

**SAN GIOVANNI PHILIPPINES INDUSTRIAL CORPORATION,
PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, FIRST
DIVISION, MA. CARLOTA B. LASCOTA, ROSALINDA L. MALICLIC,
IRISH V. RAR...**

Ponente: DIAMANTE, J.

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DIAMANTE, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court assailing the April 23, 2014 Decision[1] and June 26, 2014 Resolution[2] of the National Labor Relations Commission, First Division, (hereinafter referred to as NLRC) in NLRC NCR Case No. 04-05689-13 [NLRC LAC No. 01-000358-14] which affirmed the November 28, 2013 Decision[3] of the Labor Arbiter.

In a Resolution dated October 15, 2014, this Court, without necessarily giving due course to the instant Petition, ordered, inter alia, private respondents, to file their Comment within a non-extendible period of ten (10) days from receipt of the resolution, and petitioner to file a Reply within five (5) days from receipt of the Comment, if it so desires. It was specified in the Resolution that upon submission of the aforesaid pleadings or the expiration of the period for filing the same, the Petition will be deemed submitted for decision, unless the Court requires the filing of memoranda from the parties.[4]

With the filing of private respondents' Comment[5] and the failure of petitioner to file a Reply within the reglementary period, as verified through the Court of Appeals-Case Management Information System [CAMIS], the instant petition is now deemed submitted for decision pursuant to this Court's October 15, 2014 Resolution.

The antecedent facts of the case, as determined by public respondent NLRC, are as follows:

Private respondents were former sales personnel of petitioner. In the Joint Affidavit executed by private respondents, they alleged that Ma. Carlota B. Lascota [Lascota] and Evelyn Q. Bristol [Bristol] were informed on March 19, 2013 by the office secretary, a certain Amy Sabillona, that it would already be their last day of work due to the fact of the low volume of sales. For her part, Irish V. Raro [Raro] claimed that she was suspended for ten days and was not allowed to go back to work thereafter. Rosalinda Maliclic [Maliclic] likewise alleged that she got terminated on the basis of the expiration of a purported contract of employment which she had not signed. It was now the contention of private respondents that they were illegally dismissed from employment considering that there was no just cause authorizing such termination. As such, on April 16, 2013, private respondents filed a complaint against petitioner for illegal dismissal, underpayment of salaries and wages, non-payment of holiday premium, rest day premium, service incentive leave pay, 13th month pay and separation pay and recovery for moral and exemplary damages and attorney's fees.

In defense, petitioner countered that Lascota, the wife of its former warehouse caretaker, resigned, together with her husband, after said warehouse was foreclosed by the bank. According to petitioner, Maliclic resigned on January 28, 2013 explaining in her resignation letter that she had to take care of her children. In the same manner, petitioner maintained that Raro was terminated on the ground that she was caught committing a series of

infractions like smoking at the parking lot of the mall where she was assigned, frequently going on absence without leave, being late on several occasions and failing to report damaged goods under her custody. Nonetheless, petitioner would still insist that Raro, as well as Bristol, had voluntarily resigned.

On November 28, 2013, the Labor Arbiter rendered a judgment in favor of private respondents, the dispositive portion of which is hereby reproduced, viz:

WHEREFORE, premises considered, judgment is hereby rendered:

- 1) dismissing the complaint for illegal dismissal of [complainants] Rosalinda L. Maliclic and Irish V. Raro for lack of merit;
- 2) declaring complainants Ma. Carlota B. Lascota and Evelyn Q. Bristol to have been illegally dismissed, and ordering respondent San [Giovanni] Phil. Ind. Corp., to pay each of the complainants the amount of One Hundred Thirty Two Thousand Two Hundred Eighty Five Pesos and 22/100 (P132,285.22) representing separation pay and backwages;
- 3) ordering respondent San [Giovanni] Phil Ind. Corp., to pay complainant Rosalinda L. Maliclic the amount of Two Thousand Seven Hundred Eighty Eight Pesos and 67/100 (P2,788.67) representing the balance of her 13th month pay, and complainant Irish V. Raro the amount of Five Thousand Five Hundred Twenty Pesos and 58/100 (P5,520.58) representing her 13th month pay for 2012;
- 4) ordering respondent San [Giovanni] Phil. Ind. Corp., to pay complainant Ma. Carlota B. Lascota the amount of Forty One Thousand Seven Hundred Eighty Seven Pesos and 25/100 (P41,787.25) and complainant Evelyn Q. Bristol the amount of Forty One Thousand Six Hundred Eighty Three Pesos and 60/100 (P41,683.60) representing salary differentials, service incentive leave pay and 13th month pay;
- 5) ordering respondent San [Giovanni] Phil. Ind. Corp., to pay attorney's fees equivalent to ten percent (10%) of the total monetary award in the amount of P34,804.129

All other claims are dismissed for lack of merit.[6]

Upon appeal, the NLRC rendered a Decision affirming the findings of the Labor Arbiter. Thereafter, the NLRC likewise denied petitioner's motion for reconsideration. In view of the foregoing, herein petitioner comes before this Court via a special action for certiorari assailing the decision of public respondent NLRC.

The petition is devoid of merit.

In this petition, the main issues posed are: a) whether or not public respondent NLRC seriously erred in holding that private respondents Ma. Carlota B. Lascota and Evelyn Q. Bristol had been illegally dismissed from employment by petitioner, and b) whether or not public respondent committed grave abuse of discretion in sustaining the monetary grants to private respondents. We hold in the negative.

In *Spic N' Span Services Corporation vs. Paje, et al.*,^[7] the High Court has explained that upon proof of termination of employment, the employer has the burden of proof that the dismissal was valid; absent this proof, the termination from employment is deemed illegal, as alleged by the dismissed employees. The fact of private respondents' termination was never disputed. Except for its bare denial, petitioner was not able to establish its asseveration that private respondents Lascota and Bristol voluntarily resigned from work. It bears stressing that petitioner did not show nor provide any cogent evidence like a resignation letter that would somehow bolster its claim. More importantly, it is illogical for private respondents to resign and then file a complaint for illegal dismissal.^[8] We find it highly unlikely that private respondents would just quit their jobs for no apparent and valid reasons. The only logical conclusion We can deduce therefrom is that Lascota and Bristol were indeed unjustly dismissed from work. We can neither give credence to the allegation of petitioner that the complaint for

illegal dismissal filed in the proceedings below should be dismissed on the premise that Lascota and Raro purportedly failed to affix their signatures in their position paper. First and foremost, the execution of a position paper has no bearing to the validity of a particular complaint. As a matter of fact, a position paper may be required only after the labor arbiter has determined that the complaint filed is meritorious. Second, the omission of such signature can be easily remedied by a simple notification and subsequent compliance therewith. And finally, the other co-complainants were able to sign the assailed position paper. It goes without saying, therefore, that this last-ditch effort to discredit the existence of illegal dismissal is a clear manifestation of the futility of petitioner's defense. In other words, petitioner must not only rely on the weakness of private respondents' evidence, but must stand on the merits of its own defense. A party alleging a critical fact must support his allegation with substantial evidence, for any decision based on unsubstantiated allegation and unreliable documentary evidence cannot stand, as it will offend due process.[9] Petitioner failed to discharge this burden.

Furthermore, We find no reason to disturb the determination of the NLRC in affirming the award of separation pay, backwages, unpaid wages and 13[th] month pay in favor of private respondents.

The Constitution, statutes and jurisprudence uniformly mandate that no worker shall be dismissed except for a just or valid cause provided by law, and only after due process is properly observed.[10]

Article 279 of the Labor Code provides that [a]n employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.[11] Since reinstatement is no longer feasible in the present case, the award of separation pay in lieu of reinstatement is in order.[12]

As to the contention of petitioner that Maliclic and Raro had already received their last salaries and corresponding 13[th] month pay, said assertion must also fail. It is settled that as a general rule, a party who alleges payment as a defense has the burden of proving it. Specifically with respect to labor cases, the burden of proving payment of monetary claims rests on the employer, the rationale being 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, as aptly enunciated in *G & M (Phil.), Inc. vs. Batomalaque*. [13] Aside, however, from its bare allegation that it had fully paid private respondents' salaries, petitioner did not present any evidence, e.g., payroll or payslips, to support its defense of payment. Petitioner has once more failed to discharge the onus probandi.

In the same manner, We hold that the monetary grants shall earn interest at the rate of six percent (6%) per annum of the total monetary obligation computed from the time the same was judicially demanded and an additional six percent (6%) per annum from the time of the finality of this judgment until its full satisfaction shall be imposed in consonance with the pronouncement laid down in *Nacar vs. Gallery Frames, et al.* [14]

In this case, both the Labor Arbiter and the NLRC made a finding that there was an illegal dismissal. As a general rule, the Court is not duty-bound to delve into the accuracy of the NLRC's factual findings in the absence of a clear showing that these were arbitrary and bereft of any rational basis, as espoused in *G & M (Philippines), Inc. vs. Cruz*. [15] In the present case, petitioner failed to demonstrate any arbitrariness or lack of rational basis on the part of the NLRC. [16]

WHEREFORE, premises considered, the instant petition is DENIED. Accordingly, the April 23, 2014 Decision and June 26, 2014 Resolution of the National Labor Relations Commission, First Division, in NLRC NCR Case No. 04-05689-13 [NLRC LAC No. 01-000358-14] are hereby AFFIRMED with a slight modification in that all

monetary grants awarded shall earn interest at the rate of six percent (6%) per annum of the total monetary obligation computed from the time the same was judicially demanded and an additional six percent (6%) per annum from the time of the finality of judgment until its full satisfaction shall be imposed. This interim period being deemed to be by then an equivalent to a forbearance of credit.

All other aspects of the fallo of the assailed Decision stand. Costs against petitioner.

SO ORDERED.

Dimaampao, J. B., Chairperson and Manahan, C. S., JJ., concur.

[1] Rollo, pp. 25-34.

[2] Id. at 22-23.

[3] Id. at 90-97.

[4] Id. at 123-124.

[5] Id. at 125-128.

[6] Id. at 96-97.

[7] G.R. No. 174084, August 25, 2010.

[8] Carlos, et al. vs. Court of Appeals, et al., G.R. No. 168096, August 28, 2007.

[9] Ibid.

[10] Baron, et al. vs. NLRC, et al., G.R. No. 182299, February 22, 2010.

[11] Pangilinan vs. Wellmade Manufacturing Corporation, G.R. No. 187005, April 7, 2010.

[12] Ibid.

[13] G.R. No. 151849, June 23, 2005.

[14] G.R. No. 189871, August 13, 2013.

[1] 5G.R. No. 140495, April 15, 2005.

[16] Ibid.

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