

THIRD DIVISION

[G.R. No. 178352, June 17, 2008]

**VIRGILIO S. DELIMA, PETITIONER, VS. SUSAN MERCAIDA GOIS,
RESPONDENT.**

D E C I S I O N

YNARES-SATIAGO, J.:

This petition for review under Rule 45 of the Rules of Court assails the December 21, 2006 Decision^[1] of the Court of Appeals which annulled and set aside the May 31, 2006 and August 22, 2006 Resolutions of the National Labor Relations Commission (NLRC) in NLRC Case No. V-000188-2006 and ordered herein petitioner to return the cash bond released to him. Also assailed is the February 5, 2007 Resolution^[2] denying the Motion for Reconsideration.

The antecedent facts are as follows:

A case for illegal dismissal was filed by petitioner Virgilio S. Delima against Golden Union Aquamarine Corporation (Golden), Prospero Gois and herein respondent Susan Mercaida Gois before the Regional Arbitration Branch No. VIII of the National Labor Relations Commission on October 29, 2004, docketed as NLRC RAB VIII Case No. 10-0231-04.

On April 29, 2005, Labor Arbiter Philip B. Montaces rendered a decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered-

1. Finding illegality in the dismissal of complainant Virgilio Delima from his employment;
2. Ordering respondent **Golden Union Aquamarine Corporation** to pay complainant the following:
 - a. Backwages (July 30, 2004 to April 29, 2005 =
9 mos.; P5,350.50 x 9 months) P 48,154.50
 - b. Separation Pay (P5,350.50 x 4 years) 21,402.00
 - c. Salary Differentials 32,679.00
 - d. Service Incentive Leave Pay 2,820.00

Sub-Total	P105,055.50
e. Attorney's fee (10%)	10,505.55
T O T A L	P115,561.05
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3. Dismissing all other claims for lack of merit.

SO ORDERED.^[3]

Golden failed to appeal the aforesaid decision; hence, it became final and executory. A writ of execution was issued and an Isuzu Jeep with plate number PGE-531 was attached.

Thereafter, respondent Gois filed an Affidavit of Third Party Claim claiming that the attachment of the vehicle was irregular because said vehicle was registered in her name and not Golden's; and that she was not a party to the illegal dismissal case filed by Delima against Golden.^[4]

In an Order^[5] dated December 29, 2005, the Labor Arbiter denied respondent's third-party claim on grounds that respondent was named in the complaint as one of the respondents; that summons were served upon her and Prospero Gois; that both verified Golden's Position Paper and alleged therein that they are the respondents; and that respondent is one of the incorporators/officers of the corporation.

Gois filed an appeal before the NLRC. At the same time, she filed a motion before the Labor Arbiter to release the motor vehicle after substituting the same with a cash bond in the amount of P115,561.05.

On January 16, 2006, an Order was issued by the Labor Arbiter which states:

Filed by Third Party Claimant SUSAN M. GOIS is a Motion to Release Motor Vehicle after substituting same with a cash bond of P115,561.05 under O.R. No. 8307036 which amount is equivalent to the judgment award in the instant case, in the meantime that she has appealed the Order denying her Third Party Claim.

Finding said Motion in order and with merit, Sheriff Felicisimo T. Basilio is directed to release from his custody the Isuzu jeep with Plate No. PGE-532 and return same to SUSAN M. GOIS.

SO ORDERED.^[6]

Meanwhile, on May 31, 2006, the NLRC issued a Resolution^[7] which dismissed respondent's appeal for lack of merit. A Motion for Reconsideration^[8] was filed but it was denied on August 22, 2006.^[9] On September 12, 2006, the NLRC Resolution became final and executory; subsequently, an Entry of Judgment^[10] was issued on September 29, 2006.

On October 13, 2006, Gois filed a petition for certiorari^[11] before the Court of Appeals as well as a Supplement to Petition^[12] on October 27, 2006. Gois alleged that the NLRC committed grave abuse of discretion when it dismissed her appeal.

She claimed that by denying her third-party claim, she was in effect condemned to pay a judgment debt issued against a corporation of which she is neither a president nor a majority owner but merely a stockholder. She further argued that her personality is separate and distinct from that of Golden; thus, the judgment ordering the corporation to pay the petitioner could not be satisfied out of her personal assets.

On December 21, 2006, the appellate court rendered a Decision in favor of respondent, which reads in part:

In the decision dated April 29, 2005 rendered by Labor Arbiter Montaces, the dispositive portion confined itself in directing Golden Union Aquamarine Corporation only, no more and no less, to pay private respondent the award stated therein, but did not mention that the liability is joint and solidary with petitioner Susan Gois although the complaint filed by the private respondent included petitioner as among the respondents therein.

It bears stress also that corporate officers cannot be held liable for damages on account of the employee's dismissal because the employer corporation has a personality separate and distinct from its officers who merely acted as its agents. They are only solidarily liable with the corporation for the termination of employment of employees if the same was done with malice or in bad faith. In the case at bench, it was not clearly shown and established that the termination of private respondent from employment was tainted with evident malice and bad faith. As elucidated in the case of Reahs Corporation vs. NLRC, the main doctrine of separate personality of a corporation should remain as the guiding rule in determining corporate liability to its employees, and that, at the very least, to justify solidary liability, "there must be an allegation or showing that the officers of the corporation deliberately or maliciously designed to evade the financial obligation of the corporation to its employees."

Further, as wisely put by the petitioner, while it may be true that the subject vehicle was used by the corporation in transporting the products bought by the corporation from Eastern Samar to Manila, it does not necessarily follow that it is owned by the corporation as in fact petitioner was able to duly establish that the said vehicle is hers and is registered under her name. Nor does it imply that the corporation is free to dispose of the same and neither does it imply that the said vehicle may and can be levied by respondent NLRC to satisfy a judgment against the corporation.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us GRANTING the petition filed in this case, ANNULING and SETTING ASIDE the Resolutions dated May 31, 2006 and August 22, 2006, respectively, issued by the respondent National Labor Relations Commission (NLRC), 4th Division in NLRC Case No. V-000188-2006 and ORDERING private respondent to return to petitioner the cash bond earlier released to him.

SO ORDERED. ^[13]