

**CIRILO BARNACHEA, PAULINO GONZALES, BERNARDO GONZALES
AND RICARDO GOROSPE, PETITIONERS, VS. HON. EMILIANO C.
TABIGNE AND SIN HAP LEE & CO., RESPONDENTS.**

G.R. No. 22791. May 16, 1967

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Claim for wage differentials and payment of overtime compensation.

Originally, two complaints were filed in the Court of Industrial Relations. Docketed as Case 1259-V is one entitled "National Federation of Labor Unions and/or Benita Bulaon, et al., petitioners, vs. Sin Hap Hua & Co., respondent"; the other, "National Labor Union and/or Cirilo Barnachea, et al., petitioners, vs. Sin Hap Lee & Co., respondent," Case 1260-V. Respondents are sister companies.

With the parties' consent and the court's approval, these two cases were jointly tried before a court-appointed commissioner.

After trial, His Honor, Presiding Judge Jose S. Bautista rendered judgment dated October 19, 1963 -

Dismissing Case 1259-V; and in Case 1260-V, granting the petition for overtime pay and directing the chief of the examining division and/or his assistants to make the necessary computations, and to submit a report.

The decision in Case 1259-V became final.

However, respondent in Case 1260-V moved to reconsider.

On January 23, 1964, the Court of Industrial Relations en banc, speaking thru Judge Emiliano C. Tabigne, with the concurrence of Judges Arsenio I. Martinez, Baltazar M. Villanueva and Amando C. Bugayong, reversed Judge Bautista's decision and dismissed Case 1260-V "for lack of substantial evidence." Judge Jose S. Bautista dissented in a se-parate opinion.

The petitioners in said Case 1260-V came to this Court in forma pauperis, on appeal by certiorari.

The case now under review refers to overtime pay. The period covered is from 1956 to 1959. The Court of Industrial Relations en banc found that the overtime work rendered by petitioners was recorded in time records and the payrolls. Petitioners admitted that they signed the several time records and payrolls. The payrolls particularly show, so the resolution states, "that for every overtime appearing in the time records the respondent company had clearly paid such extra services", that at the time the payrolls were prepared, "there was no showing that the entries were incorrect or that they did not reflect the true facts obtaining at the time regarding the rendition of service by herein petitioners", and that petitioners signed the payrolls "without compulsion or intimidation" and without making any observation as to "any irregularity in the entries therein made."

Pitted against this documentary evidence is the testimony of petitioners. Commenting on the oral evidence, the

court below stated that the "testimonies of the witnesses on this matter were conflicting and cannot therefore be given due weight and consideration." For instance, the court cited the testimony of petitioner Ricardo Gorospe who told the court that "there were no entries in the payrolls at the time he affixed his signatures thereon." Others declared that "they did not notice the entries in the payrolls and time records but they admitted that they affixed their respective signatures thereon." There is also testimony to the effect that all "the entries appearing in the payrolls were already there" at the time the signatures were affixed thereon.

Petitioners' brief challenges the findings of the court a quo and avers that the same are not supported by the evidence of record.

But this Court is not to be guided by the rule of preponderance of evidence. Rather, jurisprudence is firm in that, on appeal from a decision of the Court of Industrial Relations, our function is to inquire whether the findings of fact are supported by substantial evidence. If they are, then the judgment must be affirmed.[1] The time records and payrolls constitute that substantial evidence which props up the resolution en banc under review. Just recently, we ruled that in the presence of conflicting evidence, the findings of fact of the Court of Industrial Relations when supported by substantial evidence should not be disturbed.[2] The case just cited fits into the situation here presented. There is a conflict of evidence - oral evidence on the one side and the time records and payrolls on the other. On the probative value, the court below gave its nod to the written documents. The resolution under review stands; we may not reverse it.

For the foregoing reasons, we vote to affirm the resolution of the Court of Industrial Relations en banc. No costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Castro, JJ., concur.

[1] National Fastener Corporation vs. L-15834, January 20, 1961; Ormoc Sugar Co. vs. Osco Workers Fraternity, L-15826, January 23, 1961; Iloilo Chinese Commercial School vs. Fabrigar, L-16600, December 27, 1961; Industrial, Commercial, Agricultural Workers Organization vs. Bautista, L-15639, April 30, 1963; Manila Metal Caps, etc. vs. CIR, L-17578, July 31, 1963; Sanchez vs. CIR, L-19000, July 31, 1963; Manila Pencil Co. vs. CIR, L-16903, August 31, 1965.

[2] Norton & Harrison Company & Jackbuilt Concrete Blocks Co. Labor Union (NLU) vs. Norton & Harrison Co., L-18461, February 10, 1967.

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