

FAR EAST AGRICULTURAL SUPPLY, INC. AND/OR ALEXANDER UY, PETITIONERS, VS. JIMMY LEBATIQUE AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.

G.R. NO. 162813. February 12, 2007

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-162813/>

QUISUMBING, J.:

Before us is a petition for review on certiorari assailing the Decision[1] dated September 30, 2003 of the Court of Appeals in CA-G.R. SP No. 76196 and its Resolution[2] dated March 15, 2004 denying the motion for reconsideration. The appellate court had reversed the Decision[3] dated October 15, 2002 of the National Labor Relations Commission (NLRC) setting aside the Decision[4] dated June 27, 2001 of the Labor Arbiter.

Petitioner Far East Agricultural Supply, Inc. (Far East) hired on March 4, 1996 private respondent Jimmy Lebatique as truck driver with a daily wage of P223.50. He delivered animal feeds to the company's clients.

On January 24, 2000, Lebatique complained of nonpayment of overtime work particularly on January 22, 2000, when he was required to make a second delivery in Novaliches, Quezon City. That same day, Manuel Uy, brother of Far East's General Manager and petitioner Alexander Uy, suspended Lebatique apparently for illegal use of company vehicle. Even so, Lebatique reported for work the next day but he was prohibited from entering the company premises.

On January 26, 2000, Lebatique sought the assistance of the Department of Labor and Employment (DOLE) Public Assistance and Complaints Unit concerning the nonpayment of his overtime pay. According to Lebatique, two days later, he received a telegram from petitioners requiring him to report for work. When he did the next day, January 29, 2000, Alexander asked him why he was claiming overtime pay. Lebatique explained that he had never been paid for overtime work since he started working for the company. He also told Alexander that Manuel had fired him. After talking to Manuel, Alexander terminated Lebatique and told him to look for another job.

On March 20, 2000, Lebatique filed a complaint for illegal dismissal and nonpayment of overtime pay. The Labor Arbiter found that Lebatique was illegally dismissed, and ordered his reinstatement and the payment of his full back wages, 13[th] month pay, service incentive leave pay, and overtime pay. The dispositive portion of the decision is quoted herein in full, as follows:

WHEREFORE, we find the termination of complainant illegal. He should thus be ordered reinstated with full backwages. He is likewise ordered paid his 13[th] month pay, service incentive leave pay and overtime pay as computed by the Computation and Examination Unit as follows:

a) Backwages:

01/25/00 - 10/31/00 = 9.23 mos.

P 223.50 x 26 x 9.23 = P53,635.53

11/01/00 - 06/26/01 = 7.86 mos.

$P 250.00 \times 26 \times 7.86 = 51,090.00$
 13[th] Month Pay: $1/12$ of P104,725.53
 Service Incentive Leave Pay
 $01/25/00 - 10/31/00 = 9.23$ mos.
 $P 223.50 \times 5/12 \times 9.23 = P 859.54$
 $11/01/00 - 06/26/01 = 7.86$ mos.
 $P 250.00 \times 5/12 \times 7.86 = [818.75]$

$P 104,725.53$
 $= 8,727.13$

1,678.29

115,130.95

b) Overtime Pay: (3 hours/day)
 $03/20/97 - 4/30/97 = 1.36$ mos.
 $P 180/8 \times 1.25 \times 3 \times 26 \times 1.36 =$
 $05/01/97 - 02/05/98 = 9.16$ mos.
 $P 185/8 \times 1.25 \times 3 \times 26 \times 9.16 =$
 $02/06/98 - 10/30/99 = 20.83$ mos.
 $P 198/8 \times 1.25 \times 3 \times 26 \times [20.83] =$
 $10/31/99 - 01/24/00 = 2.80$ mos.
 $P 223.50/8 \times 1.25 \times 3 \times 26 \times 2.80 =$

P 2,983.50

20,652.94

50,265.39

7,626.94

TOTAL AWARD

81,528.77

P196,659.72

SO ORDERED.[5]

On appeal, the NLRC reversed the Labor Arbiter and dismissed the complaint for lack of merit. The NLRC held that there was no dismissal to speak of since Lebatique was merely suspended. Further, it found that Lebatique was a field personnel, hence, not entitled to overtime pay and service incentive leave pay. Lebatique sought reconsideration but was denied.

Aggrieved, Lebatique filed a petition for certiorari with the Court of Appeals.

The Court of Appeals, in reversing the NLRC decision, reasoned that Lebatique was suspended on January 24, 2000 but was illegally dismissed on January 29, 2000 when Alexander told him to look for another job. It also found that Lebatique was not a field personnel and therefore entitled to payment of overtime pay, service incentive leave pay, and 13[th] month pay.

It reinstated the decision of the Labor Arbiter as follows:

WHEREFORE, premises considered, the decision of the NLRC dated 27 December 2002 is hereby
 REVERSED and the Labor Arbiter's decision dated 27 June 2001 REINSTATED.

SO ORDERED.[6]

Petitioners moved for reconsideration but it was denied.

Hence, the instant petition wherein petitioners assign the following errors:

THE COURT OF APPEALS ... ERRED IN REVERSING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION DATED 15 OCTOBER 2002 AND IN RULING THAT THE PRIVATE RESPONDENT WAS ILLEGALLY DISMISSED.

THE COURT OF APPEALS ... ERRED IN REVERSING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION DATED 15 OCTOBER 2002 AND IN RULING THAT PRIVATE RESPONDENT IS NOT A FIELD PERSONNEL AND THEREFORE ENTITLED TO OVERTIME PAY AND SERVICE INCENTIVE LEAVE PAY.

THE COURT OF APPEALS ... ERRED IN NOT DISMISSING THE PETITION FOR CERTIORARI FOR FAILURE OF PRIVATE RESPONDENT TO ATTACH CERTIFIED TRUE COPIES OF THE QUESTIONED DECISION AND RESOLUTION OF THE PUBLIC RESPONDENT.[7]

Simply stated, the principal issues in this case are: (1) whether Lebatique was illegally dismissed; and (2) whether Lebatique was a field personnel, not entitled to overtime pay.

Petitioners contend that, (1) Lebatique was not dismissed from service but merely suspended for a day due to violation of company rules; (2) Lebatique was not barred from entering the company premises since he never reported back to work; and (3) Lebatique is estopped from claiming that he was illegally dismissed since his complaint before the DOLE was only on the nonpayment of his overtime pay.

Also, petitioners maintain that Lebatique, as a driver, is not entitled to overtime pay since he is a field personnel whose time outside the company premises cannot be determined with reasonable certainty. According to petitioners, the drivers do not observe regular working hours unlike the other office employees. The drivers may report early in the morning to make their deliveries or in the afternoon, depending on the production of animal feeds and the traffic conditions. Petitioners also aver that Lebatique worked for less than eight hours a day.[8]

Lebatique for his part insists that he was illegally dismissed and was not merely suspended. He argues that he neither refused to work nor abandoned his job. He further contends that abandonment of work is inconsistent with the filing of a complaint for illegal dismissal. He also claims that he is not a field personnel, thus, he is entitled to overtime pay and service incentive leave pay.

After consideration of the submission of the parties, we find that the petition lacks merit. We are in agreement with the decision of the Court of Appeals sustaining that of the Labor Arbiter.

It is well settled that in cases of illegal dismissal, the burden is on the employer to prove that the termination was for a valid cause.[9] In this case, petitioners failed to discharge such burden. Petitioners aver that Lebatique was merely suspended for one day but he abandoned his work thereafter. To constitute abandonment as a just cause for dismissal, there must be: (a) absence without justifiable reason; and (b) a clear intention, as manifested by some overt act, to sever the employer-employee relationship.[10]

The records show that petitioners failed to prove that Lebatique abandoned his job. Nor was there a showing of a clear intention on the part of Lebatique to sever the employer-employee relationship. When Lebatique was verbally told by Alexander Uy, the company's General Manager, to look for another job, Lebatique was in effect dismissed. Even assuming earlier he was merely suspended for illegal use of company vehicle, the records do not show that he was afforded the opportunity to explain his side. It is clear also from the sequence of the events

leading to Lebatique's dismissal that it was Lebatique's complaint for nonpayment of his overtime pay that provoked the management to dismiss him, on the erroneous premise that a truck driver is a field personnel not entitled to overtime pay.

An employee who takes steps to protest his layoff cannot by any stretch of imagination be said to have abandoned his work and the filing of the complaint is proof enough of his desire to return to work, thus negating any suggestion of abandonment.[11] A contrary notion would not only be illogical but also absurd.

It is immaterial that Lebatique had filed a complaint for nonpayment of overtime pay the day he was suspended by management's unilateral act. What matters is that he filed the complaint for illegal dismissal on March 20, 2000, after he was told not to report for work, and his filing was well within the prescriptive period allowed under the law.

On the second issue, Article 82 of the Labor Code is decisive on the question of who are referred to by the term "field personnel." It provides, as follows:

ART. 82. Coverage. - The provisions of this title [Working Conditions and Rest Periods] shall apply to employees in all establishments and undertakings whether for profit or not, but not to government employees, managerial employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, and workers who are paid by results as determined by the Secretary of Labor in appropriate regulations.

x x x x

"Field personnel" shall refer to non-agricultural employees who regularly perform their duties away from the principal place of business or branch office of the employer and whose actual hours of work in the field cannot be determined with reasonable certainty.

In *Auto Bus Transport Systems, Inc. v. Bautista*,[12] this Court emphasized that the definition of a "field personnel" is not merely concerned with the location where the employee regularly performs his duties but also with the fact that the employee's performance is unsupervised by the employer. We held that field personnel are those who regularly perform their duties away from the principal place of business of the employer and whose actual hours of work in the field cannot be determined with reasonable certainty. Thus, in order to determine whether an employee is a field employee, it is also necessary to ascertain if actual hours of work in the field can be determined with reasonable certainty by the employer. In so doing, an inquiry must be made as to whether or not the employee's time and performance are constantly supervised by the employer.[13]

As correctly found by the Court of Appeals, Lebatique is not a field personnel as defined above for the following reasons: (1) company drivers, including Lebatique, are directed to deliver the goods at a specified time and place; (2) they are not given the discretion to solicit, select and contact prospective clients; and (3) Far East issued a directive that company drivers should stay at the client's premises during truck-ban hours which is from 5:00 to 9:00 a.m. and 5:00 to 9:00 p.m.[14] Even petitioners admit that the drivers can report early in the morning, to make their deliveries, or in the afternoon, depending on the production of animal feeds.[15] Drivers, like Lebatique, are under the control and supervision of management officers. Lebatique, therefore, is a regular employee whose tasks are usually necessary and desirable to the usual trade and business of the company. Thus, he is entitled to the benefits accorded to regular employees of Far East, including overtime pay and service incentive leave pay.

Note that all money claims arising from an employer-employee relationship shall be filed within three years from the time the cause of action accrued; otherwise, they shall be forever barred.[16] Further, if it is established that the benefits being claimed have been withheld from the employee for a period longer than three years, the amount

pertaining to the period beyond the three-year prescriptive period is therefore barred by prescription. The amount that can only be demanded by the aggrieved employee shall be limited to the amount of the benefits withheld within three years before the filing of the complaint.[17]

Lebatique timely filed his claim for service incentive leave pay, considering that in this situation, the prescriptive period commences at the time he was terminated.[18] On the other hand, his claim regarding nonpayment of overtime pay since he was hired in March 1996 is a different matter. In the case of overtime pay, he can only demand for the overtime pay withheld for the period within three years preceding the filing of the complaint on March 20, 2000. However, we find insufficient the selected time records presented by petitioners to compute properly his overtime pay. The Labor Arbiter should have required petitioners to present the daily time records, payroll, or other documents in management's control to determine the correct overtime pay due Lebatique.

WHEREFORE, the petition is DENIED for lack of merit. The Decision dated September 30, 2003 of the Court of Appeals in CA-G.R. SP No. 76196 and its Resolution dated March 15, 2004 are AFFIRMED with MODIFICATION to the effect that the case is hereby REMANDED to the Labor Arbiter for further proceedings to determine the exact amount of overtime pay and other monetary benefits due Jimmy Lebatique which herein petitioners should pay without further delay.

Costs against petitioners.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 34-44. Penned by Associate Justice Buenaventura J. Guerrero with Associate Justices Andres B. Reyes, Jr. and Regalado E. Maambong concurring.

[2] Id. at 62.

[3] Id. at 194-203.

[4] Id. at 167-174.

[5] Id. at 173-174.

[6] Id. at 44.

[7] Id. at 17.

[8] Id. at 375.

[9] *Micro Sales Operation Network v. National Labor Relations Commission*, G.R. No. 155279, October 11, 2005, 472 SCRA 328, 337.

[10] Id. at 336.

[11] *Veterans Security Agency, Inc. v. Gonzalvo, Jr.*, G.R. No. 159293, December 16, 2005, 478 SCRA 298, 305.

[12] G.R. No. 156367, May 16, 2005, 458 SCRA 578.

[13] Id. at 589.

[14] Rollo, p. 42.

[15] Id. at 375.

[16] Article 291 of the Labor Code.

[17] Supra note 12, at 591.

[18] See Auto Bus Transport Systems, Inc. v. Bautista, supra at 594.

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.