FRANKLIN M. AGUILAR, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, RCL DIRECT MARKETING CORP. AND ROMULO CAPULONG, RESPONDENTS.

Ponente: LAGURA-YAP, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/dfa28ea77ed2/

LAGURA-YAP, J.:

This is a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure seeking to annul and set aside the Decision[1] dated 31 August 2010 rendered by the National Labor Relations Commission Seventh Division and the Resolution[2] dated November 30, 2010 denying petitioner's Motion for Reconsideration[3].

The facts, as culled from the records, are as follows:

Petitioner Franklin M. Aguilar started working for respondents RCL Direct Marketing Corp. and/or Romulo Capulong as a collector sometime in January 2003. He worked from Mondays to Sundays and was paid Php 2,870.00 a month

On December 15, 2006, petitioner was dismissed from his employment.

On December 23, 2006, petitioner reported to the police station of San Jose Antique that he was boxed and threatened to be shot by the Regional Manager of the respondents.

Thereafter, petitioner filed a complaint dated 29 December 2006 for illegal dismissal, underpayment of wages, holiday pay, premium pay for working on holidays and rest days, service incentive leave pay, 13[th] month pay, damages and attorney's fees against respondents in the National Labor Relations Commission - Sub-Regional Arbitration Branch VI docketed as SRAB Case No. 06-06-50241-09 .

On the other hand, respondents allege that petitioner was not dismissed. They hired petitioner sometime in January 2003 as a branch collector. Respondents alleged that during petitioner's employment, he committed the following: 1) abandoned work; 2) insulting, insubordination and willful disrespect to his superiors, 3) willful refusal to carry out work instruction issued by superiors; 4) malversation of company funds; and 5) fraud and willful breach of trust.

Respondents claimed that despite the acts and omissions committed by the petitioner, he was still given due process as he was required to explain and was invited to an investigation. Respondents gave petitioner written notices for the settlement of his unremitted collections. However, petitioner failed and refused to settle his unremitted collection and even threatened respondent's Regional Manager Prudencio Ibasco. Thereafter, petitioner abandoned his work with the company sometime in December 2006. Subsequently,respondent company filed a case against petitioner for Estafa before the Office of the Provincial Prosecutor in the Province of Antique

On May 27, 2010, the Labor Arbiter issued a Decision[4] declaring that petitioner was validly terminated from his employment, thus:

> “WHEREFORE, premises considered, complainant is considered validly terminated from his employment. His

> 13th month pay for the year 2006, in the amount of Php5,531.50 and his service incentive leave pay in the amount of Php3,330.00 are considered valid offset to his unremitted collections in the amount of Php26,300.00
>
> The rest of the claims are dismissed for lack of merit.
>
> SO ORDERED."

Dissatisfied with the Labor Arbiter's Decision, petitioner filed an Appeal[5] to the National Labor Relations Commission (NLRC) docketed as NLRC Case No. VAC-07-000374-10.

On August 31, 2010, the NLRC rendered the assailed Decision[6] finding that there was no dismissal at all. The dispositive part of the decision states:

> "WHEREFORE, premises considered, the 27 May 2010 Decision of the Acting Executive Labor Arbiter with respect to the declaration that there was a valid dismissal is hereby REVERSED as there is no finding of dismissal at all. Consequently, complainant is not entitled to his claim for separation pay and backwages. The offsetting of his unremitted amount of P26,300.00 against his award of proportionate 13th month pay and service incentive leave pay is sustained.
>
> SO ORDERED."

Thereafter, petitioner filed a Motion for Reconsideration[7] which was denied in the assailed Resolution[8] dated November 30, 2010.

Aggrieved, petitioner filed this instant petition[9] raising the following issues:

> I
>
> THAT THE RESPONDENT NLRC IN GRAVE ABUSE OF DISCRETION, WITHOUT JURISDICTION AND IN EXCESS OF JURISDICTION REFUSED TO MAKE RESPONDENTS LIABLE TO PAY CORRECT COMPUTATION OF THE MONTHLY SALARY OF THE PETITIONER, THE RESPONDENT NLRC REFUSED AND FAILED TO COMPLY WITH ITS OBLIGATION UNDER THE LABOR CODE.[10]
>
> II
>
> THAT THE RESPONDENT NLRC IN GRAVE ABUSE OF DISCRETION IN THE EXERCISE OF ITS FUNCTION, BY WAY OF EVASION OF POSITIVE DUTY IN ACCORDANCE WITH THE EXISTING LABOR LAWS, REFUSED AND FAILED TO REQUIRE RESPONDENTS TO PROVE THAT PETITIONER' DISMISSAL WAS FOR JUST CAUSE, AND SAID RESPONDENT NLRC REFUSED AND FAILED TO MAKE RESPONDENTS LIABLE TO PAY PETITIONER HIS BACKWAGES, SEPARATION PAY, SALARY DIFFERENTIALS, AND INSTEAD RESPONDENT NLRC CAPRICIOUSLY, ARBITRARILY AND UNJUSTIFIABLY ABSOLVED SAID RESPONDENTS FROM LIABILITY.[11]

The Ruling of the Court

This petition is partially granted.

A petition for certiorari under Rule 65 of the Rules of Court is a pleading limited to correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.[12] It is intended to correct only errors of jurisdiction where the court or tribunal has acted with grave abuse of discretion.[13] The burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave.[14]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross.[15]

Here, petitioner argues that it is the respondents' burden to prove the validity of his dismissal and that the NLRC erred in requiring him to prove his dismissal from employment.

Petitioner's argument is untenable.

While We recognize the rule that in illegal dismissal cases, the employer bears the burden of proving that the termination was for a valid or authorized cause, in the present case, the facts and the evidence do not establish a prima facie case that the employee was dismissed from employment. Before the employer must bear the burden of proving that the dismissal was legal, the employee must first establish by substantial evidence the fact of his dismissal from service.[16] If there is no dismissal, then there can be no question as to the legality or illegality thereof.[17]

Other than Aguilar's unsubstantiated allegation of having been terminated from his work, there was no evidence presented to show that he was indeed dismissed from work or was prevented from returning to his work. In the absence of any showing of an overt or positive act proving that petitioners had dismissed respondent, the latter's claim of illegal dismissal cannot be sustained[18] – as the same would be self-serving, conjectural and of no probative value. Bare allegations of constructive dismissal, when uncorroborated by the evidence on record, cannot be given credence.[19]

Moreover, We agree with the NLRC in reversing the Labor Arbiter's findings that there was a valid dismissal, and instead found that there was no dismissal at all. It must be remembered that respondents alleged that the petitioner abandoned his work. The respondents could not have dismissed the petitioner when the latter had voluntarily left his employment during the investigation of his unremitted collections.

Nevertheless, both the Labor Arbiter and the NLRC exceeded their authority in ordering for the offsetting of the awards for 13th month pay and service incentive leave pay against petitioner's alleged unremitted collections. The respondents alleged that they had filed a case against petitioner for Estafa for the non-remittance of his collections. The estafa case has yet to be ventilated in the regular courts. As there is no decision on the estafa case, the Labor Arbiter and the NLRC exceeded their jurisdiction in offsetting the awards of 13[th] month pay and service incentive leave pay to the alleged unremitted collections. We emphasize that although a controversy is between an employer and an employee, (in this case the unremitted collections), the Labor Arbiters have no jurisdiction if the Labor Code is not involved.[20] Hence, the portion of the decision to offset the 13[th] month pay in the amount of Php 5,531.50 and the service incentive leave pay of Php 3,330.00 of petitioner against his alleged unremitted collections is arbitrary and has no basis in law.

WHEREFORE, premises considered, the instant Petition for Certiorari is partly GRANTED. The Decision of the National Labor Relations Commission dated August 31, 2010 that there was no dismissal at all and that the petitioner is not entitled to separation pay and backwages is AFFIRMED. However, the order offsetting the awards of the 13[th] month pay in the amount of Php 5,531.50 and the service incentive leave pay of Php 3,330.00

against petitioner's unremitted collections of Php 26,300.00 is DELETED.

SO ORDERED.

Delos Santos, J, Chairperson and Lopez , JJ., concur.

---

[1] Rollo, pp. 30-33.

[2] Rollo, pp. 39-40.

[3] Rollo, pp. 34-38.

[4] Rollo, pp. 20-24 (penned by Labor Arbiter Rene G. Eñano).

[5] Rollo, pp. 25-29.

[6] Rollo, pp. 30-33.

[7] Rollo, pp. 34-38.

[8] Rollo, pp. 39-40.

[9] Rollo, pp. 3-31.

[10] Rollo, pp. 7-8 (Paragraph 11 of the Petition).

[11] Rollo, p. 8 (Paragraph 12 of the Petition).

[12] Tan vs. Antazo, G.R. No. 187208, February 23, 2011 .

[13] Goco vs CA, G.R. No. 157449, April 6, 2010.

[14] Tan vs. Antazo, G.R. No. 187208, February 23, 2011 .

[15] Malayang Manggagawa ng Stayfast Phils., Inc. vs. NLRC, G.R. No. 155306, August 28, 2013.

[16] MZR Industries, et. al. vs. Colambot, G.R. No. 179001, August 28, 2013.

[17] Philippine Rural Reconstruction Movement vs. Pulgar, G.R. No. 169227, July 5, 2010.

[18] Exodus International Construction Corporation v. Biscocho, G.R. No. 166109, February 23, 2011.

[19] Hechanova Bugay Vilchez Lawyers, et. al. vs. Matorre, G.R. No. 198261, October 16, 2013.

[20] Pepsi Cola Distributors of the Philippines, Inc., et. al. vs. Gal-Lang, et.al., G.R. No. 89621 September 24, 1991.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

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.