

SECOND DIVISION

[G.R. No. 174173, March 07, 2012]

**MA. MELISSA A. GALANG, PETITIONER, VS. JULIA MALASUGUI,
RESPONDENT.**

D E C I S I O N

PEREZ, J.:

Before the Court is a Petition for Review on Certiorari^[1] of the Decision^[2] of the Twenty First Division of the Court of Appeals (CA) in CA G.R. SP No. 62700 dated 18 April 2006, granting the Special Civil Action for Certiorari under Rule 65 of the 1997 Revised Rules of Civil Procedure filed by Julia Malasugui and reversing the Resolution of the National Labor Relations Commission (NLRC) Fifth Division. The dispositive portion of the assailed decision reads:

WHEREFORE, premises considered, the instant petition is **GRANTED**. The **RESOLUTION** dated June 29, 2000 of public respondent National Labor Relations Commission (Fifth Division) is **REVERSED and SET ASIDE**. Private respondent Liza Galang is hereby **ORDERED** to pay petitioner Julia Malasugui the following: salary differential in the amount of P19,554.23; 13th month pay differential in the amount of P4,620.50; separation pay equivalent to one month salary for every year of continuous service; and full backwages from the time of her illegal dismissal up to the date of finality of this judgment.^[3]

Respondent has this story:

On 26 June 1993, Julia Malasugui (Malasugui) was hired by Ma. Melissa A. Galang (Galang) to take care, oversee and man the premises of the Davao Royal Garden Compound (Pangi Property) – the main compound of Galang where the orchids and other ornamental plants used for the business were nursed and propagated. Aside from taking care of the plants, she was required by Galang to be present at the premises at seven thirty in the morning until five thirty in the afternoon every day, including Saturdays, Sundays and Holidays without any day-offs.^[4]

Galang would visit the premises at least thrice a week and give her instructions on what to do and what were the things to be prioritized. Among these instructions were tending, watering and spraying with chemicals various orchid varieties, packing the orchids for export purposes and cleaning the surroundings of the half-hectare premises.^[5]

From 1993-1995, Malasugui was paid by Galang P40.00 as daily wage and after three years, it was increased to P70.00 per day until February 1999.^[6] She was

also given one thousand pesos (P1,000.00) bonus every December by Galang.^[7]

Malasugui was later made to stay and live at the premises, particularly in one of the bunk houses within the Pangí property which was vacated by the family driver of Galang, so that she could watch and guard the premises even during nighttime.^[8] However, she had to buy her food.^[9]

In November 1998, she became sick with severe cough and asked for financial assistance from Galang for medical check-up. The coughing became incessant which prompted Galang to bring her to a doctor and made to undergo a series of examinations including chest radiographic examination. Thereafter, she was terminated from work and barred from entering the Pangí property on 27 January 1999.^[10]

The allegations of respondent were corroborated by the neighbors of the Pangí property, namely: Nestor Siarot (Siarot) and Ledwina M. Mendoza (Mendoza).

Siarot in his affidavit attested that he was an employee of PG Lumber, the office of which is adjacent to the Pangí property. He attested that he knows that Malasugui slept within the premises and tended to the plants and orchids, either by watering, cultivating or spraying the same with chemicals; and that Galang is the owner of the Davao Royal Garden and Malasugui received instructions from her.^[11]

Mendoza, in turn, confirmed Siarot's statement. She said that she personally knows that Malasugui was an employee of Davao Royal Garden, a business establishment engaged in the business of growing of orchids and that in the course of her employment Malasugui was made to stay inside the premises of the Pangí property.^[12]

On the other hand is the version of the defense:

Petitioner Galang narrated that she is the owner of Davao Royal Garden, a sole proprietorship engaged in the retailing of ornamental plants, consisting of receiving of cut-flowers from farmers or suppliers, packing them for shipment, and shipping them to the buyers.^[13] However, Galang did not hire respondent Malasugui.

Her mother Elsa Galang (Elsa) is an orchid hobbyist who is engaged in the propagation of orchid plants and occasionally sells them to her friends and acquaintances.^[14]

In 1993, her family bought a parcel of land at Matini, Pangí, Davao City (Pangí property) on which they intended to construct their family home. While construction was yet to start, Elsa transferred her orchid collection to the Pangí property. There thus was a need to oversee the property and Elsa decided to allow their laundrywoman Aurora Solis (Solis) to stay in one of the bunk houses within the property to take care of the orchid collection. At the same time, Solis would also assist Galang in her business. The other bunkhouse was then occupied by their family driver.^[15]

Sometime in 1995, Malasugui visited Solis, a relative by affinity, in the Pangí

property. She told Solis of her intention to find a job in the city but she had no place to stay in the meantime. Malasugui could not be hired by the Galang. There was no need for another employee since Solis was already taking care of Elsa's orchid collection and Galang's orchid business. However, Malasugui was allowed to stay in the bunkhouse occupied by Solis.^[16]

When the family driver left the other bunkhouse, Malasugui occupied it and brought along her family as well. The Galang family tolerated this arrangement for around six years as an act of kindness. During these times, Malasugui did not look for any job as initially intended. They did not require Malasugui to pay for rentals, electricity, water and other utilities.^[17]

Solis, on the other hand, asked Malasugui to help out in her tasks of weeding, watering, spraying chemicals on the orchids as well as cleaning the Pangi property. When Galang inquired why Malasugui was doing such tasks, Solis replied that she asked Malasugui to assist her since she and her family were occupying the property. The assistance rendered by Malasugui was in gratitude for the hospitality of the Galang family.^[18]

Admittedly, Galang occasionally gave money to Malasugui out of charity. She even answered for the medical expenses of Malasugui when the latter became sick of excessive coughing early in 1999. She even made an arrangement with a radiologist for her diagnostic examination but Malasugui did not show up at the appointed time. When confronted by Galang about this, Malasugui packed her belongings and left the Pangi property. She was not asked nor forced to leave the premises by any member of the Galang family.^[19]

Malasugui filed a complaint for illegal dismissal before the National Labor Relations Commission, Regional Arbitration Branch No. XI of Davao City on 8 February 1999 claiming underpayment of wages, holiday pay, separation pay and 13th month differential.^[20]

On 28 September 1999, Labor Arbiter Antonio M. Villanueva rendered judgment^[21] finding complainant's charge of illegal dismissal without merit. The dispositive portion reads:

WHEREFORE, in consideration of all the foregoing, judgment is hereby rendered finding complainant's charge of illegal dismissal without merit but ordering respondents Davao Royal Garden and Melissa Galang to pay jointly and severally the sum of TWENTY FOUR THOUSAND ONE HUNDRED SEVENTY FOUR PESOS AND SEVENTY THREE CENTAVOS (P24,174.73) to complainant as wage differential and 13th month pay differential.

Ordering the dismissal of the claims for holiday pay and separation pay for lack of merit.^[22]

The Labor Arbiter found that Malasugui was hired to work for Galang in relation to her orchid business. Her tasks of assisting Solis in watering, weeding and cleaning

the surroundings led the Labor Arbiter to conclude that with the knowledge and acquiescence of Melissa Galang, Malasugui was made "to suffer or permit to work" within the definition of employee under Article 97(e) of the Labor Code. However, the Labor Arbiter ruled that there was no substantial evidence that Malasugui was illegally dismissed and barred from entering the property after she, without any notice to her employer, packed her belongings and left the Pangil property. Respondent was awarded salary differential and 13th month pay but was denied holiday pay.

Galang appealed before the NLRC assailing the finding of the Labor Arbiter that there was an employer-employee relationship between her and Malasugui.

On 29 June 2000, the NLRC affirmed with modification the Decision of the Labor Arbiter. The dispositive portion of the resolution reads:

WHEREFORE, premises laid, the decision appealed from is hereby MODIFIED by deleting the award of salary differentials. The rest of the Labor Arbiter's decision stands.^[23]

The NLRC in its Resolution^[24] deleted the award of salary differentials on the reason that even though the salary received by the complainant was below that provided by law by Ten Pesos (P10.00) per day, the non-monetary benefits received by her such as lodging, free water, electricity and telephone, if quantified, will be more than enough to compensate the difference. To do otherwise would result in unjust enrichment on the part of Malasugui to the detriment of Galang.

The Motion for Reconsideration^[25] filed by Malasugui was denied by the NLRC in a Resolution dated 29 September 2000.

Aggrieved, Malasugui filed a Special Civil Action for Certiorari under Rule 65 of the Revised Rules of Civil Procedure before the CA alleging grave abuse of discretion on the part of NLRC.^[26]

The CA granted the petition filed by Malasugui. It ruled that respondent was illegally dismissed by Galang. It reinstated the award of salary differential to Malasugui in addition to the 13th month pay. Further, because of the ruling of illegal dismissal against Galang, the appellate court awarded separation pay to Malasugui for every year of continuous service and full backwages from the time of her dismissal up to the time of the finality of the judgment.

The following are the assignment of errors presented before this Court:

THE COURT A QUO ERRED IN DECIDING QUESTIONS OF SUBSTANCE CONTRARY TO LAW AND SETTLED RULINGS OF THE SUPREME COURT IN THE FOLLOWING:

A. THE RESPONDENT [MALASUGUI] WAS ILLEGALLY AND CONSTRUCTIVELY DISMISSED FROM EMPLOYMENT DESPITE

ABSENCE OF AN EMPLOYER-EMPLOYEE RELATIONSHIP AND THEREFORE ENTITLED TO SEPARATION PAY AND BACKWAGES.

B. THE CONCLUSIONS REACHED BY THE COURT OF APPEALS ARE CONTRARY TO THOSE OF THE LABOR ARBITER AND NATIONAL LABOR RELATIONS COMMISSION AND ARE MERE CONCLUSIONS PREMISED ON ERRONEOUS ASSUMPTIONS OF FACTS NOT BORNE OUT OF THE RECORD.^[27]

The basic issues are, first, whether or not Malasugui is an employee of Galang; and second if she is an employee, whether or not Malasugui was constructively dismissed.

All three, Labor Arbiter, the NLRC and the CA ruled that there was an employer-employee relationship between Galang and Malasugui. We do not see any reason to rule otherwise. This Court is not a trier of facts and does not routinely undertake the re-examination of the evidence presented by the contending parties for the factual findings of the labor officials who have acquired expertise in their own fields are accorded respect and even finality if affirmed on appeal to the Court of Appeals.^[28]

Such principle cannot, however, apply to the finding of illegal dismissal against Galang. The Labor Arbiter and the NLRC both ruled that there was no illegal dismissal, but the Court of Appeals reversed such findings. We find a need to look into the decision of the CA.

When supported by substantial evidence, the findings of fact of the CA are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions:

- (1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;
- (2) When the inference made is manifestly mistaken, absurd or impossible;
- (3) Where there is a grave abuse of discretion;
- (4) When the judgment is based on a misapprehension of facts;
- (5) When the findings of fact are conflicting;**
- (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
- (7) When the findings are contrary to those of the trial court [in this case the administrative bodies of Labor Arbiter and NLRC];**
- (8) When the findings of fact are conclusions without citation of specific evidence on which they are based;
- (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and
- (10) When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and