



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **28 March 2022** which reads as follows:*

“G.R. No. 234588 (*Fontana Development Corporation and Manuel Sequeira v. Arlene Jane Salvador De Guzman*). – The Court resolves to:

1. **NOTE** the returned and unserved copy of the Resolution dated July 29, 2019 (which, among others, required petitioners to file a reply to the comment/opposition to the petition) sent to Atty. Alma Marie E. Servito, counsel for respondent, at Unit 1709, Tower 3, Avida Towers, New Manila, B Serrano Avenue, Bagong Lipunan ng Crame, Quezon City with notation, “Return to Sender, Unknown;” and

2. **DEEM** as **WAIVED** the filing of petitioners’ reply to the comment on the petition for failure of Atty. Jonas T. Castro, counsel for petitioners, to file the aforesaid reply as required in the Resolution dated July 29, 2019 within the period which expired on September 20, 2019.

After a judicious study of the case, the Court resolves to **DENY** the instant petition and **AFFIRM** the Decision¹ dated December 20, 2016 and Resolution² dated September 20, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 143367 for failure of petitioners Fontana Development Corporation and Manuel Sequeira³ (petitioners) to sufficiently show that the CA committed any reversible error in upholding that Labor Arbiter (LA) Julia Cecily Cohing-Sosito (LA Sosito) had jurisdiction to hear and decide the case and that respondent Arlene Jane De Guzman (Arlene) was constructively dismissed by petitioners and Fort Ilocandia Resort Hotel, Fort Ilocandia Land Development Company Limited, Dennis Pak, and Justin Yang (other respondents in the illegal dismissal complaint).

¹ *Rollo*, pp. 38-52. Penned by Associate Justice Renato C. Francisco, with Associate Justices Apolinario D. Bruselas, Jr. and Danton Q. Bueser, concurring.

² *Id.* at 54-55.

³ Referred to in some parts of the record as Manuel Sequera.

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The CA correctly found that petitioners and other respondents in the illegal dismissal complaint were not deprived of due process and their right to file their respective position papers. It is well to note that petitioners were properly notified of the dates set for the filing of position papers and replies. In fact, petitioners, instead of submitting their position paper, submitted several motions before the LA and even elevated the LA's Decision to the Commissioners of the National Labor Relations Commission (NLRC). Instead of pleading out their case before the labor tribunals, the appellate court and the Supreme Court, petitioners merely insisted on the purported invalidity of the Administrative Order (AO) No. 02-08, series of 2013 requiring the approval of the Executive Labor Arbiter (ELA) in motions for inhibition, without bothering to raise their defense against Arlene's claim of constructive dismissal. This evidently belies petitioners' cry for denial of due process. By their inaction, petitioners were properly considered to have waived or forfeited their right to refute Arlene's claim of constructive dismissal.⁴

Anent the jurisdiction of LA Sosito, we agree with the findings of the CA that LA Sosito had jurisdiction to hear and decide the illegal dismissal complaint filed by Arlene. We, however, do not agree with the CA on its pronouncements that the subject AO of the NLRC is invalid. While there may be a genuine issue as to the validity of the subject AO in terms of its passage without the concurrence of the NLRC Commissioners or without the requisite publication, as claimed by petitioners, the same cannot be done through a collateral attack. It must be pointed out that administrative regulations, which were enacted by administrative agencies to interpret and implement the law they were entrusted to enforce, have the force of law until they are set aside with finality in an appropriate case by a competent court.⁵ In the instant case, petitioners did not file a case to attack the validity of the subject AO. Instead, petitioners, through *certiorari* proceedings, collaterally attacked the AO by raising it as an issue when they assailed the ELA's disapproval of LA Sosito's inhibition and LA Sosito's consequent order directing the parties to submit their respective position papers. Evidently, in the instant petition, petitioners sought the review of the assailed Decision and Resolution of the NLRC and merely raised as a collateral issue the purported invalidity of the subject AO, which, therefore, must be disallowed. Accordingly, since the subject AO had not been revoked, modified, recalled or declared as null and void during the pendency of the proceedings before the LA, the same stands in full force and effect, and the requisite approval of the ELA in inhibition cases should be considered legal, valid and authorized. Therefore, LA Sosito was bound to hear and decide the case following the ELA's disapproval of her (LA Sosito's) Order dated January 20, 2015 where she (LA Sosito) inhibited herself from handling the case.

⁴ *Gandara Mill Supply v. National Labor Relations Commission*, 360 Phil. 871, 877-878 (1998).

⁵ *National Association of Electricity Consumers for Reforms v. Manila Electric Company (MERALCO)*, 797 Phil. 12, 26 (2016).

In view of the foregoing, the finding on Arlene's illegal dismissal must stand. The fact of dismissal and the legality of her dismissal are questions of fact which are generally beyond the scope of a petition for review on *certiorari*, unless there is a clear showing of palpable error or arbitrary disregard of evidence,⁶ which are not present in the instant case.

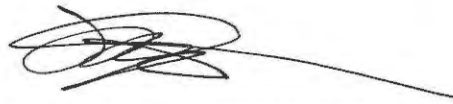
FOR THESE REASONS, the instant Petition is **DENIED**. The Decision dated December 20, 2016 and Resolution dated September 20, 2017 of the Court of Appeals are **AFFIRMED**.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

19 AUG 2022

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⁶ See *Eastern Overseas Employment Center, Inc. v. Bea*, 512 Phil. 749, 754-755 (2005).

Resolution

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G.R. No. 234588
March 28, 2022

NATIONAL LABOR RELATIONS COMMISSION (reg)
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1100 Quezon City
(NLRC NCR Case No. 07-08932-14;
NLRC LAC No. 05-001420-16)

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