

JACINTO RETUYA, PRISCILA B. VALE, BALTAZAR QUILAT, ABDON DAYSON AND ELEUTERIO ENSALADA, PETITIONERS, VS. HON. SALIC B. DUMARPA, (PRESIDING COMMISSIONER); HON. OSCAR N. ABELLA AN...

G.R. No. 148848. August 05, 2003

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148848/>

PANGANIBAN, J.:

Illegally dismissed employees are entitled to back wages that should not be diminished or reduced by the amount they have earned from another employment during the period of their illegal dismissal. On the other hand, the computation of the separation pay and the circumstances showing the existence of an employer-employee relationship are questions of fact that are generally not proper in a petition for review on certiorari.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the February 9, 2001 Decision[2] and the June 11, 2001 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 55340. The dispositive portion of the challenged Decision reads as follows:

"WHEREFORE, the assailed resolutions of the National Labor Relations Commission dated March 8, 1999 and July 22, 1999 are hereby REVERSED and SET ASIDE, and the decision of Labor Arbiter Newton R. Sancho dated March 10, 1998 is REINSTATED. No costs."[4]

The assailed Resolution denied petitioners' Motion for Reconsideration.

The Facts

The facts of the case are narrated by the CA in this manner:

"Private respondent, Insular Builders, Inc., is a family-owned corporation managed and operated principally by Antonio Murillo, father, and his son, Rodolfo Murillo. It is engaged in the construction business. Petitioners, on the other hand, were workers who have rendered services in various corporations of private respondents, namely Mindanao Integrated Builders, Inc., Sta. Clara Plywood, Inc., Insular Builders, Inc. and Queen City Builders, Inc.

"Early 1993, at the height of the feud between private respondents Antonio Murillo and Rodolfo Murillo, the former discharged the latter from his position as manager of Insular Builders, Inc. and assumed control of the company. Petitioners found themselves in the middle of the crossfire and were told to temporarily stop working. Later, or on July 26, 1993, private respondent Antonio Murillo dismissed petitioners and reported the matter to the Department of Labor and Employment (DOLE). Petitioners were however made to continue their work, rendering the same services, in the same place, locality and at the same office but under a different company, the Queen City Builders, Inc., managed and controlled by private respondent Rodolfo Murillo.

"On August 3, 1993, petitioners filed with the NLRC, Regional Arbitration Branch No. X, Davao City, a complaint for illegal dismissal, non-payment of wages, 13[th] month pay, and retirement pay as regards

petitioner Abdon Dayson. Petitioners averred that they were terminated from employment on July 26, 1993 without prior notice and also in absence of any valid cause. They alleged that their termination was an off-shoot of the supposed personal rift and disagreements between private respondents Antonio Murillo and Rodolfo Murillo.

"On the other hand, private respondents Insular Builders, Inc. and Antonio Murillo deny having employed petitioners Baltazar Quilat, Abdon Dayson and Eleuterio Ensalada as they were personal employees of and rendering services to private respondent Rodolfo Murillo." [5]

On December 19, 1994, Labor Arbiter Newton R. Sancho rendered a Decision finding private respondents guilty of illegal dismissal. On June 21, 1996, the NLRC (Fifth Division) of Cagayan de Oro City denied their appeal and affirmed the labor arbiter's Decision in toto.

On reconsideration, however, the NLRC set aside in a Resolution dated July 31, 1996, the Decision it had issued on June 21, 1996. It then remanded the case to the labor arbiter for further proceedings.

Subsequently, Labor Arbiter Sancho, in his March 10, 1998 Decision, ruled in this wise:

"WHEREFORE, judgment is hereby rendered:

- Declaring the dismissal of complainants Jacinto Retuya, Priscila Vale, Baltazar Quilat, Abdon Dayson and Eleuterio Ensalada as ILLEGAL;
- Ordering respondents Insular Builders, Inc. and Antonio Murillo to PAY complainants their monetary award above recomputed in the total amount of P307,067.34, inclusive of attorney's fees;
- Absolving Rodolfo Murillo from any liability to the complainants for lack of employer-employee relationship;
- Awarding the total adjudicated amount of P103,221.60 to the legal heirs of the late complainant Abdon Dayson; and
- Dismissing all other claims for lack of merit." [6]

Both parties appealed to the NLRC which, in a March 8, 1999 Resolution, reversed and set aside the labor arbiter's ruling. The Commission ruled that petitioners had not been illegally dismissed and were therefore not entitled to reinstatement or to separation pay and back wages. Affirmed, however, as the sole liability of respondent corporation was the award to Complainant Abdon Dayson of salary differential, service incentive leave pay, 13[th] month pay differentials, 13[th] month pay for 1993, and retirement pay. [7]

Ruling of the Court of Appeals

Declaring that Antonio Murillo and Insular Builders, Inc. had illegally dismissed petitioners from employment, the CA reversed the NLRC and upheld the Decision of the labor arbiter. Moreover, the appellate court held that Rodolfo Murillo had incurred no liability. That no employer-employee relationship existed between him and petitioners was shown by the fact that, as manager of Insular Builders, Inc., he had likewise been dismissed from employment by the elder Murillo.

By paying the wages of petitioners and controlling their work conduct, Antonio Murillo and Insular Builders, Inc. showed themselves to be the former's employers. It was Antonio Murillo who exercised the power to dismiss petitioners, as evidenced by a Dismissal Report he submitted to the Department of Labor and Employment (DOLE). He failed to show that their dismissal was for a just cause.

The CA added that the NLRC had erred in declaring that Insular Builders, Inc. and Queen City Builders, Inc. were one and the same entity. The corporate veil may be pierced only when it is used to defeat public convenience,

justify a wrong, inflict a fraud or defend a crime.

The CA reinstated, in favor of petitioners, the labor arbiter's award inclusive of attorney's fees.[8] It also affirmed the reduction of the separation pay and the deletion of the award of back wages as follows:

"Anent the prayer of petitioners that full backwages should be granted to them, we find the labor arbiter's findings as correct and justifiable under the circumstances of this case. Thus:

`As to complainant's `wish' for the recomputation of award to full backwages, inclusive of allowances, and to their other benefits or their equivalent computed from the time their compensation was withheld from them up to the time of their actual reinstatement, pursuant to Art. 279 of the Labor Code and Supreme Court's ruling in *Osmalik S. Bustamante vs. NLRC*, the same cannot be granted at this stage since it is not among the issues remanded for further proceedings. Nor was it seasonably raised and ventilated on appeal.

`On the contrary, what is called for is not the recomputation of the award of backwages to make it higher but its deletion. Right after complainants were dismissed on July 26, 1993, they were employed by Queen City Builders, Inc./Rodolfo Murillo effective August 1, 1993 as shown by the Check Vouchers marked as Annexes `A', `B', `C', `D', and `E' of Rodolfo Murillo's Motion for Reconsideration dated July 10, 1996. Otherwise, it would result in double compensation on the part of complainants -- a situation which is anathema the principles of no work-no pay and unjust enrichment at the expense of Antonio Murillo and his firm.'"[9]

Hence, this Petition.[10]

Issues

Petitioners raise the following issues for our consideration:

"I

Whether the Court of Appeals' Decision and its refusal to reconsider it in its Resolution by its failure to grant the appropriate affirmative reliefs due x x x illegally dismissed employee[s] such as petitioners is in accord with Article 279 of Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended by Section 34 of Republic Act 6715 and the controlling settled jurisprudence thereon; and

"II

Whether the said questioned dispositions by the Court of Appeals which adversely affect petitioners, are in accord with applicable jurisprudence, the law and established records, in disregard of what had been raised in the assigned errors and submissions thereunder presented in the Petition filed thereat."[11]

In the main, the issues boil down to two: 1) whether petitioners are entitled to full back wages and separation pay in accordance with Article 279 of the Labor Code; and 2) whether an employer-employee relationship existed between them and Rodolfo Murillo.

The Court's Ruling

The Petition is partly meritorious.

Preliminary Matter:

Appeal by Certiorari

Before proceeding to the merits of the case, we shall take up a preliminary procedural matter.

Respondents Antonio Murillo and Insular Builders, Inc. argue that petitioner's prayer for the reinstatement of the labor arbiter's Decision was already granted by the CA. Hence, petitioners supposedly had no more reason to appeal to this Court.

We hold that petitioners had the right to file this Petition for Review under Rule 45. Whether they are satisfied

with the CA's Decision is not for private respondents to determine. The Rules give both parties the option to appeal and seek further relief, if in their opinion they deserve a bigger or more generous award than that allowed below. Their entitlement to their prayer is to be ruled upon by this Court, not by respondents.

First Issue:

Back Wages and Separation Pay

Petitioners contend that because the CA reinstated the labor arbiter's finding of illegal dismissal, it should not have reduced the amount of their separation pay, but should have instead awarded them full back wages in accordance with Article 279 of the Labor Code.

They add that the CA Decision did not follow settled jurisprudence, specifically *Bustamante v. NLRC*,^[12] on the amount of back wages that illegally dismissed employees were entitled to.

On the other hand, Antonio Murillo and Insular Builders, Inc. counter that petitioners were not illegally dismissed from employment, because there was no cessation of work when they were transferred from Insular Builders, Inc. to Queen City Builders, Inc. Allegedly, what transpired was a mere transfer of employees from one sister company to another, because petitioners continued to work in the same office, receive the same salaries and perform the same kind of work.

In contrast, Rodolfo Murillo claims that the CA correctly ruled that he could not be held liable for back wages and separation pay, because he had no employer-employee relationship with petitioners. He insists that it was his father -- Antonio Murillo -- who, as president and general manager of Insular Builders, Inc., dismissed both him and petitioners.

Petitioners' contentions are partly meritorious.

Bustamante v. NLRC^[13] held that illegally dismissed employees were entitled to full back wages that should not be diminished or reduced by the amount they had earned from another employment during the period of their illegal dismissal. While litigating, employees must still earn a living. Furthermore, as penalty for their illegal dismissal, their employers must pay them full back wages. This rule has been uniformly applied in subsequent cases.^[14]

In the present case, petitioners were dismissed because of a "change of management."^[15] They were not given any prior written notice, but simply told that their services were terminated on the day they stopped working for Insular Builders, Inc. Under the circumstances, the CA was correct in upholding the labor arbiter's finding that they had been illegally dismissed.

Having been illegally dismissed, petitioners should be awarded back wages in accordance with *Bustamante v. NLRC*. The fact that they worked for a sister company^[16] immediately after being dismissed from Insular Builders, Inc. should not preclude such award. The contention that they will be unjustly enriched thereby has been squarely addressed by the Court in *Bustamante*, from which we quote:

"On 21 March 1989, Republic Act No. 6715 took effect, amending the Labor Code. Article 279 thereof states in part:

`ART. 279. Security of Tenure. - x x x 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 is withheld from him up to the time of his actual reinstatement.' (Italics supplied)

"In accordance with the above provision, an illegally dismissed employee is entitled to his full backwages from the time his compensation was withheld from him (which as a rule is from the time of his illegal dismissal) up to

the time of his actual reinstatement. It is true that this Court had ruled in the case of Pines City Educational Center vs. NLRC (G.R. No. 96779, 10 November 1993, 227 SCRA 655) that 'in ascertaining the total amount of backwages payable to them (employees), we go back to the rule prior to the Mercury Drug rule that the total amount derived from employment elsewhere by the employee from the date of dismissal up to the date of reinstatement, if any, should be deducted therefrom.' The rationale for such ruling was that, the earnings derived elsewhere by the dismissed employee while litigating the legality of his dismissal, should be deducted from the full amount of backwages which the law grants him upon reinstatement, so as not to unduly or unjustly enrich the employee at the expense of the employer.

"The Court deems it appropriate, however, to reconsider such earlier ruling on the computation of backwages as enunciated in said Pines City Educational Center case, by now holding that comfortably with the evident legislative intent as expressed in Rep. Act. No. 6715, above-quoted, backwages to be awarded to an illegally dismissed employee, should not, as a general rule, be diminished or reduced by the earnings derived by him elsewhere during the period of his illegal dismissal. The underlying reason for this ruling is that the employee, while litigating the legality (illegality) of his dismissal, must still earn a living to support himself and family, while full backwages have to be paid by the employer as part of the price or penalty he has to pay for illegally dismissing his employee. The clear legislative intent of the amendment in Rep. Act No. 6715 is to give more benefits to workers than was previously given them under the Mercury Drug rule or the 'deduction of earnings elsewhere' rule. Thus, a closer adherence to the legislative policy behind Rep. Act. No. 6715 points to 'full backwages' as meaning exactly that, i.e., without deducting from backwages the earnings derived elsewhere by the concerned employee during the period of his illegal dismissal. In other words, the provision calling for 'full backwages' to illegally dismissed employees is clear, plain and free from ambiguity and, therefore, must be applied without attempted or strained interpretation. *Index animi sermo est.*

"Therefore, in accordance with R.A. No. 6715, petitioners are entitled to their full backwages, inclusive of allowances and other benefits or their monetary equivalent, from the time their actual compensation was withheld from them up to the time of their actual reinstatement." [17]

While it may be true that petitioners continued to work in the same place and office as in their previous employment, it is equally true that they had in fact been illegally dismissed by their previous employer. Thus, they lost their former work status and benefits in a manner violative of the law. Be it noted that, without their consent, their employment was changed -- from Insular, which was controlled by Antonio Morillo; to Queen City, which was "managed and controlled by private respondent Rodolfo Morillo." Thus, they became new employees of the latter firm and, as such, were deprived of seniority and other employment benefits they had when they were still with their former employer.

Had their employment in Insular been legally ended and that in Queen City properly constituted with their consent, this illegal dismissal suit could have been avoided or could have had a different result. As it is, however, the fact remains that their employment was illegally terminated; thus, the legal consequences must be borne by the ones who caused it -- Antonio Murillo and Insular Builders.

The records indicate that reinstatement is no longer feasible. Insular Builders, Inc. has ceased operations. Absent any showing that its business was deliberately stopped to avoid reinstating the complaining employees, the amount of back wages shall be computed from the time of their illegal termination on July 26, 1993, up to the time of the cessation of the business operations. [18] "Computing backwages beyond x x x the date of [cessation of business], would not only be unjust but confiscatory as well as violative of the Constitution depriving the [respondent] of his property rights." [19]

Moreover, petitioners are entitled to separation pay. As provided by Article 279 of the Labor Code, an illegally dismissed employee is entitled to the twin reliefs of 1) either reinstatement or separation pay, if reinstatement is no longer feasible; and 2) back wages. These are distinct and separate reliefs given to alleviate the economic setback brought about by the employee's dismissal.[20] The award of one does not bar the other. Back wages may be awarded without reinstatement, and reinstatement may be ordered without awarding back wages.[21]

However, the computation of the correct amount of separation pay is a factual issue. Its resolution entails a review of the factual conclusions of the appellate court and the evidentiary basis thereof. This kind of assessment is not, as a rule, proper in appeals from the CA. Such appeals should be confined to a determination only of legal issues, because the appellate court's findings of fact are generally conclusive.[22] In a petition for review on certiorari, this Court's jurisdiction is limited to reviewing errors of law in the absence of any showing that the factual findings complained of are devoid of support in the records or are glaringly erroneous.[23]

In the present case, petitioners failed to show any cogent reason why we should disturb the labor arbiter's computation (affirmed by the CA), which had resulted in a reduction of the amount of separation pay. Reckoned from the respective dates of hiring of petitioners up to the date of their dismissal, the labor arbiter computed their separation pay by multiplying their respective monthly salaries by their respective years of service -- a fraction of six months was deemed equivalent to one whole year.[24] Although the result was a reduction in amount, petitioners have not shown why this manner of computation was not in accord with prevailing jurisprudence.[25]

Second Issue:

Employer-Employee Relationship

Petitioners contend that Insular Builders, Inc. and Queen City Builders, Inc. are one and the same; and that, as a consequence, Rodolfo Murillo was solidarily liable with Antonio Murillo and Insular Builders, Inc.

We disagree.

The circumstances showing whether an employee-employer relationship exists between parties also involve a question of fact.[26] So long as substantial evidence supports it, the CA's factual finding would be binding upon this Court, even if different from that of the lower court or of an administrative body.[27]

Rodolfo Murillo was not the employer of petitioners when they were dismissed from Insular Builders, Inc. It was not he but Antonio Murillo who dismissed them, as evidenced by the Dismissal Report submitted to the DOLE. In fact, Rodolfo himself was dismissed together with them.

The corporate veil of related companies may not be pierced in the absence of proof that the corporate fiction is being used to defeat public convenience, justify a wrong, inflict a fraud or defend a crime.[28]

Finally, it may not be amiss to add that piercing the corporate veil and considering Insular and Queen City as one entity would be disadvantageous to petitioners, because doing so would no longer entitle them to back wages and separation pay. Indeed, if the two entities were one and the same company, then there would have been no dismissal from one and transfer to the other to speak about.

WHEREFORE, the Petition is PARTLY GRANTED. The Decision of the CA is AFFIRMED with the MODIFICATION that petitioners shall be paid full back wages from the date of their dismissal until the cessation of the business operations of Insular Builders, Inc. For a determination of the amount of back wages to be paid to them, the case is REMANDED to the NLRC, which is instructed to further receive or require such evidence on this point as may be necessary. No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Rollo, pp. 11-39.

[2] Id., pp. 40-55. Penned by Justice Oswaldo D. Agcaoili and concurred in by Justices Cancio C. Garcia (Division chairman) and Elvi John S. Asuncion.

[3] Id., p. 56.

[4] Assailed CA Decision, p. 15; rollo, p. 54.

[5] Id., pp. 2-3 41-42.

[6] Labor Arbiter's Decision dated March 10, 1998, pp. 7-8; id., pp. 185-186.

[7] NLRC Resolution dated March 8, 1999, pp. 7 81.

[8] Labor Arbiter's Decision dated March 10, 1998, pp. 6-8; rollo, pp. 184-186.

[9] Assailed CA Decision, pp. 14-15; rollo, pp. 53-54.

[10] This case was deemed submitted for resolution on January 29, 2003, upon receipt by this Court of petitioners' Memorandum, which was signed by Atty. Grace Lina A. Fuentes. The Memorandum for Private Respondents Insular Builders, Inc. and Antonio Murillo, signed by Atty. Victorino L. Enriquez Jr., was filed earlier on November 15, 2002. The Memorandum for Private Respondent Rodolfo Murillo, signed by Atty. Alfonso L. de la Victoria, was filed on November 20, 2002.

[11] Petitioners' Memorandum dated January 10, 2003, p. 6. Original in upper case.

[12] 332 Phil. 833, November 28, 1996.

[13] Supra.

[14] See, for instance, Perpetual Help Credit Cooperative, Inc. v. Faburada, 366 SCRA 693, October 8, 2001; Metro Transit Organization, Inc. v. National Labor Relations Commission, 367 Phil. 259, May 31, 1999; Lopez v. National Labor Relations Commission, 358 Phil. 141, October 8, 1998.

[15] Report of Dismissal, rollo, p. 116.

[16] Queen City Builders, Inc.

[17] Bustamante v. NLRC, supra, pp. 841-843, per Padilla, J.

[18] Nagusara v. NLRC, 290 SCRA 245, May 20, 1998; Pizza Inn/Consolidated Foods Corporation v. NLRC, 162 SCRA 773, June 28, 1988.

[19] Pizza Inn/Consolidated Foods Corporation v. NLRC, supra, p. 779, per Paras, J.

[20] St. Michael's Institute v. Santos, 371 SCRA 383, December 4, 2001; Masagana Concrete Products v. National Labor Relations Commission, 372 Phil. 459, September 3, 1999; Aurora Land Projects Corporation v. National Labor Relations Commission, 334 Phil. 44, January 2, 1997.

[21] De Guzman v. National Labor Relations Commission, 371 Phil. 192, August 11, 1999; St. Michael's Institute

v. Santos, *supra*.

[22] Alfaro v. Court of Appeals, 416 Phil. 310, August 28, 2001; Suan v. National Labor Relations Commission, 411 Phil. 493, June 19, 2001.

[23] Alfaro v. Court of Appeals, *supra*; Litonjua Group of Companies v. Vigan, 412 Phil. 627, June 28, 2001.

[24] Labor Arbiter's Decision dated March 10, 1998, p. 6; rollo, p. 184.

[25] National Bookstore, Inc. v. Court of Appeals, GR No. 146741, February 27, 2002; ATCI Overseas Corporation v. Court of Appeals, 414 Phil. 883, August 9, 2001; Masagana Concrete Products v. National Labor Relations Commission, *supra*.

[26] Algon Engineering Construction Corporation v. National Labor Relations Commission, 345 Phil. 408, October 6, 1997.

[27] Litonjua Group of Companies v. Vigan, *supra*.

[28] Padilla v. Court of Appeals, 370 SCRA 208, November 22, 2001.

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.