

FIRST DIVISION

[G.R. No. 175869, April 18, 2016]

**ROBINA FARMS CEBU/UNIVERSAL ROBINA CORPORATION,
PETITIONER, VS. ELIZABETH VILLA, RESPONDENT.**

DECISION

BERSAMIN, J.:

The employer appeals the decision promulgated on September 27, 2006,^[1] whereby the Court of Appeals (CA) dismissed its petition for *certiorari* and affirmed with modification the adverse decision of the National Labor Relations Commission (NLRC) declaring it liable for the illegal dismissal of respondent employee.

Antecedents

Respondent Elizabeth Villa brought against the petitioner her complaint for illegal suspension, illegal dismissal, nonpayment of overtime pay, and nonpayment of service incentive leave pay in the Regional Arbitration Branch No. VII of the NLRC in Cebu City.

In her verified position paper,^[2] Villa averred that she had been employed by petitioner Robina Farms as sales clerk since August 1981; that in the later part of 2001, the petitioner had enticed her to avail herself of the company's special retirement program; that on March 2, 2002, she had received a memorandum from Lily Ngochua requiring her to explain her failure to issue invoices for unhatched eggs in the months of January to February 2002; that she had explained that the invoices were not delivered on time because the delivery receipts were delayed and overlooked; that despite her explanation, she had been suspended for 10 days from March 8, 2012 until March 19, 2002; that upon reporting back to work, she had been advised to cease working because her application for retirement had already been approved; that she had been subsequently informed that her application had been disapproved, and had then been advised to tender her resignation with a request for financial assistance; that she had manifested her intention to return to work but the petitioner had confiscated her gate pass; and that she had since then been prevented from entering the company premises and had been replaced by another employee.

The petitioner admitted that Villa had been its sales clerk at Robina Farms. It stated that on December 12, 2001, she had applied for retirement under the special privilege program offered to its employees in Bulacan and Antipolo who had served for at least 10 years; that in February 2002, her attention had been called by Anita Gabatan of the accounting department to explain her failure to issue invoices for the unhatched eggs for the month of February; that she had explained that she had been busy; that Gabatan had referred the matter to Florabeth Zanoia who had in turn relayed the matter to Ngochua; and that the latter had then given Villa the

chance to explain, which she did.

The petitioner added that after the administrative hearing Villa was found to have violated the company rule on the timely issuance of the invoices that had resulted in delay in the payment of buyers considering that the payment had depended upon the receipt of the invoices; that she had been suspended from her employment as a consequence; that after serving the suspension, she had returned to work and had followed up her application for retirement with Lucina de Guzman, who had then informed her that the management did not approve the benefits equivalent to 86% of her salary rate applied for, but only 1/2 month for every year of service; and that disappointed with the outcome, she had then brought her complaint against the petitioners.^[3]

Ruling of the Labor Arbiter

On April 21, 2003, Labor Arbiter Violeta Ortiz-Bantug rendered her decision^[4] finding that Villa had not been dismissed from employment, holding thusly:

Complainant's application, insofar the benefits are concerned, was not approved which means that while her application for retirement was considered, management was willing to give her retirement benefits equivalent only to half-month pay for every year of service and not 86% of her salary for every year of service as mentioned in her application. Mrs. De Guzman suggested that if she wanted to pursue her supposed retirement despite thereof, she should submit a resignation letter and include therein a request for financial assistance. We do not find anything illegal or violative in the suggestion made by Mrs. De Guzman. There was no compulsion since the choice was left entirely to the complainant whether to pursue it or not.^[5]

Although ordering Villa's reinstatement, the Labor Arbiter denied her claim for backwages and overtime pay because she had not adduced evidence of the overtime work actually performed. The Labor Arbiter declared that Villa was entitled to service incentive leave pay for the period of the last three years counted from the filing of her complaint because the petitioner did not refute her claim thereon. Thus, the Labor Arbiter disposed as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents ROBINA FARMS CEBU (a Division of UNIVERSAL ROBINA CORPORATION) and LILY NGOCHUA to REINSTATE complainant to her former position without loss of seniority rights and privileges within ten (10) days from receipt of this decision but without payment of backwages. Respondents are also ordered to pay complainant SEVEN THOUSAND ONE HUNDRED NINETY FOUR PESOS (P7,194.00) as service incentive leave pay benefits.

The other claims are dismissed for lack of merit.

SO ORDERED.^[6]

The parties respectively appealed to the NLRC.

Judgment of the NLRC

On February 23, 2005, the NLRC rendered its judgment dismissing the appeal by the petitioner but granting that of Villa,^[7] to wit:

WHEREFORE, premises considered, the appeal of respondents is hereby **DISMISSED** for non-perfection while the appeal of complainant is hereby **GRANTED**. The decision of the Labor Arbiter is **REVERSED** and **SET ASIDE** and a new one **ENTERED** declaring complainant to have been illegally dismissed. Consequently, respondents are hereby directed to immediately reinstate complainant to her former position without loss of seniority rights and other privileges within ten (10) days from receipt of this decision and to pay complainant the following sums, to wit:

1.		P
Backwages	119,900.00	
2. SILP	P 7,194.00	
3.		
Overtime	<u>P 3,445.00</u>	
Pay		
Total		P
	130,539.01	
4.		
Attorney's		
fees	<u>13,053.90</u>	
(10%)		
Grand		P
Total	143,592.91	

SO ORDERED.^[8]

According to the NLRC, the petitioner's appeal was fatally defective and was being dismissed outright because it lacked the proper verification and certificate of non-forum shopping. The NLRC held the petitioner liable for the illegal dismissal of Villa, observing that because Villa's retirement application had been subject to the approval of the management, her act of applying therefor did not indicate her voluntary intention to sever her employment relationship but only her opting to retire by virtue of her having qualified under the plan; that upon informing her about the denial of her application, the petitioner had advised her to tender her resignation and to request for financial assistance; that although she had signified her intention to return to work, the petitioner had prevented her from doing so by confiscating her gate pass and informing her that she had already been replaced by another employee; and that the petitioner neither disputed her allegations thereon, nor adduced evidence to controvert the same.^[9]

After the denial of its motion for reconsideration,^[10] the petitioner filed a petition for *certiorari* in the CA.

Decision of the CA

The petitioner alleged in its petition for *certiorari* the following jurisdictional errors of

the NLRC, to wit:

I

PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION WHEN IT DISMISSED PETITIONERS APPEAL MEMORANDUM ON A MERE TECHNICALITY AND NOT RESOLVE IT ON THE MERITS.

II.

PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION WHEN IT DID NOT DISMISS PRIVATE RESPONDENT'S MEMORANDUM ON APPEAL EVEN THOUGH IT LACKED THE PROPER VERIFICATION AND PROCEEDED TO RESOLVE HER APPEAL ON THE MERITS.

III.

PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION WHEN IT RULED THAT THERE WAS ILLEGAL DISMISSAL AND THAT PRIVATE RESPONDENT BE IMMEDIATELY REINSTATED WITHOUT LOSS OF SENIORITY RIGHTS.

IV.

PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION WHEN IT DIRECTED PETITIONERS INCLUDING PETITIONER LILY NGOCHUA TO PAY PRIVATE RESPONDENT BACKWAGES, SERVICE INCENTIVE LEAVE PAY, OVERTIME PAY AND ATTORNEY'S FEES.^[11]

On September 27, 2006, the CA promulgated its assailed decision dismissing the petition for *certiorari*,^[12] decreeing as follows:

WHEREFORE, premises considered, the instant petition is hereby ordered **DISMISSED** for lack of merit. The assailed decision is **AFFIRMED** with **MODIFICATION**, in that petitioner Lily Ngochua should not be held liable with petitioner corporation. The other aspects of the assailed decision remains. Consequently, the prayer for a temporary restraining order and/or preliminary injunction is **NOTED**.

SO ORDERED.^[13]

The CA treated the petitioner's appeal as an unsigned pleading because the petitioner did not present proof showing that Florabeth P. Zanoria, its Administrative Officer and Chief Accountant who had signed the verification, had been authorized to sign and file the appeal. It opined that the belated submission of the secretary's certificate showing the authority of Bienvenido S. Bautista to represent the petitioner, and the special power of attorney executed by Bautista to authorize Zanoria to represent the petitioner did not cure the defect. It upheld the finding of

the NLRC that the petitioner had illegally dismissed Villa. It deemed the advice by Ngochua and de Guzman for Villa to resign and to request instead for financial assistance was a strong and unequivocal indication of the petitioner's desire to sever the employer-employee relationship with Villa.

The CA later denied the motion for reconsideration.^[14]

Issues

Hence, this appeal in which the petitioner submits that:

I

THE HONORABLE COURT OF APPEALS GRIEVOUSLY ERRED WHEN IT DID NOT RULE THAT THERE WAS NO VERIFICATION ATTACHED TO RESPONDENT VILLA'S NOTICE OF APPEAL AND MEMORANDUM ON APPEAL DATED MAY 29, 2003 AND THAT IT WAS AN UNSIGNED PLEADING AND WITHOUT LEGAL EFFECT, MOREOVER, IT COMMITTED UNFAIR TREATMENT

II

THE HONORABLE COURT OF APPEALS GRIEVOUSLY ERRED WHEN IT DID NOT RULE THAT THE NATIONAL LABOR RELATIONS COMMISSION FOURTH DIVISION HAD NO JURISDICTION TO REVERSE AND SET ASIDE THE DECISION OF THE LABOR ARBITER DATED APRIL 21, 2003 WHICH HAD ALREADY BECOME FINAL AND IMMUTABLE AS FAR AS RESPONDENT IS CONCERNED

III

THE HONORABLE COURT OF APPEALS GRIEVOUSLY ERRED WHEN IT COMMITTED MISAPPREHENSION OF THE FACTS AND ISSUED ITS DECISION AND RESOLUTION CONTRARY TO THE EVIDENCE ON RECORD AND FINDINGS OF THE LABOR ARBITER.^[15]

Ruling of the Court

The appeal lacks merit.

The petitioner prays that Villa's appeal should be treated as an unsigned pleading because she had accompanied her appeal with the same verification attached to her position paper.

The petitioner cannot be sustained. The NLRC justifiably gave due course to Villa's appeal.

Section 4(a), Rule VI of the *Amended NLRC Rules of Procedure* requires an appeal to be verified by the appellant herself. The verification is a mere formal requirement intended to secure and to give assurance that the matters alleged in the pleading are true and correct. The requirement is complied with when one who has the ample knowledge to swear to the truth of the allegations in the complaint or petition signs