

ROSALINDA G. PAREDES, PETITIONER, VS. FEED THE CHILDREN PHILIPPINES, INC. AND/OR DR. VIRGINIA LAO, HERCULES PARADIANG AND BENJAMIN ESCOBIA, RESPONDENTS.

G.R. No. 184397. September 09, 2015

Ponente: PERALTA, J.

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PERALTA, J.:

For this Court's resolution is a petition for review on certiorari, dated October 23, 2008, of petitioner Rosalinda G. Paredes, seeking to reverse and set aside the Decision[1] dated March 25, 2008 and Resolution[2] dated August 28, 2008 of the Court of Appeals (CA). The assailed Decision annulled and set aside the rulings of the National Labor Relations Commission (NLRC) Fourth Division, Cebu City and affirmed the rulings of the Labor Arbiter (LA), which held that petitioner voluntarily resigned and was not constructively dismissed.

The antecedents are as follows:

Respondent Feed the Children Philippines, Inc. (FTCP) is a non-stock, non-profit, and non-government organization duly incorporated under the Philippine laws in 1989. Its objective is to provide food, clothing, educational supplies and other necessities of indigent children worldwide[3] Respondents Dr. Virginia Lao, Hercules Paradiang and Benjamin Escobia were members of the FTCP Board of Trustees (Board) and Executive Committee (Execom) of FTCP.[4]

Petitioner Rosalinda Paredes was FTCP's National Director. Her functions and duties include project management, fund accessing, income generation, financial management, and administration of the organization. She also signed all the FTCP checks and approved all requisitions and disbursements of FTCP funds.[5] As per FTCP's By-laws, it was also her duty to execute all resolutions and/or decisions of the Board.[6]

Petitioner was first hired by FTCP in 1999 as Country Director. Her contract was renewed several times until her last contract for the period from October 1, 2004 to September 30, 2007. Her initial salary was US\$1000.00 and then later, she was paid P70,000.00 aside from other benefits and allowances.[7]

On August 12, 2005, forty-two (42) FTCP employees signed a petition letter addressed to the Board expressing their complaints against alleged detestable practices of petitioner, to wit: seeking exemption from policies which she herself had approved; withholding organization funds despite approval of its release; procuring health insurance for herself without paying her share of the premium; and receiving additional fees contrary to the terms of her contract.[8]

The next day, August 13, 2005, the staff of FTCP called Lao to a meeting to submit their petition. They included Atty. Edgar Chatto, then Chairman of the Board, in the meeting when they realized that it was only her and Escobia who were present. The group was edgy and demanded for outright solution. However, the three Board members told them that they should follow a process.[9]

Petitioner learned from Atty. Chatto that Program Manager Primitivo Fostanes and his co-employees prepared a

petition questioning her leadership and management of FTCP. She filed an administrative complaint against Fostanes on August 24, 2005, but the same was not acted upon.[10]

When the Board convened for a meeting on August 28, 2005, petitioner was not allowed to participate. She was only allowed to join the meeting after three hours. As ex officio member of the Board and as head of the secretariat, she was always present in every meeting to discuss her reports, programs and proposals.[11]

During the meeting, the Board discussed the animosity between the petitioner and the staff of FTCP and how they would address the issue since they have inadequate grievance mechanism for issues involving top management.[12] According to Lao, petitioner became combative in issuing memos and filing of administrative charges.[13] Atty. Chatto recounted that when petitioner heard about the protesting senior management and staff, her initial reaction was to resign but then she asked that the complaints be put in writing.[14] After their discussion, they called the representatives of the complaining staff and petitioner to air their side.

Consequently, the Board decided that: Acting Board Chair Lao will issue a back-to-work memorandum and status quo to ensure that all the scheduled tasks be accomplished; there will be a Supervisory Team, composing of Lao and Escobia, that will draw a definite work plan and be compensated; the Supervisory Team will not replace the functions of the National Director; and FTCP will hire an independent professional management and financial auditor.[15]

Petitioner sent letters to the Board inquiring about the scope of audit. When the Board did not respond, her lawyers demanded Lao to address petitioner's concerns regarding the management and financial audit and that the manual of operations be strictly followed.[16] In another letter, her lawyers informed individual respondents that petitioner raised the legality and propriety of the conduct of the audit, thus, they requested that they desist from conducting the audit. The letter also indicated that failure to do so would implead them as respondents in a preliminary injunction case that they would file.[17]

While she was at an orientation for local government officials of Surigao del Norte at the Bohol Tropics Resort on October 24, 2005, petitioner received a phone call from her staff at FTCP that the auditors from SRD & Co. were already at their office. Lao also called to instruct her that she should meet the auditors and accommodate them. She refrained from obeying the order and was adamant that she should receive her requested information first.[18]

On October 26, 2005, the FTCP management executive committee, headed by petitioner, informed the Board that they were not afraid of the audit. They wanted due process as provided by the by-laws, manual of operations, and manual of financial policies and accounting procedures approved by the Board itself. They also inquired about the meetings and processes of the Execom that they were not aware of. Lastly, they asked for a dialogue to settle their differences.[19]

On the same date, petitioner wrote an electronic mail (e-mail) to Dr. Larry Jones, the founder of Feed the Children International, Inc. and reported that Paradiang and two members of the Board initiated a surprise and secret audit. She expressed that the management was upset to the manner of conducting the audit. She also insinuated that Paradiang was always after her despite steering the organization to development. She intimated that she would legally protect herself should she be illegally dismissed and that they would seek relief from the harassment by Paradiang.[20]

The Board resolved to suspend petitioner because of her indifferent attitude and unjustified refusal to submit to an audit.[21] Before it could be implemented, respondent FTCP received her resignation letter.[22] In her resignation letter, she wrote that she can only serve the organization up to December 31, 2005. She found it no longer tenable to work with the Board since she had differences with majority of the members regarding resolutions, policies and

procedures.[23]

On October 29, 2005, the Board accepted her resignation with the condition that its effectivity be moved to November 30, 2005. She was not obliged to report for work and FTCP was willing to pay her salary for the month of November to aid her while she looked for other employment.[24]

Petitioner wrote to the members of management and foreign funders informing them that she was no longer connected with FTCP. She moved out all her belongings and even brought FTCP's documents.[25]

On November 2, 2005, petitioner filed a Complaint for illegal dismissal, claiming that she was forced to resign, thus, was constructively dismissed, and impleaded Lao, Paradiang and Escobia in their personal capacities.[26]

Upon failure of the parties to settle amicably, the mandatory conference was terminated.

In her position paper, petitioner alleged that she was not included in the Supervisory Team which performed her functions and issued memorandum directly to her subordinates. She also alleged that she was excluded from Execom meetings.[27]

Respondents, on the other hand, claimed that petitioner was signatory to all the bank checks of respondent FTCP and approved all requisitions and disbursements. She received an excess of US\$1,000.00 for her salary and did not return the same. They alleged that petitioner voluntarily resigned from her position and removed all her belongings from the FTCP.[28]

The LA ruled in favor of the respondents, the dispositive portion of the Decision[29] reads:

WHEREFORE, foregoing considered, the case is hereby DISMISSED for lack of merit and judgment is hereby rendered ordering complainant Rosalinda G. Paredes to pay the following:

1. One Hundred Forty-Three Thousand Six Hundred [F]orty-Six and 73/100 (P143,646.73) representing her accountabilities to respondent FTCP in Philippine Currency;
2. One Thousand Dollars (\$1,000.00) to respondent FTCP representing complainant's accountability in US Currency;
3. Five Hundred Thousand Pesos (P500,000.00) each to respondents Dr. Virginia Lao, Benjamin Escobia and Hercules Paradiang for moral damages;
4. One Million Pesos (P1,000,000.00) to respondent FTCP for damages incurred;
5. One Hundred Thousand Pesos (P100,000.00) to respondents collectively for exemplary damages; and
6. Attorney's Fees to 10% of the total award.

SO ORDERED.[30]

Undaunted, petitioner appealed the decision to the NLRC. In its Decision[31] dated March 28, 2007, the NLRC reversed and set aside the decision of the LA and ruled in her favor, the dispositive portion of which states:

WHEREFORE, premises considered, the decision of the Labor Arbiter dated 08 November 2006 is REVERSED and SET aside and a new one is entered, to wit:

I. Ordering respondent Feed the Children Philippines, Inc. to pay the complainant of her salaries and allowances corresponding to the unexpired portion of her contract in the aggregate amount of One Million Six Hundred Eighty-Five Thousand Nine Hundred and 00/100 (P1,685,900.00), broken down as follows:

a. Salaries corresponding to the unexpired portion of the contract

- P1,610,000.00

b. Transportation allowances

- 29,900.00

c. Representation allowances

- 46,000.00

Total

P1,685,900.00;

and

2. Ordering respondent Feed the Children Philippines, Inc. to pay complainant of moral damages in the amount of One Hundred Thousand Pesos (P100,000.00); and exemplary damages in the amount of One Hundred Thousand Pesos (P100,000.00).

Respondents Dr. Virginia Lao, Hercules Paradiang and Benjamin Escobia are absolved from any liability for lack of legal basis.

SO ORDERED.[32]

In a Resolution[33] dated June 14, 2007, the NLRC dismissed the motion for reconsideration of the respondents. Thus, respondents filed before the CA a petition for certiorari. The CA ruled for the respondents. The fallo of said decision reads:

WHEREFORE, the Decision dated March 28, 2007 and the Resolution dated June 14, 2007, of the National Labor Relations Commission (NLRC), Fourth Division, Cebu City, in NLRC Case No. V-000074-2007, are NULLIFIED and a new one rendered as follows:

1. Declaring private respondent to have voluntarily resigned from her employment/consultancy with FTCP;
2. Directing private respondent to pay FTCP
 - a. Thirty-four thousand four hundred thirty-eight pesos and 37/100 (P34,438.37) for her unpaid loans;
 - b. One hundred nine thousand two hundred eight pesos and 36/100 (P109,208.36) respecting her disbursement and withdrawals from the FTCP Provident Fund.

Costs against private respondent.

SO ORDERED[34]

The CA did not find any valid reason to disturb its decision, hence, it denied petitioner's Motion for Reconsideration.[35]

In this recourse, petitioner raises the following issues for this Court's consideration:

- I. The CA contravenes the law and jurisprudence when it granted the petition for certiorari that raised questions factual in nature and when it sweepingly applied the ruling in *St. Martin Funeral Homes* to justify its act of delving into the findings of the NLRC which were outside the scope of extraordinary remedy of certiorari.
- II. The CA grossly contradicts the law and jurisprudence on constructive dismissal and ignored, misunderstood or misinterpreted cogent facts and circumstances which, if considered, would change the outcome of the case when it ruled that petitioner voluntarily resigned and was not constructively dismissed.
- III. The CA effectively reverses the law and jurisprudence on damages and recognized money claims in labor cases when it condemned petitioner to pay respondents' claims for damages that were not duly proven by the

latter and that clearly did not arise from an employer-employee relationship.

IV. The CA violates the Constitution, the law and the prevailing jurisprudence when it resolved the lingering doubts that remain in the present case, as those arising from evidence and from interpretation of agreements and writings, against labor.

The present petition is partly meritorious.

It is elementary that this Court is not a trier of facts, and only errors of law are generally reviewed in petitions for review on certiorari. Judicial review of labor cases does not go beyond the evaluation of the sufficiency of the evidence upon which its labor officials' findings rest. As such, the findings of facts and conclusion of the NLRC are generally accorded not only great weight and respect but even clothed with finality and deemed binding on this Court as long as they are supported by substantial evidence.[36]

However, if the factual findings of the LA and the NLRC are conflicting, as in this case, the reviewing court may delve into the records and examine for itself the questioned findings.[37] The exception, rather than the general rule, applies in the present case since the LA and the CA found facts supporting the conclusion that petitioner was not constructively dismissed, while the NLRC's factual findings contradicted the LA's findings. Under this situation, such conflicting factual findings are not binding on us, and we retain the authority to pass on the evidence presented and draw conclusions therefrom.

After judicious review on the records of the case, this Court deems it proper to disregard the findings of fact of the NLRC. This Court finds that the NLRC committed grave abuse of discretion when it ruled for the petitioner without substantial evidence to support its findings of facts and conclusion.

Petitioner, relying in the principle of finality and conclusiveness of the decisions of labor tribunals, faults the CA for reversing the findings of the NLRC and affirming the factual findings of the LA that she voluntarily resigned. She averred that the CA erred when it applied the ruling in the case of *St. Martin Funeral Homes v. NLRC*[38] to justify its inquiring into the findings of the NLRC which was outside the scope of extraordinary remedy of certiorari. She posited that NLRC's findings cannot be delved into without first declaring the decision itself to have been issued with grave abuse of discretion.[39]

Courts generally accord great respect and finality to factual findings of administrative agencies, like labor tribunals, in the exercise of their quasi-judicial function. However, this doctrine espousing comity to administrative findings of facts are not infallible and cannot preclude the courts from reviewing and, when proper, disregarding these findings of facts when shown that the administrative body committed grave abuse of discretion.[40]

It is settled that in a special civil action for certiorari under Rule 65, the issues are limited to errors of jurisdiction or grave abuse of discretion. However, in labor cases elevated to it via petition for certiorari, the CA is empowered to evaluate the materiality and significance of the evidence alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC in relation to all other evidence on record.[41]

The CA can grant this prerogative writ when the factual findings complained of are not supported by the evidence on record; when it is necessary to prevent a substantial wrong or to do substantial justice; when the findings of the NLRC contradict those of the LA; and when necessary to arrive at a just decision of the case.[42] To make this finding, the CA necessarily has to view the evidence if only to determine if the NLRC ruling had basis in evidence.[43]

Contrary to petitioner's contention, the CA, by express legal mandate and pursuant to its equity jurisdiction, may review factual findings and evidence of the parties to determine whether the NLRC gravely abused its discretion

in its findings.[44] Since this Court finds that the findings of the LA and NLRC contradicting and that the findings of NLRC are not supported by the evidence on record, we rule that it is within the CA's power to review the factual findings of the NLRC. Accordingly, this Court does not find erroneous the course that the CA took in resolving that petitioner was not constructively dismissed.

This Court, in turn, has the same authority to sift through the factual findings of both the CA and the NLRC in the event of their conflict.[45] This Court, therefore, is not precluded from reviewing the factual issues when there are conflicting findings by the Labor Arbiter, the NLRC and the Court of Appeals.[46]

Since petitioner admittedly resigned, it is incumbent upon her to prove that her resignation was involuntary and that it was actually a case of constructive dismissal with clear, positive and convincing evidence.[47]

Petitioner alleged that she was forced to resign by Lao, Paradiang and Escobia. For her, it was the overbearing and prejudiced attitude towards her by individual respondents that rendered her continued employment impossible, unreasonable or unlikely. She maintained that the prevailing working environment compelled her to disassociate with FTCP. She recounted that the individual respondents deliberately excluded her from important meetings despite being the chief executive officer and a fixture to all Board meetings.

Petitioner cited the August 28, 2005 Board meeting and a subsequent Execom meeting where she was apparently banished as proof of respondents' discrimination. She emphasized in all her pleadings that, aside from it being provided by the by-laws, she believed that her presence at all Board meetings cannot be dispensed with since it was through her effort that the Board of Trustees became functional. For her, she was isolated and singled out. She claimed that these circumstances clearly denoted that the actions of the respondents were motivated by discrimination and made in bad faith.

Case law holds that constructive dismissal occurs when there is cessation of work because continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or diminution in pay or both; or when a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee.[48] The test is whether a reasonable person in the employee's position would have felt compelled to give up his position under the circumstances.[49]

In this case, petitioner cannot be deemed constructively dismissed. She failed to present clear and positive evidence that respondent FTCP, through its Board of Trustees, committed acts of discrimination, insensibility, or disdain towards her which rendered her continued employment unbearable or forced her to terminate her employment from the respondent. As settled, bare allegations of constructive dismissal, when uncorroborated by the evidence on record, cannot be given credence.[50]

It is highly unlikely and incredible for someone of petitioner's position and educational attainment to so easily succumb to individual respondents' alleged harassment without defending herself. In fact, records reveal that she wrote directly to Jones when her contract was not to be renewed and whenever she felt threatened. She vehemently opposed the audit and openly disobeyed the Board when she was not informed of the scope. She, along with other management staff, questioned the meetings of the Execom that they were not informed.[51] It is also noted that her husband is a lawyer and that she employed lawyers who sent a series of demand letters to the Board to provide her the details of the audit and even ordered the Board to desist from pursuing the audit.

There was no urgency for petitioner to submit her resignation letter. In fact, the day before it was given, she and other management staff requested for a dialogue with the Board to address the issue regarding the management and financial audit.[52] It is, therefore, improbable that her continued employment is rendered impossible or unreasonable.

Records do not show any demotion in rank or a diminution in pay made against her. Petitioner claimed that the fact that the Supervisory Team performed her functions and issued memorandum directly to her subordinates, and her being barred from subsequent Execom meetings constituted constructive dismissal. However, there was no evidence to corroborate her claim of usurpation. She did not present evidence of the supposed direct memorandum issued by the Supervisory Team to the staff. Aside from the minutes of the September 29, 2005 meeting of the Execom, there was no other proof of petitioner's exclusion from other subsequent Execom meetings.

We find that, apart from her self-serving and uncorroborated allegations, petitioner did not present any substantial evidence of constructive dismissal. She was not able to present a single witness to corroborate her claims of harassment by Lao, Paradiang and Escobia.

Petitioner supported her claim with the minutes of the August 28, 2005 meeting and another minutes of the meeting of the Execom that she was excluded. She argued that her sudden exclusion from board meetings despite established practice constituted grave abuse of managerial rights of the respondent FTCP.

We are not persuaded that her exclusion to the meeting constituted discrimination or harassment. A careful perusal of the minutes would reveal that the Board convened to deliberate on the solution to the apparent conflict between petitioner and the staff since they have insufficient grievance mechanism for issues involving top management. She could not fault the Board to not include her in that particular meeting since she was a party involved and to avoid possible influence that she could have exerted.

Petitioner presented documents like e-mail correspondences with Paradiang about the non-renewal of her contract earlier in her employment, e-mail correspondences to Jones about harassment towards her and specifically mentioning Paradiang, demand letters from her and her lawyers, her resignation letter, and the board resolution accepting her resignation. These do not verify that respondents committed discrimination or disdain towards her. Hence, her allegations are self-serving and uncorroborated and should not be given evidentiary weight.

On the other hand, respondent FTCP presented a letter[53] dated August 28, 2005 written by petitioner addressed to the Board wherein she presented her side about the petition of the employees against her. She also praised the Board for strengthening the organization, for putting valuable policies in the organization, and for opening the organization to new partnerships.

In another letter[54] dated September 6, 2005, she reported that on the same date as the August 28 Board meeting, she and Fostanes met to discuss concerns and apologized for what happened and other members of management also apologized and accepted the reconciliation that she extended to them. She also reported that during the September 5, 2005 General Staff meeting, the issues were discussed, feelings and sentiments were shared, and concluded with a firm commitment from everyone to rebuild the good name of FTCP and work together to enhance its system and maintain its integrity.

The letters did not mention nor hinted that petitioner protested about being excluded from the meeting which she has considered as a hearing against her. It did not even reveal that there was undue prejudice from individual respondents. Records are bereft of proof that she even attempted to address the Board about the supposed discrimination or disdain by individual respondents. It is only upon filing of the illegal dismissal case that she alleged that she felt that she was discriminated against and treated with disdain by respondents.

Respondents presented an affidavit and a police blotter[55] attesting that some employees who signed in the August 12 letter-petition were intimidated by the secretary of petitioner's lawyer-husband to sign a recantation. She refuted the same by alleging that they could have not known that it was recantation when it appeared in the

blotter that they only saw the page they were made to sign. Respondents also presented an affidavit[56] attesting that petitioner intimidated an employee by telling her that she would file suits against those who defamed her when the employee refused to recant her signature in the petition against her.

For petitioner, the fact that the effectivity of her resignation was moved to November showed the eagerness of Lao, Paradiang and Escobia to get rid of her.[57]

We held that the act of the employer moving the effectivity of the resignation is not an act of harassment. The 30-day notice requirement for an employee's resignation is actually for the benefit of the employer who has the discretion to waive such period. Its purpose is to afford the employer enough time to hire another employee if needed and to see to it that there is proper turn-over of the tasks which the resigning employee may be handling.[58]

Such rule requiring an employee to stay or complete the 30-day period prior to the effectivity of his resignation becomes discretionary on the part of management as an employee who intends to resign may be allowed a shorter period before his resignation becomes effective.[59]

Thus, the act of respondents moving the effectivity date of petitioner's resignation to a date earlier than what she had stated cannot be deemed malicious. This cannot be viewed as an act of harassment but merely the exercise of respondent's management prerogative. We cannot expect employers to maintain in their employ employees who intend to resign, just so the latter can have continuous work as they look for a new source of income.

Petitioner alleged that the CA erred when it ruled that she should pay respondents' claims for damages. She maintained that they were not duly proven and that they clearly did not arise from an employer-employee relationship.

This Court held that the "money claims of workers" referred to in Article 217[60] of the Labor Code embraces money claims which arise out of or in connection with the employer-employee relationship, or some aspect or incident of such relationship.[61]

Applying the rule of *noscitur a sociis* in clarifying the scope of Article 217, it is evident that paragraphs 1 to 5 refer to cases or disputes arising out of or in connection with an employer-employee relationship. In other words, the money claims within the original and exclusive jurisdiction of labor arbiters are those which have some reasonable causal connection with the employer-employee relationship.[62]

This claim is distinguished from cases of actions for damages where the employer-employee relationship is merely incidental and the cause of action proceeds from a different source of obligation. Thus, the regular courts have jurisdiction where the damages claimed for were based on: tort, malicious prosecution, or breach of contract, as when the claimant seeks to recover a debt from a former employee or seeks liquidated damages in the enforcement of a prior employment contract."[63]

By the designating clause "arising from the employer-employee relations," Article 217 applies with equal force to the claim of an employer for actual damages against its dismissed employee, where the basis for the claim arises from or is necessarily connected with the fact of termination, and should be entered as a counterclaim in the illegal dismissal case.[64]

In this case, the CA erred in awarding P34,438.37 for petitioner's unpaid debt to respondents. The claim for recovery of a debt has no reasonable causal connection with any of the claims provided for in Article 217. The fact that the transaction happened at the time they were employer and employee did not negate the civil jurisdiction of trial court. Hence, it is erroneous for the LA and the CA to rule on such claim arising from a

different source of obligation and where the employer-employee relationship was merely incidental.

Likewise, the CA erred in awarding P109,208.36 for the reimbursement of the FTCP provident Fund allegedly withdrawn by petitioner. Although it was entered by the respondents in its counterclaim, this claim does not arise from or is necessarily connected with the fact of termination. It also had no reasonable causal connection with employer-employee relationship.

Lastly, petitioner maintained that the CA erred when it resolved the lingering doubt in the present case against labor. She alleged that the CA violated the Constitution, the law, and jurisprudence.

We held that the law and jurisprudence guarantee security of tenure to every employee. However, in protecting the rights of the workers, the law does not authorize the oppression or self-destruction of the employer. Social justice does not mean that every labor dispute shall automatically be decided in favor of labor. Thus, the Constitution and the law equally recognize the employer's right and prerogative to manage its operation according to reasonable standards and norms of fair play.[65]

It is settled that the law serves to equalize the unequal. The labor force is a special class that is constitutionally protected because of the inequality between capital and labor. This constitutional protection presupposes that the labor force is weak. However, the level of protection to labor should vary from case to case; otherwise, the state might appear to be too paternalistic in affording protection to labor.[66] Petitioner could not expect to have the same level of ardent protection that the laws bestow upon a lowly laborer be given to her, a high ranking officer of respondent FTCP. As proven, she was considered on equal footing with her employer and even had the occasion to demand the renewal of her contract by sending an e-mail to the organization's founder.[67]

We cannot subscribe to petitioner's allegation that the CA ruled against labor when it resolved the factual issues of the case. As discussed, it is well within the powers and jurisdiction of the CA to evaluate the evidence alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC, or as in the present case, for considering petitioner's bare allegations without support of substantial evidence. This Court finds that the CA did not violate the Constitution, the law and jurisprudence. Hence, the resolution of the doubt as to whether petitioner voluntarily resigned or was constructively dismissed based on the evidence on record was proper and was not against labor.

WHEREFORE, the petition for review on certiorari, dated October 23, 2008, of petitioner Rosalinda G. Paredes is hereby PARTLY GRANTED. Accordingly, the ruling of the Court of Appeals in its Decision dated March 25, 2008, that petitioner was not constructively dismissed, is hereby AFFIRMED. However, the awards of P34,438.37 and P109,208.36 for the unpaid debt of petitioner and reimbursement of the FTCP provident Fund, respectively, are hereby SET ASIDE.

SO ORDERED.

Velasco, Jr., (Chairperson), Villarama, Jr. Perez[*] and Jardeleza, JJ., concur.

October 6, 2015

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ___September 9, 2015___ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 6, 2015 at

2:15 p.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[*] Designated Acting Member in lieu of Associate Justice Bienvenido. L. Reyes, per Special Order No. 2112 dated July 16, 2015

[1] Penned by Associate Justice Amy C. Lazaro-Javier, with Associate Justices Pampio A. Abarintos and Francisco P. Acosta, concurring; rollo, pp. 61-80.

[2] Penned by Associate Justice Amy C. Lazaro-Javier, with Associate Justices Francisco P. Acosta and Stephen C. Cruz, concurring; Id. at 81-82.

[3] Rollo p. 62.

[4] Id. at 820.

[5] Id. at 65.

[6] Id. at 159.

[7] Id. at 821.

[8] Id. at 66.

[9] Id. at 214.

[10] Id. at 63.

[11] Id.

[12] Id. at 213.

[13] Id. at 216.

[14] Id. al 215.

[15] Id. at 355.

[16] Id.at 678.

[17] Id. at 290.

[18] Id. at 114.

[19] Id. at 681.

[20] Id. at 693-696.

[21] Id. at 357-358.

Petitioner's resignation letter reads: Dear Members of the Board of Trustees:

I am tendering notice to the Board that I can serve the organization only up to December 31, 2005. Please

consider me resigned as the National Director and from Feed the Children Philippines, Inc. effective January 01, 2006.

I have found that working with the present Board of FTCP is no longer tenable. There are resolutions, policies and procedures of the organization the present implementation of which I have major differences with the majority of the Board.

The remaining time of my stay in the organization will be spent for turnover and smooth transition to the next National Director the Board will appoint.

Very truly yours,

ROSALINDA G. PAREDES (Sgd.) (Id. at 357).

[23] Id. at 274.

[24] The Board Resolution accepting Petitioner's resignation reads -

Please be advised that the Board of Trustees has accepted your Resignation as per your Resignation letter dated October 27, 2005, but subject to the condition that its effectivity be moved to November 30, 2005 and not December 31, 2005 as you stated.

Furthermore, to give you ample time to look for other opportunities outside of FTCP, the Board is willing to pay your whole month salary for the month of November 2005 but you are not obliged to report for work during the said period.

The Board would like to express its sincere gratitude for the invaluable services you have rendered to the organization during your stay.

We wish you luck in all your future endeavors. (Id. at 335)

[25] Rollo p. 359.

[26] Id. at 822.

[27] Id. at: 948.

[28] Id. at 948-949.

[29] Penned by Labor Arbiter Fructuoso T. Villarin IV; Id. at 820-839.

[30] Id. at 838.

[31] Penned by Commissioner Oscar S. Uy, with Commissioner Aurelio D. Menzon, concurring; rollo pp. 944-956.

[32] Id. at 955. (Emphasis omitted)

[33] Penned by Commissioner Oscar S. Uy, with Presiding Commissioner Violela O. Bantug and Commissioner Aurelio D. Menzon, concurring; Id. at 987-990.

[34] Rollo, pp. 79-80 (Emphasis omitted).

[35] Id. at 81.

[36] *Acebedo Optical v. National Labor Relations Commission*, 554 Phil. 524, 541 (2007).

[37] *Agabon v. National Labor Relations Commission*, 458 Phil. 248, 277 (2004).

[38] 356 Phil. 811(1998).

[39] Rollo, p. 13.

[40] *Diamond Taxi v. Llamas, Jr.*, G.R. No. 190724, March 12, 20 14, 719 SCRA 10, 21.

[41] *Univac Development, Inc. v. Soriano*, G.R. No. 182072, June 19, 2013 699 SCRA 88 98.

[42] *Id.*

[43] *Diamond Taxi v. Llamas, Jr.*, supra note 40.

[44] *Id.*

[45] *Pepsi-Cola Products Philippines, Inc. v. Molon*, G.R. No. 175002, February 18, 2013, 691 SCRA 113, 125.

[46] *Plastimer Industrial Corporation, et al. v. Gopo, et al.*, 658 Phil. 627, 633 (2011).

[47] *Hechanova Bugay Vilchez Lawyers v. Matorre*, G.R. No. 198261, October 16, 2013, 707 SCRA 570, 582.

[48] *Uniwide Sales Warehouse Club, et al. v. NLRC, et al.*, 570 Phil. 535, 549 (2008).

[49] *Tan Brothers Corporation of Basilan City v. Escudero*, G.R. No. 188711, July 8, 2013, 700 SCRA 583, 595.

[50] *Hechanova Bitgay Vilchez Lawyers v. Matorre*, supra note 47, at 580.

[51] Rollo, p 681.

[52] *Id.*

[53] Rollo, pp. 663-665.

[54] *Id.* at 672.

[55] *Id.* at 630-634.

[56] *Id.* at 699-700.

[57] *Id.* at 115-116.

[58] *Hechanova Bugay Vilchez Lawyers v. Matorre*, supra note 47, at 581.

[59] *Id.* Citing *II C.A. Azucena, Jr., The Labor Code with Comments and Cases*, 888 (2007, 6th ed.).

[60] Art. 217. Jurisdiction of the Labor Arbiters and the Commission.

1. Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

1. Unfair labor practice cases;
2. Termination disputes;
3. If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment;
4. Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;
5. Cases arising from any violation of Article 264 of this Code, including questions involving the legality of

strikes and lockouts; and

6. Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement.

[61] *Portillo v. Rudolf Lietz, Inc.*, G.R. No. 196539, October 10, 2012, 683 SCRA 568, 579, citing *San Miguel Corporation v. NLRC*, 244 Phil. 740, 747-748 (1988).

[62] *Id.*

[63] *Id.* at 582, citing *Bañez v. Hon. Valdevilla*, 387 Phil. 601, 608 (2000).

[64] *Id.*

[65] *Imasen Philippine Manufacturing Corporation v. Ramonchito T. Alcon and Joann S. Papa*, G.R. No. 194884, October 22, 2014, citing *Mercury Drug Corporation v. NLRC*, 258 Phil. 384, 391 (1989).

[66] *Fuji Television Network, Inc. v. Ariene S. Espiritu*, G.R. Nos. 204944-45, December 3, 2014.

[67] *Rollo*, pp. 204-208, 210.

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