

TENTH DIVISION

[CA-G.R. SP No. 127617, November 25, 2014]

VISATECH INTEGRATED, INC., EDMUND BERMEJO AND ANTHONY GALORPO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND MARLON YUTAN, RESPONDENTS.

DECISION

VELOSO, J.:

The Case

Assailed by **Visatech Integrated, Inc., Edmund Bermejo and Anthony Galorpo** ("petitioners"), in this Petition for Certiorari,^[1] are the **Decision**^[2] dated **August 15, 2012** and **Resolution**^[3] dated **September 20, 2012** rendered by the National Labor Relations Commission^[4] ("NLRC"), in NLRC LAC Case No. 05-001449-12 [NLRC-NCR Case No. 08-13248-11], entitled "*Marlon Yutan, Complainant-Appellee/Appellant -versus- Visatech Integrated Inc., and/or Edmund Bermijo and Anthony Galorpo, Respondents-Appellants/Appellees,*" the dispositive portions of which read:

(a) **Decision** dated **August 15, 2012:**

"**WHEREFORE**, premises considered, the respondents' appeal is DISMISSED for non-perfection.

The complainant's appeal is PARTLY GRANTED. The charge of illegal dismissal is DISMISSED, but the recomputation of his salary differentials is GRANTED.

Respondents are ordered to pay complainant's salary differentials in the amount of Eighty Four Thousand Four Hundred Eleven and 8/100 Pesos (P84,411.08).

Salary Differentials

NCR 14 = P377.00
8/19/08 – 8/27/08
(377.00 – 300.00 = 77.00)
= P 77.00 x 26 days x 0.30 mos.
= P600.60

NCR 14 = P382.00
8/28/08 – 6/30/10

(382.00 – 300.00 = 82.00)
= P 82.00 x 26 days x 22.10 mos.
= P 47,117.20

NCR 15 = P404.00
7/01/10 – 8/18/11 (404.00 – 250.00 = 104.00)
= P 104.00 x 26 days x 13.57 mos.
= P 36,693.28

Total

= P 84,411.08
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SO ORDERED.”^[5] (emphasis supplied);

(b) **Resolution** dated **September 20, 2012**

“**WHEREFORE**, the Motion is DENIED. No further motion of similar nature shall be entertained.

SO ORDERED.”^[6] (emphasis supplied)

The Facts

The antecedent facts of this case as culled from the assailed Decision of the NLRC dated August 15, 2012, are as follows:

“Respondent company is an independent contractor for Telephone Companies laying telephone and cable line, and installation/repair of phone and internet lines. It employed the complainant in May 2006 initially as wired/wireless installer but later designated as broad band technician.

Complainant alleges that during his employment, he was required to work six (6) days a week for eight (8) hours, and frequently rendering overtime services without paying him for the extra time. In the average, he was receiving a daily wage of P300. He was never paid the benefits mandated by law.

In July, complainant and Roel Dulog, a co-worker, installed the Globe internet connection of one Jennifer Flores at No. 314 Simon St., Tondo, Manila. Thereat, he noticed that there was an existing Globe internet connection. He duly informed Flores of the same, but the latter insisted on installing a new one to replace the old unreliable line. Upon completion of the work, he charged the amount of P500 as installation

fee and issued the corresponding receipt.

On August 4, Joseph Apostol, Coordinator, informed him that Flores complained about the internet connection. He was required to explain to which he complied. He denied the accusation of asking additional amount from Flores, maintaining that he collected P500 only. He later learned that Flores' old line was illegally connected. Respondents suspended him for five (5) days. When he returned for work on August 19, 2011, he was informed that he was already dismissed from employment per memorandum of Anthony Galarpo based on Globe Telecom's letter dated August 8, 2011. Hence, he filed this complaint claiming that he was illegally dismissed.

Respondents, on the other hand, admit the complainant's employment. His compensation depended on the volume of works he installed/performed during the day. They deny the complainant's charge of illegal dismissal from employment.

Respondents aver that on August 8, 2011, they received a memo from Globe Telecom, its client, informing them of the complaint of a certain Jennifer Flores, its subscriber. Flores positively identified the complainant to have personally offered upgrading of internet speed for a fee without its (Globe) knowledge, to which the subscriber Jennifer Flores agreed. After two (2) days, the internet connection suffered a problem, and after the repair, the internet speed went back to its normal speed as if it was not all upgraded. Having found the complainant's and Dulong's act illegal, Globe blacklisted the two technicians and cancelled their accreditation. Respondents notified complainant about the memorandum of Globe. Thereafter, he ceased to report for work for fear of being criminally charged before the court of justice. There is no legal basis for his allegation of illegal dismissal.

The Labor Arbiter dismissed the charge of illegal dismissal, however, she ordered payment of complainant's salary differentials and attorney's fees."^[7]

On March 16, 2012, Labor Arbiter Veneranda C. Guerrero rendered her **Decision**, viz.:

"WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for illegal dismissal for lack of merit. Respondent Visatech Integrated Inc., is ordered to pay complainant Marlon Yutan the amount of Twenty One Thousand Twenty Nine Pesos and 32/100 (21,029.32) as salary differentials, plus ten percent (10%) thereof or P2,102.93 as and for attorney's fees.

All other claims are dismissed for lack of merit.

SO ORDERED."^[8]