



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 13, 2022** which reads as follows:*

“G.R. No. 227817 (FELIPE T. TAVERA JR., EDWIN SORITA, CEPRIANO G. SANDIGAN, MODISTO NO-O, RHEAN J. SANDIGAN, WILBERT S. VILLASARAN, NOEL GAPAS, REYNALDO S. SANTOS, MARVIN BITON, WILFREDO TURNO, NORBERTO S. SEVILLANO, EFREN BUSTILLOS, DENNIS AGUILA, JAYSON BORJA, RONELO SUAREZ, JOMAR NAVARRO, RICARDO GASTADOR, MARK ANTHONY ABANTE, REYNALDO SEVILLANO, JOMAR DAVA and RONILO NAGTALON, *petitioners* v. RED RIBBON BAKESHOPS, INC. or RED RIBBON BAKESHOPS & FOOD CHAINS, INC. or RED RIBBON FOODS CORP., and/or TONY TAN CAKTIONG, WILLIAM TAN UNTIONG, ERNESTO TANMANTIONG, JOSEPH TANMANTIONG, and ISMAEL V. BAYSA, and REINLAB CORPORATION and/or ROMMEL S. GERODIAS, JOSEPH A. SALVADOR, and SAMIER BANDALAN, *respondents*). — Entitlement to overtime pay entails proof that overtime work was actually rendered. It cannot be granted on mere surmises that service beyond eight hours was performed.

This Court resolves the Petition for Review on Certiorari¹ filed by a group of crate washers, who were the complainants in a suit for underpayment of wages and nonpayment of monetary benefits originating from the National Labor Relations Commission. They assail the Court of Appeals’ Decision² and Resolution,³ which affirmed the National Labor

¹ *Rolla*, pp. 10–59.

² *Id.* at 60–71. The February 29, 2016 Decision in CA-G.R. SP No. 141506 was penned by Associate Justice Agnes Reyes-Carpio, and concurred in by Associate Justices Andres B. Reyes, Jr. (a retired member of this Court) and Romeo F. Barza of the First Division of the Court of Appeals, Manila.

³ *Id.* at 73–75. The August 2, 2016 Resolution in CA-G.R. SP No. 141506 was penned by Associate Justice Agnes Reyes-Carpio, and concurred in by Associate Justices Andres B. Reyes, Jr. (a retired member of this Court) and Romeo F. Barza of the First Division of the Court of Appeals, Manila.

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Relations Commission's⁴ reduction of the award for wage differential and attorney's fees that the Labor Arbiter granted in their favor.

Reinlab Corporation (Reinlab) is a domestic corporation engaged in chemical manufacturing and distribution of cleaning and sanitation products, with its principal place of business in Sta. Rosa, Laguna.⁵

Red Ribbon Bakeshop, Inc. (Red Ribbon) is in the food and bakeshop chain industry. Among its senior officers impleaded here are Tony Tan Caktiong, William Tan Untiong, Ernesto Tanmantiong, Joseph Tanmantiong, and Ismael V. Baysa.⁶

On various dates from October 2010 to October 2012, Reinlab hired Felipe T. Tavera Jr., Edwin Sorita, Cepriano G. Sandigan, Modisto No-o, Rhean J. Sandigan, Wilbert S. Villasaran, Noel Gapas, Reynaldo S. Santos, Marvin Biton, Wilfredo Turno, Norberto S. Sevillano, Efren Bustillos, Dennis Aguila, Jayson Borja, Ronelo Suarez, Jomar Navarro, Ricardo Gastador, Mark Anthony Abante, Reynaldo Sevillano, Jomar Dava, and Ronilo Nagtalon (Tavera et al.). They were deployed in Red Ribbon in Libis, Quezon City, where they rendered work as crate washers.⁷

Tavera et al. alleged that they exclusively and continuously worked on Red Ribbon's premises from 8:00 a.m. to 8:00 p.m. daily, including holidays, with no designated rest day. They each received ₱300.00 for a day's work, but ₱24.00 was unlawfully deducted from their wages as cash bond without their consent. They claimed that they were not compensated for their overtime pay and work rendered on holidays and were also not granted service incentive leave and 13th month pay.⁸

Red Ribbon and its officers averred that the company engages the services of third parties that support their regular workforce's services, including Reinlab. Reinlab cleaned and sanitized the crates, pans, and pallets that Red Ribbon used through Reinlab products and equipment at the latter's facility. In return, Red Ribbon undertook to pay an agreed price. Red Ribbon and its officers contended that they had no control over Reinlab workers and were only interested in the results of the services that they performed.⁹

⁴ The March 18, 2015 and June 3, 2015 Resolutions in NLRC LAC No. 07-001796-14 (NLRC NCR Case Nos. 07-10808-13; 08-11126-13; and 09-13432-13) were not attached in any of the pleadings before this Court.

⁵ *Rollo*, p. 19 and 64.

⁶ *Id.* at 63.

⁷ *Id.* at 61-62.

⁸ *Id.* at 62.

⁹ *Id.* at 63.

Reinlab and its officers, Rommel S. Gerodias, Joseph A. Salvador, and Samier Bandalan argued that they engaged Tavera et al. as “independent contractors to wash and clean dirty crates and other washable items.”¹⁰ They narrated that Tavera et al. were paid on a piece-rate basis and were compensated based on the number of items cleaned per shift.¹¹

Tavera et al. filed a Complaint for underpayment of wages, nonpayment of four-hour overtime, nonpayment of holiday pay premium (30%), rest day premium (30%), 13th month pay, ECOLA, night shift differential pay, moral and exemplary damages, and attorney’s fees against Red Ribbon, Reinlab, and their officers before the Labor Arbiter.¹²

In its May 30, 2014 Decision,¹³ the Labor Arbiter ruled in favor of Tavera et al. The dispositive portion of the Labor Arbiter’s Decision ordering payment of ₱2,634,833.84 wage differential reads:

WHEREFORE, premises considered, respondents Reinlab Corporation and Red Ribbon Bakeshop, Inc. are hereby ordered to pay complainants the aggregate sum of **TWO MILLION SIX HUNDRED THIRTY FOUR THOUSAND EIGHT HUNDRED THIRTY THREE & 84/100 PESOS (₱2,634,833.84)**, representing: (1) wage differentials on account of underpayment; (2) holiday pay; (3) service incentive leave pay; (4) 13th month pay; and (5) attorney’s fees equivalent to ten percent (10%) of the total monetary award. The computation hereto attached is made an integral part of this decision.

All other claims are dismissed for lack of merit.

SO ORDERED.¹⁴ (Emphasis in the original)

On appeal, the National Labor Relations Commission affirmed the Labor Arbiter ruling in its October 17, 2014 Decision.¹⁵ It sustained the ₱2,634,833.84 monetary award, and ordered Reinlab and Red Ribbon to solidarily pay Tavera et al.:¹⁶

WHEREFORE, the decision of the Labor Arbiter is hereby MODIFIED. Respondents Reinlab Corporation and Red Ribbon Bakeshop, Inc. are hereby ordered to pay, in solidum, individual complainants the monetary benefits awarded by the Labor Arbiter, inclusive of attorney’s fees.

SO ORDERED.¹⁷ (Emphasis in the original)

¹⁰ Id. at 64.

¹¹ Id.

¹² Id. at 63–64.

¹³ The Labor Arbiter’s Decision was not attached in any of the pleadings before this Court.

¹⁴ *Rollo*, p. 64, quoted from the Court of Appeals Decision.

¹⁵ The National Labor Relations Commission’s Decision was not attached in any of the pleadings before this Court.

¹⁶ *Rollo*, p. 65, culled from the Court of Appeals Decision.

¹⁷ Id.

In its March 18, 2015 Resolution,¹⁸ the National Labor Relations Commission partly granted Reinlab and Red Ribbon's separate Motions for Reconsideration. It found that the Labor Arbiter's order directing payment of overtime pay lacks factual basis. It thus reduced the award for wage differential and attorney's fees from ₱2,634,833.84 to ₱273,851.05:¹⁹

WHEREFORE, premises considered, respondents' motions for reconsideration are PARTLY GRANTED. Our Decision dated October 17, 2014 is MODIFIED.

The award for wage differentials on account of underpayment is REDUCED to a total amount of P273,851.05, as indicated in the body of this Decision.

The award for holiday pay, service incentive leave pay, and 13th month pay, as indicated in the Computation of Awards attached to the Labor Arbiter's Decision (Records, Volume 1, pages 381 and 384-386) STANDS.

The award for attorney's fees is adjusted to ten percent (10%) of the total reduced monetary award.

The solidary liability of respondents Reinlab Corporation and Red Ribbon Bakeshop, Inc. for complainants' total monetary award STANDS. Likewise, the dismissal of all other claims for lack of merit STANDS.

SO ORDERED.²⁰ (Emphasis in the original)

Appealing the significant reduction of the monetary award in their favor, Tavera et al. moved for partial reconsideration. The National Labor Relations Commission denied this in its June 3, 2015 Resolution:²¹

WHEREFORE, premises considered, complainants' Motion for partial Reconsideration is DENIED for lack of merit.

The reduced monetary award totaling P273,851.05, as indicated in the body of our resolution dated March 18, 2015, remains. Further, we clarify that this amount of P273,851.05 already includes complainants' award for underpayment of wages, holiday pay, service incentive leave pay and 13th month pay. Necessarily, it is just and proper that we set aside the portion of our said Resolution, which states that: "The award for holiday pay, service incentive leave pay, and 13th month pay, as indicated in the Computation of Awards attached to the Labor Arbiter's Decision (Records, Volume 1, pages 381 and 384-386), STANDS.

¹⁸ The National Labor Relations Commission's Resolution was not attached in any of the pleadings before this Court.

¹⁹ *Rollo*, p. 65, quoted from the Court of Appeals Decision.

²⁰ *Id.* at 65-66.

²¹ The National Labor Relations Commission's Resolution was not attached in any of the pleadings before this Court.

The award for attorney's fees is adjusted to ten percent (10%) of the total reduced monetary award of P273,851.05.

The solidary liability of respondents Reinlab Corporation and Red Ribbon Bakeshop, Inc. for complainants' total monetary award, and dismissal of all other claims for lack of merit, remain.

SO ORDERED.²² (Emphasis in the original)

Tavera et al. then filed a Petition for Certiorari before the Court of Appeals.

The Court of Appeals denied the petition in its February 29, 2016 Decision.²³ It affirmed the reduction of the workers' monetary award from P2,634,833.84 to P273,851.05 due to their unsubstantiated allegations of overtime work. It found that the evidence belied their assertion that they were paid P300.00 only. It also found merit in the compensation matrix and summary of payrolls duly accomplished by Reinlab's Accounting Supervisor, explaining that they cannot be discounted simply because they lacked the workers' signatures.²⁴

The dispositive portion of the Court of Appeals' Decision reads:

WHEREFORE, premises considered, the instant petition for certiorari is **DISMISSED** for lack of merit. The assailed resolutions of the NLRC are accordingly **AFFIRMED**.

SO ORDERED.²⁵ (Emphasis in the original)

In its August 2, 2016 Resolution,²⁶ the Court of Appeals denied Tavera et al.'s motion for reconsideration.

Having been granted time to file petition,²⁷ Tavera et al. filed this Petition for Review on Certiorari.²⁸

In its March 29, 2017 Resolution,²⁹ this Court required respondents Red Ribbon, Reinlab, and their respective officers to comment on the Petition.

²² *Rollo*, pp. 65–66.

²³ *Id.* at 60–71.

²⁴ *Id.* at 68–70.

²⁵ *Id.* at 71.

²⁶ *Id.* at 73–75.

²⁷ *Id.* at 7.

²⁸ *Id.* at 10–59.

²⁹ *Id.* at 155–156.

Joined by their senior officers who were impleaded, respondents Reinlab³⁰ and Red Ribbon³¹ separately filed their Comments. These were noted by this Court in its July 31, 2017 Resolution.³²

In response, petitioners later filed their Consolidated Reply,³³ which this Court noted in its January 21, 2019 Resolution.³⁴

Petitioners argue that the Court of Appeals erred in ruling that there was no grave abuse of discretion when the National Labor Relations Commission significantly reduced the monetary award in their favor due to the lack of basis for overtime pay.³⁵

Petitioners insist that their signatures do not appear in the compensation matrix and summary of payrolls that supposedly contained the sum of money they received. Thus, these documents cannot prove that they were paid the amount stated there.³⁶ They also contend that they could not produce the daily time record or timecard as these were in respondents' possession, and these could have shown that they rendered overtime services.³⁷

Respondent Reinlab and its officers counter that Accounting Supervisor Rizalyn Masiga certified the compensation matrices and summary of payrolls and attested their contents in an affidavit. They stress that the payslips which petitioners themselves presented readily refuted their claim that they were paid ₱300.00 only. Further, these payslips corroborate the contents of the documents that they assail.³⁸

They aver that the Labor Arbiter's computation that inflated the wage differential to ₱2,634,833.84 was based on its speculative and baseless observation that "rare and far in between is an employer who pays his employees an amount much higher than minimum wage. Moreover, those who do, pay their employees a fixed uniform amount."³⁹ On this basis alone, it appreciated petitioners' bare allegation that they were all paid ₱300.00, despite the payslips that disprove this claim, and computed overtime pay.⁴⁰

³⁰ Id. at 157–176.

³¹ Id. at 218–231.

³² Id. at 235.

³³ Id. at 266–297.

³⁴ Id. at 297-A.

³⁵ Id. at 15–16 and 25–28.

³⁶ Id. at 43.

³⁷ Id. at 29–34.

³⁸ Id. at 164–168.

³⁹ Id. at 166.

⁴⁰ Id. at 164–166.

For this Court's resolution is the issue of whether or not the Court of Appeals erred in affirming the National Labor Relations Commission's Decision reducing the monetary award in petitioners Tavera et al.'s favor. Subsumed in this is determining whether or not petitioners rendered overtime work and thus are entitled to overtime pay.

We deny this Petition for lack of merit.

This Court is not a trier of facts. Generally, petitions for review on certiorari must only raise questions of law without the need to re-assess evidence.⁴¹ Determining whether petitioners performed overtime services is a question of fact that is beyond the scope of a petition for review on certiorari. Contradictory findings of the lower tribunals only present a prima facie basis for this Court's review.⁴²

Further, when substantial evidence supports quasi-judicial bodies' findings like the National Labor Relations Commission, they are generally accorded respect and even finality by this Court.⁴³

In labor cases, the inquiry in a Rule 45 petition is whether or not the Court of Appeals correctly ruled on the National Labor Relations Commission's alleged grave abuse of discretion.⁴⁴ As *Manggagawa ng Komunikasyon sa Pilipinas v. Philippine Long Distance Telephone Company, Inc.*⁴⁵ explained:

In labor cases, a Rule 45 petition "can prosper only if the Court of Appeals . . . fails to correctly determine whether the National Labor Relations Commission committed grave abuse of discretion."

A court or tribunal is said to have acted with grave abuse of discretion when it capriciously acts or whimsically exercises judgment to be "equivalent to lack of jurisdiction." Furthermore, the abuse of discretion must be so flagrant to amount to a refusal to perform a duty or to act as provided by law.⁴⁶ (Citations omitted)

Resolving the inquiry at this juncture, this Court scrutinized the records and found no error in the Court of Appeals' Decision. We agree that the National Labor Relations Commission did not gravely abuse its

⁴¹ See RULES OF COURT, Rule 45, sec. 1. See also *Godico v. Court of Appeals*, G.R. No. 17647, February 28, 1964 [Per J. Paredes, En Banc].

⁴² *Pascual v. Burgos*, 766 Phil. 167 (2016) [Per J. Leonen, Second Division] citing *Fernan v. Court of Appeals*, 260 Phil. 594, 598-599 (1990) [Per J. Narvasa, First Division]

⁴³ *Naguil v. San Miguel Corporation*, 761 Phil. 184, 193-194 (2015) [Per J. Peralta, Third Division].

⁴⁴ *Nonay v. Bahia Shipping Services*, 781 Phil. 197, 213 (2016) [Per J. Leonen, Second Division]; *Dayo v. Status Maritime Corporation*, 751 Phil. 778, 785 (2015) [Per J. Leonen, Second Division]; *Monana v. MEC Global Shipmanagement*, 746 Phil. 736, 751 (2014) [Per J. Leonen, Second Division].

⁴⁵ 809 Phil. 106 (2017) [Per J. Leonen, Second Division].

⁴⁶ *Id.* at 120.

discretion when it reduced the amount of wage differential and attorney's fees upon a finding that the award for overtime pay had no basis.

Article 87 of the Labor Code mandates the additional payment for work rendered beyond the eight-hour workday:

ARTICLE 87. *Overtime Work.* — Work may be performed beyond eight (8) hours a day provided that the employee is paid for the overtime work, an additional compensation equivalent to his regular wage plus at least twenty-five percent (25%) thereof. Work performed beyond eight hours on a holiday or rest day shall be paid an additional compensation equivalent to the rate of the first eight hours on a holiday or rest day plus at least thirty percent (30%) thereof.

Substantial evidence is the quantum of proof required in labor cases. It is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”⁴⁷

While the Labor Code mandates payment for overtime services, employees must prove by substantial evidence that they rendered work beyond eight hours a day, entitling them to overtime pay. They must produce “proof of actual performance of overtime work.”⁴⁸

Petitioners claim that respondents had the burden to show that they were paid their benefits under the law and not the workers who must establish their nonpayment. They maintain that they cannot produce their daily time record or timecard as these were in respondents' possession.⁴⁹

Indeed, this Court has held that “one who pleads payment has the burden of proving it. Even when the plaintiff alleges non-payment, still the general rule is that the burden rests on the defendant to prove payment, rather than on the plaintiff to prove non-payment.”⁵⁰ This Court explained the rationale for this rule, particularly in labor cases:

[T]he general rule is that the burden rests on the defendant to prove payment rather than on the plaintiff to prove non-payment of these money claims. The rationale for this rule is that the pertinent personnel files, payrolls, records, remittances and other similar documents — which will show that differentials, service incentive leave and other claims of workers

⁴⁷ *Ang Tibay v. CIR*, 69 Phil. 635, 642–643 (1940) [Per J. Laurel, En Banc], citing *Appalachian Electric Power v. National Labor Relations Board*, 4 Cir., 93 F. 2d 985, 989; *National Labor Relations Board v. Thompson Products*, 6 Cir., 97 F. 2d 13, 15; *Ballston-Stillwater Knitting Co. v. National Labor Relations Board*, 2 Cir., 98 F. 2d 758, 760.

⁴⁸ *Cagampun v. National Labor Relations Commission*, 272-A Phil. 528, 536 (1991) [Per J. Paras, Second Division].

⁴⁹ *Rollo*, pp. 29–34.

⁵⁰ *Pigcaulan v. Security and Credit Investigation, Inc.*, 679 Phil. 1, 17 (2012) [Per J. Del Castillo, First Division] citing *Saberola v. Suarez*, 558 SCRA 135, 146–147 (2008) [Per J. Nachura, Third Division].

have been paid — are not in the possession of the worker but are in the custody and control of the employer.⁵¹ (Citations omitted)

When an employee claims that it was not paid benefits that law grants to workers, employers must prove that the salary differential, service incentive leave, 13th month pay, among others, were actually paid. However, contrary to petitioners' arguments, this Court clarified that the rule does not apply to compensation for overtime work or services rendered on holidays or rest days, as "these are not incurred in the normal course of business."⁵²

Thus, an employee must first prove entitlement to overtime, premium, and holiday pay by presenting substantial evidence that they rendered services beyond eight hours, on the designated rest day, or holiday.

This Court endeavors to "afford full protection to labor."⁵³ However, we lament that petitioners' allegations remained unsubstantiated at this stage. Petitioners failed to prove their claims for overtime pay. Despite their lengthy petition, no proof was adduced supporting their bare allegations that they rendered overtime work beyond eight hours on specific days. Unfortunately, the Labor Arbiter's computation of monetary award due to petitioners was simply anchored on its observation that "rare and far in between, is an employer who pays his employees an amount much higher than minimum wage. Moreover, those who do pay their employees a fixed uniform amount."⁵⁴ Overtime pay cannot be based on mere surmises or suppositions, and to stress, it must have a factual basis.

The Labor Arbiter erred in holding that respondents must compensate petitioners for overtime work that was not shown to have been actually rendered. It was mistaken in simply taking judicial notice that many employers do not pay employees minimum wage, especially when records belied this conclusion.

Petitioners assail respondents' compensation matrix and summary of payrolls that supposedly contained the sum of money they received, as these did not contain their signatures. They claim that these documents do not show payment of the benefits to them. On this, we agree with the National Labor Relations Commission:

As to complainants' arguments that the certified true copies of payrolls for 2010 to 2013 (xxx), as well as the Compensation Matrices for years 2010 to 2013 and summary of their payrolls per year with supporting

⁵¹ *Loon v. Power Master, Inc.*, 723 Phil. 515, 532 (2013) [Per J. Brion, Second Division] citing *Villar v. NLRC*, 387 Phil. 706 (2000) [Per J. Bellosillo, Second Division].

⁵² *Id.* citing *Lugatic v. NLRC*, 349 Phil. 172, 185-186 (1998) [Per J. Romero, Third Division].

⁵³ CONST., art. XIII, sec. 3.

⁵⁴ *Rollo*, p. 166.

computations presented by Reinlab in its motion for reconsideration and Manifestation/Motion (xxx), are not reliable documents absent their signatures showing that they already received the amounts indicated therein, we find the same unmeritorious. Ideally, the signatures of complainants should appear in the payroll as evidence of actual payment. However, the absence of such signature does not necessarily lead to the conclusion that the amounts indicated in said payrolls were not received. Moreover, there is no hard-and-fast rule requiring that the employee's signature in the payroll is the only acceptable proof of payment.⁵⁵ (Citations omitted)

That petitioners did not sign the compensation matrix and summary of payrolls is of no moment. They did not controvert how the payslips they submitted corroborated the amounts stated in the documents that they assail. They also did not deny receiving the sum of money appearing in the documents.

Further, "entries in the payroll, being entries in the course of business, enjoy the presumption of regularity under Rule 130, Section 43 of the Rules of Court."⁵⁶ Petitioners must produce clear and convincing evidence to dispute this presumption, which they also failed to do here.

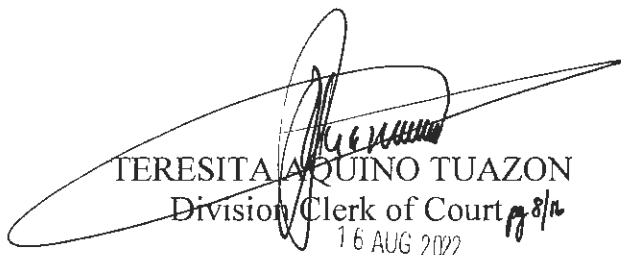
In sum, the Court of Appeals did not err in finding that the National Labor Relations Commission committed no grave abuse of discretion in reducing the Labor Arbiter's award for wage differential for lack of merit. This Court is thus constrained to deny petitioners' baseless claims for overtime pay.

Finally, we note that respondents had previously deposited a check covering the monetary award to satisfy the judgment here.⁵⁷

WHEREFORE, the Petition for Review on Certiorari is **DENIED** for lack of merit, and the Court of Appeals' February 29, 2016 Decision and August 2, 2016 Resolution in CA-G.R. SP No. 141506 are **AFFIRMED**.

SO ORDERED." (Lazaro-Javier, J., *on official leave.*)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
16 AUG 2022

⁵⁵ Id. at 70–71.

⁵⁶ *Kar Asia, Inc. v. Corona*, 480 Phil. 627 (2004) [Per J. Ynares-Santiago, First Division].

⁵⁷ *Rollo*, p. 68.

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