

EIGHTEENTH DIVISION

[CA-G.R. SP. NO. 07234, February 18, 2015]

**EVERLAND AGRI-CORPORATION AND/OR NATIVIDAD LIM,
PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION,
7TH DIVISION, ANALIZA MONTERO, RESPONDENTS.**

D E C I S I O N

INGLES, G. T., J.:

Assailed in this petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure is the Decision^[1] promulgated on April 30, 2012 in NLRC Case No. VAC-12-000928-2011, the dispositive portion thereof reads:

"WHEREFORE, premises considered, the Decision of the Labor Arbiter is, hereby, REVERSED and SET ASIDE and a NEW ONE ENTERED declaring that complainant was illegally dismissed. Consequently, respondents are, hereby, directed to pay complainant the total amount of Pesos: One Hundred Ninety Thousand Two Hundred Sixty and 08/100 (P190,260.08) in concept of separation pay, backwages, salary differentials, proportionate 13th month pay, holiday pay and attorney's fees less outstanding cash advances.

SO ORDERED."

Likewise assailed is the Resolution^[2] promulgated on July 31, 2012 denying herein petitioners' motion for reconsideration of the April 30, 2012 Decision.

The respective claims of the parties, as summarized from the records, are as follows:

Complainant averred in her Position Paper^[3] that she is a sales clerk of respondent company from 1991 until 1995 when she resigned from work due to her pregnancy. She re-applied and was accepted back to work, still as sales clerk, sometime in 1998. She was not covered by an employment contract but was apprised of her functions as sales clerk and was required to work eight hours a day from Mondays to Saturdays. Complainant was likewise apprised of the company's "no work, no pay" policy. Hence, complainant did not enjoy any annual service incentive leave with pay during her employment with respondent company. She was not paid even for her absences due to illness.

Complainant's initial salary amounted to P115.00 daily. Her salary is released weekly without her signing any payroll or the like. Her pay was written only on a scrap of paper sans date or signature of any company personnel. Sometime in 1999, she was promoted to clerk in-charge of inventory. As such, she was tasked to inventory the stocks delivered to the branch and the daily sales of goods. When not doing so, she

still helps the sales clerk in attending to their customers. On top of this, she is also in charge of the remittance of the SSS contributions of all the company's employees.

On May 23, 2011, complainant was confronted by respondent Natividad Lim about an alleged incident that happened the day before, which was a Sunday. Complainant, who was then attending the town fiesta celebration of Adlaon, Cebu, took a ride with one of the company's suppliers. Lim resented the idea of suppliers being friendly with the employees and vice versa. Lim does not have a good relationship with most of the suppliers and insisted that her employees should not befriend them. She then told complainant thus: "Kahibaw ka na suko ko nila, traydor ka! Di nako gusto makita imo dagway diri sa kumpanya. Pahawa na diri. (You know that I hate them, traitor! I don't want to see your face anymore here in the company. Get out!)

Thereafter, complainant continued on her inventory believing that respondent Lim was just carried away by her anger but when she went back to her desk during her break, her files and other effects were already gone. At 1:00 o'clock in the afternoon of the same day, she got a call from one of the directors of respondent company, Marylene Lim, confirming her dismissal from employment. Marylene Lim gave her the option to transfer to the main office in Davao but in the meantime, she should stay away from the parameters of the company. Complainant begged Marylene to ask her mother, Natividad to reconsider her decision considering that the incident happened on a Sunday but the former merely hung up the phone and ended their conversation. One of her co-employees also told complainant that respondent Natividad Lim will call the security guards and drag her out should she remain within the company premises, hence, she left.

On May 24, 2011, complainant did not report to work because she was not feeling well. She called the office but respondent Natividad Lim, Marylene Lim and their staff refused to talk to her. She sent a text message to Marylene informing her that she was willing to be transferred to Davao but the latter did not reply. Her calls were also unanswered.

On May 27, 2011, complainant reported back to work but was not allowed to enter the premises anymore. The security guard on duty informed her that respondent Natividad Lim had issued a directive not to allow her to enter the workplace anymore.

Respondents on the other hand averred in their Position Paper^[4] that complainant was hired as sales clerk at Agroland Marketing, a sole proprietorship owned and managed by Natividad Lim. She resigned therefrom when she got pregnant. The business was closed and Natividad Lim formed a new corporation with his son, Everland Agri Corporation with main office in Davao City. Complainant was re-hired by the new corporation sometime in 2000 as sales clerk at its MC Briones Branch in Cebu City with a daily wage of P290.00.

Although strictly prohibited by the company, complainant was allowed to sell Natasha products during office hours in consideration of the needs of her big family and out of respondents' generosity. When she was in dire need of money, respondent Lim allowed her to make cash advances which until now, remained unpaid. Owing to her good repute and performance, respondents trusted her and was assigned to do the task of inventorying products, canvassing and dealing with

their staunch customers.

Things changed when respondent corporation's competitor in Davao planned to open a branch in Cebu City and rumors came up that it will "pirate" respondents' employees including herein complainant. Respondents were unperturbed considering that complainant had been with them for quite a number of years already and they believed that she does not have enough nerve to go against them.

On May 22, 2011, a reliable source told Marylene Lim, Operations and Personnel Manager, that three of their employees, including herein complainant, were bribed by the said competitor to destroy the company. A Show Cause Memo was then issued to complainant asking her to explain why she should not be terminated for cause. She refused to receive and sign the same, instead, complainant approached respondent Lim, broke into tears and openly admitted the charges against her and asked for forgiveness as she was only looking for a higher pay for her family's sake. She then asked to be allowed to tender her resignation letter considering that she was already hired by the competitor together with two other co-employees.

On June 16, 2011, respondents were surprised to receive a Notice of Conference from the Department of Labor and Employment pertaining to a complaint filed by herein complainant and that of Deborah Seville and Sugar Nacilla. They asked for separation pay despite having voluntarily resigned from respondent company. Complainant demanded P100,000.00 but respondents refused, the same being baseless plus the fact that the former has an outstanding cash advance amounting to P50,000.00. Not satisfied, complainant filed the instant case on July 7, 2011 for illegal dismissal, underpayment of salary, non-payment of separation pay, service incentive leave pay, backwages and damages.

After the filing of the parties respective position papers, the Labor Arbiter found the following issues to be resolved: (1) whether complainant was illegally dismissed from her employment and (2) whether complainant is entitled to her monetary claims. Thereafter, the Labor Arbiter ruled that complainant was not illegally dismissed but is entitled to salary differential, holiday pay and proportionate 13th month pay for the year 2011 per Decision^[5] dated October 26, 2011, the dispositive portion thereof is hereunder quoted, to wit:

"WHEREFORE, the foregoing premises considered, judgment is hereby rendered dismissing the case of illegal dismissal for lack of merit. Respondents, however, are directed to pay complainant the amount of PESOS: FIFTY TWO THOUSAND SEVEN HUNDRED EIGHTY-SEVEN & 07/100 (P52,787.07), less P50,000.00 cash advances.

SO ORDERED."

Complainant appealed^[6] the above said decision to the NLRC and prayed that the judgment on salary differential, holiday pay and 13th month pay be sustained; the finding that there was no illegal dismissal be reversed; she be declared entitled to: separation pay for her twelve (12) years of service, backwages from the time she was illegally dismissed on May 23, 2011 until the finality of the decision, commutation of her service incentive leave; and damages.

This was opposed by the respondents per Vehement Opposition to the Memorandum

of Appeal of the Complainant-Appellant with Motion to Dismiss.^[7]

On April 30, 2012, the NLRC promulgated the assailed decision granting the appeal. The Decision of the Labor Arbiter was reversed and set aside. The NLRC declared that complainant was illegally dismissed, consequently, respondents were directed to pay complainant the total amount of One Hundred Ninety Thousand Two Hundred Sixty and 08/100 (P190,260.08) Pesos by way of separation pay, backwages, salary differentials, proportionate 13th month pay, holiday pay and attorney's fees. The NLRC likewise ruled that the outstanding cash advances shall be deducted from the monetary award.

Respondents moved for the reconsideration^[8] of the above decision but the same was denied per Resolution^[9] promulgated on July 31, 2012.

Aggrieved, respondents, now petitioners, filed the instant petition for certiorari based on the following grounds, to wit:

THE HEREIN RESPONDENT NLRC HAS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT RULED THAT THE PETITIONER HAS DISMISSED THE PRIVATE RESPONDENT ILLEGALLY.

THE RULES ON EVIDENCE EXPLICITLY STATES THAT DOCUMENTARY EVIDENCE PREVAILS OVER TESTIMONIAL EVIDENCE.

The petition is bereft of merit.

Petitioners contend that the NLRC erred in disregarding the probative value of the Waiver and Release of Claims signed by private respondent. According to petitioners, the said document, where private respondent did not only express that she has no more claims against petitioners but likewise expressed her desire to resign from employment, should prevail over and above her testimony to the contrary. Lastly, petitioners argued that private respondent's current employment with their competitor, signifies that she has indeed voluntarily resigned.

We do not agree with petitioners.

The Supreme Court in the case of *HYPTE R. AUJERO vs. PHILIPPINE COMMUNICATIONS SATELLITE CORPORATION*,^[10] has ruled that:

"In *Goodrich Manufacturing Corporation, v. Ativo*,^[11] this Court reiterated the standards that must be observed in determining whether a waiver and quitclaim has been validly executed:

Not all waivers and quitclaims are invalid as against public policy. If the agreement was voluntarily entered into and represents a reasonable settlement, it is binding on the parties and may not later be disowned simply because of a change of mind. **It is only where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or the terms of settlement are unconscionable on its face, that the law will step in to annul the questionable**