



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **07 March 2022** which reads as follows:

**“G.R. No. 256003 (Leonardo Distributors, Inc., Petitioner v. Romeo M. Real, Respondent.)** – In this appeal,<sup>1</sup> petitioner Leonardo Distributors, Inc. (petitioners) seeks to reverse and set aside the Decision<sup>2</sup> dated 21 February 2019 and Resolution<sup>3</sup> dated 18 November 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 10330, which reversed the ruling<sup>4</sup> of the National Labor Relations Commission (NLRC) and declared respondent Romeo M. Real (Romeo) as illegally dismissed. The dispositive portion of the said Decision states:

IN LIGHT OF THE ALL FOREGOING, the present petition for *certiorari* is GRANTED. The Decision dated April 29, 2016 and Resolution dated June 30, 2016 of the National Labor Relations Commission are REVERSED and SET ASIDE.

Petitioner ROMEO M. REAL is REINSTATED to his former position WITH FULL BACKWAGES, which includes benefits and allowances being received by him as of December 3, 2014. Petitioner is entitled to moral damages in the amount of fifty thousand pesos (PhP 50,000.[00]), exemplary damages in the amount of fifty thousand pesos (PhP 50,000.00) and attorney’s fees equivalent to ten percent (10%) of the monetary award.

The case is REMANDED to the Labor Arbiter for reception of evidence on the salaries, allowances and benefits being received by petitioner at the time of his illegal dismissal and the computation of full backwages due to petitioner.

Private Respondent Leonardo Distributors, Inc. is solely liable for the payment of petitioner’s full backwages, moral and exemplary damages and attorney’s fees.

<sup>1</sup> *Rollo*, pp. 12-30.

<sup>2</sup> *Id.* at 39 to 50; penned by Associate Justice Pamela Ann Abella Maxino and concurred in by Associate Justices Louis P. Acosta and Dorothy P. Montejo-Gonzaga of the Twentieth (20<sup>th</sup>) Division, Court of Appeals, Cebu City.

<sup>3</sup> *Id.* at 32-37.

<sup>4</sup> *Id.* at 152-167.

AS/v

SO ORDERED.<sup>5</sup>

After a judicious perusal of the case, the Court resolves to DENY the present petition for failure of petitioner to show any reversible error in the assailed decision and resolution.

However, the Court sees the need to modify the decision of the CA to include the payment of unpaid salary during respondent's preventive suspension, which was discussed and awarded by the NLRC in its decision. We agree with the NLRC that preventive suspension was not legally imposed on respondent since such measure may only be carried out against an employee whose alleged violation is the subject of an investigation. The purpose of suspension is to prevent harm or injury to the company as well as to fellow employees. Its imposition is justified where the employee's continued employment poses a serious and imminent threat to the life or property of the employer or of the employee's co-workers. Without this kind of threat, preventive suspension is not proper.<sup>6</sup>

Here, there was no indication that respondent posed a danger to the lives of the officers or employees of petitioner or their properties. As aptly noted by the NLRC, petitioner waited for nine (9) long months from their knowledge of the purported positive drug test result before they imposing a preventive suspension in the guise of an impending investigation. Such measure was, thus, a mere afterthought and an attempt to justify its eventual dismissal of respondent.

Lastly, all monetary awards shall earn interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until fully paid.<sup>7</sup>

**WHEREFORE**, the instant Petition is hereby **DENIED**. Accordingly, the Decision dated 21 February 2019 and Resolution dated 18 November 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 10330 are **AFFIRMED with MODIFICATION** in that respondent Romeo M. Real is declared entitled to an award of unpaid salary for the period of his fifteen (15)-day suspension. Further, all monetary awards shall earn interest at the rate of six percent (6%) *per annum* computed from the finality of this Resolution until fully paid.

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<sup>5</sup> *Id.* at 50.

<sup>6</sup> *Maula v. Ximex Delivery Express, Inc.*, 804 Phil. 365 (2017), G.R. No. 207838, 25 January 2017 [Per J. Peralta].

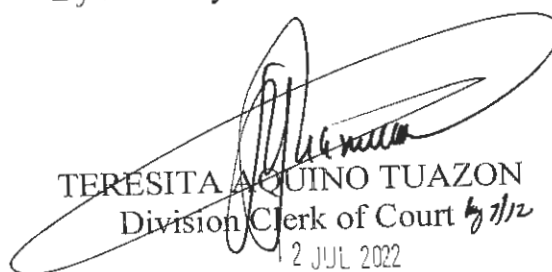
<sup>7</sup> *Nacar v. Gallery Frames*, 716 Phil. 267 (2013), G.R. No. 189871, 13 August 2013 [Per J. Peralta].

The case is **REMANDED** to the Labor Arbiter for computation of all monetary awards.

The Court resolves to **GRANT** petitioner's motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on certiorari.

**SO ORDERED.**" (Perlas-Bernabe, *J.*, on official leave. Hernando, *J.*, designated Acting Chairperson per Special Order No. 2872 dated 04 March 2022.)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court *by 7/12*  
2 JUL 2022

\*ATTY. CRISTIFIL D. BALUMA (reg)  
Counsel for Petitioner  
61 E. Butalid Street  
Tagbilaran City

\*ATTY. JESUS RAMEL M. SUNGCAD (reg)  
Counsel for Respondent  
Villa Las Palmas, 22-B Bulton St., Lahug  
6000 Cebu City

NATIONAL LABOR RELATIONS  
COMMISSION (reg)  
Seventh Division  
2nd Floor, Orient Building  
Gen. Echavez Street corner San Miguel Street  
6000 Cebu City  
(NLRC Case No. VAC 02-000104-2016)

HON. BERTINO A. RUAYA, JR. (reg)  
Labor Arbiter  
National Labor Relations Commission RAB VI  
3/F, LBF Building, Fuente Osmeña  
6000 Cebu City  
NLRC RAB VII Case No. 12-0076-14[4])

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CA-G.R. SP No. 10330

\*with copy of CA Decision dated 21 February 2019  
and Resolution dated 18 November 2020  
*Please notify the Court of any change in your address.*  
GR256003. 03/07/2022(59)URES