



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **September 21, 2022**, which reads as follows:*

“G.R. No. 259057 (Cecile’s Bistro/Cecile G. Cabigting v. Dave M. Magcutob, Haide N. Magason, Dennis U. Dalioan, Rosalinda Bongator, Reymart Eslao, and Beberlyn Bagay).— Impugned in this Petition for Review on *Certiorari*¹ are the *Decision*² dated 11 March 2021 and the *Resolution*³ dated 14 February 2022 of the Court of Appeals (CA) in CA-G.R. SP No. 166337. The repugned *Decision* affirmed the *Decision*⁴ dated 16 December 2019 and the *Resolution*⁵ dated 22 July 2020 of the National Labor Relations Commission (NLRC) which, in turn, affirmed with modifications the *Decision*⁶ dated 31 May 2019 of the Labor Arbiter (LA), a case for illegal dismissal. On the other hand, the challenged *Resolution* denied the motion for reconsideration of the questioned *Decision*.

The Petition deserves scant consideration.

Petitioner Cecile’s Bistro/Cecile G. Cabigting fundamentally raises a question of fact concerning the entitlement to separation pay of respondents Dave M. Magcutob, Heide N. Magason, Dennis U. Dalioan, Rosalinda Bongator, Reymart Eslao, and Beberlyn Bagay.

It is jurisprudentially settled that a Rule 45 petition only delve into questions of law and not on factual issues. A question of law arises when there is doubt as to what the law is on a certain state of facts. There is a question of fact, on the other hand, when the doubt arises as to the truth or falsity of the

¹ *Rollo*, pp. 3-27.

² *Id.* at 29-46. Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justice Marie Christine Azcarraga-Jacob and Associate Justice Angelene Mary W. Quimpo-Sale, concurring.

³ *Id.* at 49-50.

⁴ *Id.* at 80-97. Penned by Commissioner Gina F. Cenit-Escoto, with Presiding Commissioner Gerardo C. Nograles and Commissioner Ma. Minerva-S. Paez-Collantes, concurring.

⁵ *Id.* at 99-103.

⁶ *Id.* at 495-501. Penned by Labor Arbiter Rommel R. Veluz.

alleged facts, or when the query necessarily invites a calibration of the whole evidence presented.⁷

In the case at bench, this Court cannot resolve the issue raised herein by petitioner without re-evaluating the testimonial and documentary evidence presented before the labor tribunals. Accordingly, such issue is beyond the ambit of a petition for review on *certiorari* under Rule 45 of the Rules of Court.

In any event, the Court does not find any reason to disturb the factual findings of the labor tribunals. As a rule, the Court accords much respect to the factual findings of administrative or *quasi*-judicial bodies, including labor tribunals, as they are specialized to rule on matters falling within their jurisdiction particularly when these are supported by substantial evidence.⁸

Here, petitioner's cessation of business was permanent in nature. In *Unera, et al. v. Shin Heung Electrodigital, Inc., et al.*⁹, the Court held that "[t]he closure or cessation of operations of establishment or undertaking, whether partial or total, may either be due to serious business losses or financial reverses or any other underlying reason or motivation. Under the first kind, the employer must sufficiently and convincingly prove its allegation of substantial losses, while under the second kind, the employer can lawfully close shop anytime as long as cessation of or withdrawal from business operations was *bona fide* in character and not impelled by a motive to defeat or circumvent the tenorial rights of employees, and as long as he pays his employees their termination pay in the amount corresponding to their length of service."

Applying the foregoing in the instant case, the closure of petitioner's establishment was due to the non-renewal of lease and not due to serious business losses or financial reverses. Under Article 298 of the Labor Code, termination by reason of the employer's closure of operations that was not due to serious business losses or financial reverses, entitles the dismissed employee to separation pay.¹⁰ Consequently, respondents' dismissal from their employment warrants a payment of their separation pay.

Withal, the CA erred not in finding no grave abuse of discretion on the part of the NLRC for failure of petitioner to demonstrate arbitrariness on the

⁷ See *Mirando, Jr. v. Philippine Charity Sweepstakes Office*, G.R. No. 205022, 907 SCRA 255, 263 (2019).

⁸ See *Ascent Skills Human Resources Services, Inc. v. Manuel*, G.R. No. 249843, 6 October 2021.

⁹ G.R. No. 228328, 11 March 2020.

¹⁰ See *Veterans Federation of the Philippines v. Montenejo*, G.R. No. 184819, 29 November 2017.

part of the labor tribunals. Conversely, the NLRC evaluated the evidence presented before it before arriving at its Decision.¹¹

WHEREFORE, the Petition for Review on *Certiorari* is hereby **DENIED**. The *Decision* dated 11 March 2021 and the *Resolution* dated 14 February 2022 of the Court of Appeals in CA-G.R. SP No. 166337 are **AFFIRMED**.

SO ORDERED."

By authority of the Court:

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Division Clerk of Court

JB 11/A/22

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¹¹ See *Philippine National Bank v. Gregorio*, 818 Phil. 321, 334 (2017), where the Court ruled in this wise:

"In particular, the CA may review NLRC decisions only when there is grave abuse of discretion amounting to lack or excess of jurisdiction.

A special civil action for certiorari under Rule 65 is **not the same as an appeal**. In an appeal, the appellate court reviews errors of judgment. On the other hand, a petition for certiorari under Rule 65 is not an appeal but a special civil action, where the reviewing court has jurisdiction only over errors of jurisdiction. We have consistently emphasized that a special civil action for certiorari and an appeal are "mutually exclusive and not alternative or successive." A petition filed under Rule 65 cannot serve as a substitute for an appeal.

Thus, while we said in *St. Martin* that a special civil action under Rule 65 is proper to seek the review of an NLRC decision, this remedy is, by no means, intended to be an alternative to an appeal. It is not a substitute for an appeal that was devised to circumvent the absence of a statutory basis for the remedy of appeal of NLRC decisions. It is not a means to review the entire decision of the NLRC for reversible errors on questions of fact and law."

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(NLRC LAC No. 08-002993-19;
NLRC Case No. NCR-11-19064-18)

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