

## EIGHTH DIVISION

[ CA-G.R. SP No. 125865, March 23, 2015 ]

### FU TENG WU AND JAIFAN WU, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND ARJAY SANTOS, RESPONDENTS.

#### D E C I S I O N

**LANTION, J.A.C., J.:**

This *Petition for Certiorari*<sup>[1]</sup> under Rule 65 of the Rules of Court seeks to annul and set aside the Decision<sup>[2]</sup> dated 15 March 2012 of the National Labor Relations Commission, Fourth Division, in NLRC LAC Case No. 01-000476-12, as well as the *Resolution*<sup>[3]</sup> dated 25 March 2012 denying the *Motion for Reconsideration*<sup>[4]</sup> thereof. The dispositive portion of the *Decision* dated 15 March 2012 reads:

**"WHEREFORE,** premises considered, the appeal is **DISMISSED** for lack of merit. The Decision appealed from is **AFFIRMED** *en toto*."<sup>[5]</sup>

#### THE FACTS (As culled from the Records)

Petitioners Fu Teng Wu and Jaifan Wu (**Petitioners**) are chinese businessmen engaged in the consignment and retail of various products.<sup>[6]</sup> Private Respondent Arjay C. Santos (**Respondent**), on the other hand, worked as an electrician and as an all around helper in Petitioners' business.

On 30 March 2011, Respondent filed a *Complaint*<sup>[7]</sup> for illegal dismissal with money claims against Petitioners. Respondent alleged that he was hired by Petitioners on 14 June 2010 until he was unceremoniously terminated in March 2011.

In their defense, Petitioners argued that Respondent was not their employee, but an employee of one Claire P. Marasigan (**Marasigan**). Petitioners alleged that Marasigan was the store owner to whom they consign their various products for sale. Petitioners maintained that they were only assisting Marasigan to run her business; that due to their (Petitioners) suggestion to Marasigan to cease giving daily free meals to Respondent, the latter abandoned his job and retaliated by filing the subject *Complaint* against them.

On 15 November 2011, the Labor Arbiter rendered a *Decision*<sup>[8]</sup> in favor of the Respondent, finding the existence of employee-employer relationship between him and the Petitioners. In so ruling, the Labor Arbiter relied on Petitioners' admission during the preliminary conference that they were the ones who hired and gave salary to Respondent. For unceremoniously terminating Respondent, the Labor Arbiter held Petitioners liable for the Respondent's illegal dismissal.

Petitioners appealed the above *Decision* to the NLRC. On 15 March 2012, the NLRC rendered the herein assailed *Decision* affirming the Labor Arbiter's ruling.

Petitioners filed a Motion for Reconsideration<sup>[9]</sup> of the Decision of the NLRC, but the same was denied on 25 May 2012.

Thus, the instant *Petition*.

## ISSUE

### I

WHETHER OR NOT THE HONORABLE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN -

A. DECLARING PETITIONERS AS THE EMPLOYER OF PRIVATE RESPONDENT SANTOS;

B. FINDING THAT THE ADMISSIONS OF PETITIONER JAIFAN WU DURING THE PRELIMINARY CONFERENCE AS PROOF OF EMPLOYER-EMPLOYEE RELATIONSHIP BETWEEN PETITIONERS AND PRIVATE RESPONDENT SANTOS

C. FINDING THAT PRIVATE RESPONDENT SANTOS WAS ILLEGALLY DISMISSED; AND

D. AWARDING PRIVATE RESPONDENT SANTOS SEPARATION PAY, FULL BACKWAGES AND HOLIDAY PAY.

## RULING

Petitioners contend that the NLRC gravely abused its discretion in affirming the ruling of the Labor Arbiter that an employer-employee relationship existed between them and the Respondent and that the latter was illegally dismissed. Petitioners argue that their admissions during the preliminary conference (that they were the employers of Respondent who hired and gave salary to the latter) are insufficient proof that they are indeed his employer.

The petition lacks merit.

In labor cases, the employer has the burden of proving that the employee was not dismissed or if dismissed, that the dismissal was not illegal. **However, before a case for illegal dismissal can prosper, an employee-employer relationship must first be established between them.**<sup>[10]</sup>

In ascertaining the existence of an employer-employee relationship, jurisprudence has invariably applied the four-fold test, namely: (1) the manner of selection and engagement or power to hire; (2) the payment of wages; (3) the presence or absence of the power of dismissal; and (4) the presence or absence of the power of control.<sup>[11]</sup>

Here, the records show that Petitioners initially admitted before the Labor Arbiter, during the preliminary conference, that they were the employers of Respondent who hired and gave salary to the latter. The Labor Arbiter aptly found, viz:

"x x x this office could not give it more weight over the admission made by respondent Jaifan Wu (one of the Petitioners herein), **admitting the fact that he is the employer of the complainant.** x x x It does not escape notice that respondent Jaifan Wu even admitted during the May 17, 2011 conference not only to the time of the employment of complainant but likewise, admitted paying him the amount of P185.00 as his daily wage."

It is well settled that an *admission against interest* is the best evidence that affords the greatest certainty of the facts in dispute. This is based on the presumption that no man would declare anything against himself unless such declaration is true.<sup>[12]</sup>

Here, Respondent filed a *Complaint for Illegal Dismissal* against Petitioners. Considering that a case for illegal dismissal can only prosper when an employee-employer relationship exists between a worker and a purported employer,<sup>[13]</sup> **the admission made by Petitioners – that they were the employers of Respondent who hired and gave salary to the latter – was clearly an admission against their interest.** Such being the case, there was reason for the Labor Arbiter and the NLRC to rely on Petitioners' admission that they were indeed the employers of Respondent who hired and gave salary to the latter.

However, Petitioners now adopt a different view and contend that it was Marasigan, not them, who was the employer of Respondent. To prove the same, Petitioners narrate that Marasigan appeared before the Labor Arbiter who alleged that she was the employer of Respondent. In support of her allegation, Marasigan showed the **BIR Registration** and the **DTI Certificate of Registration** of her store to where Petitioners consign their products for sale. Aside from the fact that Petitioners are already estopped<sup>14</sup> from adopting a different position from their previous stand (*that they were Respondent's employer who hired and gave salary to the latter*), We cannot hold the documents adduced by Marasigan as proof of an employer-employee relationship with the Respondent, for said documents simply show that her business has complied with the registration requirements set by the BIR and the DTI. The documents do not in any way prove that she was the one who hired, gave wages and exercised power of control over the Respondent. As Marasigan failed to establish her claim that she was actually the employer of the Respondent, Petitioners' previous *admission that they were the employer of Respondent who hired and gave salary to the latter* stands.

We now proceed to the determination of the validity of Respondent's dismissal.

Petitioners also impute grave abuse of discretion on the part of the NLRC in holding them liable for illegal dismissal. Petitioners argue that Respondent was not dismissed, but had actually abandoned his work in view of his protest of the policy reducing his daily free meals.

The argument does not persuade.