



Republic of the Philippines
Supreme Court
Baguio City

SPECIAL FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Special First Division, issued a Resolution dated April 27, 2022 which reads as follows:

“G.R. No. 235865 – Jerome M. Bautista, petitioner, versus Eli Lilly Philippines, Inc., respondent.

Before the Court is respondent Eli Lilly Philippines, Inc.’s¹ (respondent) Motion for Reconsideration² dated August 12, 2021 of the Court’s Decision³ dated February 3, 2021. In the Decision, the Court reversed and set aside the Decision dated August 17, 2017 and the Resolution dated November 22, 2017 of the Court of Appeals (CA) and found that petitioner Jerome M. Bautista (Bautista) was illegally dismissed. The Court found that respondent failed to prove the validity of Bautista’s dismissal. The Court also found that there was no sufficient basis to dismiss Bautista on the ground that he simulated the purchase of tires for which he claimed reimbursement.

In its Motion for Reconsideration, respondent argues that:

(a) The Court erred in not relying on the affidavit of Timothy Jerome S. Ong (“Ong”) as it claims the allegations therein were already made known to Bautista during the administrative hearing;⁴

(b) Ong’s affidavit shows that there was no actual purchase of tires by Bautista;⁵

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¹ Also referred to as “ELPI” in the Decision.

² *Rollo*, pp. 202-225.

³ *Id.* at 191-201.

⁴ *Id.* at 207.

⁵ *Id.* at 211.

(c) The approval of the reimbursement did not cure the fraud committed by Bautista. The amount reimbursed also does not negate that fraud was committed;⁶ and,

(d) The recantation of Sojit Du (Du), one of respondent's witnesses, does not affect the credibility of Ong.⁷

The Court has taken a second and hard look at the evidence and is not convinced that respondent has proven that Bautista simulated the sale. In fact, respondent's Motion for Reconsideration raised issues that the Court had already squarely addressed in its Decision.

Essentially, respondent argues that Ong's affidavit is sufficient basis to dismiss Bautista. The Court, in its Decision, already considered the affidavit of Ong, and found it unconvincing. As the Court ruled:

As to the affidavits of Ong and Du, the Court agrees with the NLRC that they cannot be relied on given the circumstances under which they were executed. The affidavits and their contents were only made known to Bautista when ELPI submitted its Position Paper.

x x x x

And even if the Court were to consider these affidavits, the Court sides with the NLRC's posture in not believing the statements of Ong and Du. Indeed, as Ong had participation in the simulation of the sale as he himself admitted, the Court therefore finds it unusual that ELPI did not initiate administrative proceedings against Ong. It also remains unexplained why it took Ong more than three years to inform ELPI of such simulated sale.⁸

The Court affirms anew that Ong's affidavit is not believable as Ong admitted having participated in the alleged simulated sale. The Court also finds it unusual that despite having admitted his participation in the simulated sale, Ong was not subjected to any administrative investigation. He likewise failed to explain why it took him three years to report the alleged simulated sale.

Further, not only is Ong's affidavit not believable but the evidence on record convinces the Court that Bautista indeed bought tires for his company vehicle. The official receipt, sales invoice, and

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⁶ Id. at 215-218.

⁷ Id. at 218-219.

⁸ Id. at 198-199.

the car repairs request all show that tires were bought from a tire shop and the cost was reimbursed to Bautista following the regular process. Even the owner of tire shop admitted to the issuance of the official receipt and this remained undisputed. As the Court ruled in its Decision:

x x x To recall, after Bautista submitted his explanation questioning ELPI's lack of source for the Show-Cause Letter, it was only then that ELPI sent copies of Official Receipt No. 000475, Sales Invoice No. 27274, and Car Repairs Request No. 8911. This prompted Bautista to submit the certification of [Lilia Babila (Lilia)] affirming that she had indeed issued Official Receipt No. 000475. In response, ELPI confronted Bautista with a certification of [Arnulfo Babila (Arnulfo)], stating that Bautista did not purchase tires from [Babila Tire Supply (BTS)]. The records undisputedly show, however, that Arnulfo had issued another statement stating that he lacked knowledge of the sale and that it was his wife who had issued the official receipt.

Thus, during the administrative proceedings that ELPI conducted, it had in its possession, the official receipt, the sales invoice, the repairs request, Lilia's statement, and the two contradicting statements of Arnulfo, as basis for its decision that Bautista committed dishonesty.

The Court finds that these pieces of evidence fail to prove that Bautista simulated the sale. To the mind of the Court, there was no anomaly in Bautista's claim for reimbursement as this was supported by documents.

The CA's position that the official receipt cannot be relied upon because it was an old receipt with a BIR permit number issued on August 10, 1999 is erroneous. The fact that the official receipt was an old one does not make Bautista guilty of simulating the purchase of tires — in the face of Lilia's undisputed admission to having herself issued the receipt for the purchase of four tires. That she used an old receipt does not mean that the purchase of the tires did not happen.

In fact, one evidence that was supposed to contradict Lilia's statement was Arnulfo's first statement. However, in both of their decisions, the NLRC and the CA were in agreement in disregarding the statement of Arnulfo given the inconsistencies in his two statements. Thus, the fact that Lilia sold tires to ELPI over which Bautista claimed reimbursements remained undisputed at the time of the administrative proceedings conducted by ELPI.⁹

The Court also reiterates that there are matters that left a nagging doubt in its mind on the validity of Bautista's dismissal. As the Court held:

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⁹ Id. at 197-198.

There are also other matters on record that leave a nagging doubt in the Court's mind on the validity of Bautista's dismissal. It remains unexplained why ELPI initiated administrative proceedings against Bautista three years after his request for reimbursement was made and approved by ELPI's HRD Manager. The reimbursement covers tires for only ₱9,000.00 that were used by Bautista for a company-owned car. These were all readily verifiable and which were indeed verified and approved by ELPI's HRD Manager.

Another matter that disturbs the Court is the fact that ELPI was the one who introduced as evidence the statement of Arnulfo that Bautista did not purchase any tires from BTS, only for Arnulfo to issue a statement of recantation.¹⁰

In its Motion for Reconsideration, respondent failed to erase these doubts. It failed to explain why it presented a statement from Arnulfo that he eventually recanted. As stated above, Ong failed to explain why he belatedly informed respondent of the purported simulated sale. Respondent likewise failed to explain why it believed Ong when its own HRD Manager verified and approved the reimbursement to Bautista.

Finally, respondent failed to explain the belated execution and presentation of Du's affidavit. Respondent did not deny that Du's affidavit and its allegations were only made known to Bautista when it filed its Position Paper. Thus, at the time it made the decision to dismiss Bautista, Du's affidavit was not considered by respondent. Making matters worse for respondent, Du executed an Affidavit of Recantation. As the Court ruled:

Adding to the Court's discomfort with ELPI's evidence, on May 9, 2018, Bautista filed with the Court a *Manifestation with Motion to Admit Attached Affidavit of Recantation (Manifestation)*, informing the Court that Du recently communicated to him the severance of the latter's connection with ELPI. Du likewise disclosed to Bautista that Du was pressured to sign his purported affidavit corroborating Ong's statements, under threats of including him in the investigation and dismissal should he refuse. Hence, on April 4, 2018, Du executed an *Affidavit of Recantation*, denying that Ong had informed him that Bautista directed Ong to obtain the receipts and that Ong was visibly afraid of Bautista.¹¹

All things considered, the Court reiterates that "[t]he pieces of evidence [respondent] presented are riddled with inconsistencies and unexplained material facts that leave much to be desired — leading

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¹⁰ Id. at 199.

¹¹ Id.

the Court to arrive at the same conclusion arrived at by the NLRC, that is, that Bautista's dismissal was indeed illegal."¹²

WHEREFORE, acting on respondent's Motion for Reconsideration of the Decision dated February 3, 2021, and considering that there is no substantial argument to warrant the modification of this Court's Decision, the Court resolves to **DENY** reconsideration with **FINALITY**.

NO FURTHER pleadings, motions, letters or other communications shall be entertained herein.

Let an **ENTRY** of judgment in this case be issued immediately.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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¹² Id. at 199-200.

