

**DANSART SECURITY FORCE & ALLIED SERVICES COMPANY
AND DANILO A. SARTE, PETITIONERS, VS. JEAN O. BAGOY,
RESPONDENT.**

G.R. No. 168495. July 02, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

This resolves the Petition for Review on Certiorari under Rule 45 of the Rules of Court, praying that the Decision[1] dated January 17, 2005 of the Court of Appeals (CA), in CA-G.R. SP No. 84758 reversing the judgment of the National Labor Relations Commission (NLRC), and the CA Resolution[2] dated June 8, 2005 denying herein petitioner's motion for reconsideration, be reversed and set aside.

The undisputed facts are as follows.

Respondent Jean O. Bagoy was employed by Dansart Security Force and Allied Services Company to guard the establishments of its various clients such as Ironcorn, Chowking and Hindu Temple. However, from April 1999 until November 2001, respondent had allegedly been caught sleeping on the job and incurred absences without leave, for which he was given notices of disciplinary action.

On May 14, 2002, respondent filed with the Regional Arbitration Branch a Complaint[3] against petitioners for underpayment of salaries and non-payment of overtime pay, holiday pay, premium pay, 13[th] month pay and service incentive leave pay. In her Position Paper, respondent alleged: (1) that she had been required to report for work daily from 7:00 a.m to 7:00 p.m. with a salary rate of P166.00 per day, which was increased to P180.00 in January 2001; (2) that she was required to work even on Sundays and holidays but was not paid holiday pay, 13[th] month pay and service incentive leave pay; and (3) that since December 2001, she had been on floating status, tantamount to constructive dismissal.

Petitioners countered that it was respondent who abandoned her work beginning November 2001. Petitioners, likewise, presented several reports issued by the National Capital Region, Department of Labor and Employment (DOLE) stating that all mandatory wage increases and other related monetary benefits were complied with by petitioner security agency, in rebuttal of respondent's claim of non-payment of wages and benefits.

On January 31, 2003, the Labor Arbiter issued a Decision[4] favorable to respondent with regard to her money claims, but did not rule on the issue

of illegal dismissal as this was not included in her complaint. The dispositive portion of the Decision reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering the respondents Dansart Security Force and Allied Co. and/or Danilo Sarte to pay complainant Jean O. Bagoy the amount of ONE HUNDRED SEVENTY-NINE THOUSAND ONE HUNDRED NINETY-SIX PESOS (P179,196.00) representing [her] monetary awards as above-computed.

All other claims are DISMISSED for lack of merit.

SO ORDERED.[5]

The foregoing Decision was appealed to the NLRC which in turn issued its Decision[6] dated September 30, 2003, reversing the Labor Arbiter's ruling. The NLRC held that the DOLE reports, stating that petitioner security agency had been complying with all mandatory wage increases and other monetary benefits, should be given proper respect. The dispositive portion of the NLRC Decision is set forth hereunder:

WHEREFORE, in view of the foregoing, the Decision appealed from is hereby SET ASIDE and a new one entered declaring the complaint DISMISSED for lack of merit.

SO ORDERED.[7]

Respondent moved for reconsideration of the NLRC Decision, but the same was denied in a Resolution[8] dated February 20, 2004.

Respondent then filed a petition for certiorari with the CA under Rule 65 of the Rules of Court and, on January 17, 2005, the CA rendered the assailed Decision which disposed, thus:

WHEREFORE, premises considered, the present petition is hereby PARTLY GIVEN DUE COURSE and the writ prayed for, GRANTED. The challenged decision and resolution of the NLRC are hereby ANNULLED and SET ASIDE, and the Decision dated January 31, 2003 of Labor Arbiter Fatima Jambaro-Franco in NLRC NCR Case No. 00-06-03073-02 is hereby REINSTATED.

No pronouncement as to costs.

SO ORDERED.[9]

Petitioners' motion for reconsideration of the above Decision was denied per Resolution of the Court of Appeals dated June 8, 2005. Hence, this petition where it is alleged that:

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN FAILING TO GIVE CONSIDERATION TO THE VALID AND CONCLUSIVE FINDINGS OF THE DEPARTMENT OF LABOR AND EMPLOYMENT THAT PETITIONER DID NOT VIOLATE THE LABOR STANDARDS PROVISIONS OF THE LABOR CODE.[10]

The petition lacks merit.

The issue boils down to whether the DOLE Certifications should be considered as sufficient proof that petitioners paid respondent proper wages and all other monetary benefits to which she was entitled as an employee.

The foregoing question is a factual one which, as a general rule, cannot be entertained in a petition for review on certiorari where only questions of law are allowed.[11] Considering, however, that the Labor Arbiter's findings were reversed by the NLRC, whose Decision was in turn overturned by the CA, reinstating the Labor Arbiter's Decision, it behooves the Court to re-examine the records and resolve the conflicting rulings.[12]

The Labor Arbiter, as sustained by the CA, ruled that the DOLE reports stating that petitioners have not violated any provision of the Labor Code, nor is there any pending case with said government agency filed against the respondent as of May 16, 2002, and the Order of the DOLE Regional Director dated January 17, 2001 stating that petitioner security agency has complied with the payment of backwages for 279 guards, are insufficient to prove that petitioners have indeed paid respondent whatever is due her. On the other hand, the NLRC considered the very same pieces of evidence as substantial proof of payment.

Petitioners do not deny that said DOLE reports and Order are the only evidence they presented to prove payment of respondent's money claims. Petitioners only assail the weight ascribed by the Labor Arbiter and the CA to the evidence, asseverating that such documents from the DOLE must be given greater importance as the NLRC did.

The Court has repeatedly ruled that any doubt arising from the evaluation of evidence as between the employer and the employee must be resolved in favor of the latter.[13] Moreover, it is settled jurisprudence that the burden of proving payment of monetary claims rests on the employer.[14] Thus, as reiterated in *G & M Philippines, Inc. v. Cuambot*,[15] to wit:

x x x one who pleads payment has the burden of proving it. The reason for the rule is that the pertinent personnel files, payrolls, records, remittances and other similar documents - which will show that overtime, differentials, service incentive leave, and other claims of workers have been paid - are not in the possession of the worker but in the custody and absolute control of the employer. Thus, the burden of showing with legal certainty that the obligation has been discharged with payment falls on the debtor, in accordance with the rule that one who pleads payment has the burden of proving it. x x x [16]

In this case, petitioners failed to discharge such burden of proof. The Certifications[17] from the DOLE stated that there are no pending labor cases against petitioners filed before said office, but said certifications "do not cover cases filed before the National Labor Relations Commission and the National Conciliation and Mediation Board." The Order[18] dated January 17, 2001 issued by the DOLE, in fact, showed that in the year 2000, petitioner security agency was found to have committed the following violations: underpayment of overtime pay, underpayment of 13[th] month pay, underpayment of 5 days Service Incentive Leave Pay, and underpayment of night shift differential pay. Then, said Order stated that, since petitioner security agency had submitted "[p]ayrolls showing backwages of the above-noted violations amounting to x x x (P443,512.51) benefitting 279 guards" to show compliance with labor laws, "the DOLE considered the inspection closed and terminated." For the years 2001 and 2002, the DOLE Reports[19] stated only that based on records submitted by petitioners, it had no violations. Verily, such documents from the DOLE do not conclusively prove that respondent, in particular, has been paid all her salaries and other benefits in full. In fact, the Order dated January 17, 2001 even bolsters respondent's claim that she had not been paid overtime pay, 13[th] month pay, and Service Incentive Leave Pay. The statement in said Order, that backwages for 279 guards had been paid, does not in any way prove that respondent is one of those 279 guards, since petitioners failed to present personnel files, payrolls, remittances, and other similar documents which would have proven payment of respondent's money claims. It was entirely within petitioners' power to present such employment records that should necessarily be in their possession; hence, failure to present such evidence must be taken against them.

IN VIEW OF THE FOREGOING, the Petition is DENIED for lack of merit. The Decision of the Court of Appeals dated January 17, 2005, in CA-G.R. SP. No. 84758, is AFFIRMED. Costs against petitioners.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

[*] The Court of Appeals is dropped as a respondent in accordance with Section 4, Rule 45 of the Rules of Court, which states that the petition shall not implead the lower courts or judges thereof either as petitioners or respondents.

[1] Penned by Associate Justice Martin S. Villarama, Jr. (now a member of this Court), with Associate Justices Regalado E. Maambong and Lucenito N. Tagle, concurring; rollo, pp. 20-32.

[2] Penned by Associate Justice Martin S. Villarama, Jr., with Associate Justices Lucas P.

Bersamin (now a member of this Court) and Lucenito N. Tagle, concurring; *id.* at 34.

[3] Records, p.1

[4] Rollo, pp. 36-41.

[5] *Id.* at 40-41.

[6] *Id.* at 43-54.

[7] *Id.* at. 53-54.

[8] Records, p. 120.

[9] Rollo, p. 31.

[10] *Id.* at 12.

[11] Rules of Court, Rule 45, Sec. 1.

[12] *Cabalen Management Co., Inc. v. Quiambao*, G.R. No. 169494, March 14, 2007, 518 SCRA 342, 348-349.

[13] *Marival Trading, Inc. v. National Labor Relations Commission*, G.R. No. 169600, June 26, 2007, 525 SCRA 708, 731; *G & M Philippines, Inc. v. Cuambot*, G.R. No. 162308, November 22, 2006,

507 SCRA 552, 569-570.

[14] *G & M Philippines, Inc. v. Cruz*, G.R. No. 140495, April 15, 2005, 456 SCRA 215, 221.

[15] *G & M Philippines, Inc. v. Cuambot*, *supra* note 13.

[16] *Id.* at 570.

[17] Annexes "9-1" to "9-4," CA rollo, pp. 48, 51.

[18] *Id.* at 52.

[19] *Id.* at 47, 50.

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