

SECOND DIVISION

[G.R. No. 120180, January 20, 1998]

**SPOUSES ANNABELLE AND LINELL VILLARUEL, PETITIONERS,
VS. NATIONAL LABOR RELATIONS COMMISSION AND NARCISO
GUARINO, RESPONDENTS. D E C I S I O N**

MARTINEZ, J.:

This special civil action for *certiorari* seeks the review of the decision^[1] dated 9 December 1994 of public respondent National Labor Relations Commission (NLRC), Fourth Division, in NLRC CA No.V-0220-94 (RAB-06-09-50295-91) which reversed the Labor Arbiter's decision dismissing the petitioners' complaint for illegal dismissal, as well as the resolution dated 9 February 1995 denying reconsideration thereof.

On 15 June 1988, private respondent Narciso Guarino started working as master baker at petitioners' bakery known as "Ideal Bakery," receiving a daily wage of P40.00. His work schedule was from 6:00 A.M. to 8:00 P.M. and 11:00 P.M. to 6:00 o'clock the following morning. On 11 April 1991, private respondent was told by the petitioners not to report for work anymore after he asked for a ten-peso increase of his daily wage.

Consequently, on 3 September 1991, private respondent filed a complaint^[2] before the Regional Office No. VI, Department of Labor and Employment for recovery of wages, night shift differential, overtime pay, and 13th month pay, which complaint was later amended^[3] to include illegal dismissal with reinstatement or separation pay, payment of backwages; service incentive leave, moral, exemplary and actual damages plus attorney's fees.

In their Position Paper,^[4] petitioners denied private respondent's demands contending that the latter is not an employee but a partner in the bakery business with a 50-50 sharing from the profits derived therefrom; that private respondent abandoned his work when he failed to return from vacation; and that they were surprised to know later that private respondent worked in another bakery which was later known as "7-A".

On 11 May 1994, Labor Arbiter Dennis D. Juanon rendered a decision^[5] dismissing the complaint for lack of merit. The labor arbiter ruled that there exists no employer-employee relationship between the parties and that private respondent's claim for illegal dismissal and other money claims were without basis. He said:

"In sum , xxx we give more weight to the credibility of respondent Linell Villaruel's declarations. Further, common human experience, observations dictate that in cases like these where capital in business ventures are limited, not sufficient, some members of the corporation or partnership put up capital while others contribute their labor as capital. Assuming without admitting, however that such is not exactly the case, then what

could have practically transpired is sharing the profits based on a piece rate basis, that is on the volume of bread produced per day. Besides the allegations in passing, adduced by respondent Linell Villaruel on abandonment by complainant of his work with respondent appears likewise credible considering the wide gap of income to be realized by complainant if he works with the other bakery-competitor 7-A since there he is going to receive a much bigger amount. Consequently, we resolve issue number one in favor of respondent, that there exists no employer-employee relationship between complainant and respondent hence, complainants claim for Illegal Dismissal and other money claims is without basis.”^[6]

Private respondent appealed to the NLRC which reversed the labor arbiter’s decision. The dispositive portion of the NLRC decision reads:

“WHEREFORE, the decision, dated May 11,1991 rendered by Labor Arbiter Dennis D. Juanon is hereby REVERSED and SET ASIDE and another one entered:

1. Declaring the dismissal of complainant to be without just cause and without due process.
2. Directing respondents to pay complainant full backwages from April 11,1991 to April 30,1991 and in lieu of reinstatement, to pay complainant separation pay equivalent to one (1) month pay for every year of service; and
3. Directing respondents to pay the complainant salary differentials, overtime pay, holiday premium pay, 13th month pay for 1988, 1989 and 1990, and night shifts differentials computed as follows:

I. BACKWAGES

April 11, 1991 to April 30, 1991	=	P	1,
		757.50	
P 92.50 x 19 days			

II. SEPARATION PAY

P 92.50 x 30 days x 3 years	=	8,325.00
-----------------------------	---	----------

III. SALARY DIFFERENTIALS - (June 15/88 to April 11/91)

June 15, 1988 - December 31, 1988		
MWR -P 60.00		
ASR -P 40.00		
P 20.00 x 199 days	=	P 3,980.00

January 1, 1990 - June 30, 1989

$$\begin{aligned}
 &\text{MWR -P 60.00} \\
 &\quad \text{ASR -P } \underline{40.00} \\
 &\quad \text{P 20.00 x 390.90 / 2} \qquad \qquad \qquad = \text{P 3,909.00}
 \end{aligned}$$

July 1 - December 31, 1989

$$\begin{aligned}
 &\text{MWR -P 75.00} \\
 &\text{ASR -P 40.00} \\
 &\quad \text{P 35.00 x 390.90 / 2} \qquad \qquad \qquad = \text{P 6,840.75}
 \end{aligned}$$

June 1, 1991 - November 26, 1990

$$\begin{aligned}
 &\text{MWR - P 75.00} \\
 &\text{ASR - P 40.00} \\
 &\quad \text{P 35.00 x 390.90 / 2 x 10.90} \quad = \\
 &\quad \text{months} \qquad \qquad \qquad \text{P12,427.35}
 \end{aligned}$$

Nov. 27, 1990 - Dec. 28, 1990

$$\begin{aligned}
 &\text{MWR - P 82.50} \\
 &\text{ASR - P 40.00} \\
 &\quad \text{P 42.50 x 32 days} \qquad \qquad \qquad = \text{P 1,360.00}
 \end{aligned}$$

Dec. 29, 1990 - Dec. 31, 1990

$$\begin{aligned}
 &\text{MWR - P 92.50} \\
 &\quad \text{ASR -P } \underline{40.00} \\
 &\quad \text{P 52.50 x 3 days} \qquad \qquad \qquad = \text{P 157.50}
 \end{aligned}$$

Jan. 1, 1991 - Apr. 11, 1991

$$\begin{aligned}
 &\text{MWR - P 92.50} \\
 &\text{ASR - P 40.00} \\
 &\quad \text{P 52.50 x 101 days} \quad \text{P} = \\
 &\quad \text{5,302.50} \qquad \qquad \qquad \text{P33,977.10}
 \end{aligned}$$

IV. HOLIDAY PREMIUM PAY

$$\begin{aligned}
 1988: &\text{P 60.00 x 200\% x 4 Holidays} \\
 &= \text{P 480.00}
 \end{aligned}$$

$$\begin{aligned}
 1989: &\text{P 60.00 x 200\% x 6 Holidays} \\
 &= \text{P 720.00} \\
 &\text{P 75.00 x 200\% x 4 Holidays} \\
 &= \text{P 600.00}
 \end{aligned}$$

$$\begin{aligned}
 1990: &\text{P 75.00 x 200\% x 7 Holidays} \\
 &= \text{P 1,050.00} \\
 &\text{P 82.50 x 200\% x 3 Holidays} \\
 &= \text{P 495.00}
 \end{aligned}$$

$$\begin{aligned}
 1991: &\text{P 92.40 x 200\% x 4 Holidays} = \text{P 4,085.00} \\
 &= \underline{\text{P 740.00}}
 \end{aligned}$$