

## SECOND DIVISION

[ G.R. No. 162089, July 09, 2008 ]

**SILVESTRE P. ILAGAN DOING BUSINESS UNDER THE NAME AND STYLE "INFANTRY SURVEILLANCE INVESTIGATION SECURITY AGENCY," PETITIONER, VS. HON. COURT OF APPEALS (12<sup>TH</sup> DIVISION), NATIONAL LABOR RELATIONS COMMISSION (3<sup>RD</sup> DIVISION), AND PETER B. ORIAS, DOLORES PEREGRINO AND ROMELITO PUEBLO, SR., RESPONDENTS.**

### DECISION

#### QUISUMBING, J.:

For review on certiorari are the January 27, 2003 Decision<sup>[1]</sup> and the February 4, 2004 Resolution<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 69878, which had affirmed the Decision<sup>[3]</sup> dated November 29, 2001, of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 025192-2000. The NLRC decision upheld the Labor Arbiter's finding of illegal dismissal against herein petitioner.

The facts are uncomplicated.

Petitioner Silvestre P. Ilagan is the president and proprietor of Infantry Surveillance Investigation Security Agency. The agency hired as security guards private respondents Peter B. Orias and Romelito Pueblo, Sr. on November 6, 1992 and October 4, 1995, respectively; and as head guard, private respondent Dolores Peregrino in December 1996. On separate occasions in 1998, they were orally informed by petitioner not to report for work anymore.

Private respondents filed with the Labor Arbiter separate complaints against petitioner for illegal dismissal. They claimed that they reported for work at their assigned workplaces for twelve-hour shifts; however, their salaries were below the minimum wage, they were not given 13<sup>th</sup> month pay, overtime pay, holiday pay, night shift differential, and the monthly P50 cash bond petitioner promised at the start of their employment.

In the course of the mandatory conciliation and mediation conference, the parties agreed that the only issue left was the payment of money claims. However, the parties later moved for the submission of their respective position papers, thereby terminating the conciliation and mediation conference.

Acting on the complaint for illegal dismissal and money claims, on April 28, 2000, the Labor Arbiter ruled against petitioner, thus:

**WHEREFORE**, ... judgment is hereby rendered in favor of complainants Peter B. Orias, Dolores Peregrino and Romelito Pueblo, Sr., and against

respondent Infantry Surveillance Investigation Security Agency and/or Silvestre P. Ilagan, thus:

- a. Ordering respondent to immediately reinstate complainants to their former position without loss of seniority rights and other privileges, or at the option of respondent, payroll reinstatement;
- b. Ordering respondent to pay complainants their respective full backwages, inclusive of allowances and ... other benefits or their monetary equivalent computed from the time complainants were separated from service up to the date of this decision;
- c. Ordering respondent to pay complainants their respective 13<sup>th</sup> month pays subject to the three (3) years prescriptive period.

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**SO ORDERED.**<sup>[4]</sup>

The NLRC affirmed the ruling of the Labor Arbiter, to wit:

WHEREFORE, the appeal filed by respondents is hereby DENIED for lack of merit. The [D]ecision dated 28 April 2000 is AFFIRMED.

SO ORDERED.<sup>[5]</sup>

Petitioner's motion for reconsideration was denied for lack of merit. Undaunted, petitioner filed in the Court of Appeals a petition for certiorari, which was likewise dismissed, thus:

**WHEREFORE**, in view of all the foregoing, the instant petition is **DENIED**. The November 29, 2001 Decision of the NLRC, Third Division, as well as its January 31, 2002 Resolution denying the Motion for Reconsideration of the petitioner are hereby **AFFIRMED**.

**SO ORDERED.**<sup>[6]</sup>

Petitioner's motion for reconsideration was denied. Hence, the instant petition raising the following issues:

I.

WHETHER OR NOT THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AND THEREFORE A REVERSIBLE ERROR IN AFFIRMING THE INCLUSION OF THE ISSUE OF ILLEGAL DISMISSAL IN THIS CASE;

II.

WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION, AND THEREFORE A REVERSIBLE ERROR IN AFFIRMING THAT PRIVATE RESPONDENTS WERE ILLEGALLY DISMISSED; [AND]

III.