

SECOND DIVISION

[G.R. No. 184735, September 17, 2009]

**MIRIAM B. ELLECCION VDA. DE LECCIONES, PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION, NNA PHILIPPINES
CO., INC. AND MS. KIMI KIMURA, RESPONDENTS.**

R E S O L U T I O N

BRION, J.:

We resolve the motion for reconsideration^[1] of our Resolution^[2] dated December 8, 2008 denying the petition for review on *certiorari*^[3] filed on November 10, 2004 by petitioner Miriam B. Elleccion Vda. de Lecciones.

The case arose on November 8, 2002 when the petitioner filed a complaint^[4] for illegal dismissal with several money claims against the NNA Philippines Co., Inc. (*respondent*). The respondent, a research and translation service company with less than ten (10) employees, is a wholly-owned subsidiary of NNA Japan Co., Ltd.^[5] (NNA Japan).

The respondent employed the petitioner on August 1, 1997, and she held various positions in the company, the latest of which as Administrator.^[6] Additionally, she served as Corporate Secretary until July 3, 2002. She alleged that she usually worked from 9:00 a.m. to 10:00 p.m. - 12:00 midnight and sometimes even until 2:00 a.m. or 9:00 a.m.^[7] She claimed that the respondent promised to compensate her for extra hours, as well as for doing tasks other than that what she was contracted for.

On May 17, 2002, the Board of Directors of NNA Japan decided to streamline the operations of its subsidiaries including the respondent, and thus issued a memorandum directing the respondent to transfer the corporate secretary's functions to the external counsel. The memorandum also gave management the discretion to determine which positions should be declared redundant.^[8]

On July 4, 2002, the respondent's Board of Directors held an organizational meeting where the petitioner was not re-elected as corporate secretary. The board also directed the respondent's President at the time, Ms. Kimi Kimura (*Kimura*), to reorganize the corporation and abolish any redundant position.^[9]

On October 17, 2002, the petitioner received a notice of termination of employment on the ground that her position as Administrator had been declared redundant.^[10] On the same day, the respondent filed a report of the petitioner's separation from service with the Office of the Department of Labor and Employment in the National Capital Region (DOLE-NCR).^[11]

On November 15, 2002, the respondent issued the petitioner a memorandum advising her of the release of checks in her favor representing her salary and accrued benefits including her separation pay.^[12] On the same day, she accepted the checks for her last salary (P23,097.13); 13th month pay (P46,084.00); unused leave credits for seven (7) days (P8,028.10); year-end tax refund (P803.24); and reimbursement of advances made to the company (P71,197.05). She refused to accept the check representing her separation pay in the amount of P244, 182.07 (based on her salary and allowances).^[13]

On January 16, 2004, Labor Arbiter Aliman D. Mangandog dismissed the complaint for lack of merit, but ordered the respondent to pay the petitioner separation pay computed at one (1) month's salary for every year of service.^[14] The petitioner appealed the decision to the National Labor Relations Commission (NLRC).

In a decision promulgated on May 15, 2006,^[15] the NLRC affirmed the petitioner's separation from the service; modified the monetary benefits awarded to her; and affirmed the Arbiter's denial of the petitioner's claim for additional compensation as corporate secretary on the ground that it was an intra-corporate matter. In addition to the separation pay of P244,182.07, the NLRC ordered the petitioner reimbursement of cash advances made by the petitioner to the company amounting to P248,712.72.

The petitioner moved for a partial reconsideration of the NLRC decision, but the NLRC denied the motion on June 30, 2006.^[16] The petitioner then elevated the case to the Court of Appeals (CA) through a petition for *certiorari* under Rule 65 of the Rules of Court.

In its decision of August 28, 2008,^[17] the CA denied the petition. The appellate court held that "the decision was rendered on the basis of credible evidence and existing law. Petitioner was validly terminated from employment." The CA set aside the NLRC's ruling that the petitioner's money claims involved an intra-corporate matter which was outside of its jurisdiction. It held that the labor tribunals had jurisdiction over the claim since it was made by the petitioner as an employee, not as a corporate officer. Nonetheless, the CA denied her claim for overtime pay on the main ground that, as a managerial employee, she is not entitled to overtime pay under the law and the rules.^[18]

The petitioner moved for reconsideration of the CA's decision, but was denied through a resolution issued on September 26, 2008.^[19] The petitioner appealed to this Court on November 10, 2008 pursuant to Rule 45 of the Rules of Court.^[20]

In a Resolution dated December 8, 2008,^[21] we denied the petition "for failure to sufficiently show any reversible error in the questioned judgment"; there was "failure [by] petitioner to show any cogent reason why the actions of the Labor Arbiter, the NLRC and the CA, which have passed upon the same issue, should be reversed. The petitioner failed to show that their findings are not based on substantial evidence, or that their decisions are contrary to applicable law and jurisprudence."