NIÑA JEWELRY MANUFACTURING OF METAL ARTS, INC. (OTHERWISE KNOWN AS NIÑA MANUFACTURING AND METAL ARTS, INC.) AND ELISEA B. ABELLA, PETITIONERS, VS. MADELINE C. MONTECILLO AND LIZ...

G.R. No. 188169. November 28, 2011

Ponente: REYES, J.

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REYES, J.:

The Case

Before us is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court assailing the January 9, 2009 Decision[2] and the May 26, 2009 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 01755. The dispositive portion of the assailed Decision reads:

> WHEREFORE, the Decision dated August 31, 2005 and Resolution dated October 28, 2005 of the National Labor Relations Commission (NLRC), Fourth Division, Cebu City, in NLRC Case No. V-000363-2005 are REVERSED and SET ASIDE, and a new one rendered ordering Niña jewelry Manufacturing:
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> (1)
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> to reinstate petitioners to their respective positions as goldsmiths without loss of seniority rights and other privileges; and
>
> (2)
>
> to pay petitioners their full backwages inclusive of allowances and other benefits or their monetary equivalent computed from the time their compensation was withheld up to their actual reinstatement.

The case is REMANDED to the Labor Arbiter for the RECOMPUTATION of the total monetary award due to petitioners in accord with this decision. The Labor Arbiter is ORDERED to submit his compliance within thirty; (30) days from notice of this decision, with copies furnished to the parties.[4] (citations omitted)

The assailed Resolution denied the petitioners' Motion for Reconsideration.[5]

The Factual Antecedents

Madeline Montecillo (Madeline) and Liza Trinidad (Liza), hereinafter referred to collectively as the respondents, were first employed as goldsmiths by the petitioner Niña Jewelry Manufacturing of Metal Arts, Inc. (Niña Jewelry) in 1996 and 1994, respectively. Madeline's weekly rate was P1,500.00 while Liza's was P2,500.00. Petitioner Elisea Abella (Elisea) is Niña Jewelry's president and general manager.

There were incidents of theft involving goldsmiths in Niña Jewelry's employ.

On August 13, 2004, Niña Jewelry imposed a policy for goldsmiths requiring them to post cash bonds or deposits

in varying amounts but in no case exceeding 15% of the latter's salaries per week. The deposits were intended to answer for any loss or damage which Niña Jewelry may sustain by reason of the goldsmiths' fault or negligence in handling the gold entrusted to them. The deposits shall be returned upon completion of the goldsmiths' work and after an accounting of the gold received.

Niña Jewelry alleged that the goldsmiths were given the option not to post deposits, but to sign authorizations allowing the former to deduct from the latter's salaries amounts not exceeding 15% of their take home pay should it be found that they lost the gold entrusted to them. The respondents claimed otherwise insisting that Niña Jewelry left the goldsmiths with no option but to post the deposits. The respondents alleged that they were constructively dismissed by Niña Jewelry as their continued employments were made dependent on their readiness to post the required deposits.

NIña Jewelry averred that on August 14, 2004, the respondents no longer reported for work and signified their defiance against the new policy which at that point had not even been implemented yet.

On September 7, 2004, the respondents filed against Niña Jewelry complaints[6] for illegal dismissal and for the award of separation pay.

On September 20, 2004, the respondents filed their amended complaints[7]' which excluded their earlier prayer for separation pay but sought reinstatement and payment of backwages, attorney's fees and 13[th] month pay.

Labor Arbiter Jose Gutierrez (LA Gutierrez) dismissed the respondents' complaints for lack of merit but ordered Niña Jewelry to pay Madeline the sum of P3,750.00, and Liza, P6,250.00, representing their proportionate entitlements to 13[th] month pay for the year 2004. LA Gutierrez ratiocinated that:

> Their [respondents] claim is self-serving. As evidence to (sic) their claims that they were made to sign blank trust receipts, complainants presented Annexes 'A'[,] 'C' and 'C'. Our examination, however, shows that they are not blank trust receipts but rather they are filled up trust receipts.
>
> The undisputed facts show that complainants were piece workers of the respondent who are engaged in the processing of gold into various jewelry pieces. Because of the nature of its business, respondent was plagued with too many incidents of theft from its piece workers, x x x This deposit [not exceeding 15% of the salary for the week of the piece worker] is released back upon completion of work and after accounting of the gold received by him or her. There is an alternative, however, the piece worker may opt not to give a deposit, instead sign an authorization to allow the respondent to deduct from the salary an amount not to exceed 15% of his take home pay, should it be found out that he lost the gold [entrusted] to him or her due to his or her fault or negligence. The complainants did not like to post a deposit, or sign an authorization. They instead told their fellow goldsmiths that they will bring the matter to the Labor Commission. Complainants did not anymore report for work and did not anymore perform their tasks. The fact of complainants not being dismissed from employment was duly attested to by his co-workers who executed their Joint Affidavit under oath, Annex '4'.
>
> As further evidence to prove that they were dismissed, complainants presented the minutes of [the] Sept. 7, 2004 conference.
>
> We examined the statements therein, we find that there is no admission on the part of the respondents that they terminate[d] the complainants from employment. Respondents only inform[ed] the complainants to put up the appropriate cash bond before they could be allowed to return back to work which they previously refused to perform, as a sign of their protest to the requirement to post cash bond or to sign an authorization.
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> x x x x
>
> x x x It is clearly shown that complainants were paid with their 13[th] month pay for the year 2001, 2002 and 2003. However, for the year 2004, considering that complainants have worked until the month of August, we

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> rule to grant them the proportionate 13[th] month pay as there is no showing that they were already paid. The other money claims are denied for lack of merit, xxx.[8]

The respondents filed an appeal before the NLRC which affirmed LA Gutierrez's dismissal of the amended complaints but deleted the award of 13n month pay based on findings that the former had contracted unpaid individual loans from Niña Jewelry. The NLRC found that:

> xxx [I]t was complainants who refused to work with the respondents when they were required to post cash bond or sign an authorization for deduction for the gold material they received and to be manufactured into various jewelries, xxx We find it logically sound for the latter [Niña Jewelry] to innovate certain policy or rule to protect its own business. To deprive them of such prerogative [management prerogative] will be likened to 'killing the goose that lays the golden eggs."
>
> xxx [C]omplainants failed to prove their affirmative allegations in the respective complaints that they were indeed dismissed. On the contrary, respondents have convincingly shown that if (sic) were complainants who voluntarily abandoned from (sic) their work by refusing to abide with the newly adopted company policy of putting up a cash bond or signing an authorization for deduction for the gold materials entrusted to them in case of loss or pilferage.
>
> xxx [B]oth complainants are still indebted with (sic) the respondents in the amounts of P5,118.63 in the case of Madeline Montecillo and P7,963.11 in the case of Liza Montecillo. Such being the case[,] Madeline Montecilo has still on account payable of P1,368.63 while Liza Montecillo is still indebted of P1,713.71. This principle of offsetting of credit should be allowed to preclude unjust enrichment at the expense of the respondents. [9]

The respondents filed a Petition for Certiorari[10] before the CA ascribing patent errors in the appreciation of facts and application of jurisprudence on the part of the NLRC when it ruled that what occurred was not a case of illegal dismissal but of abandonment of work.

On January 9, 2009, the CA rendered the now assailed Decision[11] reversing the findings of the LA and the NLRC. The CA ruled:

> According to [the] private respondents, they required a deposit or cash bond from [the] petitioners in order to secure their interest against gold thefts committed by some of their employees. If the employee fails to make the required deposit, he will not be given gold to work on. Further, [the] private respondents admitted during the conciliation proceedings before Executive Labor Arbiter Violeta Ortiz-Bantug that [the] petitioners would only be allowed back to work after they had posted the proportionate cash bond.
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> The Labor Code of the Philippines provides:
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> ART. 113. Wage Deduction. - No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees, except:
>
> (a) In cases where the worker is insured with his consent by the employer, and the deduction is to recompense the employer for the amount paid by him as premium on the insurance;
>
> (b) For union dues, in cases where the right of the worker or his union to check-off has been recognized by the employer or authorized in writing by the individual worker concerned; and
>
> (c) In cases where the employer is authorized by law or regulations issued by Secretary of Labor.

Article 114. Deposits for loss or damage. - No employer shall require his work to make deposits from which deductions shall be made for the reimbursement of loss of or damage to tools, materials, or equipment supplied by the employer, except when the employer is engaged in such trades, occupations or business where the practice of making deposits is a recognized one, or is necessary of desirable as determined by the Secretary of Labor in

appropriate rules and regulations.

Applying these provisions to the case at bar, before [the] petitioners may be required to deposit cash or agree to a salary deduction proportionate to the value of gold delivered to them, the employer must comply with the relevant conditions imposed by law. Hence, the latter must prove that there is an existing law or regulation authorizing it to impose such burden on its employees. And, in case of deposit, that it is engaged in a trade, occupation or business where such requirement is a recognized practice. Niña Jewelry obviuosly failed in this respect. Surely, mere invocation of management prerogative cannot excempt it from compliance with the strict requirements of law. Accordingly, [w]e hold that Niña Jewelry's unilateral imposition of cash deposits or salary deduction on [the] petitioners is illegal. For that matter, when Ni[ñ]a Jewelry refused to give assignment to [the] petitioner or to admit them back to work because they failed to give cash deposit or agree to a salary deduction, it was deemed to have constructively dismissed [the] petitioners. Obviously, such deposit or salary deduction was imposed as a condition for [the] petitioners' continuing employment. Non-compliance indubitably meant termination of [the] petitioners' employment. Suldao vs. Cimech System Construction, Inc. [12] enunciated:

> Constructive dismissal or a constructive discharge has been defined as quitting because continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay. There is constructive dismissal when the continued employment is rendered impossible so as to foreclose any choice on the employee's part except to resign from such employment.

The fact that [the] petitioners lost no time in filing the complaint for illegal dismissal lucidly negates [the] private respondents' claim that the former had abandoned their work. A contrary notion would not only be illogical but also absurd.[13] Indeed, prompt filing of a case for illegal dismissal, on one hand, is anathema to the concept of abandonment, on the other.

Finally, under Article 279 of the Labor Code, an illegally dismissed employee is entitled to reinstatement without loss of seniority rights and other privileges; full backwages, inclusive of allowances; and other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. [14] x x x.

As for damages, it is a rule that moral damages may be recovered where the dismissal of the employee was attended by bad faith or fraud or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy, x x x [w]e find that private respondents did not act with oppression, bad faith or fraud. They imposed a cash bond or deposit on here in petitioners in the honest belief that it was the best way to protect their interest against gold theft in the company, x x x. [15] (some citations omitted)

The Issues

The following are to be solved in the instant Petition for Review:[16]

> I.
> WHETHER OR NOT THE COURT OF APPEALS GROSSLY ERRED IN GIVING DUE COURSE TO THE PETITION [under Rule 65 of the Rules of Court], IN EFFECT, FINDING GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION ON THE PART OF THE NLRC, DESPITE THE FACT THAT THE SUBJECT DECISION AND RESOLUTION THEREIN ARE IN PERFECT ACCORD WITH THE EVIDENCE ON RECORD AND APPLICABLE LAWS.
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> II.
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> WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT THERE WAS CONSTRUCTIVE DISMISSAL IN THE PRESENT CASE AND ORDERING RESPONDENTS' REINSTATEMENT AS WELL AS THE PAYMENT OF THEIR BACKWAGES AND OTHER

MONETARY BENEFITS WITHOUT FACTUAL OR LEGAL BASES. [17]

The petitioners now argue that the CA should have outrightly dismissed the petition filed before it as the respondents had resorted to an erroneous mode of appeal. The arguments raised in the petition were the same ones already passed upon by the LA and NLRC. what the respondents sought was the CA's re-evaluation of the facts and evidence. The petition was thus based on purported errors of judgement which are beyond the province of a petition for certiorari.

The petitioners likewise insists that the respondents abandoned their work without due notice and to the prejudice of the former. The respondents are goldsmiths whose skills are indispensable to a jewelry manufacturing business, thus, it is not in accord with both logic and experience for the petitioners to just fire them only to rain new workers. Moreover, in the complaints and amended complaints, the respondents did not claim for reinstatement, hence, implying their admission that they were not terminated.

Further, under Articles 114 and 115[19] of the Labor Code, an employer may require a worker to post a deposit even before a loss or damage has occurred, provided that deductions from the deposit can be made only upon proof that the worker is liable for the loss or damage. In case no loss or damage is incurred, the deposit shall be returned to the worker after the conduct of an accounting which was what happened in the case at bar. This is a valid exercise of management prerogative the scope of which includes the setting of policies relative to working methods, procedures to be followed and working regulations. [20]

The petitioners stress that they did not transgress the respondents' rights. The respondents, who expressed to their co-workers their lack of fear to have their lack of fear to have their employment severed, are motivated by their greed to the extract money from the petitioners.

The petitioners conclude that the CA should have accorded respect to the findings of the LA and the NLRC especially since they were not arrived at arbitrarily or in disregard of he evidence on record.

In the respondents' Comment, [21] they reiterate the arguments they had presented in the proceedings below. The respondents emphasize that when they pleaded for reinstatement during the conference with the petitioners on September 7, 2004, the latter openly admitted without reservation that the former will only be allowed to return to work if they will post the required cash bond.

Further, the respondents claim that there was no plausible reason for them to abandon their employment considering the length of their service and the fact that they were being paid rates above the minimum wage. Citing Hantex Trading Co. Inc. v. Court of Appeals, [22] the respondents argue that no employee in his right mind would recklessly abandon his job to join the ranks of the unemployed and choose to unduly expose his family to hunger and untold hardship.

Besides, in Anflo Management & Investment Corp. v. Rodolfo Bolanio, [23] this Court had the occasion to state that the filing of a complaint for illegal dismissal is inconsistent with a charge of abandonment, for an employee who takes steps to protest his lay off cannot by any logic be said to have abandoned his work.

The respondents also claim that the petitioners misrepresented to this Court that the former did not pray for reinstatement as the dorsal portions of the amended complaints indicate otherwise.

Moreover, the petitioners failed to prove their authority granted by either the law, or regulations issued by the Secretary of Labor, allowing them to require their workers to post deposits. The petitioners also failed to establish that Niña Jewelry is engaged in a trade, occupation or business where the practice of making deposits is a recognized one or is considered as necessary or desirable by the Secretary of Labor.

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Citing Sections 12, [24] 13 [25] and 14, [26] Book III, Rule VIII of the Omnibus Rules Implementing the Labor Code (Omnibus Rules), the respondents posit that salary deductions made prior to the occurrence of loss or damage are illegal and constitute as undue interferences in the workers' disposal of their wages. Further, the workers must first be given the opportunity to show cause why deductions should not be made. If to be made, deductions should be fair, reasonable and should not exceed the actual loss or damage. In the case at bar the respondents were required to post cash bonds even when there is no proof yet of their fault or negligence.

In the petitioners' Reply,[27] they averred that the day after Niña Jewelry required from its employees the posting of deposits and even before the policy was actually implemented, the respondents promptly stopped reporting for work despite Elisek's attempt to get in touch with them. The petitioners convened the employees to discuss the propriety of imposing the new policy and to afford them ample opportunity to air their concerns. The respondents' acts contravene Article 19 of the New Civil Code (NCC) which requires every person to act with justice, give everyone his due and observe honesty and good faith.

Further, it is clear in the Minutes of the Conciliation Proceedings[28] before the LA that the respondents were not willing to be reinstated and preferred instead the payment of separation pay. Hence, no prayer for reinstatement was indicated in the original complaints filed by them. As an afterthought, however, they amended their complaints to reflect that they were likewise seeking for reinstatement.

The petitioners also point out that the doctrines in Hantex[29] and Anflo Management[30] cited by the respondents find no application in the case at bar. In Hantex, the employer presented mere cash vouchers to prove abandonment by the employee. In the case before us, sufficient evidence show that the respondents abandoned their work. In Anflo Management, the employer expressly uttered words terminating the employee who in turn filed a complaint the day right after the incident. In the case now under our consideration, the respondents merely made a bare claim of illegal dismissal.

Rightly so in Abad v. Roselle Cinema,[31]it was ruled that an employer's claim of not having Terminated an employee, when supported by substantial evidence, should not be outrightly overcome by the argument that an employee would not have filed a complaint for illegal dismissal if he were not really dismissed. The circumstances surrounding the separation from employment should be taken into account.

Under Article 114 of the Labor Code, the Secretary of Labor is conferred the authority to promulgate rules determining the circumstances when the making of deposits is deemed recognized, necessary or desirable. However, Section 14,[32] Book III, Rule VIII of the Omnibus Rules does not define those circumstances. What is defined is the circumstances when deductions can be made. It can thus be inferred that the intention is for the courts to determine on a case to case basis what should be considered as recognized, necessary or desirable especially in the light of the existence of myriads of businesses which are practically impossible to enumerate in modern society. The petitioners hence argue that the validity of requiring cash deposits should be scrutinized with due consideration of its reasonableness and necessity. Further, Article 1306 of the NCC allows contracting parties to establish stipulations, clauses, terms and conditions which they may deem convenient provided they do not contravene the law, morals, good customs, public order or public policy. In the case at bar, the policy adopted by the petitioners was neither unreasonable nor oppressive. It was intended to benefit all the contracting parties.

Lastly, while the respondents raise the issue of the illegality of deductions, the petitioners stress that it is academic because no deduction was actually made yet.

The Court's Ruling

The instant petition is partially meritorious.

The petitioners raise the procedural issue of whether or not the CA validly gave due course to the petition for certiorari filed before it under Rule 65 of the Rules of Court. As the substantive issue of whether or not the petitioners constructively dismissed the respondents is closely-intertwined with the procedural question raised, they will be resolved jointly.

Yolanda Mercado, et al. v. AMA Computer College-Paranaque City, Inc.33 is instructive as to the nature of a petition for review on certiorari under Rule 45, and a petition for certiorari under Rule 65, viz:

> xxx [R]ule 45 limits us to the review of questions of law raised against the assailed CA decision, In ruling for legal correctness, we have to view the CA decision in the same context that the petition for certiorari it ruled upon was presented to it; we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct. In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. In question form, the question to ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?[34]

It is thus settled that this Court is bound by the CA's factual findings. The rule, however, admits of exceptions, among which is when the CA's findings are contrary to those of the trial court or administrative body exercising quasi-judicial functions from which the action originated.[35] The case before us falls under the aforementioned exception.

The petitioners argue that the respondents resorted to an erroneous mode of appeal as the issues raised in the petition lodged before the CA essentially sought a re-evaluation of facts and evidence, hence, based on purported errors of judgment which are outside the ambit of actions which can be aptly filed under Rule 65.

We agree.

Again in Mercado, [36] we ruled that:

> xxx [I]n certiorari proceedings under Rule 65 of the Rules of Court, the appellate court does not assess and weigh the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their conclusion. The query in this proceeding is limited to the determination of whether or not .the NLRC acted without or in excess of its jurisdiction or with grave abuse of discretion in rendering its decision. However, as an exception, the appellate court may examine and measure the factual findings of the NLRC if the same are not supported by substantial evidence, x x x.[37]

In the case at bench, in the petition for certiorari under Rule 65 filed by the respondents before the CA, the following issues were presented for resolution:

> I.
>
> WHETHER OR NOT PUBLIC RESPONDENT [NLRC] committed patent errors in the appreciation of facts and application of pertinent jurisprudence amounting to grave abuse of discretion or lack or in excess of jurisdiction WHEN IT HELD THAT PRIVATE RESPONDENTS [herein petitioners] ARE NOT GUILTY OF ILLEGAL DISMISSAL BECAUSE IT WAS THE PETITIONERS [herein private respondents] WHO ABANDONED THEIR JOB AND REFUSED TO WORK WITH RESPONDENTS WHEN THEY WERE REQUIRED TO PUT UP CASH BOND OR SIGN AN AUTHORIZATION FOR DEDUCTION.
>
> II.
>
> WHETHER OR NOT PUBLIC RESPONDENT committed patent errors in the appreciation of facts and

> application of pertinent jurisprudence amounting to grave abuse of discretion or lack or in excess of jurisdiction WHEN IT DID NOT ORDER THE REINSTATEMENT OF HEREIN PETITIONERS AND DELETED THE AWARD OF 13[th] MONTH PAY AND DENIED THE CLAIMS OF ATTORNEY'S FEES, DAMAGES AND FULL BACKWAGES. [38]

Essentially, the issues raised by the respondents for resolution by the CA were anchored on an alleged misappreciation of facts and evidence by the NLRC and the LA when they both ruled that abandonment of work and not constructive dismissal occurred.

We agree with the petitioners that what the respondents sought was a re-evaluation of evidence, which, as a general rule cannot be properly done in a petition for certiorari under Rule 65, save in cases where substantial evidence to support the NLRC's findings are wanting.

In Honorable Ombudsman Simeon Marcelo v. Leopoldo Bungubung,[39]the Court defined substantial evidence and laid down guidelines relative to of decisions rendered by administrative agencies in the exercise of their quasi-judicial power, viz:

> xxx Substantial evidence is more than a mere scintilla of evidence. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise. Second, in reviewing administrative decisions of the executive branch of the government, the findings of facts made therein are to be respected so long as they are supported by substantial evidence. Hence, it is not for the reviewing court to weigh the conflicting evidence, determine the credibility of witnesses, or otherwise substitute its judgment for that of the administrative agency with respect to the sufficiency of evidence. Third, administrative decisions in matters within the executive jurisdiction can only be set aside on proof of gross abuse of discretion, fraud, or error of law. These principles negate the power of the reviewing court to re-examine the sufficiency of the evidence in an administrative case as if originally instituted therein, and do not authorize the court to receive additional evidence that was not submitted to the administrative agency concerned.[40] (citations omitted)

We find the factual findings of the LA and the NLRC that the respondents were not dismissed are supported by substantial evidence.

In the Joint Affidavit[41] executed by Generoso Fortunaba, Erdie Pilares and Crisanto Ignacio, all goldsmiths under Niña Jewelry's employ, they expressly stated that they have personal knowledge of the fact that the respondents were not terminated from employment. Crisanto Ignacio likewise expressed that after Elisea returned from the United States in the first week of September of 2004, the latter even called to inquire from him why the respondents were not reporting for work. We observe that the respondents had neither ascribed any ill-motive on the part of their fellow goldsmiths nor offered any explanation as to why the latter made declarations adverse to their cause. Hence, the statements of the respondents' fellow goldsmiths deserve credence. This is especially true in the light of the respondents' failure to present any notice of termination issued by the petitioners. It is settled that there can be dismissal even in the absence of a termination notice.[42] However, in the case at bench, we find that the acts of the petitioners towards the respondents do not at all amount to constructive dismissal.

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.[43]

In the case now under our consideration, the petitioners did not whimsically or arbitrarily impose the policy to post cash bonds or make deductions from the workers' salaries. As attested to by the respondents' fellow goldsmiths in their Joint Affidavit, the workers were convened and informed of the reason behind the implementation of the new policy. Instead of airing their concerns, the respondents just promptly stopped

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reporting for work.

Although the propriety of requiring cash bonds seems doubtful for reasons to be discussed hereunder, we find no grounds to hold that the respondents were dismissed expressly or even constructively by the petitioners. It was the respondents who merely stopped reporting for work. While it is conceded that the new policy will impose an additional burden on the part of the respondents, it was not intended to result in their demotion. Neither is a diminution in pay intended because as long as the workers observe due diligence in the performance of their tasks, no loss or damage shall result from their handling of the gold entrusted to them, hence, all the amounts due to the goldsmiths shall still be paid in full. Further, the imposition of the new policy cannot be viewed as an act tantamount to discrimination, insensibility or disdain against the respondents. For one, the policy was intended to be implemented upon all the goldsmiths in Niña Jewelry's employ and not solely upon the respondents. Besides, as stressed by the petitioners, the new policy was intended to merely curb the incidences of gold theft in the work place. The new policy can hardly be said to be disdainful or insensible to the workers as to render their continued employment unreasonable, unlikely or impossible.

On September 7, 2004, or more or less three weeks after the imposition of the new policy, the respondents filed their complaints for illegal dismissal which include their prayer for the payment of separation pay. On September 20, 2004, they filed amended complaints seeking for reinstatement instead.

The CA favored the respondents' argument that the latter could not have abandoned their work as it can be presumed that they would not have filed complaints for illegal dismissal had they not been really terminated and had they not intended themselves to be reinstated. We find that the presumption relied upon by the CA pales in comparison to the substantial evidence offered by the petitioners that it was the respondents who stopped reporting for work and were not dismissed at all.

In sum, we agree with the petitioners that substantial evidence support the LA's and the NLRC's findings that no dismissal occurred. Hence, the CA should not have given due course to and granted the petition for certiorari under Rule 65 filed by the respondents before it.

In view of our disquisition above that the findings of the LA and the NLRC that no constructive dismissal occurred are supported by substantial evidence, the CA thus erred in giving due course to and granting the petition filed before it. Hence, it is not even necessary anymore to resolve the issue of whether or not the policy of posting cash bonds or making deductions from the goldsmiths' salaries is proper. However, considering that there are other goldsmiths in Niña Jewelry's employ upon whom the policy challenged by the respondents remain to be enforced, in the interest of justice and to put things to rest, we shall resolve the issue.

Article 113 of the Labor Code is clear that there are only three exceptions to the general rule that no deductions from the employees' salaries can be made. The exception which finds application in the instant petition is in cases where the employer is authorized by law or regulations issued by the Secretary of Labor to effect the deductions. On the other hand, Article 114 states that generally, deposits for loss or damages are not allowed except in cases where the employer is engaged in such trades, occupations or business where the practice of making deposits is a recognized one, or is necessary or desirable as determined by the Secretary of Labor in appropriate rules or regulations.

While employers should generally be given leeways in their exercise of management prerogatives, we agree with the respondents and the CA that in the case at bar, the petitioners had failed to prove that their imposition of the new policy upon the goldsmiths under Niña Jewelry's employ falls under the exceptions specified in Articles 113 and 114 of the Labor Code.

The petitioners point out that Section 14, Book III, Rule VIII of the Omnibus Rules does not define the circumstances when the making of deposits is deemed recognized, necessary or desirable. The petitioners then argue that the intention of the law is for the courts to determine on a case to case basis what should be regarded as recognized, necessary or desirable and to test an, employer's policy of requiring deposits on the bases of its reasonableness and necessity.

We are not persuaded.

Articles 113 and 114 of the Labor Code are clear as to what are the exceptions to the general prohibition against requiring deposits and effecting deductions from the employees' salaries. Hence, a statutory construction of the aforecited provisions is not called for. Even if we were however called upon to interpret the provisions, our inclination would still be to strictly construe the same against the employer because evidently, the posting of cash bonds and the making of deductions from the wages would inarguably impose an additional burden upon the employees.

While the petitioners are not absolutely precluded from imposing the new policy, they can only do so upon compliance with the requirements of the law. In other words, the petitioners should first establish that the making of deductions from the salaries is authorized by law, or regulations issued by the Secretary of Labor. Further, the posting of cash bonds should be proven as a recognized practice in the jewelry manufacturing business, or alternatively, the petitioners should seek for the determination by the Secretary of Labor through the issuance of appropriate rules and regulations that the policy the former seeks to implement is necessary or desirable in the conduct of business. The petitioners failed in this respect. It bears stressing that without proofs that requiring deposits and effecting deductions are recognized practices, or without securing the Secretary of Labor's determination of the necessity or desirability of the same, the imposition of new policies relative to deductions and deposits can be made subject to abuse by the employers. This is not what the law intends.

In view of the foregoing, we hold that no dismissal, constructive or otherwise, occurred. The findings of the NLRC and the LA that it was the respondents who stopped reporting for work are supported by substantial evidence. Hence, the CA erred when it re-evaluated the parties' respective evidence and granted the petition filed before it. However, we agree with the CA that it is baseless for Nifia Jewelry to impose its new policy upon the goldsmiths under its employ without first complying with the strict requirements of the law.

WHEREFORE, the instant petition is PARTIALLY GRANTED. The assailed Decision and Resolution of the CA dated January 9, 2009 and May 26, 2009, respectively, are REVERSED only in so far as they declared that the respondents were constructively dismissed and entitled to reinstatement and payment of backwages, allowances and benefits. However, the CA's ruling that the petitioners' imposition of its new policy upon the respondents lacks legal basis, stands.

SO ORDERED.

Carpio, Brion, Perez, and Sereno, JJ., concur.

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[1] Rollo , pp. 26-52.

[2] Penned by Associaie justice Amy C Lazaro-Javier, with Associate Justices Francisco P. Acosta and Rodil V. Zalameda. concurring; id. at 12-20.

[3] Id. at 22.

[4] Id. at 19-20.

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[5] Id. at 164-167.

[6] Id. at 54 and 56.

[7] Id. at 195-196

[8] Id. at 77-78.

[9] Id. at 113-114.

[10] Id. at 128-146.

[11] Supra note 2.

[12] G.R.No. 171392, October 30, 2006, 506 SCRA 256, 260-261.

[13] Far East Agricultural Supply, Inc. v. Lebatique, G.R. No. 162813, February 12, 2007, 515 SCRA 491.

[14] De Guzman v. NLRC, G.R. No. 167701, December 12, 2007, 540 SCRA 21, 34.

[15] Rollo , pp. 16-18.

[16] Supra note 1.

[17] Id. at 34.

[18] Please see the Joint Affidavit of Generoso Portunoba, Erdie Pilares and Crisanto Ignacio, id. at 161-162.

[19] Art. 115. Limitations. - No deduction from the deposits of an employee for the actual amount of the loss or damage shall be made unless the employee has been heard thereon, and his responsibility has been clearly shown.

[20] Citing San Miguel Corporation v. Ubaldo, G. R. No. 92859, February 1, 1993, 218 SCRA 293.

[21] Rollo , pp. 182-188.

[22] 438 Phil 737 (2002).

[23] 439 Phil 309 (2002).

[24] Sec. 12. Non-interference in disposal of wages. No employer shall limit or otherwise interfere with the freedom of any employee to dispose of his wages and employer shall in any manner oblige any of his employees to patronize any store or avail of services offered by any person.

[25] Sec. 13. Wage deduction. Deductions from the wages of the employees may be made by the employer in any of the following cases:

> (a) When the deductions are authorized by law, including deductions for the insurance premiums advanced by the employer in behalf of the employee as well as union dues where the right to check-off has been recognized by the employer or authorized in writing by the individual employee himself;
>
> (b) When the deductions are with the written authorization of the employees for payment to a third person and the employer agrees to do so, provided that the latter does not receive any pecuniary benefit, directly or indirectly, from the transaction.

[26] Sec. 14. Deductions for loss or damages. - Where the employer is engaged in a trade, occupation or business where the practice of making deductions or requiring deposits is recognized, to answer for the reimbursement of loss or damage to tools, materials, 01 equipment supplied by the employer to the employee, the employer may make wage deductions or require the employees to make deposits from which deductions shall be made, subject to

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the following conditions:

(a) That the employee concerned is clearly shown to be responsible for the loss or damage;

(b) That the employee is given reasonable opportunity to show cause why deduction should not be made;

(c) That the amount of such deductions is fair and reasonable and shall not exceed the actual loss or damage; and

(d) That the deduction from the wages of the employee's does not exceed 20% of the employee's wages in a week.

[27] Rollo , pp. 210-220

[28] Id. at 194.

[29] Supra note 22.

[30] Supra note 23.'

[31] 520 Phil 135, 146 (2006).

[32] Supra note 26.

[33] G.R. No. 183572, April 13, 2010, 618 SCRA 218, citing Montoya v. Trammed Manila Corporation, G.R. No. 183329, August 27, 2009, 596 SCRA 334, 343.

[34] Id. at 233.

[35] A MA Computer College-East Rizal, et al v. Allan Raymond Ignacio, G.R. No. 178520, June 23, 2009, 590 SCRA 633, 651.

[36] Supra note 33, citing Protacio v. Laya Mananghaya & Co., G.R. No. 168654, March 25, 2009, 582 SCRA417,427.

[37] Id. at 232.

[38] Rollo , p. 134.

[39] G.R. No. 175201, April 23: 2008, 552 SCRA 589. citing Montemayor v. Bundalian, 453 Phil 158, 167(2003).

[40] Id. at 598.

[41] Supra note 18.

[42] Odilon Martinez v. B&B Fish Broker, G.R. No. 179985, September 18, 2009, 600 SCRA 691.

[43]Fe La Rosa, et al. v. Ambassador Hotel, G.R. No. 177059, March 13, 2009, 581 SCRA 340, 346-347.

[44] Dentech Manufacturing Corporation, et al v. NLRC. el al, 254 Phil 595 (1989).

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