

ALEX C. PURAL, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, METRO PSYCHIATRY INC., METRO PSYCH FACILITY, ROADS AND BRIDGES TO RECOVERY, FAREDA FATIMA A. FLORES AND BENIT...

Ponente: CASTILLO, M., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c459863e5a33/>

CASTILLO, M., J.:

This is a petition for certiorari seeking to annul and set aside the 06 February 2013[1] Decision and 18 March 2013 Resolution,[2] both of the public respondent National Labor Relations Commission, in NLRC LAC No. 08-002324-12 [NLRC NCR Case No. 10-16017-11], granting private respondents' appeal from the 09 July 2012 Decision of Labor Arbiter Catalino R. Laderas[3] and denying petitioner's motion for reconsideration, respectively.

The antecedents of this petition are:

Petitioner Alex C. Pural was one of the pioneer employees of private respondent Metro Psych Facility (MPF), a private psychiatric hospital organized on 10 May 1999. MPF is owned and operated by private respondent Metro Psychiatry, Inc. (MPI). Alex was hired as a nursing attendant and subsequently held the position of Nursing Attendant Head/Senior Nursing Attendant with a fixed monthly salary of P10,000.00.

On 20 October 2011, Alex filed a complaint for illegal dismissal, among others, against private respondents MPI, MPF, Roads and Bridges to Recovery (a drug rehabilitation center also owned and operated by MPI), Benita Sta. Ana-Ponio (the Executive Director of MPI) and Fareda Fatima Flores (the Chief Finance Officer of MPI). Petitioner narrated his averred dismissal, as follows:[4]

18. Noong September 28, 2011 ay nagpunta ulit ako sa MPF-RBR para magreport sa trabaho pero hindi ako pinapasok ng security guard kasi "banned" na daw po ako doon at utos daw po sa kanila ng management na huwag daw po akong papasukin. Nakiusap po ako na papasukin pero itinuro po sa akin ang nakapaskil na memo galing sa management na hindi raw po ako dapat papasukin sa MPF-RBR. Humingi po ako ng kopya ng nasabing memo pero tumanggi po ang guard na bigyan ako dahil baka pagalitan daw po siya ng management. Kaya naibulalas ko na lamang po magreklamo na lamang ako sa NLRC at umuwi na po ako ng masama ang loob. Hindi ko na po nakuha ang mga gamit ko sa locker dahil ayaw na akong papasukin.

19. Dahil po sa sobrang diskriminasyon at panggigipit sa akin ay nagpasya na po ako na mag-quit na lamang sa aking trabaho. Sumangguni po ako sa aking abogado para maghain ng reklamong illegal dismissal sa NLRC. Dahil may hearing po kami sa October 20, 2011 sa una naming kaso (money claims) sa NLRC ay sinabihan po ako ng aking abogado na sa araw na iyon ko na lang ihain ang aking reklamong illegal dismissal laban sa MPF-RBR. Makaraan po ang dalawang linggo ay nagulat po ako ng makatanggap po ako ng dalawang magkasabay na memo galing sa management para magreport daw po ako sa trabaho at magpaliwanag daw po ako sa hindi ko pagpasok sa trabaho. Marahil ay nakarating po sa kanilang kaalaman na maghahain na ako ng reklamo sa NLRC. xxxx Dahil nakapagpasya na po akong mag-quit sa trabaho at magsampa ng reklamo ay hindi na po ako nagreport pa sa trabaho. Noong October 20, 2011 ay tuluyan na po akong nagsampa ng kasong

illegal dismissal (constructive) at iba pang money claims laban sa aking employer. xxxx

20. Noong makarating po sa management ang aking panibagong reklamo ay nagpadala po sila ng kasamahan ko sa trabaho para himukin po akong magreport na lamang muli sa trabaho at iatras na lamang ang aking kaso. Hindin po ako pumayag dahil hindi ko na po kaya at ayaw ko ng maulit pa ang panggigipit nila sa akin kaya sinabi ko na itutuloy ko ang aking reklamo. xxxx

For their part, private respondents denied having dismissed petitioner from his work. They maintained that after he went on leave due to his several illnesses, he never reported back to work.

In a Decision dated 09 July 2012, the labor arbiter held that Alex was illegally dismissed by the private respondents, to wit:[5]

Complainant had incurred absences after he made a commitment but he was not terminated by the respondents. It belies his allegations that he was forced to quit his job.

Be that as it may however, this Office finds the dismissal of complainant illegal. xxx

In the case at bar, it was established that the complainant was receiving Php10,000.00 per month but it was changed on a daily basis. It was alleged by the respondent that “MPI through Mr. Marwynne Rivera, agreed with complainant that it was just fair and equitable for him to be paid only his days worked.” (par. 2 g. 3 respondent’s reply page 9) Likewise Annex “A-4” of complainant’s rejoinder shows that the complainant’s pay was reduced. Effectively therefore, there was diminution of pay and the complainant is deemed constructively dismissed. xxx

On appeal, the NLRC overturned the findings of the labor arbiter, ratiocinating:[6]

We find that the Labor Arbiter gravely abused his discretion in ignoring the circumstances attending the purported diminution in the complainant-appellee’s salary.

It bears noting that the reduction in complainant-appellee’s pay was not foisted upon the complainant-appellee to force him to relinquish his job. On the contrary, We find undisputed the fact that in October 2010, complainant-appellee had requested to be allowed to report back to work sans a medical certificate of fitness to work, following his numerous absences, ostensibly due to unaddressed medical complaints particularly an eye problem, and in his letter, complainant-appellee undertook to refrain from absenting himself. Complainant-appellee was admitted back to work, despite the absence of a fit to work clearance and subject to payment of compensation for actual work performed.

However, notwithstanding his express commitment, complainant-appellee again incurred absences in 2011, particularly after August 27, 2011, which respondents-appellants claimed was the last day that complainant-appellant reported for work. We find that complainant-appellee failed to refute the allegations of the respondents-appellants that complainant-appellee failed to submit a fit to work clearance from his doctor, after he was recommended for several days bed rest due to carbuncle/HPN stage 2, and instead no longer reported to work after he undertook to submit a fit to work clearance on September 28, 2011.

Thus, the foregoing circumstances should have been considered in the disposition a quo.

Indeed, the law imposes many obligations to the employer such as grant of just compensation to his workers, observance of due process in the case of termination of employment, compliance with labor standard labor standard laws and social legislations and the like. In return, the law recognizes the right of management to expect from its workers not only good performance, adequate work diligence, but also good conduct and loyalty (*Judy Philippines, Inc. v. NLRC*, G.R. No. 111934, 29 April 1998).

Apropos thereto, a fair day’s wage for a fair day’s labor continues to govern the relation between labor and capital and remains a basic factor in determining employees’ wages. If there is no work performed by the

employee there can be no wage or pay unless the laborer was able, willing and ready to work but was prevented by management or was illegally locked out, suspended or dismissed. (PAL vs. NLRC, G.R. No. 55159, June 22, 1999).

Complainant-appellee could not expect to receive his full month's pay, when he failed to comply with his obligation to render work on days and time that he was obliged to do so, such that respondents-appellants' act did not give rise to a valid cause of action for constructive dismissal.

Petitioner's subsequent motion for reconsideration was denied in the assailed Resolution.

Hence, this petition.

Upon the filing of private respondents' Comment on the petition for certiorari and petitioner's Reply thereto, the case was submitted for decision.

Petitioner imputes grave abuse of discretion on the part of the public respondent NLRC in overturning the 09 July 2012 Decision of the labor arbiter. Alex insists that he was illegally constructively dismissed by the private respondents as he was purportedly: (a) demoted from Head Nursing Attendant/Senior Nursing Attendant to an ordinary nursing attendant with the corresponding diminution in pay; (b) when his working hours and/or duties were reduced which resulted in the further reduction of his pay; and, (c) when he was subjected to harsh, hostile, discriminatory working environment and unfavorable conditions by the private respondents.

Constructive dismissal is defined as quitting or cessation of work because continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or diminution in pay and other benefits.[7] It exists if an act of clear discrimination, insensibility or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment.[8]

From the foregoing, it is clear that for a charge of constructive dismissal to lie, the employee concerned must have quit his/her job because he/she was left with no choice but to do so. This is a crucial element in a finding of constructive dismissal.[9]

In this case, Alex himself narrated in his Sinumpaang Salaysay[10] that he was "prevented" by the security guard on duty from reporting back to work on 28 September 2011 after he took his leave of absence and even indicated in his complaint, "29 September 2011" as the date of his dismissal.[11]

The question now is: Was Alex dismissed from his employment by the private respondents as he wants Us to believe? And if so, was his dismissal lawful or not?

In illegal dismissal cases, "while the employer bears the burden x x x to prove that the termination was for a valid or authorized cause, the employee must first establish by substantial evidence the fact of dismissal from service." [12] Thus, in this case, it is incumbent upon Alex to prove his averred dismissal.

Upon Our exhaustive evaluation of the record before Us, We find that petitioner failed to discharge his onus.

Apart from his barefaced, self-serving contention that he was barred from entering the work premises by the security guard upon the instruction of management, Alex proffered no evidence to substantiate the same. Standing alone, such uncorroborated assertion is simply not enough. After all, it is basic that allegations are just that. They are not evidence and are not equivalent to proof.[13]

Also, petitioner cannot just rely on his own statement that he was dismissed from work since the fact of dismissal must be evidenced by positive and overt acts of an employer indicating an intention to dismiss.[14]

Here, the record before Us is bereft of any showing that Alex was given any "walking papers" or even the

slightest manifestation from private respondents that he was being terminated or prevented from returning to work. Surely, 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.[15] Absent any showing of an overt or positive act proving that private respondents had dismissed petitioner, the latter's claim of illegal dismissal cannot be sustained.[16]

Indeed, in *Ligaya R. Machica, et. al. v. Roosevelt Services Center, Inc., et. al.*[17] the employer's denial as against the employees' categorical assertion of illegal dismissal was sustained, holding:

The rule is that one who alleges a fact has the burden of proving it; thus, petitioners were burdened to prove their allegation that respondents dismissed them from their employment. It must be stressed that the evidence to prove this fact must be clear, positive and convincing. The rule that the employer bears the burden of proof in illegal dismissal cases finds no application here because the respondents deny having dismissed the petitioners.

Moreover, in *Rufina Patis Factory v. Alusitain*,[18] it was emphasized:

It is a basic rule in evidence, however, that the burden of proof is on the part of the party who makes the allegations – *ei incumbit probatio, qui dicit, non qui negat*. If he claims a right granted by law, he must prove his claim by competent evidence, relying on the strength of his own evidence and not upon the weakness of that of his opponent.

It is inaccurate to argue that petitioner would not have filed a complaint for illegal dismissal had he not been really dismissed. The same line of reasoning was struck down in *Edna Abad, et. al. v. Roselle Cinema, Silver Screen Corporation, et. al.*[19] for being non-sequitur, thus:

xxx petitioners' filing of the complaint for illegal dismissal should not have been the NLRC's sole consideration in determining whether, indeed, they have been illegally dismissed. The filing of a complaint for illegal dismissal should be taken into account together with the surrounding circumstances of a certain case. In *Arc-Men Food Industries Inc. v. NLRC*, the Court ruled that the substantial evidence proffered by the employer that it had not, in the first place, terminated the employee, should not simply be ignored on the pretext that the employee would not have filed the complaint for illegal dismissal if he had not really been dismissed. "This is clearly a non sequitur reasoning that can never validly take the place of the evidence of both the employer and the employee."

Petitioner's failure to prove the fact of dismissal coupled with his own admission that he refused to heed the two (2) memoranda sent to him by the private respondents requiring him to report back to work lend credence to the private respondents' theory that Alex voluntarily, albeit informally, relinquished his employment.

All told, We hold that the public respondent NLRC did not act with grave abuse of discretion in issuing its assailed Decision, dismissing petitioner's complaint for lack of merit.

WHEREFORE, in view of the foregoing, the instant petition for certiorari is DENIED. The assailed Decision and Resolution of the National Labor Relations Commission are AFFIRMED.

SO ORDERED.

Lazaro-Javier and Galapate-Laguilles, JJ., concur.

[1] Rollo, pp. 368 - 379

[2] Rollo, pp. 392 - 393

- [3] Rollo, pp. 286 - 294
- [4] Complainant's Position Paper, Rollo, p. 48; Sinumpaang Salaysay of Alex Rural, Rollo, pp. 65 - 66
- [5] Rollo, pp. 292 - 293
- [6] Assailed Decision of the NLRC, Rollo, pp. 377 - 378
- [7] *Morales v. Harbour Centre Port Terminal, Inc.*, G.R. No. 174208, January 25, 2012, 664 SCRA 110,117 and *Dimagan v. Dacworks United, Incorporated*, G.R. No. 191053, November 28, 2011, 661 SCRA 438, 446, both cited in *Nelson B. Gan v. Galderma Philippines, Inc., et. al.*, G.R. No. 177167, January 17, 2013
- [8] *Morales v. Harbour Centre Port Terminal, Inc.*, supra, citing *Gilles v. Court of Appeals*, G.R. No. 149273, June 5, 2009, 588 SCRA 298, 316, cited cited in *Nelson B. Gan v. Galderma Philippines, Inc., et. al.*, supra
- [9] *The University of the Immaculate Conception, et. al. v. National Labor Relations Commission, et. al.*, G.R. No. 181146, January 26, 2011
- [10] Rollo, p. 65
- [11] Complaint filed with the NLRC, Rollo, p. 32
- [12] *Luciano P. Canedo v. Kampilan Security and Detective Agency, Inc., et. al.*, G.R. No. 179326, July 31, 2013, citing *Montederamos v. Tri-Union International Corporation*, G.R. No. 176700, September 4, 2009, 598 SCRA 370, 376.
- [13] *Nedia v. Laviña*, 508 Phil. 10, 20 (2005), cited in *Ray Antonio C. Sasing v. Celestial Venus G. Gelbolingo*, A.M. No. P-12-3032, February 20, 2013
- [14] *Exodus International Construction Corporation v. Biscocho*, G.R. No. 166109, February 23, 2011, 644 SCRA 76, 88, cited in *Luciano P. Canedo v. Kampilan Security and Detective Agency, Inc., et. al.*, supra
- [15] *Leopard Integrated Services, Inc., et. al. v. Virgilio Macalinao*, G.R. No. 159808, September 30, 2008, citing *CALS Poultry Supply Corporation v. Roco*, G.R. No. 150660, July 30, 2002, 385 SCRA 479, 486; *Security and Credit Investigation, Inc. v. National Labor Relations Commission*, G.R. No. 114316, January 26, 2001, 350 SCRA 357.
- [16] *Exodus International Construction Corporation, et. al. v. Guillermo Biscocho, et. al.*, G.R. No. 166109, February 23, 2011
- [17] G.R. No. 168664, May 4, 2006
- [18] G.R. No. 146202, 14 July 2004, 434 SCRA 418, cited in *Federico M. Ledesma, Jr. v. National Labor Relations Commission, et. al.*, G.R. No. 174585, October 19, 2007
- [19] G.R. No. 141371, March 24, 2006

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.