

SPECIAL EIGHTH DIVISION

[CA-G.R. SP No. 130216, May 07, 2014]

MAXIMO P. YOUNG, DOING BUSINESS UNDER THE BUSINESS NAME, MADE DISTRIBUTION ENTERPRISE AND WILBERT YOUNG, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND RICARDO R. MENDOZA, RESPONDENTS.

D E C I S I O N

INTING, S. B., J.:[*]

The parties to this Petition^[1] seek this Court's approval of their *Compromise Agreement*^[2].

The facts:

Petitioner Maximo P. Young, doing business under the business name, Made Distribution Enterprise (Petitioner company) is the employer of Private Respondent Ricardo R. Mendoza (Private respondent). While Wilbert T. Young is the General Manager of the Petitioner company.

Private respondent was initially hired by Petitioner company on January 23, 2007 as a helper and subsequently, he became a regular delivery driver. Sometime on January 27, 2011, during a routine delivery to client LCMM store, Lawrence Larioza (Larioza), the helper assigned to Private respondent, was caught by the client in the act of stealing a ream of Marlboro cigarettes without Private respondent's knowledge. Private respondent was shocked about what happened. He assured the client that the incident will never happen again. Private respondent also advised the client to contact the Petitioners so the incident could be reported to them. After a few days, an investigation was conducted which also led to the resignation of Larioza who took full responsibility about the incident.

On February 7, 2011, Petitioners issued a Memorandum placing Private respondent under preventive suspension until further notice. Despite his suspension, Private respondent kept going to Petitioners' office to regain his job but failed. Consequently, Private respondent filed a Complaint with the NLRC for illegal dismissal, moral and exemplary damages and attorney's fees.

Petitioners in their Position Papers, on the other hand, claim that nobody from the delivery team reported the incident to the management. Petitioners further claim that on February 1, 2011, the owner of the store reported the stealing incident to the Petitioner company. On the same day, a Memorandum was issued by the Petitioner company addressed to Larioza. A separate Memorandum was also issued to Private respondent and Jangas, another helper at the Petitioner company, requiring them to submit a written account of their involvement in the stealing incident. After evaluating the written accounts of Private respondent and Jangas,

Petitioner company placed both of them under preventive suspension^[3] while the investigation of the incident was ongoing.

Subsequently, Private respondent allegedly neither reported back to work nor cooperated in the investigation. On February 21, 2011, after it was established that both Private respondent and Jangas were not involved in the stealing incident they were ordered^[4] by the Petitioner company to report back to work. Jangas returned to work the following day. Private respondent, however, who did not report since he was preventively suspended could not be contacted by the Petitioner company. Petitioner allegedly sent the Memorandum at the last known address of the Private respondent. On March 18, 2011, another Memorandum^[5] was sent by the Petitioner company, informing the latter that he was already considered AWOL for more than 14 days and deemed to have abandoned his job. On March 25, 2011, a Final Memorandum of Termination^[6] was posted at the last known address of Petitioner.

On November 15, 2012, the Labor Arbiter issued its *Decision*^[7], dismissing Private respondent's complaint on the ground that Private respondent abandoned his work. The dispositive portion of the decision provides, to wit:

"WHEREFORE, premises considered, the instant case is hereby **DIMISSED**.

SO ORDERED."

Consequently, the Private respondent filed a *Notice and Memorandum of Appeal*^[8] which was granted by the NLRC in its *Decision*^[9] dated March 12, 2013. The dispositive portion of which provides:

"WHEREFORE, premises considered, the appealed Decision is hereby **REVERSED** and **SET ASIDE** and a new one entered ordering respondents to reinstate complainant to his former position without loss of seniority rights and to pay complainant full backwages from March 7, 2011 up to the time of his actual reinstatement, which as of January 31, 2013 already amounts to P263, 186.54, plus ten percent (10%) thereof as attorney's fees.

SO ORDERED."

Subsequently, Petitioners filed a *Most Deferential Motion for Reconsideration*^[10] of said decision which was denied by the NLRC in its *Resolution*^[11] dated May 9, 2013, the dispositive portion of which provides:

"WHEREFORE, premises considered, Most Deferential Motion for Reconsideration is hereby **DENIED** for lack of merit.

No further motion of similar nature will be entertained.

SO ORDERED."

Consequently, Petitioners filed before this Court a Petition for Certiorari^[12] assailing the said March 12, 2013 Decision^[13] of the NLRC and its May 9, 2013 Resolution^[14]. On August 2, 2013, the Court in its Minute Resolution^[15] referred