

DANILO M. BULAN AND ALEX D. ARIOLA, PETITIONERS, V. NATIONAL LABOR RELATIONS COMMISSION AND JIMENEZ PROTECTIVE AND SECURITY AGENCY, RESPONDENTS.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court. The Petition assails the Resolution[2] dated March 28, 2007 of the National Labor Relations Commission ("public respondent NLRC" or "NLRC" for brevity), which affirmed the Decision[3] dated February 23, 2006 of the Labor Arbiter in the consolidated cases docketed as NLRC-NCR-00-07-06566-05, NLRC-NCR-00-09-07715-05, NLRC-NCR-00-08-07363-05. The Petition also questions public respondent NLRC's other Resolution[4] dated June 29, 2007, which denied petitioners' eventual Motion for Reconsideration[5].

The antecedent facts are as follows:

Petitioners Danilo M. Bulan, and Alex D. Ariola ("petitioners for brevity) were hired as security guards of private respondent Jimenez Protective and Security Agency ("private respondent" for brevity).[6]

The rest of the facts are those as stated in the Labor Arbiter's Decision[7] dated February 23, 2006, which are as follows:

"xxx complainants alleged [that]:

'Complainants' (petitioners) salaries were below the minimum wage prescribed by law. They worked seven (7) days a week, but no premium for rest day was given to them. JPSA refused to compensate them on the work that they performed every thirty first (31[st]) day of every month. They worked during legal holidays but JPSA did not give them any holiday pay. They worked twelve (12) hours a day and they were underpaid of their overtime pay, JPSA did not give them overtime pay. Furthermore, when they worked during nighttime, the night shift differential pay that was given to them was not sufficient. No service incentive leave pay as well as ECOLA was given to them by JPSA. Worst, no pay slip was given to them as their salaries were directly paid through Automated Teller Machine (ATM). xxx

x x x

xxx The truth is, the pay slips attached in the respondents' (private respondent) position paper was fabricated and that the complainants (petitioners) were never given any of them. The pay slips given to and signed by the complainants (petitioners) are those blank pay slips that are attached in their position paper.

xxx

3. The complainants (petitioners) also claims that their salary were being deducted the amount of P180.00 pesos every pay day which will form part as their so called cash bond. Every time an employee makes a loan, it will be coming from their cash bond subject to an interest of ten (10 %) every five (5) months. xxx

Respondents (private respondent) in their Reply alleged as follows:

'1. Respondents (private respondent) already attached payrolls numbering fifty-one sheets which showed that the complainants (petitioners) were fully paid of their monetary benefits (wage differentials, holiday pay, overtime pay, service incentive leave pay, cash bond, night differential pay and others) xxx Complainants (petitioners) xxx Alex Ariola xxx and Danilo Bulan were fully paid of their mandated benefits.

2. xxx The numerous signatures of the security guards including the herein complainants (petitioners) would prove the truth on the payments of benefits. xxx

xxx

3. Respondents (private respondent) are vehemently denying that there was an agreement on the payment of interest in the cash bond of the complainants (petitioners). The payrolls themselves showed no interest on the cash bond, thus debunking the claim of the complainants thereto. If the agreement is to give interest on the cash bond, then the payrolls would certainly provide a space or column thereto but non so there is no truth to the said claim. xxx"[8] (Emphasis supplied)

Petitioners filed their respective Complaints for underpayment and non-payment of salaries, overtime pay, holiday pay/premium pay for holiday and rest day, service incentive leave pay, night shift differential pay,[9] and refund of cash bond and trust fund[10] against private respondent.

On February 23, 2006, the Labor Arbiter rendered a Decision[11] which dismissed petitioners' Complaints for lack of merit[12].

Petitioners then filed an appeal[13] with public respondent NLRC. On March 28, 2007, public respondent NLRC issued its first assailed Resolution[14], which dismissed the appeal and affirmed the Labor Arbiter's Decision[15] of February 23, 2006.

After petitioners' Motion for Reconsideration[16] was denied by public respondent NLRC in its other assailed Resolution[17] dated June 29, 2007, petitioners filed the Petition at bench, praying as follows:

"WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court that the petition be given due course and after due consideration, that the Resolution dated 28 March 2007 and the Resolution dated 23 April 2007 of the public respondent National Labor Relations Commission be REVERSED and SET ASIDE and a new one be rendered GRANTING the money claims of petitioners.

Other reliefs as may be deemed just and equitable under the premises are likewise prayed for."[18] (Emphasis was made in the original)

Petitioners raised this sole ground:

"WHETHER THE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION IN FINDING THAT PETITIONERS ARE NOT ENTITLED TO THEIR SALARY DIFFERENTIALS, UNPAID SALARY, OVERTIME PAY, PREMIUM PAY FOR HOLIDAY AND REST DAY, SERVICE INCENTIVE LEAVE PAY, REFUND OF CASH BOND AND INTEREST OF TRUST FUND."[19] (Emphasis was made in the original)

Contrary to petitioners' arguments in their sole assigned ground, petitioners had been duly paid their salaries and benefits by private respondents.

Petitioners had argued as follows:

"While it is true that the best evidence to show that the employer has followed labor standards and paid the mandatory monetary benefits to the employee are payrolls and other such documents, it is nonetheless a well-settled doctrine that 'should doubts exist between the evidence presented by the employer (as represented

by the local employment agency in this case) and the employee, the doubts must be resolved in favor of the employee.' xxx

xxx

It should be noted that payrolls and the like are documents which are kept and managed by the employer, not the employee. The only source from which an employee can get such documents is from the employer.

In this case, the blank payrolls presented by petitioners to prove their case came only from one source: the private respondent agency, their employer. Absent any proof that such payrolls were completely fabricated, it cannot be said then that petitioners had presented fraudulent payrolls to bolster their case.

The only explanation is that petitioners were able to get a copy of the payrolls that the private respondent made them sign. It was only when the private respondent was confronted with a complaint lodged against them by the petitioners that they filled up the blanks to ostensibly prove supposed proper payment to petitioners. This explanation gains ground considering that the private respondent did not submit the complete set of payrolls when they filed their position paper. Why would an employer be unable to present the complete set of payrolls when it had them all along? The private respondent could have given the entire set when they filed their position paper. Instead, they handed it in two installments: first, when they filed their position paper, and when they filed their reply to the petitioners' position paper. The private respondent' delay in presenting the full, complete set of payrolls strengthens petitioners' allegations that the blank payrolls were filled-out by the private respondent once confronted with the complaint for underpayment and nonpayment of the mandatory monetary claims of the petitioners.

With regard to the claim of interest from the contributions forming the petitioners' cash bonds, the private respondent failed to provide any documentary evidence to prove that there was no agreement of interest.

Instead, they only made a denial without any proof to back it up."[20] (Emphasis was made in the original)

Defeating petitioners' arguments however, is that as the records revealed, private respondent, as the employer, was able to sufficiently prove that it had paid the salaries and benefits of petitioners. This, private respondent did by presenting in the evidence the payrolls of all of its employees, which included petitioners. Such payrolls in turn, reflected the signatures of petitioners indicating their receipt of their salaries and benefits.[21] These matters were as also found by the Labor Arbiter in his Decision[22] of February 23, 2006, and were as affirmed by public respondent NLRC, to wit:

"As for the money claims, elementary is the rule that the only defense available to the employer is payment and the best evidence thereof are the company payrolls.

In the case at bar, respondents (private respondent) in their Position Paper presented the payrolls (Annexes '1' to '16') to show that [complainant] xxx Bulan [was] paid [his] salaries and benefits in accordance with law.

Likewise, respondents (private respondent) in their Reply presented the payroll (Annexes '17' to '51') to show that [complainant] Ariola [was] paid [his] salaries and benefits in accordance with law.

xxx

Otherwise stated, respondents (private respondent) presented the best evidence provided by law, the payrolls duly signed by all employees, to prove that complainants (petitioners) were duly paid their salaries and benefits mandated by law."[23] (Emphasis supplied)

Payroll sheets presented by an employer, such as by private respondent here, which had been duly signed by the employees serve as a convincing proof of payment of the employees' salaries and benefits. This situation was as similarly pronounced by the Supreme Court in *Bebina G. Salvaloya*, representing her late husband, Gregorio

Salvalosa vs. National Labor Relations Commission, Gulf Pacific Security Agency, Inc., and Angel Quizong, GR. No. 182086, November 24, 2010, as follows:

"With respect to the alleged underpayment of wages and benefits, suffice it to state that Gulf Pacific was able to rebut this claim through its payroll sheets correspondingly signed by Gregorio. As the payroll sheets provide a convincing proof of payment of his salaries and other benefits during his tours of duty as a security guard, the burden of proof was shifted to Gregorio to prove otherwise, xxx" (Emphasis supplied)

Moreover, considering that the entries in the payroll were made in the ordinary course of private respondent's business, such entries enjoyed the presumption of regularity under Section 43, Rule 130 of the Rules of Court. Thus, it was incumbent upon petitioners to overcome such presumption by adducing clear and convincing evidence, but which presumption petitioners failed to overcome here. That this is the consequence is in accordance with the Supreme Court's declaration in Federico M. Ledesma, Jr. vs. National Labor Relations Commission, et al., G.R. No. 174585, October 19, 2007, to wit:

"Entries in the payroll, being entries in the course of business enjoy the presumption of regularity under Rule 130, Section 43 of the Rules of Court. It is therefore incumbent upon the petitioner to adduce clear and convincing evidence in support of his claim of fabrication and to overcome such presumption of regularity."

No cogent reason was therefore shown to justify deviation from the following findings of the Labor Arbiter, as affirmed by public respondent NLRC, which were pursuant to the facts and the law:

"Elementary is the rule that documentary evidence carries more weight and credibility over mere testimonial allegations to the contrary, as in the case at bar." [24] (Emphasis supplied)

Indeed, the rule is settled that the findings of the Labor Arbiter, when affirmed by the NLRC, are accorded due respect and even finality, and are binding upon the court [25] especially when supported by substantial evidence, as in this case.

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, public respondent NLRC was therefore shown not to have committed grave abuse of discretion, which in turn is meant as such capricious and whimsical exercise of judgment that is equivalent to an excess or lack of jurisdiction. [26]

IN VIEW OF ALL THESE, the Petition is DENIED.

SO ORDERED.

Didican (Chairman) and Paredes, JJ., concur.

[1] Rollo, pp. 2-11

[2] Rollo, pp. 128-132

[3] Rollo, pp. 110-118

[4] Rollo, pp. 140-142

[5] Rollo, pp. 134-137

[[6]] Rollo, p. 112

[7] Rollo, pp. 110-118

[8] Rollo, pp. 111-116

[9] Rollo, p. 129

[10] Rollo, p. 111

[11] Rollo, pp. 110-118

[12] Rollo, p. 118

[13] Rollo, pp. 119-125

[14] Rollo, pp. 128-132

[15] Rollo, pp. 110-118

[16] Rollo, pp. 134-137

[17] Rollo, pp. 140-142

[18] Rollo, p. 10

[19] Rollo, p. 6-7

[20] Rollo, pp. 7-9

[21] Rollo, pp. 63-102

[22] Rollo, pp. 110-118

[23] Rollo, p. 117

[24] Rollo, p. 117

[25] La Union Cement Workers Union and Arnulfo Amoite vs. National Labor Relations Commission and Bacnotan Cement Corporation, G.R. No. 174621, January 30, 2009

[26] First Women's Credit Corporation, et al. vs. Glicerio Perez, et al., G.R. No. 169026, June 15, 2006.

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