

**EDUARDO V. ESPINO, ENJELBERTO TEODORO, TOMAS P. ABILLA,
LOUIE P. ABILLA, EDWIN R. REMATA, REDELINO R. TANECA AND
RICKY A. CHAVEZ, PETITIONERS, VS. NATIONAL LABOR RELATIONS
COMMI...**

Ponente: INTING, J.

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INTING, J.:

Before Us is a Petition for Certiorari[1] filed by petitioners assailing the Resolution[2] of the National Labor Relations Commission (NLRC), 5[th] Division, Cagayan de Oro City, dismissing their appeal and affirming the decision of the Labor Arbiter, the dispositive portion of which states:

WHEREFORE, premises considered, the appeal is hereby DISMISSED for lack of merit and the Decision dated October 5, 2009 is hereby AFFIRMED.

SO ORDERED.

The facts of the case are as follows:

AC Farm Infante Farm, Inc. (AC Farm) is a private corporation engaged in agricultural production.[3] Its president is Jessica Infante Ututalum (Jessica).[4]

Petitioners worked for AC Farm, to wit:

Name

Date Hired

Position

Eduardo V. Espino

October 1986

Manager/Supervisor

Enjelberto Teodoro

June 2002

Driver

Tomas P. Abilla

January 1987

Maintenance Worker

Louie P. Abilla

April 2002

Maintenance Worker

Edwin R. Remata

January 2005

Maintenance Worker

Redelino R. Taneca

April 2007

Maintenance Worker

Ricky A. Chavez

August 2003

Maintenance Worker

Alleging that they were illegally dismissed from their work, they filed an action for illegal dismissal against AC Farm and further contended that: (1) they were not paid the minimum wage prescribed by the Regional Tripartite Wages and Productivity Board, Regional Office No. 09 and (2) they were not paid their premium pay for holiday, allowances, rest day pay, holiday pay, service incentive leave pay and 13[th] month pay.[5]

AC Farm, on the other hand alleged that:

Eduardo Espino

Enjelberto Teodoro Sometime in March 2009, Jessica discovered, through ocular inspection and interviews with other workers, as well as the reports submitted by Eduardo in his capacity as Manager, that Eduardo and Enjelberto committed fraudulent and dishonest acts against the company.[6]

Pending investigation on the discovered dishonest/fraudulent acts, Eduardo and Enjelberto stopped reporting for work.[7]

Tomas P. Abilla,

Louie P. Abilla,

Edwin R. Remata,

Redelino R. Taneca

Ricky A. Chavez

They are seasonal workers hired during harvest and for clearing the farm. They are not regular employees and thus they were not dismissed. The management just opted to hire another group of workers from the locality.[8]

The Labor Arbiter, affirmed by the NLRC, found that: (1) Eduardo and Enjelberto were not dismissed but were under investigation and (2) Tomas, Louie, Edwin, Redelino and Ricky were seasonal workers or project employees and were not dismissed. AC Farm however was ordered to pay 13[th] month pay to Eduardo and Enjelberto and 13[th] month pay and wage differentials to the other petitioners.[9]

Aggrieved, petitioners filed the instant petition and raised following issues:

I.

WHETHER OR NOT THE RESPONDENT NLRC (5TH DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT RULING THAT PETITIONERS WERE ILLEGALLY DISMISSED WITHOUT JUST CAUSE AND DUE PROCESS;

II.

WHETHER OR NOT THE RESPONDENT NLRC (5TH DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT RULING THAT PETITIONERS ARE ENTITLED TO BACKWAGES FROM DATE OF ILLEGAL DISMISSAL UNTIL ACTUALLY REINSTATED;

III.

WHETHER OR NOT THE RESPONDENT NLRC (5TH DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT RULING THAT PETITIONERS ARE ENTITLED TO LABOR STANDARD BENEFITS AS PROVIDED UNDER THE LABOR CODE, AS AMENDED.

IV.

WHETHER OR NOT THE RESPONDENT NLRC (5TH DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT RULING THAT PETITIONERS ARE ENTITLED TO MORAL AND EXEMPLARY DAMAGES, ATTORNEY'S FEES AND COST OF LITIGATION.

Our Ruling

The petition is without merit.

"In illegal dismissal cases, it is incumbent upon the employees to first establish the fact of their dismissal before the burden is shifted to the employer to prove that the dismissal was legal.[10]"

In the instant case, and as aptly found by the Labor Arbiter and the NLRC, there is nothing to indicate that petitioners were in fact dismissed. Other than their own assertions that they were dismissed, there is no other piece of evidence to prove the fact of dismissal. "The rule is that one who alleges a fact has the burden of proving it. Aside from allegations, it also rests upon respondent to show that petitioners dismissed him from employment. It must be stressed that the evidence to prove this fact must be clear, positive and convincing. The records are bereft of any indication that respondent was given any "walking papers" or even the slightest manifestation from petitioners that he was being terminated or prevented from returning to work. There is no illegal dismissal to speak of where the employee was not notified that he had been dismissed from his employment nor was he prevented from returning to his work.[11]"

Consequently, no backwages should be awarded. "In cases where there is no evidence of dismissal, the remedy is reinstatement but without backwages. In this case, both the Labor Arbiter and the NLRC made a finding that there was no dismissal much less an illegal one. It is settled that factual findings of quasi-judicial agencies are generally accorded respect and finality so long as these are supported by substantial evidence.[12]"

Anent the labor standards claims and money claims, the Labor Arbiter and affirmed by the NLRC already ruled that only claims not barred by prescription pursuant to Article 291 of the Labor Code may be awarded and will be computed in the post-judgment proceedings. More over, moral damages, actual damages, cost of litigation and attorney's fees cannot be awarded for lack of basis considering that there is no illegal dismissal in the instant case.

WHEREFORE, the instant petition is DENIED. The Decision of the National Labor Relations Commission is AFFIRMED.

SO ORDERED.

Camello, (Chairperson), and Perez, JJ., concur.

[1] Rollo, pp. 4-29

[2] Rollo, pp. 325-336

[3] Rollo, p. 56

[4] Rollo, p. 56

[5] Rollo, pp. 7-8

[6] Rollo, pp. 58-63

[7] Rollo, pp. 58-63

[8] Rollo, pp. 403 and 155-164

[9] Rollo, pp. 284-300 (Labor Arbiter) and 325-336 (NLRC)

[10] Exodus Intl. Construction Corp. et al. v. Biscocho et al., G.R. No. 166109, February 23, 2011

[11] Leopard Integrated Services, Inc. v. Macalinao, G.R. No. 159808, September 30, 2008

[12] Exodus Intl. Construction Corp. et al. v. Biscocho et al., G.R. No. 166109, February 23, 2011

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