

LBP SERVICE CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION-CEBU CITY AND ELISEO CONLU, RESPONDENTS.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

THE CASE

This is a petition filed under Rule 65 of the 1997 Rules of Civil Procedure, as amended, assailing the July 31, 2012 Decision[1] rendered by the National Labor Relations Commission and its October 31, 2012 Resolution[2] denying reconsideration in NLRC Case No. VAC-04-000232-2012.

THE ANTECEDENTS

On 3 August 2011, Eliseo G. Conlu (hereinafter private respondent) alleged that Cesar Artesano, branch manager of Land Bank Philippines-Kabankalan told him to resign. This shocked private respondent as he was never informed or heard of any offense to necessitate his termination or resignation. All he can remember was that he accidentally leaned on the side mirror of one of the pick-up vehicles of the bank causing a minor damage to it. He promised to pay the damage or to have it repaired. All this time, he was not formally charged for the damage of the side mirror leaving him in the dark about what really motivated Cesar Artesano to ask him to resign. After he was told to resign he had no choice but to leave for home. Then he was no longer called back for work. He learned later on that he was already replaced by one of the security guards assigned at the branch.

LBP Service Corporation (petitioner hereinafter) averred that it is a job contractor duly registered with the Department of Labor and Employment in compliance with DOLE Order No. 18-02 with certificate of registration No. NCR-MPFO-72600-42611-010. One of its clients is the Land Bank of the Philippines (Land Bank). Under their contract of manpower services, it will supply manpower services such as, but not limited to, janitors, drivers, mechanics, building maintenance workers, professional and technical people and other bank personnel. Thereunder, too, is the provision (Clause No. 8) that Land Bank shall have the right to request the replacement of any personnel who may be found undesirable. That, the private respondent was employed and assigned to the Land Bank-Kabankalan Branch. That, on 22 August 2011, it received a letter from Land Bank requesting the recall of the private respondent after the bank received a report about the vandal/damage committed by the private respondent on the bank's service vehicle, and what made it worst is that the private respondent committed such infraction while under the influence of alcohol. That, before it could investigate the alleged vandalism and to recall him from Land Bank, private respondent voluntarily tendered his resignation effective August 3, 2011. That, it informed Land Bank about private respondent's resignation. Surprisingly, however, the private respondent filed a complaint for illegal dismissal with claims for backwages, separation pay, if reinstatement is no longer feasible, 13[th] month pay, moral and exemplary damages plus attorney's fees.

Efforts to amicably settle the case before the Labor Arbiter failed.

THE RULING[3] OF THE LABOR ARBITER

The Labor Arbiter found for the petitioner; but awarded payment of prorated 13th month pay for the year 2011. The decretal portion of the Labor Arbiter's decision reads,

“WHEREFORE, premises considered, judgment is hereby rendered ordering the dismissal of the instant case for lack of merit. However, respondents Land Bank of the Philippines and LBP Service Corporation are DIRECTED to jointly and solidarily pay complainant ELISEO G. CONLU the amount of SIX THOUSAND THREE HUNDRED FIFTY-FOUR and 83/100 PESOS (P6,354.83) as his pro-rata 13th month for the year 2011.

SO ORDERED.”

Dissatisfied, Eliseo G. Conlu appealed^[4] the Labor Arbiter's decision to the respondent National Labor Relations Commission. By its Decision promulgated on 31 July 2012 the respondent NLRC reversed the Labor Arbiter's decision, the fallo of which reads as follows:

“WHEREFORE, premises considered, the Decision of Acting Executive Labor Arbiter Romulo P. Sumalinog is, hereby REVERSED. Complainant is declared illegally dismissed by respondent LBPSC. Respondent LBPSC is hereby directed to pay complainant the amount of One Hundred Eighty-One Thousand Six Hundred Eighteen & 97/100 (P181,618.97), representing his backwages, proportionate 13th month pay for 2011, moral and exemplary damages. Respondent LBPSC, is, further directed to actually reinstate the complainant or reinstate him in the payroll and submit proof of compliance within ten (10) days from receipt of this Decision to NLRC RAB Bacolod.

SO ORDERED.”^[5]

In reaching this conclusion, the respondent NLRC reasoned that:

“It is undisputed that complainant was the employee of respondent LBPSC assigned as janitor/messenger at LBP-Kabankalan Branch pursuant to a Contract of Manpower Services that they entered into, on 28 February 1997. Under paragraph 8 of said contract, LBP may request from LBPSC, the replacement of any LBPSC personnel, whom the former finds undesirable or whose performance is unsatisfactory. In fact, respondent LBP exercised this prerogative when in a letter dated 17 August 2011, it requested for the recall of complainant. The same was allegedly received by respondent LBPSC, on 22 August 2011. Respondent LBPSC, however, alleges that before it could investigate and recall the complainant from LBP, complainant voluntarily tendered his resignation. Thus, respondent LBPSC informed LBP of complainant's resignation through a letter, dated 24 August 2011.

In his Appeal, complainant claims that the purported claims that the purported resignation letter is fabricated and that his supposed signature is forged by the respondents to make it appear that he voluntarily resigned.

He presented the affidavits of Marlou Lumawag, former head security guard of KBP-Kabankalan and Diovic Chua, a second cousin. Both assert that they are familiar with complainant's signature. Mr. Lumawag claims that he was assigned in LBP from June 1997 – September 2008, and that during the latter part of his term, he was appointed head guard and part of his duties were to verify the complainant's daily time record with his signature and had complainant affix his signature in the Employee Log Sheet every day, together with all other employees, for attendance. Mr. Chua, on the other hand, declares that he is familiar with the signature of complainant because he had seen and read the documents of complainant before.

Both declare that the signature in the resignation letter shows purposeful, heavy and deliberate strokes which indicate that the signature of complainant was painstakingly copied. This is contrast with the original signature of complainant, which strokes are more natural, light and spontaneous. Further, the original signatures of complainant are consistently slanted because of his being left-handed while that in the resignation letter is erect, a clear indication that it was written in a deliberate fashion and the person who wrote the same is

right-handed.

Complainant, further, attached photo copies of his PhilHealth, PAG-IBIG and company ID cards with his signature. Also, an original copy of his Voter Certification Record, with his original signatures on it, signed on 26 March 2012.

We have compared the questioned signature of complainant in the resignation letter with those original signatures of complainant in the Complaint filed before the NLRC RAB and in his Voter Certification Record, as well as with those in his Philhealth, PAG-IBIG and company ID cards. It is Our opinion that the signature in the resignation letter is entirely different from the specimen signature in the resignation letter is entirely different from the specimen signatures presented by the complainant.

We agree with respondent LBPSC that slight variations in strokes are expected considering that the signature of a person will never be exactly the same to the last dot, stroke, curve or dash. However, We notice that in all the specimen signatures presented by the complainant, complainant's strokes are pointed unlike that in the resignation letter. We also share the same observation with the complainant that the questioned signature in the resignation letter is erect while the signatures of complainant in his specimen signatures are all slanted.

Respondent LBPSC, further, argues that, 'x x x complainant's resignation letter was sent to the company through courier service (JRS Express). The letter and complainant's resignation letter, thereon, appeared genuine and legitimate. The [c]ompany had no reason to doubt its authenticity and due execution. Thus, the company may not be accused of fabricating complainant's resignation letter since it merely received the same through mail.

An examination of the JRS Express envelope, allegedly containing the said resignation letter, however, indicates that complainant was not sender of the same as the sender indicated therein was the following:

'LBP KABANKALAN Br.
Kabankalan City
Negros Occ.'

We also find it highly suspect that the sender of said resignation letter is LBP Kabankalan Branch. This is contrary to the statement of respondent Cesar O. Artesano, found in his Affidavit that sometime in August 2011, complainant went to his office and showed him a prepared resignation letter but that he informed complainant to submit it to his employer LBPSC. Hence, granting without admitting that complainant, indeed, executed the resignation letter, it is apparent that complainant did not submit his resignation letter to respondent LBP Kabankalan Br.

Nonetheless, as held by the Court in the case of *Mora v. Avesco*, and reiterated in the case *Peñaflor v. Outdoor Clothing Manufacturing Corp., et. al.*

'x x x x'

Taking the circumstances all together, We are of the opinion that respondent LBPSC was not able to prove by clear evidence that complainant voluntarily resigned. As previously held by the Court in *BMG Records (Phils.), Inc. v. Aparecio*,

'x x x x'

Furthermore, the filing of the instant complaint contradicts respondent's claim that complainant voluntarily resigned. As held by the Court in *Valdez v. NLRC*:

'x x x x'

We notice the diligent and painstaking efforts taken by the complainant in asserting his claim. This, to Our mind, is inconsistent with respondent LBPSC's claim that complainant has voluntarily resigned.

Whatever doubts that remain in our minds on the credibility of the parties' evidence, should, by the law's dictate, be settled in favor of the workingman.

We also take into consideration the fact that, as admitted by respondent LBPSC, complainant started working with them since March 15, 1997 or more than thirteen (13) years. To Our mind, complainant would not give up his employment that easily especially the scarcity of available jobs nowadays. It would certainly be contrary to human conduct for an employee of more than thirteen (13) years to throw away said employment just because he was being suspected of causing damage to the client's service vehicle. In face, complainant without admitting his culpability was willing to pay the damage or have it repaired. Certainly, complainant deserves to be accorded due process."

Accordingly, the respondent NLRC granted monetary award to the private respondent, thus -

"In view of his dismissal, complainant is entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him, which was, on 03 August 2011, up to the time of his actual reinstatement.

For failure to present proof of payment to complainant of his proportionate 13[th] month pay for 2011, We affirm the award below.

Complainant was forced to hire the services of a counsel to vindicate his rights. Thus, attorney's fees equivalent to 10% of the total award to complainant is proper.

In view of the bad faith of respondent LBPSC, as shown by their act of fabricating complainant's resignation letter, complainant is entitled to moral damages in the amount of P10,000.00 and exemplary damages in the amount of P5,000.00. As held by the Supreme Court in the case of *Maliwat v. CA*:

'x x x x'

Complainant's award is computed as follows:

1) BACKWAGES

08/03/11 – 07/31/12 = 12 mos.

P419.00/day x 26 days x 12 months =

P130,728.00

13[th] Month Pay

P419.00/day x 26 days x 12 months =

10,894.00

12 months

SILP

P419.00/day x 5 days =

2, 095.00

P143,717.00

2) 13[th] Month Pay

01/01/11 - 08/02/11

7 mos. & 1 day = 7.04 mos.

P419.00/day x 26 days x 7.04 mos. 8,391.15

12 mos.

3) Moral Damages

10,000.00

4) Exemplary Damages

5,000.00

TOTAL

P165,108.15

10% Attorney's Fees

16,510.82

GRAND TOTAL

P181,618.97"[6]

Feeling aggrieved by the ruling of the respondent NLRC, the private respondent filed a motion for reconsideration[7] but the same was denied.[8]

Hence, this petition ascribing to the respondent NLRC grave abuse of discretion on the following grounds,

"I.

The petition should be given due course considering the glaring disparity in the findings of the Labor Arbiter and the National Labor Relations Commission which necessitates the re-examination of the factual findings to ascertain which opinion should be sustained.

II.

The National Labor Relations Commission committed grave abuse of discretion and seriously and patently erred when it reversed the Labor Arbiter's Decision and ruled that private respondent was illegally dismissed considering that he voluntarily resigned from the company.

III.

The National Labor Relations Commission committed grave abuse of discretion and seriously and patently erred when it awarded to private respondent backwages, proportionate thirteenth month pay, moral and exemplary damages, and reinstatement, as the same have no legal and factual basis."[9]

THE ARGUMENTS

The petitioner's

That, the contrasting findings of the Labor Arbiter and the respondent NLRC particularly involving the application and interpretation of law and jurisprudence on resignation vis-a-vis illegal dismissal calls for a closer scrutiny of the arguments, allegations and evidence submitted by the parties.

That, it was error for the respondent NLRC to give weight to private respondent's bare and unsubstantiated allegations than the documentary evidence it presented and to conclude that the private respondent was illegally dismissed.

That, it was error for the respondent NLRC to reverse the Labor Arbiter's Decision and ruled that private respondent was illegally dismissed considering the latter's voluntary resignation from the company. In fact, the evidence it presented has clearly established that the private respondent has voluntarily resigned. That, the respondent NLRC's finding that the private respondent's resignation letter was fabricated is gravely erroneous and totally reckless as it is not supported by evidence. The subject resignation letter was sent thru a private courier, and the signature thereon appeared genuine and legitimate, thus, it had no reason to doubt the authenticity and due execution thereof. A thorough examination of the resignation letter and the private respondent's signature thereon shows consistency in the latter's signature vis-a-vis his signatures on his position paper and complaint.

That, as attested to under oath by the branch manager of LBP-Kabankalan Branch, he did not force the private respondent to resign from LBPSC. The said bank manager continued in his affidavit that he recommended the recall of the private respondent from the bank's premises after he learned that the private respondent vandalized/damaged the bank's service vehicle while under the influence of liquor. The bank manager added that the private respondent showed him his resignation letter but the former informed him that he is not an employee of the bank, hence, should tender his resignation letter to his employer, herein petitioner. For a while, the said bank manager did not anymore hear anything from the private respondent. That, thereafter, the bank manager learned that the private respondent filed a complaint for illegal dismissal against him and herein petitioner with the respondent NLRC.

That, herein petitioner undertook to recall the private respondent and initiate an investigation on the incident.

That, with the bank manager's sworn statements coupled with the private respondent's resignation letter it cannot be denied that private respondent, indeed, resigned from his employment. That, it is settled rule that a resignation made voluntarily is valid and binding. In fact, it is clear in the subject resignation letter that the private respondent expressed his gratitude to the herein petitioner.

That, the instant complaint is a manifestation of the private respondent's utter bad faith. The herein petitioner was, in fact, genuinely surprised and dismayed to learn that the private respondent filed the complaint more than two (2) months after his resignation.

That, the award of backwages, proportionate 13th month pay, moral and exemplary damages, and reinstatement has no legal and factual basis. This award is granted only if there is a finding of illegal dismissal. In this instant, there is no illegal dismissal to speak of.

THE ISSUE

At the core of the controversy is the issue of whether the private respondent voluntarily resigned. If he did not, was his dismissal legal?

OUR RULING

The petition is bereft of merit.

Did the private respondent voluntarily resign?

Onset, the private respondent insisted that he never tendered his resignation. In fact, he disowned the signature in the resignation letter. To support his denial, the private respondent presented various Identification Cards,[10] a Voter Certification[11] issued by the Commission on Election (COMELEC), and the individual affidavit of Marlou Labandan Lumawag and Diovic Uy Chua attesting that they have seen and are familiar with the signature of the private respondent. On the other hand, the petitioner insists that the signature in the resignation letter is genuine adding that it is similar to the private respondent's signature affixed in his complaint and position paper.

We find for the private respondent.

On the allegation of forgery, the Supreme Court explained in *Lim v. Equitable-PCIBank*[12] that,

Allegations of forgery, like all other allegations, must be proved by clear, positive, and convincing evidence by the party alleging it. It should not be presumed but must be established by comparing the alleged forged signature with the genuine signatures. Although handwriting experts are often offered as witnesses, they are not indispensable because judges must exercise independent judgment in determining the authenticity or genuineness of the signatures in question.

Pertinently, the Supreme Court elucidated in *Heirs of Bucton v. Sps. Go*,[13] viz -

We are not unmindful of the principle that in order to bring about an accurate comparison and analysis, the standard of comparison must be as close as possible in point of time to the suspected signature. However, when the dissimilarity between the genuine and false specimens of writing is visible to the naked eye and would not ordinarily escape notice or detection from an unpracticed observer, resort to technical rules is no longer necessary and the instrument may be stricken off for being spurious. More so when, as in this case, the forgery was testified to and thus established by evidence other than the writing itself. When so established and is conspicuously evident from its appearance, the opinion of handwriting experts on the forged document is no longer necessary.

Thus, for our own verification and satisfaction, we likewise made a close examination, comparison and analysis of the questioned and standard signatures, including the private respondent's signature on the Employment Terms and Conditions[14] furnished by the petitioner.

One. In the resignation marked as Annex "F"[15] (attached to the instant petition), we find that the letter "E" appears like a "W". In the sample signatures, the letter "E" slants a little to the right.

Two. In the second copy of the resignation letter marked as Annex "2"[16] (attached to the Opposition to the Appeal[17]), the letter "E" is written differently from that in the resignation letter marked as Annex "F" (petition). Though it appears to be similar to the sample signatures.

Three. In both resignation letters, the private respondent's surname "Conlu" is not readable in sight unlike in the sample signatures, specifically in the Voter Certification and PhilHealth ID Card, and even in the April 12, 2012 Affidavit[18] of the private respondent and Term and Conditions of Employment.[19] In the company ID card, the letters "C-O-N" are readable in sight.

Four. In the resignation letters, the letter "L" in the private respondent's surname ends with a diagonal line going upward. In the Voter Certification and PhilHealth ID Card, the letter "L" is followed by the letter "U" and in other samplers, it is followed by some scribbling.

Anent the sworn statements of Marlou Labandan Lumawag and Diovic Uy Chua that the signature appearing in the resignation letter was not written by the private respondent, the admissibility of such statements is governed by Section 22, Rule 132 of the Rules of Court, which explicitly provides that:

Rule 132. Sec. 22. How genuineness of handwriting proved. The handwriting of a person may be proved by any witness who believes it to be the handwriting of such person because he has seen the person write, or has seen writing purporting to be his upon which the witness has acted or been charged, or has thus acquired knowledge of the handwriting of such person. Evidence respecting the handwriting may also be given by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge. (Underscoring ours)

Now, that we have found the signature in the resignation letter to be a forgery, the only conclusion is that the private respondent did not voluntarily resign from his employment with the petitioner.

That settled, we shall determine if private respondent was illegally dismissed.

Private respondent was illegally dismissed

It is entrenched well in this jurisdiction that an employee or worker may be dismissed only on grounds explicitly provided by law, otherwise, there is illegal dismissal.

Onset, we are not unmindful of *Sutherland Global Services v. Labrador*,^[20] wherein the Supreme Court found and held that the private respondent was not terminated, but, voluntarily resigned. Therein, respondent Labrador tendered his resignation after he was found guilty to a third infraction. Prior to such finding, respondent Labrador was first asked to explain in writing why he should not be charged administratively. Thereafter, an investigation was conducted. Due to humanitarian reasons and considering respondent Labrador's stay and contribution to the company, the company accepted his resignation. However, respondent Labrador filed a complaint for illegal/constructive dismissal, which was dismissed by the Labor Arbiter for lack of merit. On appeal, the NLRC reversed the Labor Arbiter's decision. When the case was elevated to Us, we seconded the NLRC's ruling. In reversing our decision, the Supreme Court ruled, that,

The CA gravely misappreciated the import of the evidence on record and can even be said to have disregarded it. The NLRC glossed over Labrador's repeated violations that led the latter to request that he be allowed to resign to preserve his reputation for future employment, rather than be dismissed from the service.

In the evidence leading to Labrador's dismissal – evidence that Labrador had acknowledged to have received, thus binding him to its terms – no dispute exists that Labrador committed several infractions. In fact, the final infraction that brought on his termination was actually a repetition of the first offense.

The first offense (committed on September 24, 2007) already gave rise to a "Last Written Warning" with the statement that it was a serious offense, constituting neglect of duty for deviating from the program/department's standard operating procedures. Under this clear warning, a second similar offense would necessarily lead to his dismissal; otherwise the purpose of a "Last Written Warning" would have been negated. The NLRC, unfortunately, completely disregarded this piece of important evidence. This disregard – a gross failure to recognize undisputed evidence on record – constitutes grave abuse of discretion.

We have consistently ruled that the power to dismiss an employee is a recognized prerogative inherent in the employer's right to freely manage and regulate his business. The law, however, in protecting the rights of the laborers, authorizes neither oppression nor self-destruction of the employer. The worker's right to security of tenure is not an absolute right, for the law provides that he may be dismissed for cause. Furthermore, Article 282 of the Labor Code provides that an employee may be terminated from the service on either of the following just causes:

Art. 282. Termination by employer. – An employer may terminate an employment for any of the following causes:

- Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- Gross and habitual neglect by the employee of his duties;
- Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
- Other causes analogous to the foregoing.

The failure to faithfully comply with the company rules and regulations is considered to be a just cause in terminating one's employment, depending on the nature, severity and circumstances of non-compliance. "An employer 'has the right to regulate, according to its discretion and best judgment, all aspects of employment, including work assignment, working methods, processes to be followed, working regulations, transfer of employees, work supervision, lay-off of workers and the discipline, dismissal and recall of workers.'"

Thus, it was within Sutherland's prerogative to terminate Labrador's employment when he committed a serious infraction and, despite a previous warning, repeated it. To reiterate, he opened another client account without the latter's consent, with far-reaching and costly effects on the company. For one, the repeated past infractions would have resulted in negative feedbacks on Sutherland's performance and reputation. It would likewise entail additional administrative expense since Sutherland would have to address the complaints – an effort that would entail investigation costs and the return of the doubly-delivered merchandise. As a rule, "an employer cannot be compelled to continue with the employment of workers when continued employment will prove inimical to the employer's interests."

But this is not so in the case at bar. As already stated, the signature in the resignation letters supposedly sent by private respondent to the petitioner does not belong to the private respondent, hence, no voluntary resignation may be attributed him. In any case, the petitioner failed to present any evidence to show the existence of any cause, just or authorized, to warrant the private respondent's termination from work. True, the private respondent admitted causing damage to the bank's service vehicle albeit by accident. Yes, Land Bank-Kabankalan recommended[21] the termination of the private respondent's service contract with the bank. Yes, the rollo reveals that the bank's employee, driver of the damaged service vehicle, filed a report[22] with the Kabankalan City Police Station regarding the incident, which is being attributed to the private respondent. Yes, the petitioner, thru its Senior Vice-President for Manpower Services, wrote[23] the Department Manager of the Personnel Administration Department of the Land Bank notifying the latter about the private respondent's resignation and their investigation of the matter and that they have informed the private respondent that may be holding the payment of whatever benefits the latter may be entitled to pay for the damages. Yet, there is nothing in the rollo to show that the private respondent was asked to explain why he should not be made liable for the damage he allegedly caused to the bank's service vehicle, or, refused to pay the damage. In fact, not an iota of evidence was adduced by the petitioner to show that the private respondent was ordered to have the damaged part of the bank's service vehicle repaired or replaced.

It may be well to add that the private respondent, at the time of supposed voluntary resignation, has already been with the petitioner for fourteen (14) years. To note, there is nothing in the rollo to show that he had priorly

committed any infractions against the company rules and regulations or against that of the bank's. Hence, with his claim that he did not deliberately damage the bank's service vehicle coupled with the non-filing of an administrative complaint against him by the petitioner, it is safe to conclude that private respondent could not have voluntarily resigned but was illegally terminated from work.

Having ruled that the private respondent was illegally dismissed, he is, therefore, entitled to backwages plus other benefits computed from the time compensation was withheld up to the time of actual reinstatement as provided for in Article 279 of the Labor Code, as amended, to wit:

Article 279. Security of Tenure. — In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

Award of attorney's fees, moral and exemplary damages is proper

We agree with the respondent NLRC on this point. To quote the respondent NLRC, viz -

“Complainant was forced to hire the services of a counsel to vindicate his rights. Thus, attorney's fees equivalent to 10% of the total award to complainant is proper.

In view of the bad faith of respondent LBPS, as shown by their act of fabricating complainant's resignation letter, complainant is entitled to moral damages in the amount of P10,000.00 and exemplary damages in the amount of P5,000.00.

Verily, as held in *San Miguel Corp. v. Del Rosario*,^[24] thus,

Anent attorney's fees, we held in *San Miguel Corporation v. Aballa, et al.*,^[25] that in actions for recovery of wages or where an employee was forced to litigate and thus incurred expenses to protect his rights and interests, a maximum of 10% of the total monetary award by way of attorney's fees is justifiable under Article 111 of the Labor Code, Section 8, Rule VIII, Book III of its Implementing Rules, and paragraph 7, Article 2208 of the Civil Code. The award of attorney's fees is proper and there need not be any showing that the employer acted maliciously or in bad faith when it withheld the wages. There need only be a showing that the lawful wages were not paid accordingly, as in the instant controversy. (Footnoting ours)

Regarding the award of moral and exemplary damages, it is settled rule that where the employee was terminated without any just or valid cause and in bad faith and oppressive to labor then such award is proper. Thus,

Award of moral and exemplary damages for an illegally dismissed employee is proper where the employee had been harassed and arbitrarily terminated by the employer. Moral damages may be awarded to compensate one for diverse injuries such as mental anguish, besmirched reputation, wounded feelings and social humiliation occasioned by the employer's unreasonable dismissal of the employee. This Court has consistently accorded the working class a right to recover damages for unjust dismissals tainted with bad faith; where the motive of the employer in dismissing the employee is far from noble. The award of such damages is based not on the Labor Code but on Article 220 of the Civil Code.^[26]

Prescinding from the foregoing disquisitions, no grave abuse of discretion may be imputed against the respondent NLRC as its ruling is based on the facts extant on the case and the applicable law and jurisprudence.

A final note

“Whatever doubts, uncertainties or ambiguities remain in this case should ultimately be resolved in favor of the worker in line with the social justice policy of our labor laws and the Constitution. The consistent rule is that the

employer must affirmatively show rationally adequate evidence that the dismissal was for a justifiable cause, failing in which makes the termination illegal.”[27]

WHEREFORE, the petition is DENIED, the July 31, 2012 Decision²⁸ rendered by the National Labor Relations Commission and its October 31, 2012 Resolution²⁹ denying reconsideration in NLRC Case No. VAC-04-000232-2012 are hereby AFFIRMED in toto.

SO ORDERED.

Maxino, P.A.A., and Francisco, R.C., JJ., concur.

[1] Annex “N”, Rollo, pp. 131-134.

[2] Annex “P”, Rollo, pp. 155-157.

[3] Annex “J”, Rollo, pp. 86-94.

[4] Rollo, pp. 96-103.

[5] Rollo, pp. 142-143.

[6] Rollo, pp. 141-142.

[7] Rollo, pp. 144-154.

[8] Rollo, pp. 155-156.

[9] Rollo, pp. 137-142.

[10] Rollo, pages 107 and 109.

[11] Rollo, pages 104 and 105.

[12] Francisco Lim v. Equitable PCI Bank now known as the Banco de Oro UniBank, Inc., G.R. No. 183918, January 15, 2014. Citing Bautista v. Court of Appeals, 479 Phil. 787 (2004) and Heirs of Severa P. Gregorio v. Court of Appeals, 360 Phil. 753 (1998).

[13] Heirs of the late Felix M. Bucton, namely: Nicanora G. Bucton, et. al., v. Spouses Gonzalo and Trinidad Go, G.R. No. 188395, November 20, 2013.

[14] Rollo, pp. 50-52.

[15] Rollo, p. 56.

[16] Rollo, p. 127.

[17] Rollo, p. 110-124.

[18] Rollo, p. 106.

[19] Annex “D”, Rollo, p. 52.

[20] Sutherland Global Services (Philippines), Inc. and Janette G. Lagazo v. Larry S. Labrador, G.R. No. 193107, March 24, 2014.

[21] Rollo, p. 54.

[22] Rollo, p. 55.

[23] Rollo, p. 57.

[24] San Miguel Corporation v. Caroline C. Del Rosario, G.R. Nos. 168194 & 168603, December 13, 2005.

[25] G.R. No. 149011, June 28, 2005.

[26] Viola Cruz v. National Labor Relations Commission, et. al., G.R. No. 116384, February 7, 2000.

[27] Hantex Trading Co., Inc. and/or Mariano Chua vs. Court of Appeals, Special Former Tenth Division, et. al., G.R. No. 148241, September 27, 2002.

[28] Annex “N”, Rollo, pp. 131-134.

[29] Annex “P”, Rollo, pp. 155-157.

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