

## SECOND DIVISION

[ G.R. No. 188086, August 03, 2011 ]

**FRANCIS BELLO, REPRESENTED HEREIN BY HIS DAUGHTER AND ATTORNEY-IN-FACT, GERALDINE BELLO-ONA, PETITIONER, VS. BONIFACIO SECURITY SERVICES, INC. AND SAMUEL TOMAS, RESPONDENTS.**

### D E C I S I O N

**BRION, J.:**

We resolve the petition for review on *certiorari*,<sup>[1]</sup> filed by petitioner Francis Bello, to challenge the decision<sup>[2]</sup> and the resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP. No. 105402.<sup>[4]</sup>

#### **The Factual Background**

Respondent Bonifacio Security Services, Inc. (BSSI) is a domestic private corporation engaged in the business of providing security services. In July 2001, the BSSI hired Bello as a roving traffic marshal to manage traffic and to conduct security and safety-related operations in the Bonifacio Global City (BGC). In August 2001, Bello was posted at the Negros Navigation Company in Pier 2, North Harbor, to supervise sectoral operations. In November 2001, he was assigned at BGC as assistant detachment commander. After a week, he was transferred to Pacific Plaza Towers as assistant detachment commander and later as detachment commander. In June 2002, he was assigned at Pier 2, North Harbor as assistant detachment commander, but later reassigned to BGC. In August 2002, the BSSI hired a new operations manager, resulting in the reorganization of posts. In October 2002, Bello was assigned as roving traffic marshal at the BGC. On October 25, 2002, he filed an indefinite leave of absence when his new assignment took effect.

On November 5, 2002, Bello filed a complaint against the BSSI and its General Manager, respondent Samuel Tomas, with the National Labor Relations Commission (NLRC),<sup>[5]</sup> claiming that he had been constructively dismissed when he was demoted from a detachment commander to a mere traffic marshal. He alleged that he received a series of promotions from 2001 to 2002, from traffic marshal to supervisor, to assistant detachment commander, and to detachment commander.<sup>[6]</sup>

The BSSI denied Bello's claim of constructive dismissal, arguing that no promotion took place; Bello's designation as assistant detachment commander or detachment commander was not an employment position but a duty-related assignment; Bello abandoned his job when he went on an indefinite leave of absence and did not report for work.<sup>[7]</sup>

#### **The Labor Arbiter's Ruling**

In his December 29, 2005 decision,<sup>[8]</sup> Labor Arbiter Cresencio G. Ramos, Jr. found that Bello was illegally dismissed, noting that the BSSI failed to adduce evidence that Bello abandoned his employment. Thus, he ordered Bello's reinstatement and awarded him backwages amounting to P391,474.25.

After the NLRC dismissed the BSSI's belated appeal and subsequent motion for reconsideration,<sup>[9]</sup> the latter filed a petition for *certiorari* with the CA. The CA granted the petition,<sup>[10]</sup> thus reinstating BSSI's appeal with the NLRC.

In its March 26, 2008 resolution, the NLRC affirmed the labor arbiter's decision, finding that Bello had been constructively dismissed when he was demoted to the rank-and-file position of traffic marshal after occupying the supervisory position of assistant detachment commander and detachment commander.<sup>[11]</sup> The denial of BSSI's subsequent motion for reconsideration led it back to the CA on a petition for *certiorari* under Rule 65 of the Rules of Court.<sup>[12]</sup>

### **The CA Ruling**

The CA nullified the NLRC resolutions, finding the records bereft of evidence substantiating the labor arbiter's and the NLRC's conclusions that Bello had been constructively dismissed.<sup>[13]</sup> It noted that Bello offered no evidence to prove that there was a series of promotions that would justify his claim of subsequent demotion. The CA denied the BSSI's motion for reconsideration,<sup>[14]</sup> paving the way for the present petition.

### **The Petition**

Bello insists that he was constructively dismissed when he was demoted to a mere traffic marshal after having been promoted to the positions of supervisor, assistant detachment commander, and detachment commander.

### **The Case for the BSSI**

The BSSI prays for the petition's outright dismissal due to a defective verification, arguing that the special power of attorney (SPA) of Bello's attorney-in-fact, Geraldine Bello-Ona, was limited to representing him in the NLRC case only and not to the present petition; and that Bello-Ona has no personal knowledge of the allegations in the petition. On the merits of the case, the BSSI contends that the CA correctly ruled that there was no evidence to substantiate the NLRC's finding of constructive dismissal.

### **The Issues**

The core issues boil down to: whether the petition should be dismissed outright for defective verification; and whether the CA erred in annulling the NLRC's resolutions.

### **The Court's Ruling**

***The petition lacks merit.***