due to excessive absences was not refuted squarely by the petitioners. Instead, petitioners' argument lies on the precept that an advice to resign so as not smear one's reputation is not illegal and even upheld in the case of *Belaunzaran v. NLRC*.^[5]

Contrariwise, when petitioner in the case of *Belaunzaran* was asked to submit her resignation letter or if not, to submit her written explanation to the complaints against her, she immediately filed a complaint for illegal dismissal preempting an investigation by private respondents therein. Such is not the case herein. When Arellano, private respondent herein, was not willing to submit a voluntary resignation letter, she was given two (2) options; to file voluntary resignation letter or be terminated due to excessive absences. Here lies the difference. *Belaunzaran* was given the option to submit written explanation to the complaints lodged against her in case she would not want to tender her voluntary resignation, while Arellano was not.

As aptly observed by the NLRC, Arellano's case could be more likened to a Hobson's choice. Arellano was not asked if she still wants to work with CYBER but was offered a choice on the means/method of terminating her services. The HR staff's actuation made her think that she is left with no choice but to leave CYBER.

We are also inclined to agree with the Labor Arbiter's observation that Arellano's excess number of leave of absences was not incurred in a willful and perverse attitude of violating the company's policy. Also, it was not incurred in a gross and habitual manner to be considered a gross neglect of duty that could smear her employment record.

Corrolarily, Arellano having been constructively dismissed, the award for full backwages is proper. Likewise, We find the award of moral and exemplary damages justifiable. An employee may rightfully recover moral damages when his dismissal is pernicious in nature. Exemplary damages may also be recovered when the dismissal is effected in an oppressive or malevolent manner. We find the manner on how the HR staff extorted a resignation letter from Arellano not only vicious but also oppressive that warrants the award of such damages.

As regards the alleged non-payment of 13th month pay and the unclaimed wages, Our jurisprudence dictates that the burden of proving payment of monetary claims rests on the employer. The rationale of this rule was explained in *DANSART SECURITY FORCE & ALLIED SERVICES COMPANY v. BAGOY*,^[6] in this wise:

"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 workers have been paid – are not in the possession of the worker but in the custody and absolute control of the employer. Thus, the burden of showing with legal certainty that the obligation has been discharged with payment falls on the debtor, in accordance with the rule that one who pleads payment has the burden of proving it. x x x"

Nowhere in the records of the instant case did Cyber present proof that the claims for 13th month pay and the unclaimed wages were already settled. Clearly, Cyber failed to discharge such burden of proof.

It must be stressed that the Supreme Court has repeatedly ruled that any doubt arising from the evaluation of evidence as between the employer and the employee must be resolved in favor of the latter.

On the last issue, it is said that the veil of corporate fiction treats as separate and distinct the affairs of a corporation and its officers and stockholders. It is further said that:

"As a general rule, a corporation will be looked upon as a legal entity, unless and until sufficient reason to the contrary appears. When the notion of legal entity is used to defeat public convenience, justify wrong, protect

fraud, or defend crime, the law will regard the corporation as an association of persons.”

Thus, for the separate juridical personality of a corporation to be disregarded, there must have been fraud and proof of it.

Here, no such incident was proven. It was not established that Cyber, as a legal entity, is used to protect fraud or justify wrong. Hence, there exist no reason that will justify the piercing of corporate veil and hold Gacho solidarily liable with Cyber.

WHEREFORE, viewed from the foregoing, the assailed Resolution promulgated on September 18, 2009 is hereby AFFIRMED with MODIFICATION. Petitioner CYBER CITY TELESERVICES (PHILS.) INC., is hereby ORDERED to REINSTATE private respondent CHRISTY JOY C. ARELLANO to her former position as Call Center Agent III without loss of seniority rights and other privileges, and to PAY her full back wages inclusive of allowances, and to her other benefits or their monetary equivalent computed from the time her compensation was withheld from her up to the time of her actual reinstatement.

Furthermore, petitioner Cyber is likewise ORDERED to pay private respondent Christy Joy C. Arellano her 13[th] Month Pay and Unclaimed Wages.

Finally, petitioner Cyber is ORDERED to pay the amount of 50,000.00 as Moral Damages, 50,000.00 as Exemplary Damages and 10% of the total award as Attorney’s Fees.[7]

All the foregoing considered, the movants' motion is hereby DENIED.

SO ORDERED.

Borja, J., Ch., and Badelles, JJ., concur.

[1] Rollo, p. 315.

[2] Rollo.p. 286.

[3] Rollo, pp. 28-32 and 33-35.

[4] G.R. No. 177664, December 23, 2009.

[5] G.R. No. 120038, December 23, 1996.

[6] G.R. No. 168495, July 2, 2010 citing G & M Philippines, Inc. v. Cuambot, G.R. No. 162308, November 22, 2006

[7] Rollo, pp. 293-297.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.