



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 1, 2023 which reads as follows:

“G.R. No. 250048 (*Causeway Seafood Restaurant Corporation and Eric Wong v. Roger Tulalian Camacho*). — Before Us is a Petition for Review on *Certiorari*¹ (Petition) assailing the Decision² dated 24 October 2019 of the Court of Appeals (CA) in CA-G.R. SP. No. 151640. The CA granted the Petition for *Certiorari* filed by respondent Roger T. Camacho (Camacho) and declared that he was illegally dismissed by petitioners Causeway Seafood Restaurant Corporation (Causeway) and Eric Wong (Wong; collectively, petitioners).

Antecedents

The CA summarized the facts of the case in this manner:

On 18 December 2009, petitioner Camacho was employed by respondent Causeway Seafood Restaurant Corporation (“Causeway”) as a general kitchen helper. He was required to work for ten (10) hours a day from 10:00 a.m. to 2:00 p.m. and from 5:00 p.m. to 11:00 pm. Sometime in 2011, he was assigned as a regular cook with a daily wage of P408.00 which was increased several times over the course of his employment. At the time of his dismissal, he was earning a daily wage of P515.00.

[Camacho] narrated that, on 26 July 2014, Respondent Eric Wong (“Wong”), the General Manager of respondent Causeway, summoned him to his office and accused him of drinking cooking wine with another employee, Dennis Iballar (“Iballar”). When [Camacho] denied the accusation, Wong shouted, “Gago ka talaga!” and immediately suspended him and Iballar from employment until 2 August 2014. On 3 August 2014, [Camacho] returned to work.

¹ *Rollo*, pp. 32-48.

² *Id.* at 5-27; penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Maria Filomena D. Singh (now a Member of this Court) and Germano Francisco D. Legaspi.

On 6 August 2014, Wong again called [Camacho] to his office and tried to elicit an admission from him. [Camacho] remained steadfast in his denial prompting respondent Wong to lose his temper and shout, “Mayabang ka talaga. Gusto mo ipapapatay kita? Kaya ko iyon, marami kaming pera.” Wong then ordered [Camacho] not to report for work the following day.

Despite the order, [Camacho] returned to work on 9 August 2014. However, he was informed that he was suspended for another seven days or until 16 August 2014.

On 17 August 2014, [Camacho] went back to work. After working for five hours, he was instructed by a security guard to meet Wong at the gym located at the top floor of the building since the latter had something to discuss with him. When Wong arrived, [Camacho] approached him and asked him why he had summoned him. Wong denied having called him and angrily sent him home.

The following day, or on 18 August 2014, Wong ordered [Camacho] to resume work. Later that day, he called [Camacho] to his office and accused him of using shabu. [Camacho] was then asked to undergo a drug test to be conducted by a doctor known to respondent Wong. Although he refused, [Camacho] demanded that the same be conducted by an accredited drug testing center to ensure the impartiality of the results. At this point Wong lost his temper and shouted at [Camacho], “Magresign ka nalang.” [Camacho] was offered P25,000.00 by Wong in exchange for his resignation. When [Camacho] refused the offer, Wong exclaimed, “Ang tigas talaga ng ulo mo, huwag ka na pumasok bukas, tanggal ka na sa trabaho.”

Due to [Camacho]’s incessant refusal to concede to Wong’s terms, the latter ordered his security personnel to have [Camacho] blotted at the Quezon City Police District, Eastwood Police Station (PS-12) for allegedly causing trouble at the restaurant. Subsequently, on 21 August 2014, [Camacho] returned to the same police station and secured a police blotter for the threats made against him by Wong.

Sometime in September 2014, [Camacho] received a letter dated 1 September 2014 from Dominic Lee (“Lee”), the store manager of Causeway, ordering him to return to work and to show cause why he should not be dismissed for the abandonment of his post. In a letter-reply dated 8 September 2014, [Camacho] informed Lee of the events that transpired between him and Wong. He expressed his eagerness to return to work but sought an assurance from Lee that respondent Wong or the management won’t deal with him adversely.

Receiving no further instructions from the management of Causeway, [Camacho] sought pro bono legal counseling to assist him in reaching a possible settlement with respondent Wong through the Single Entry Approach (“SEnA”) mechanism of the NLRC. However, Wong merely reiterated his offer of P25,000.00 in exchange for [Camacho]’s resignation.

Failing to reach a settlement, [Camacho] was constrained to file a complaint for illegal dismissal and non-payment of salary, overtime pay, holiday pay, rest day premium, 13th month pay, service incentive leave pay (“SILP”), night shift differential, moral and exemplary damages, and

attorney's fees against respondents Wong and Causeway before the Labor Arbiter. The case was docketed as NLRC NCR CN. 12-14651-15.³

On the other hand, petitioners alleged that several notices were issued to Camacho for the following infractions: (1) drinking alcoholic beverage while on duty; (2) drug use; and (3) leaving early from work without permission. In all instances, Camacho allegedly received the notices but refused to acknowledge receipt by signing the receiving copy. Petitioners further claimed that Camacho did not report to work on 30 August 2014 despite the lifting of his suspension. On 01 September 2014, Camacho was advised to report for work or else he will be considered to have abandoned his post, but Camacho failed to heed petitioners' command. Then on 08 September 2014, petitioners reportedly received a letter from Camacho explaining his absence from work. In response, petitioners replied with a letter telling Camacho that he was already dismissed from his employment.⁴

Ruling of the Labor Arbiter (LA)

The LA rendered a decision dismissing Camacho's complaint. It found that Camacho's refusal to comply with Wong's lawful order to undergo a drug test amounted to serious misconduct, which is a just cause for termination of employment. The LA also found that petitioners Wong and Causeway observed procedural due process in dismissing Camacho from service. Likewise, Camacho's other monetary claims were denied for his failure to state with particularity the period or sum that the petitioners failed to pay him. Nevertheless, the LA ordered petitioners to pay Camacho ₱9,656.25 as his service incentive leave pay considering the petitioners admitted that they failed to give Camacho this benefit.⁵

Ruling of the National Labor Relations Commission (NLRC)

On appeal, the NLRC initially reversed the LA's decision. The NLRC ruled that petitioners failed to prove that Camacho refused to submit himself to a drug test and abandoned his work. It also found Camacho's alleged drug use unbelievable and that he was singled out because the other employees were not required to undergo drug testing. The NLRC also noted that while Camacho did not agree that the drug test be conducted by the doctor that happened to be Wong's acquaintance, he was willing to do so in an accredited

³ Id. at 6-8.

⁴ Id. at 33-34.

⁵ Id. at 8-9.

drug testing agency. The NLRC, nonetheless, upheld the LA's denial of Camacho's monetary claims for the latter's failure to substantiate them.⁶

However, the NLRC reversed itself upon petitioners' Motion for Reconsideration. The NLRC considered petitioners' allegations in their Verified Answer, which was filed on time but belatedly forwarded to the office of the *ponente* who received it only after promulgating its earlier ruling. In their Verified Answer, petitioners alleged that Camacho was ordered to undergo drug testing at Hi Precision Diagnostics (Hi Precision), an accredited drug testing center. On this ground alone, the NLRC declared that Camacho's refusal constituted serious misconduct, and thus, there was a valid ground to dismiss him.⁷

Camacho filed a Motion for Reconsideration, which the NLRC denied, prompting him to file a Petition for *Certiorari* before the CA.⁸

The Ruling of the CA

The CA reversed the ruling of the labor tribunal and held that Camacho was illegally dismissed. In reaching this conclusion, the appellate court found that the NLRC gravely abused its discretion when it disregarded material and accepted facts and accepted petitioners' self-serving statement, *sans* proof, that: (1) Hi Precision was indeed the testing center being referred to when Camacho was given the order; (2) Camacho had refused to undergo drug testing at Hi Precision; and (3) Hi Precision was an accredited drug testing center.⁹

Further, the CA held that Camacho was not unjustified in refusing drug testing from the doctor who happened to be Wong's friend. He had valid reasons to believe the impartiality of a drug test to be conducted by a friend of Wong considering the strained relationship between them. In this regard, the CA noted the numerous incidents when Wong badly treated, insulted, and threatened Camacho. Based on the finding of illegal dismissal, the CA awarded Camacho back wages and separation pay since his reinstatement has been rendered impossible due to strained relations. The CA likewise awarded deficiency holiday premiums, overtime pay, service incentive leave pay, moral and exemplary damages, and attorney's fees. As regards the claim for monetary benefits, the CA ruled that petitioners failed to discharge their burden to prove payment. In addition, the CA imposed legal interest at six

⁶ Id. at 9-10.

⁷ Id. at 10.

⁸ Id. at 5.

⁹ Id. at 14-26.

percent (6%) per *annum* on all amounts awarded computed from finality of its decision until full satisfaction of the obligation.¹⁰

Issues

In the present Petition, petitioners argue that the CA committed reversible error when it substituted its own findings with that of the NLRC. According to petitioners, the CA exercised its appellate jurisdiction when its review should have been limited to determining whether the NLRC committed grave abuse of discretion. Petitioners also opine that it was erroneous for the CA to require them to prove that they indeed ordered Camacho to have his drug test at Hi Precision and that it is an accredited drug testing center. They argue that in labor cases, the strict observance of evidentiary rules is not required. If at all, it was Camacho's allegation that said clinic was not accredited that was not proven by the requisite evidence. Moreover, it remains undisputed that Camacho was ordered by management to go to Hi Precision to undergo drug testing, but he refused to do so without justified reason.¹¹

Petitioners also maintain that there is nothing on record to show that Camacho was entitled to holiday pay and overtime pay. They fault Camacho for failing to specify which holiday he was not paid, or the days when he rendered overtime but was not paid. Finally, petitioners claim that the lack of merit in Camacho's complaint also disqualifies him from receiving moral and exemplary damages, and attorney's fees.¹²

Ruling of the Court

The Petition must fail.

At the outset, it must be emphasized that the present petition is requiring Us to inquire into the adequacy or inadequacy of the evidence on record. This reason alone is enough to justify the petition's dismissal as the scope of the Court's judicial review of decisions of the CA is generally limited to errors of law.¹³ Moreover, the Court generally accords great weight to the factual findings of labor officials.¹⁴ Still, the Court is not precluded from making its own factual determination when the factual findings of the

¹⁰ Id.

¹¹ Id. at 37-41.

¹² Id. at 41-45.

¹³ See *Powerhouse Staffbuilders International, Inc. v. Rey*, 798 Phil. 8, 19 (2016).

¹⁴ See *Cosmos Bottling Corporation v. Nagrama Jr.*, 571 Phil. 281, 295-304 (2008).

tribunals below are conflicting, as in this case.¹⁵

The CA correctly found grave abuse of discretion on the part of the NLRC

There is no merit in petitioners' contention that the CA overstepped its jurisdiction when it looked into the correctness of the NLRC's ruling and did not limit its review to a determination of whether the labor tribunal committed grave abuse of discretion. Jurisprudence instructs us that the NLRC commits grave abuse of discretion when its findings and conclusions are not supported by substantial evidence or are in total disregard of evidence material to or even decisive of the controversy.¹⁶ In this case, the CA found that the NLRC is indeed guilty of gravely abusing its discretion. It merely took petitioners' word, without further proof, that Camacho's refusal to undergo drug testing was unjustified considering that he was ordered to go to an accredited drug testing center. We agree with the CA that the belated mention of Hi Precision appears to be an afterthought. Equally unmeritorious is petitioners' argument that the CA erred in requiring them to present such evidence.

Even if strict observance of procedural rules is not required in labor disputes, the complete absence of evidence and the substitution of mere allegations for material and concrete proof should never be sanctioned. Not even common sense could justify petitioners' laziness to present evidence. Here, the lack of evidence to prove petitioners' allegation is too glaring to remain unnoticed. **Despite being given several chances to support their claim, petitioners still only have their bare allegations and assertions to show that Camacho was indeed ordered to go to Hi Precision.**

Also worth noting is that petitioners failed to attach the notices to explain, notices of disciplinary action, or even the letters to return to work purportedly issued to Camacho. As it stands, petitioners' allegations remain only that, without any probative value. Mere allegation is not proof.¹⁷ In illegal dismissal cases, the employer bears the burden of proving that the termination was for a valid or authorized cause.¹⁸

Petitioners further claim that Camacho abandoned his work. It is settled that the burden to prove an employee's abandonment of his or her work rests upon the employer, thus:

¹⁵ *Jacob v. Villaseran Maintenance Service Corp.*, G.R. No. 243951, 20 January 2021.

¹⁶ *ABS-CBN Broadcasting Corp. v. Tajanlangit*, G.R. No. 219508, 14 September 2021.

¹⁷ *Republic v. Ponce-Pilapil*, G.R. No. 219185, 25 November 2020.

¹⁸ *Doctor v. NII Enterprises*, 821 Phil. 251, 265 (2017).



The burden to prove whether the employee abandoned his or her work rests on the employer. Thus, it is incumbent upon petitioner to prove the two (2) elements of abandonment. First, petitioner must provide evidence that respondent failed to report to work for an unjustifiable reason. Second, petitioner must prove respondent's overt acts showing a clear intention to sever his ties with petitioner as his employer.¹⁹ (Emphasis and underscoring supplied)

Petitioners failed miserably to discharge this burden. The fact of Camacho's termination from work by petitioners was never in dispute. Nevertheless, We should repeat that there is nothing on record that would support petitioners' allegation that Camacho was validly dismissed or that proceedings were commenced for his termination on the ground of abandonment. There is no proof that his refusal to go to work was unjustified or that there was clear intent on his part to sever his employment. Camacho was, therefore, illegally dismissed.

Camacho is not entitled to holiday premiums and overtime pay

As a result of being illegally dismissed, petitioners should be entitled to reinstatement and back wages. Article 294 of the Labor Code²⁰ states that an employee who is unjustly dismissed is entitled to reinstatement and to full back wages computed from the time the compensation is withheld until the time of actual reinstatement. In instances where reinstatement is not viable, separation pay may be awarded in lieu of reinstatement.²¹ The separation pay is equivalent to one month salary for every year of service and is awarded in addition to payment of back wages.²²

As far as backwages are concerned, the CA correctly computed it from 18 August 2014 when Wong ordered Camacho to no longer report to work as he is already dismissed. Nevertheless, the Court deems it proper to award separation pay instead of reinstatement. The strained relationship between Wong and Camacho is well-established. Unlike petitioners' allegations, Camacho's claim of Wong's hostile behavior towards him are substantiated by affidavits of his former co-workers.

¹⁹ *Protective Maximum Security Agency, Inc. v. Fuentes*, 753 Phil. 482, 508 (2015).

²⁰ ART. 294. [279] Security of Tenure. In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his [or her] full backwages, inclusive of allowances, and to his [or her] other benefits or their monetary equivalent computed from the time his [or her] compensation was withheld from him [or her] up to the time of his [or her] actual reinstatement.

²¹ *Seventh Fleet Security Services, Inc. v. Loque*, G.R. No. 230005, 22 January 2020.

²² *Moll v. Convergys Philippines, Inc.*, G.R. No. 253715, 28 April 2021.

Regarding the claim for holiday premiums and overtime pay, the Court deviates from the CA's ruling and rule that Camacho is not entitled to these claims. Indeed, jurisprudence states that once the employee has set out with particularity in the complaint the labor standard benefits, that the employee is entitled to, and which the employer failed to pay him, the burden shifts to the employer to prove that it has paid these money claims.²³ However, there is no such burden when the benefit sought are overtime pays and holiday premiums. We explained:

On the other hand, for overtime pay, premium pays for holidays and rest days, the burden is shifted on the employee, as these monetary claims are not incurred in the normal course of business. It is thus incumbent upon the employee to first prove that he [or she] actually rendered service in excess of the regular eight working hours a day, and that he [or she] in fact worked on holidays and rest days.²⁴

Camacho had the corresponding duty to adduce evidence that he indeed rendered service during the days he was allegedly not paid overtime pay and holiday premiums. He failed to do so. Thus, We find it proper to delete the CA's award of these benefits to Camacho. On the other hand, the Court notes that the CA specifically mentioned that petitioners failed to prove they paid holiday pay and overtime pay for 2010 and 2011. We agree with petitioners that under Article 306 of the Labor Code,²⁵ said benefits for these years, assuming they were not paid, already prescribed by the time the complaint was filed against them in 2014.

The CA correctly awarded moral and exemplary damages and attorney's fees in Camacho's favor

Moral damages are awarded to an illegally dismissed employee when the employer acted in bad faith or fraud, or in such manner oppressive to labor or contrary to morals, good customs or public policy.²⁶ Exemplary damages should also be granted to serve as deterrent against or as negative incentive to curb socially deleterious actions.²⁷ Moreover, exemplary damages are allowed only in addition to moral damages such that no exemplary damages can be awarded unless the claimant first establishes his clear right to moral damages.²⁸

²³ *Symex Security Services, Inc. v. Rivera, Jr.*, 820 Phil. 653, 673 (2017).

²⁴ *Minsola v. New City Builders, Inc.*, 824 Phil. 864, 880 (2018).

²⁵ Article 306. Money Claims. – All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred.

²⁶ *Leo's Restaurant and Bar Café v. Densing*, 797 Phil. 743, 761 (2016).

²⁷ *Magsaysay Maritime Corp. v. Chin, Jr.*, 731 Phil. 608, 614 (2014).

²⁸ *Mahinay v. Velasquez, Jr.*, 464 Phil. 146, 150 (2004).

In this case, Wong's act of hostility and disdain towards Camacho, as well as the latter's unceremonious dismissal, show that his termination was carried out in a manner that is oppressive and contrary to morals and good customs. The award of moral and exemplary damages to Camacho is proper.

Further, We rule that Camacho is entitled to attorney's fees. In several cases, the Court had repeatedly held that the award of attorney's fees is legally and morally justifiable in actions where an employee was forced to litigate and incur expenses to protect his or her rights and interest.²⁹ Such justification is clear in this case as respondent was forced to retain the services of his counsel thereby incurring expenses because of petitioner's refusal to pay disability benefits. Thus, respondent is entitled to attorney's fees equivalent to ten percent (10%) of his total monetary award. Finally, consistent with the Court's pronouncement in *Nacar v. Gallery Frames*,³⁰ interest at the rate of six percent (6%) per *annum* is hereby imposed on the total monetary awards counted from the finality of this Resolution until full payment.³¹

WHEREFORE, the Petition is **DENIED**. The Court of Appeals' Decision in CA-G.R. SP. No. 151640 dated 24 October 2019 is **AFFIRMED with MODIFICATION**. Petitioners Causeway Seafood Restaurant Corporation and Eric Wong are **ORDERED** to pay respondent Roger Tulalian Camacho the following:

1) Full backwages from the time respondent was illegally dismissed from duty on 18 August 2014 up to the finality of this Resolution;

2) Separation pay in lieu of reinstatement at the rate of one month per year of service;

3) Service incentive leave pay in the amount of ₱9,656.25;

3) Moral and exemplary damages in the total amount of ₱50,000.00; and

4) Attorney's fees equivalent to ten percent (10%) of the total monetary award.

The total monetary awards shall be subject to interest at the rate of six percent (6%) per *annum* from the finality of this Resolution until full payment.

²⁹ *Meco Manning & Crewing Services, Inc. v. Cuyos*, G.R. No. 222939, 03 July 2019.


³⁰ 716 Phil. 267 (2013).

³¹ *Id.* at 282-283.

Let the records of the case be remanded to the Labor Arbiter for proper computation of the award in accordance with this Resolution.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *rm 3/1*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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