

EIGHTH DIVISION

[CA-G.R. SP No. 131438, May 28, 2014]

**CARITAS HEALTH SHIELD, INC./GEOFFREY M. MARTINEZ,
PETITIONERS, V. NATIONAL LABOR RELATIONS COMMISSION
AND ARSENIO D. ALCANTARA, RESPONDENTS.**

DECISION

LOPEZ, J.:

Private respondent Arsenio D. Alcantara (Alcantara) filed a complaint^[1] for constructive dismissal, damages and attorney's fees against petitioner Caritas Health Shield, Inc. (Caritas) and its president, Geoffrey M. Martinez (Martinez). He alleged that he started to work as Corporate Marketing Officer for Caritas in 2001 after passing the Physician Licensure Board Examination. After a few months, he was promoted as Branch Manager in the company's branch office in Legazpi City, Albay. In 2003, he was again promoted as Senior Manager for the Provider Relations & Claims Department. Sometime in 2007, he was assigned to work as Senior Manager of the Member's Care and Medical Services in which he supervised thirteen (13) staff personnel, called Members' Care Assistants (MCAs), including more than eighty (80) personnel in other branches.

During the company's management meeting on May 20, 2011, Martinez ordered that all MCAs under the supervision of Alcantara will now report to Arlene Aberilla, who was then the Manager of Member Relations Assistance Department and Luzon Medical Availments. Alcantara inquired with Edmund Salvacion, the Assistant Vice-President for Human Resources, as to what his functions would now be considering that he had no more staff personnel to supervise. Salvacion replied, "*Eh di diyan ka na lang, marami naman diyan na wala din naman ginagawa.*" He advised Alcantara to write a letter of apology to Martinez on account of the argument that ensued between them regarding the non-assistance to outpatient members availing of the company's services. Heeding Salvacion's advice, Alcantara wrote a letter of apology and personally handed it to Martinez on May 31, 2011. In the letter, Alcantara expressed his willingness to be assigned to other departments, but Martinez turned him down.

Despite the incident, Alcantara made himself productive by assisting Aberilla in her tasks. In another management meeting sometime in September 2011, Martinez brought up the complaint by one member who was not admitted in one hospital due to unavailability of rooms. Alcantara explained that the assigned MCA failed to attend to the call for fear that it would be charged to him since the company's line is limited to Caritas' loop. Martinez described Alcantara's explanation as "*mababaw*" and said, "*Hindi ba inalis na kita dyan sa MCA? Bakit bumalik ka pa?*" Deeply embarrassed, Alcantara left the meeting. After the incident, Alcantara still regularly reports to the office despite doing nothing. He eventually resigned on the ground that he was reduced to a mere "nonentity" inside an empty office.^[2]

Caritas denied that Alcantara was actually, or constructively dismissed. As senior manager, Alcantara failed to supervise and direct the performance of the MCAs which resulted in several complaints from the company's members-patients. Thus, exercising its management prerogative, Caritas assigned another person to perform his tasks to avoid disruption of the company's services. Alcantara, however, remained in the employ of Caritas as senior manager and continued to receive the same wages and benefits.^[3]

In a Decision^[4] dated November 22, 2012, Labor Arbiter Pablo A. Gajardo, Jr. declared that Alcantara was constructively dismissed, to wit:

WHEREFORE, premises considered, judgment is hereby rendered declaring that complainant was constructively dismissed. Consequently, respondents are ordered to pay jointly and severally complainant is (sic) full backwages in the amount of P823,550.00 (computed till promulgation only), separation pay in the sum of P504,000.00 and P132,755.00 as 10% attorney's fees.

All other claims are dismissed for lack of merit.

SO ORDERED.^[5]

The NLRC dismissed respondents' appeal for lack of merit.^[6] Hence, petitioners filed the instant petition for *certiorari* (With an Extremely Urgent Motion for the Issuance of a Writ of Preliminary Injunction and/or a Temporary Restraining Order)^[7] ascribing grave abuse of discretion on the part of the NLRC:

I. WHEN IT DISREGARDED ABUNDANT AND RELEVANT EVIDENCE ON RECORD THAT WOULD JUSTIFY THE LEGITIMATE EXERCISE BY PETITIONERS AS EMPLOYER OF THEIR MANAGEMENT PREROGATIVE AND INSTEAD RELIED HEAVILY ON THE BARE AND SELF-SERVING ALLEGATIONS OF COMPLAINANT SUPPORTED BY CONJECTURES AND RATIONALIZATION;

II. WHEN IT FAILED AND/OR REFUSED TO APPLY IN THIS CASE IN VIOLATION OF APPLICABLE JURISPRUDENCE THE LEGAL DICTUM THAT HE WHO ASSERTS AND NOT ONE WHO DENIES HAS THE BURDEN OF PROOF AND THEREFORE MUST PROVE HIS CLAIM.^[8]

In Our Resolution dated September 16, 2013,^[9] We directed petitioners to rectify the defects of the petition and denied their prayer for the issuance of an injunctive relief for lack of justifiable ground. On October 4, 2013, We received private respondent's comment^[10] to the petition. Then, on February 26, 2014, petitioners filed a Very Urgent Manifestation and Motion Reiterating [their] Prayer for a TRO^[11] stating that, on February 25, 2014, they received a motion for execution^[12] filed by private respondent. Meanwhile, on March 31, 2014, We received private respondent's Compliance/Manifestation^[13] stating that he is adopting his Position Paper dated November 18, 2011 and Comment dated October 1, 2013 as his memorandum. On April 2, 2014, We received petitioners' memorandum.

This Court will treat petitioners' Manifestation and Motion Reiterating [their] Prayer for a TRO as motion for reconsideration of Our September 16, 2013 Resolution