

EIGHTEENTH DIVISION

[CA-G.R. SP. NO. 08213, February 17, 2015]

GREEN BASE/ALEX AMOR, JR., PETITIONERS, VS. HON. VIOLETA ORTIZ BANTUG, HON. JULIE C. RENDOQUE AND HON. JOSE G. GUTIERREZ, IN THEIR OFFICIAL CAPACITY AS COMMISSIONERS, NATIONAL LABOR RELATIONS COMMISSION, SEVENTH DIVISION, CEBU CITY, PUBLIC RESPONDENTS,

BRIAN LASTIMOSO, JOMAR BANTANGAN, JERRY GOMEZ, WELBERT ENQUILINO, JULITO AMPER AND JASON BANTANGAN, PRIVATE RESPONDENTS.

D E C I S I O N

INGLES, G. T., J.:

Assailed in this petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure is the Decision^[1] promulgated on August 30, 2013 in NLRC Case No. VAC-07-000415-2013, the dispositive portion thereof reads:

“WHEREFORE, premises considered, respondents' appeal is DISMISSED as We find no compelling reason to deviate from the findings of the Labor Arbiter. The decision appealed from is hereby AFFIRMED reiterating complainants' constructive dismissal and adjusting the amounts awarded as backwages and attorney's fees temporarily computed until the promulgation of this Decision on 30 August 2013. Thus, respondents are ordered to pay complainants the total amount of P588,852.00 consisting of separation pay, backwages, 13th month pay, holiday pay, service incentive leave pay and attorney's fees.

SO ORDERED.”

Likewise assailed is the Resolution^[2] promulgated on October 31, 2013 denying herein petitioners' motion for reconsideration of the August 30, 2013 Decision.

The respective claims of the parties, as summarized by the NLRC in its assailed decision, are as follows:

“Complainants (private respondents herein)^[3] state that they were all hired and employed by respondents on various dates with various rates of pay.

Respondents (petitioners herein) operated a fertilizer production business. The proprietor and manager of the establishment is Alex “Jun” Amor, Jr.

All complainants were working on agricultural waste, manure, molasses, earthworms, and other materials to form into a commercial 'organic' fertilizer which was sold by respondents to big farms and to local and international markets. Respondents also sold their products to the Department of Agriculture. Complainants' works were likened to the Discovery Channel series 'Dirty Jobs.'

Unfortunately, even with their odd jobs, respondents intermittently paid their very low and inhuman wage to the point that complainants were driven to hunger. One could just imagine a daily wage of P95.00 which, at the end of the pay period, would only be given in half or sometimes none at all.

Complainant Rosalie Cadungog complained about this partial wage payment, but she was just countered to look for another job. In short, complainant Cadungog was terminated verbally.

The rest of the complainants were constructively terminated due to non-payment of wages. Their feet were too weary to go to work again unpaid of previous wages and probably in the incoming days also.

Complainants also claim that they were not paid of their holiday pay, premium pay for rest day, service incentive leave pay, and 13th month pay. Complainants likewise allege not being given privilege of SSS and Philhealth benefits. Most importantly, complainants manifest that they are entitled to the minimum wage differentials as they were oppressively paid below the minimum.

For their part, respondents state that the company is engaged in the production of cheap fertilizer with the use of cultured earthworms.

Complainants were not dismissed, much less illegally.

Respondent Amor states that in the early morning of 18 September 2012, complainants were given their salaries, but after being paid their salaries, instead of reporting to work, they left and went to a radio program known as 'Kandos' and there spread lies that they were dismissed from employment. The allegation of a dismissal cannot be possible when complainants were even paid their salaries on that day.

Respondent Amor never told complainants to stop working. Complainants themselves did not report for work. Much as respondents wanted to send complainants letters for them to report back to work, their hands were already allegedly tied as complainants immediately filed a case on 19 September 2012.

Respondents alleged that, in fact, complainant Lastimoso owed the company the amount of P3,750.00 as cash advance.

As for complainant Jason Bantanganan, in the last week of May 2012, he never reported for work. Thereafter, he re-applied and started work with respondents again on 10 September 2012. However, for reasons known

only to him, Bantanganan immediately filed a case eight days after he was re-employed.

Complainant Jomar Bantanganan, for his part, stopped working in March 2011 as he went to Luzon. He came back to work only on 01 July 2012.

Complainant Jerry Olpos, on the other hand, is already back to work with respondent company.

For complainants Cadungog and Redoble, they simply stopped working. For complainant Cadungog since 14 January 2012 and since 10 November 2007 for complainant Redoble.

On complainants' claims that they were not paid the minimum wage, respondents counter that respondent company is registered under the Barangay Micro Business Enterprise (BMBE). Relative to such registration, respondent company is exempted from compliance with the requirements of the minimum wage law and other concomitant benefits.

Other benefits, however, were all given to complainants such as 13th month pay. Complainants were even being given extra monetary benefits known as production incentive. Complainants were also provided free accommodation with free water and electricity and free medical coverage with the in-house physician. In fact, respondents allege that one of the complainants, Welbert Enquilino, and his whole family, is still living in the quarters provided for them."

After the filing of the parties respective position papers, the Labor Arbiter found the following issues to be resolved: (1) whether there is constructive dismissal and (2) whether the complainants are entitled to their monetary claims. Thereafter, the Labor Arbiter ruled in favor of the complainants per Decision^[4] dated May 29, 2013, the dispositive portion thereof is hereunder quoted, to wit:

"WHEREFORE, judgment is hereby declared that the complainants were constructively dismissed. Respondent Alex J. Amor Jr. is hereby directed to pay the complainants the sum of P328,905.00 per computation shown at the immediately preceding paragraph, plus ten percent (10%) attorney's fees. Other claims are denied for lack of merit.

SO ORDERED."

Herein petitioners Green Base / Alex Amor, Jr. appealed^[5] the above said decision with respect to the award given in favor of herein private respondents, Brian Lastimoso, Jomar Bantangan, Jerry Gomez, Welbert Enquilino, Julito Amper and Jason Bantangan to the National Labor Relations Commission - 7th Division but the same was dismissed per the assailed decision.

Petitioners moved for the reconsideration^[6] of the above decision but the same was denied per Resolution^[7] promulgated on October 31, 2013.

Aggrieved, petitioners filed the instant petition for certiorari and raised the following issues, to wit:

WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION BY:

1. DECLARING THAT PRIVATE RESPONDENTS HAVE BEEN CONSTRUCTIVELY DISMISSED;
2. DECLARING THAT PRIVATE RESPONDENTS ARE ENTITLED TO THE MONETARY AWARD THEY PRAYED FOR.

The petition is bereft of merit.

In *Siemens Philippines, Inc. v. Domingo*,^[8] the Supreme Court defined constructive dismissal as follows:

“The gauge for constructive dismissal is whether a reasonable person in the employee’s position would feel compelled to give up his employment under the prevailing circumstances. Constructive dismissal is defined as quitting when continued employment is rendered impossible, unreasonable or unlikely as the offer of employment involves a demotion in rank or diminution in pay.^[9] It exists when the resignation on the part of the employee was involuntary due to the harsh, hostile and unfavorable conditions set by the employer. It is brought about by the clear discrimination, insensibility or disdain shown by an employer which becomes unbearable to the employee. An employee who is forced to surrender his position through the employer’s unfair or unreasonable acts is deemed to have been illegally terminated and such termination is deemed to be involuntary.^[10]”

Private respondents bewailed the intermittent release of their meager wages. At the end of the agreed period, their employer either pay them in half or at times, do not pay them at all. This has driven them to hunger, prompting them not to go to work anymore.

In doing so, petitioners clearly acted with insensibility or disdain towards private respondents which compelled them to forgo their continued employment. Indeed, petitioners' act has compelled herein private respondents to give up their employment. Hence, petitioners are clearly liable for constructive dismissal.

Petitioners' contention to the effect that private respondents were not able to prove the grounds for constructive dismissal inasmuch as the latter did not give any affidavit or other supporting documents to support their claim, is bereft of merit.

Our perusal of the records of the case reveals that in the position paper^[11] of the private respondents which was submitted to the Labor Arbiter, it was categorically stated that:

“4. Unfortunately, even with their odd jobs, respondents (petitioners herein)^[12] intermittently paid their very low and inhuman wage to the point that they were driven to hunger. One could just imagine a daily wage of P95, at the end of their agreed pay period, they would just be given half of that or sometimes none at all. How could a very lowly paid employee succumbed to such employment? Respondents were earning