

HR CONSTRUCTION CORPORATION/ WILLIE HO, OWNER/ ZALDY RECTOR AND ALLAN CAPUTILLA, FOREMAN, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, 8TH DIVISION, AND MARIO O. CASAS,...

Ponente: LOPEZ, J.

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LOPEZ, J.:

Petitioners, by way of a petition for certiorari[1] under Rule 65 of the Rules of Court, seek the nullification of the Decision dated November 30, 2010[2] of the 8[th] Division of the National Labor Relations Commission of Cagayan de Oro City which affirmed the June 29, 2010 Decision[3] of the Regional Arbitration Branch No.XI, Davao City in NLRC Case No. RAB-XI-02-00150-10[4], which declared herein respondent to have been illegally dismissed from his employment and held herein petitioners liable for the money claims of respondent. Also assailed herein is the Resolution dated May 27, 2011[5] of the NLRC, which denied for lack of merit petitioners' motion for reconsideration of the November 30, 2010 Decision.

The Antecedents

The facts, as culled by the NLRC, are as follows:

On February 3, 2010, herein respondent filed a case for illegal dismissal and money claims against herein petitioners. During the mediation conference on February 24, 2010, no amicable settlement was forged between the parties; hence, an Order was issued by the Labor Arbiter directing the parties to file their respective verified position papers with documentary proofs and affidavits of witnesses.

The Order further states that “non-submission of a position paper by any of the parties will be deemed a waiver to adduce evidence and this Office will be constrained to resolve the case on the basis of evidence on record”.

On April 7, 2010, respondent filed his position paper. He alleged therein that he is a regular employee of petitioners; that he was hired as a finisher/mason on January 5, 2009 and receiving a salary of P200.00/day and later, it was increased to P220.00 in November 2009; that he reports for work from Monday to Sunday from 7:00 am to 5:00 pm without any rest day and performs overtime work for three hours everyday; and that on November 4, 2009, respondent asked permission that he will go on leave of absence for one week for he will join the carolling as Christmas was already approaching. Respondent disclosed that he was allowed to go on leave but when he returned to work on November 10, 2009, he was no longer permitted to work.

For unknown reason, herein petitioners failed to submit their position paper despite receipt of the Order directing them to file the same. Record discloses that the said Order was received by petitioners' counsel on March 26, 2010.

Despite ample opportunity and considerable time given to the petitioners, no position paper was ever filed by them before the Labor Arbiter. Hence, On June 29, 2010, the Labor Arbiter issued his Decision in NLRC RAB-02-00150-10 adverse to the petitioners and awarding the respondent the amount of P85,415.62.

The salient portions of the Decision of the Labor Arbiter provide as follows:

“X x x

Stated in the said Order that non-submission of the position paper by any of the parties will be deemed a waiver to adduce evidence, and this Office will be constrained to resolve the case on the basis of the evidence on record. Hence, this ex-parte decision.

Considering that complainant's material allegations have not been rebutted or disputed by the respondent (sic), the same shall be considered as true and valid declarations of fact. It is a settled doctrine that the burden of proving the validity of a dismissal and payment of money claims rests on the part of the employer.

In this instance, the respondents failed to submit the required position paper. They opted not file, therefore, it shall be considered a waiver of its right to adduce evidence in its behalf and to rebut the material allegations presented by the complainant. It is also a manifestation of disinterest to prosecute complainant's claims against it.

Consequently, We shall award complainant the twin relief of backwages and reinstatement. However, in lieu of reinstatement, it is prudent to grant separation pay for the best interest of both parties and due to the strained relations developed in the filing of this case. We shall also grant his money claims such as, underpayment of wages, cost of living allowance, and 13th month pay. There being no proof that these money claims have already been paid by the respondent. Extraordinary claims, such (sic) holiday and overtime pays are denied for failure to substantiate the same.

X x x

WHEREFORE, premises considered, judgment is hereby rendered declaring complainant to be illegally dismissed from his employment and is entitled to backwages and separation pay. He shall also be entitled to his money claims, such as, salary differentials, cost of living allowance and 13[th] month pay in the total amount of EIGHTY FIVE THOUSAND FOUR HUNDRED FIFTEEN AND 62/100 PESOS (P85,415.62).

ACCORDINGLY, respondent (sic) HR CONSTRUCTION / WILLIE HO, owner / ZALDY RECTO and ALLAN CAPUTILLA, foremen are held liable to pay complainant the total amount stated above.

All other claims and issues not heretofore discussed are denied for lack of legal and factual basis.

SO ORDERED.”

On August 16, 2010, the petitioners seasonably appealed the Decision of the Labor Arbiter to the 8[th] Division of the National Labor Relations Commission in Cagayan de Oro City.

On November 30, 2010, the NLRC 8th Division issued the assailed Decision. Some of the salient portions of the body of the NLRC Decision provides as follows:

“Regrettably, with the respondents' failure to file a verified position paper in the proceedings below, they waive their right to adduce evidence for the first time on appeal, much less, assign factual errors on the part of the Arbiter a quo in rendering an ex-parte decision based solely on the complainant's averments in his position paper. Despite ample opportunity given to the respondents by the Arbiter a quo to file a position paper and for reason known only to them, respondents failed or simply ignored to file the same. Simply, no one can be faulted in the rendition of an ex-parte decision adverse to respondents except the respondents themselves for failure to file the required position paper.

Clearly, the Arbitration Branch, in its primordial task to dispose of cases expeditiously, cannot wait for eternity so that a party can file a position paper on appeal to rectify their failure to submit the same in the proceedings below. This is not permissible as We abhor the same.

Indeed, this Commission has its own rules of procedure which the parties must follow and not to play with them. To allow the contrary, our rules would be rendered inutile by a party's unreasonable idiosyncrasies and capricious or whimsical attitude in ignoring our rules. This we cannot allow.

WHEREFORE, the instant appeal is DISMISSED for lack of merit. Accordingly, the assailed decision of 29 June 2010 is AFFIRMED in toto.

SO ORDERED.”

Petitioners filed a motion for reconsideration which was, however, denied by the NLRC through a Resolution dated May 27, 2011.

Hence, the instant petition.

ASSIGNMENT OF ERRORS

Petitioners come before this Court with the following assignment of errors:

- The National Labor Relations Commission, 8th Division, acted without or in excess of its jurisdiction or gravely abused its discretion in refusing to receive the evidence of the petitioners and in dismissing the appeal without deciding the same on the merits.
- The National Labor Relations Commission, 8th Division, committed grave abuse of discretion amounting to lack or excess of jurisdiction when it declared that Mario O. Casas was illegally dismissed.
- The National Labor Relations Commission, 8th Division, committed grave abuse of discretion amounting to lack or excess of jurisdiction when it declared that Mario O. Casas was entitled to the monetary award.

This Court's Ruling

Petitioners argue that the NLRC erred in disregarding their evidence. Petitioners add that the NLRC should have allowed and considered their evidence and not dismissed their appeal on a technicality considering that default judgments are generally frowned upon by the Supreme Court.

Petitioners further argue that had the NLRC taken even a cursory look at the evidence presented by them, the NLRC would have discovered that respondent Mario O. Casas was not illegally dismissed and was paid the correct wages. It is petitioners' contention that respondent was a project employee having been employed as a construction worker and therefore, Department Order No. 19, Series of 1993 or the DOLE Guidelines Governing the Employment of Workers in the Construction Industry governs the respondent's employment.

In support of their contention, petitioners cite evidence they presented before the National Labor Relations Commission in their memorandum on appeal and motion for reconsideration, consisting of the following: (1) The Notice of Appointment which likewise serves as respondent's employment contract,[6] (2) respondent's Daily Time Record and Payroll from September 3, 2009 to October 28, 2009 and November 4, 2009,[7] (3) Cash Voucher dated October 30, 2009 representing respondent's receipt of the amount of P2,080.00 as 13th month pay,[8] (4) Employer's Monthly Report to the DOLE on Employee's Termination/Dismissal/Suspension for the month of November 2009,[9] and (5) Affidavit of Christine W. Orevilio.[10]

With respect to the first assigned error, the Labor Code provides:

ART. 221. Technical rules not binding and prior resort to amicable settlement. In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process.

In *Tanjuan v. Philippine Postal Savings Bank, Inc.*,^[11] the Supreme Court held that:

“It is well-settled that the NLRC is not precluded from receiving evidence, even for the first time on appeal, because technical rules of procedure are not binding in labor cases. This rule applies equally to both the employee and the employer. In the interest of due process, the Labor Code directs labor officials to use all reasonable means to ascertain the facts speedily and objectively, with little regard to technicalities or formalities. However, delay in the submission of evidence should be clearly explained and should adequately prove the employer’s allegation of the cause for termination.” (Emphasis supplied.)

In the case at bar, petitioners asserted that their failure to file Position Paper was not a disregard of the rules of the NLRC but was due to the difficulty in locating the records of respondent Mario O. Casas among the files of several hundred other construction workers who worked on the Central Parq Hotel. Petitioners explained that the construction of a hotel usually takes nearly two (2) years to complete and the petitioners hired several hundred workers of different skills during the different phases of the construction. Due to the large volume of construction workers involved in the project, it was extremely difficult to locate the files, time record and payroll sheets of respondent Mario O. Casas. Petitioners further stated in their petition that the difficulty in searching for the records of respondent was compounded by the fact that the petitioners were engaged in several other construction projects at the same time. Thus, the sheer number of files that the staff of the petitioners had to go through just to look for the records of one (1) worker was simply overwhelming. These facts are contained in the affidavit of Christine W. Orevilio,^[12] the employee tasked to look for the records of the respondent.

Accordingly, it has been settled that no undue sympathy is to be accorded to any claim of a procedural misstep in labor cases. Such cases must be decided according to justice and equity and the substantial merits of the controversy.^[13] Thus, in *Bristol Laboratories Employee's Association v. NLRC*,^[14] the Court held that the NLRC did not commit grave abuse of its discretion in considering additional documentary evidence submitted by the employer on appeal to prove breach of trust and loss of confidence as bases for the dismissal of the petitioner in that case.

In *EDI Staff Builders International, Inc. v. Magsino*,^[15] the Supreme Court held:

“At the outset, it should be stressed that in an unlawful dismissal case, the employer has the burden of proving the lawful cause for the employee’s dismissal. Without sufficient proof of loss of confidence, an employee cannot be dismissed on this ground. It was, therefore, error for both the NLRC and the Court of Appeals to disallow evidence on appeal which petitioners tried to present.”

In the instant case, considering that respondent had also been given the opportunity to rebut petitioners' evidence against him, We deem it best to admit such evidence and to decide this case on the merits in the interest of truth, justice and fair play.

As regards the second assigned error, both the Labor Arbiter and the NLRC declared that respondent Mario O. Casas was illegally dismissed solely on the basis of respondent’s Position Paper in view of the fact that petitioners failed to file their Position Paper before the Labor Arbiter and upon presentation of their evidence for the first time on appeal to the NLRC, the latter refused to consider it and dismissed the appeal without deciding the same on the merits. This Court notes, however, that technical rules of evidence do not strictly apply if the decision to grant the petition proceeds from an examination of its sufficiency as well as a careful look into the

arguments contained in position papers and other documents.[16]

We now proceed to the resolution of the substantive issues submitted by petitioners for our consideration, particularly, whether respondent was illegally dismissed from his employment. Petitioners averred that respondent is a project employee having been employed as a construction worker and therefore, Department Order No. 19, Series of 1993 otherwise known as the Rule on Construction Workers governs the respondent's employment in the construction industry. Petitioners claim that respondent's separation from work was due to the expiration of his contract as well as the completion of the project. Moreover, petitioners asseverated that respondent went on "absence without leave (AWOL) to go "caroling" despite the fact that the construction of the Central Parq Hotel was almost complete. Petitioners rely heavily on the Notice of Appointment[17] issued to respondent of the following typical tenor:

"NOTICE OF APPOINTMENT"

Date

CASAS, MARIO

You are hereby appointed as MASON of the Company on a contractual basis and for a maximum of three-month period from Sept. 3 to Nov. 28, 2009. With compensation at the rate of P320, unless sooner terminated, and subject to the company's pertinent rules and regulations.

Please be informed that this appointment shall serve as your employment contract with the company.

Upon the expiration of yor (sic) contract on Nov. 28, 2009, your contract is deemed terminated and expired unless a new appointment is issued in your favor.

Should you be amenable with this contract, please indicate your conformity by signing on the space hereinafter provided. Before doing so, the contents of this contract will be explained to you in Tagalog or Visayan dialect for your better understanding.

We look forward to a mutually beneficial relationship.

Very truly yours,

HR CONSTRUCTION CORPORATION

Conforme: (Sgd.) Mario Casas"
Authorized Representative

Respondent counters that he is a regular employee having been hired as mason on January 5, 2009 and not on September 3, 2009. Respondent further asserts that in his affidavit,[18] he categorically denied under oath that he was issued such a Notice of Appointment.[19] Hence, the alleged Notice of Appointment is spurious for having been forged.

Article 280 of the Labor Code distinguishes a "project employee" from a "regular employee" thus:

Article 280. Regular and Casual Employment—The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project

or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists. (Emphasis supplied.)

Time and again the Supreme Court has ruled that in illegal dismissal cases like the present one, the onus of proving that the employee was not dismissed or if dismissed, that the dismissal was not illegal, rests on the employer and failure to discharge the same would mean that the dismissal is not justified and therefore illegal.[20] Central to the resolution of this case, however, is a determination of whether respondent Mario O. Casas is a project employee such that he was lawfully discharged upon the completion of the construction of Central Park Hotel.

In *Hanjin Heavy Industries and Construction Co. Ltd. v. Ibañez*, [21] the Supreme Court held:

“Due to petitioners’ failure to adduce any evidence showing that respondents were project employees who had been informed of the duration and scope of their employment, they were unable to discharge the burden of proof required to establish that respondents’ dismissal was legal and valid.”

In *Abesco Construction and Development Corporation v. Ramirez*, [22] which also involved a construction company and its workers, the Supreme Court considered it crucial that the employees were informed of their status as project employees:

“The principal test for determining whether employees are “project employees” or “regular employees” is whether they are assigned to carry out a specific project or undertaking, the duration and scope of which are specified at the time they are engaged for that project. Such duration, as well as the particular work/service to be performed, is defined in an employment agreement and is made clear to the employees at the time of hiring.”

After a careful perusal of the records in this case including the evidence presented by petitioners, We find that petitioners’ contentions deserve scant consideration.

While the appropriate evidence to show that a person is a project employee is the employment contract specifying the project and the duration of such project, the existence of such contract is not always conclusive of the nature of one’s employment.[23]

In *Raycor Aircontrol Systems, Inc. v. NLRC*, [24] the Supreme Court elucidated, to wit:

“Inconclusive Evidence

Based on the foregoing considerations, it is patent that, in the instant case, there needs to be a finding as to whether or not the duration and scope of the projects were determined or specified and made known to herein private respondents at the time of their engagement. The labor arbiter tried to do this, relying heavily on the “Contracts of Employment” presented in petitioner’s Annexes as well as on private respondents’ own Annex “A” attached to their Position Paper, and citing the fact that the said contracts of employment indicated the duration of the projects to which the private respondents had been assigned. He then held that “there is no denial that complainants were assigned to work in these projects,” and concluded that they were indeed project employees.

But the arbiter completely ignored the fact that all the “Contracts of Employment” presented in evidence by

both petitioner and private respondents had been signed only by petitioner's president and general manager, Luis F. Ortega, but not by the employees concerned, who had precisely refused to sign them. The said contracts therefore could in no wise be deemed conclusive evidence. Thus, private respondents faulted the labor arbiter for giving credence and probative value to said contracts. X x x

Failure to Discharge Burden of Proof

For that matter, it seems self-evident to this Court that, even if the contracts presented by petitioner had been signed by the employees concerned, still, they would not constitute conclusive proof of petitioner's claim. After all, in the usual scheme of things, contract terms are normally dictated by the employer and simply acceded to and accepted by the employee, who may be desperate for work and therefore in no position to bargain freely or negotiate terms to his liking.

In any event, petitioner in the case undoubtedly could have presented additional evidence to buttress its claim. For instance, petitioner could have presented copies of its contracts with its clients, to show the time, duration and scope of past installation projects. X x x But petitioner did not produce such additional evidence, and we find it failed to discharge its burden of proof. X x x

All the aforesaid conflicting data have the net effect of casting doubt upon and clouding the real nature of the private respondents' employment status. And we are mandated by law to resolve all doubts in favor of labor. For which reason, we hereby hold that private respondents were regular employees of the petitioner."

In this case, the alleged Notice of Appointment presented by petitioners contains only the signature of the respondent which was denied under oath by the latter contending that his signature therein was forged. The said Notice of Appointment was not signed by the President, General Manager or even any other authorized representative of petitioner company. Furthermore, the said document is not even dated and there is no showing when it was purportedly issued.

In *Glory Philippines, Inc. v. Vergara*,^[25] the Supreme Court held:

"There is no merit in petitioner's claim that respondents were project employees whose employment was coterminous with the transaction with Glory Japan.

X x x

In the instant case, respondents' employment contracts failed to state the specific project or undertaking for which they were allegedly engaged. While petitioner claims that respondents were hired for the transaction with Glory Japan, the same was not indicated in the contracts. X x x

Further, the employment contracts did not indicate the duration and scope of the project or undertaking as required by law. It is not enough that an employee is hired for a specific project or phase of work to qualify as a project employee. There must also be a determination of, or a clear agreement on, the completion or termination of the project at the time the employee was engaged, which is absent in this case."

In the case at bar, the alleged Notice of Appointment did not even indicate the specific project or undertaking for which respondent was engaged. Specifically, it was not mentioned therein that respondent was hired only for the construction of Central Parq Hotel and when the said construction would be completed.

The Termination Report submitted by petitioners to the DOLE is also inconclusive proof that respondent was a project employee. Respondent's name could have easily been entered therein. The Daily Time Record and Payroll presented by petitioners were not signed by the owner and the project engineer. Supposedly, the blank spaces therein should have been filled in order to ascertain their veracity. This Court also notes that in the alleged Daily Time Record and Payroll presented by petitioners dated November 4, 2009^[26] which is a Wednesday,

respondent Mario O. Casas was present on Thursday which is November 5, 2009. As alleged by petitioners, it was on November 2, 2009 that respondent failed to report for work and did not report to work at all after that. It is their allegation that respondent was deemed to be “absent without leave” (AWOL) on November 4, 2009. How come then that in the DTR presented for November 4, 2009 Mario Casas was present on November 5, 2009. This is contradictory to petitioners’ allegation that respondent never reported to work at all after November 2, 2009. To our mind, this inconsistency only shows that the presented DTRs and Payroll are unreliable and inconclusive evidence of petitioners’ claims. Furthermore, the alleged cash voucher[27] presented by petitioners representing receipt by respondent of his 13[th] month pay poses suspicion in view of the fact that it does not bear the petitioner company’s name and there is no indication as to who prepared, checked and approved it.

All considered, there are serious doubts in the evidence on record that respondent is a project employee. These doubts shall be resolved in favor of respondent, in line with the policy of the law to afford protection to labor and construe doubts in favor of labor.

This Court also notes petitioners’ inconsistent reasons for respondent’s separation from work. In their memorandum on appeal and motion for reconsideration before the NLRC, petitioners claimed that respondent was separated from work because he went on “absence without leave (AWOL)” and never reported back for work. However, before this Court, petitioners claim that respondent’s separation from work was due to expiration of his contract as well as the completion of the project. Whatever the truth may be, this inconsistency only shows that petitioners do not have strong evidence on their side and that petitioners themselves are not sure of their position on the issue of illegal dismissal.

Petitioners’ allegation that respondent Mario O. Casas was the one who terminated his employment as he went on “absence without leave (AWOL)” and never reported back for work after that also has no leg to stand on. Absence without leave implies abandonment by the employee of his work. Upon consideration of the evidence on record, We are not convinced that respondent abandoned his work.

On the contrary, respondent’s prayer for reinstatement in his position paper manifested his intention to return. It must be stressed also, as a reminder to petitioners, that as defined under established jurisprudence, abandonment is the deliberate and unjustified refusal of an employee to resume his employment.[28] It constitutes neglect of duty and is a just cause for termination of employment under paragraph (b) of Article 282 of the Labor Code.[29] To constitute abandonment, however, there must be a clear and deliberate intent to discontinue one’s employment without any intention of returning. In this regard, two elements must concur: (1) failure to report for work or absence without valid or justifiable reason, and (2) a clear intention to sever the employer-employee relationship, with the second element as the more determinative factor and being manifested by some overt acts.[30] Otherwise stated, absence must be accompanied by overt acts unerringly pointing to the fact that the employee simply does not want to work anymore.[31] It has been ruled that the employer has the burden of proof to show a deliberate and unjustified refusal of the employee to resume his employment without any intention of returning.[32]

On the theory that the same is proof enough of the desire to return to work,[33] the filing of a complaint for illegal dismissal, more so when it includes a prayer for reinstatement, has been held to be totally inconsistent with a charge of abandonment.[34]

It is, on the other hand, doctrinal that abandonment is a matter of intention[35] and cannot, for said reason, be lightly inferred, much less legally presumed from certain equivocal acts.[36] As aptly stated by the Labor Arbiter in its Decision,[37] that on November 4, 2009, respondent asked permission that he will go on leave of absence for one week for he will join the carolling as Christmas was already approaching. Respondent disclosed that he was allowed to go on leave but when he returned to work on November 10, 2009, he was no longer permitted to

work.

Viewed in the light of respondent's persistence in reporting for work, we find that his subsequent failure to do so as a consequence of petitioners' refusal is hardly a manifestation of intention to abandon his employment. In our view, petitioners failed to show any overt act showing respondent's clear intention to sever his employment. Hence, We believe that petitioners failed to prove that respondent abandoned his job.

Under the Labor Code, the requirements for the lawful dismissal of an employee are two-fold, the substantive and the procedural aspects. Not only must the dismissal be for a valid or authorized cause, the rudimentary requirements of due process - notice and hearing – must, likewise, be observed before an employee may be dismissed. Without the concurrence of the two, the termination would, in the eyes of the law, be illegal.[38]

Section 2 (III), Rule XXIII, Book V of the Omnibus Rules Implementing the Labor Code provides:

Section 2. Standard of due process: requirements of notice. — In all cases of termination of employment, the following standards of due process shall be substantially observed.

- For termination of employment based on just causes as defined in Article 282 of the Code:

(a) A written notice served on the employee specifying the ground or grounds for termination, and giving to said employee reasonable opportunity within which to explain his side;

(b) A hearing or conference during which the employee concerned, with the assistance of counsel if the employee so desires, is given opportunity to respond to the charge, present his evidence or rebut the evidence presented against him; and

(c) A written notice of termination served on the employee indicating that upon due consideration of all the circumstance, grounds have been established to justify his termination.

In case of termination, the foregoing notices shall be served on the employee's last known address.

X x x

Aside from failing to prove abandonment, the records reveal that procedural due process was also not complied with by petitioners. We note that petitioners failed to serve respondent the required written notices (1) containing the charge of absence without leave (AWOL) or abandonment to afford respondent the opportunity to be heard and defend himself, and (2) stating petitioners' decision to terminate respondent with clear reasons therefor.[39] In sum, we find that respondent did not abandon his work but was illegally dismissed by petitioners.

With respect to the third assigned error, it is clear that respondent is entitled to the monetary award. The Supreme Court in a number of cases held that an employee who is unjustly dismissed from work is entitled to reinstatement without loss of seniority rights and other privileges. He is also entitled to his full backwages, inclusive of allowances, and other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. However, as found by the Labor Arbiter, respondent's reinstatement is no longer feasible due to the strained relations between the parties. Thus, we affirm the NLRC's Decision upholding the Labor Arbiter's award of separation pay in lieu of reinstatement, backwages, salary differentials, cost of living allowance and 13[th] month pay.

It is well-settled that the employer must affirmatively show rationally adequate evidence that the dismissal was for a justifiable cause.[40] When there is no showing of a clear, valid and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal and the burden is on the employer to prove that the termination was for a valid or authorized cause.[41] For failure to prove otherwise, this Court has no recourse but to dismiss the petition.

As it is well-settled, if there is doubt between the evidence submitted by the employer and that submitted by the employee, the scales of justice must be tilted in favor of the employee.[42] This is consistent with the rule that an employer's cause could only succeed on the strength of its own evidence and not on the weakness of the employee's evidence.[43]

WHEREFORE, in view of the foregoing, the instant petition is hereby DISMISSED and the assailed decision of the National Labor Relations Commission 8[th] Division is hereby AFFIRMED.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Camello, J., Ch., and Inting, JJ., concur.

[1] Rollo, pp. 7-30.

[2] Id., pp. 32-34.

[3] Id., pp. 43-46.

[4] For illegal dismissal, underpayment of wages, non-payment of holiday pay, overtime pay, cost of living allowance and 13th month pay.

[5] Id., pp. 36-37.

[6] Annex "C" of the Petition, Rollo, p. 38.

[7] Id., pp. 71-79.

[8] Id., p. 80.

[9] Annex "D" of the Petition, Id., p. 39.

[10] Annex "E" of the Petition, Id., p. 40.

[11] G.R. No. 155278, September 16, 2003.

[12] Supra, at Note No. 10.

[13] Lawin Security Services, Inc. v. NLRC, G.R. No. 118536, June 9, 1997.

[14] G.R. No. 87974, July 2, 1990.

[15] G.R. No. 139430, June 20, 2001.

[16] Sasan, Sr., et al. v. NLRC, G.R. No. 176240, October 17, 2008.

[17] Supra, at Note No. 6.

[18] Rollo, p. 138.

[19] Id., Respondent's Comment on the Petition, p.124.

- [20] Great Southern Maritime Services Corporation v. Acuña, G.R. No. 140189, February 28, 2005.
- [21] G.R. No. 170181, June 26, 2008.
- [22] G.R. No. 141168, April 10, 2006.
- [23] Liganza v. RBL Shipyard Corporation, G.R. No. 159862, October 17, 2006.
- [24] G.R. No. 114290, September 9, 1996.
- [25] G.R. No. 176627, August 24, 2007.
- [26] Rollo, Annex “J-8” p. 81.
- [27] Id., Annex “K”,p. 82.
- [28] DUP Sound Phils. v. Court of Appeals, G.R. No. 168317, November 21, 2011.
- [29] CRC Agricultural Trading v. National Labor Relations Commission, G.R. No. 177664, December 23, 2009.
- [30] Columbus Philippine Bus Corp. v. NLRC, G.R. Nos. 114858-59, September 7, 2001.
- [31] MSMG-UWP v. Hon.Ramos, G.R. No. 113907, Feb. 28, 2000.
- [32] Henlin Panay Company v. National Labor Relations Commission, G.R. No. 180718, October 23, 2009.
- [33] Pentagon Steel Corporation v. Court of Appeals, G.R. No. 174141, June 26, 2009.
- [34] Chavez v. NLRC, G.R. No. 146530, January 17, 2005.
- [35] Macahilig v. National Labor Relations Commission, G.R. No. 158095, November 23, 2007.
- [36] Garden of Memories Park v. National Labor Relations Commission, G.R. No. 160278, February 8, 2012.
- [37] Rollo, p. 44.
- [38] Vinoya v. National Labor Relations Commission, G.R. No. 126586, February 2, 2000.
- [39] New Ever Marketing, Inc. v. Court of Appeals, G.R. No. 140555, July 14, 2005.
- [40] Marival Trading, Inc. v. National Labor Relations Commission, G.R. No. 169600, June 26, 2007.
- [41] Cosep v. NLRC, G.R. No. 124966, June 16, 1998.
- [42] EJR Crafts Corporation v. Hon. Court Of Appeals, G.R. No. 154101, March 10, 2006.
- [43] Functional, Inc. v. Granfil, G.R. No. 176377, November 16, 2011.

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