

SECOND DIVISION

[G.R. No. 202015, July 13, 2016]

**ANTONIO VALEROSO AND ALLAN LEGATONA, PETITIONERS, VS.
SKYCABLE CORPORATION, RESPONDENT.**

DECISION

DEL CASTILLO, J.:

By this Petition for Review on *Certiorari*,^[1] Antonio Valeroso and Allan Legatona (petitioners) assail the November 11, 2011 Decision^[2] and May 18, 2012 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 116296, which reversed the May 24, 2010 Decision^[4] of the National Labor Relations Commission (NLRC) and consequently dismissed their Complaint for illegal dismissal and money claims against Skycable Corporation (respondent).

Antecedent Facts

This case arose from a Complaint^[5] for illegal dismissal, non-payment of 13th month pay, separation pay and illegal deduction filed by petitioners against respondent on February 25, 2009 before the Labor Arbiter, docketed as NLRC NCR Case No. 02-03439-09. The Complaint was subsequently amended to include regularization and payment of moral and exemplary damages as additional causes of action.^[6]

Petitioners Valeroso and Legatona alleged that they started working on November 1, 1998 and July 13, 1998, respectively, as account executives tasked to solicit cable subscriptions for respondent, as evidenced by Certifications^[7] issued by Michael T. De la Cuesta (De la Cuesta), respondent's Sales Territory Manager. As shown in their payslips^[8] for the years 2001 to 2006, they received commissions ranging from P15,000.00 to 530,000.00 each upon reaching a specific quota every month and an allowance of P6,500.00 to P7,000.00 per month. From being direct hires of respondent, they were transferred on January 1, 2007 to Skill Plus Manpower Services sans any agreement for their transfer. In February 2009, they were informed that their commissions would be reduced due to the introduction of prepaid cards sold to cable subscribers resulting in lower monthly cable subscriptions. Dismayed, they notified their manager, Marlon Pasta (Pasta), of their intention to file a labor case with the NLRC, which they did on February 25, 2009. Pasta then informed them that they will be dropped from the roster of its account executives, which act, petitioners claimed, constitutes unfair labor practice.

Further, petitioners claimed that they did not receive 13th month pay for 2006 and were underpaid of such benefit for the years 2007 and 2008; and that in January 2008, petitioner Legatona signed a Release and Quitclaim^[9] in consideration of the

amount of P25,000.00 as loyalty bonus from respondent.

Respondent, on the other hand, claimed that it did not terminate the services of petitioners for there was never an employer-employee relationship to begin with. It averred that in 1998, respondent (then Central CATV, Inc.) engaged petitioners as independent contractors under a Sales Agency Agreement.^[10] In 2007, respondents decided to streamline its operations and instead of contracting with numerous independent account executives such as petitioners, respondent engaged the services of an independent contractor, Armada Resources & Marketing Solutions, Inc. (Armada, for brevity; formerly Skill Plus Manpower Services) under a Sales Agency Agreement.^[11] As a result, petitioners' contracts were terminated but they, together with other sales account executives, were referred for transfer to Armada. Petitioners then became employees of Armada. In 2009, respondent and Armada again entered into a Sales Agency Agreement,^[12] wherein petitioners were again tasked to solicit accounts/ generate sales for respondent.

Respondent insisted that in hiring petitioners and Armada as independent contractors, it engaged in legitimate job contracting where no employer-employee relation exists between them. In an affidavit,^[13] De la Cuesta stated that the certifications he issued are not employment certifications but are mere accommodations, requested by petitioners themselves, for their credit card and loan applications. Moreover, Armada's President, Francisco Navasa (Navasa), in his affidavit,^[14] verified that Armada is an independent contractor which selected and engaged the services of petitioners, paid their compensation, exercised the power to control their conduct and discipline or dismiss them. Therefore, when petitioners filed their Complaint in February 2009, they were employees of Armada and as such, had no cause of action against respondent.

Petitioners, however, assailed the allegation that they were employees of Armada, claiming that they were directly hired, paid and dismissed by respondent. They cited the following as indicators that they are under the direct control and supervision of respondent: 1) respondent's officers supervise their area of work, monitor them daily, update them of new promos and installations they need to work on, inform them of meetings and penalize them for non-attendance, ask them to train new agents/account executives, and inform them of new prices and expiration dates of product promos; 2) respondent's supervisors delegate to them authority to investigate, campaign against and legalize unlawful cable connections; 3) respondent's supervisors monitor their quota production and impose guaranteed charges as penalty for failing to meet their quota; and 4) respondent consistently gives trophies to award them of their outstanding performance.

Ruling of the Labor Arbiter

In a Decision^[15] dated August 26, 2009, the Labor Arbiter dismissed the Complaint since petitioners failed to establish by substantial evidence that respondent was their employer. The Labor Arbiter observed that petitioners failed to identify and specify the person who allegedly hired them, paid their wages and exercised supervision and control over the manner and means of performing their work. There was neither any evidence to prove that Pasta, who allegedly dismissed them, is an officer of respondent with an authority to dismiss them. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the complaint filed in the instant case is dismissed as discussed in the body hereof.

SO ORDERED.^[16]

Ruling of the National Labor Relations Commission

Petitioners filed an appeal with the NLRC attributing reversible error on the Labor Arbiter in dismissing their Complaint on the ground of no employer-employee relationship.

In a Decision^[17] dated May 24, 2010, the NLRC reversed the Labor Arbiter's ruling. It found that petitioners are regular employees of respondent having performed their job as account executives for more than one year, even if not continuous and merely intermittent, and considering the indispensability and continuing need of petitioners' tasks to the business. The NLRC observed that there was no evidence that petitioners have substantial capitalization or investment to consider them as independent contractors. On the other hand, the certifications and the payslips presented by petitioners constitute substantial evidence of employer-employee relationship. The NLRC held that upon termination of the Sales Agency Agreement with Armada in 2009, petitioners were considered dismissed without just cause and due process. The dispositive portion of the NLRC Decision reads:

WHEREFORE, premises considered, the instant appeal is GRANTED and the assailed Decision of Labor Arbiter Gaudencio P. Demaisip, Jr. dated August 26, 2009, is REVERSED and SET ASIDE, and a new one entered declaring complainants to have been illegally dismissed. Accordingly, respondent Skycable Corporation/Central CATV Inc. is hereby directed to immediately reinstate complainants to their former position[s] and to pay each of the complainants their full backwages reckoned from February 25, 2009 up to the actual payroll reinstatement, (tentatively computed at P607,200.00), in addition to the amount of P58,500.00 representing 13th month pay differentials and pro-rata 3th month pay for 2009.

SO ORDERED.^[18]

With the NLRC's ruling in favor of petitioners, respondent filed a motion for reconsideration. This motion was, however, denied by the NLRC in its Resolution^[19] of July 27, 2010.

Riding of the Court of Appeals

Respondent filed a Petition for *Certiorari*^[20] with the CA, attributing grave abuse of discretion on the part of the NLRC in holding it liable for the alleged illegal dismissal of petitioners.

The CA rendered a Decision^[21] on November 11, 2011 granting respondent's Petition for *Certiorari* and reversing the NLRC Decision. The CA sustained the Labor

Arbiter's finding that there was no evidence to substantiate the bare allegation of employer-employee relationship between the parties. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the instant petition is GRANTED and the Decision dated May 24, 2010 of the National Labor Relations Commission in NLRC NCR Case No. 02-03439-09 is hereby REVERSED and SET ASIDE.

SO ORDERED.^[22]

Petitioners moved for reconsideration which was denied by the CA in its Resolution^[23] dated May 18, 2012.

Issues

Hence, this Petition raising the following issues:

I.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN RENDERING ITS DECISION DATED NOVEMBER 11, 2011.

II.

WHETHER THE PETITIONERS WERE RESPONDENT'S REGULAR EMPLOYEES, WHOSE DISMISSAL FROM EMPLOYMENT WAS ILLEGAL.^[24]

Petitioners maintain that respondent failed to discharge the burden of disproving the employer-employee relationship through competent evidence of independent contractorship. They assert that the nature of their work and length of service with respondent made them regular employees as defined in Article 280^[25] of the Labor Code. Consequently, the CA gravely erred in dismissing their Complaint for illegal dismissal against respondent.

Our Ruling

The Petition has no merit.

The pivotal issue to be resolved in this case is whether petitioners were employees of respondent.

Well-entrenched is the doctrine that the existence of an employer-employee relationship is ultimately a question of fact and that the findings thereon by the Labor Arbiter and NLRC shall be accorded not only respect but even finality when supported by substantial evidence.^[26] However, considering the conflicting findings of fact by the Labor Arbiter, the NLRC and the CA, the Court is impelled to re-examine the records and resolve this factual issue.