

## FIRST DIVISION

[ G.R. No. 191455, March 12, 2014 ]

**DREAMLAND HOTEL RESORT AND WESTLEY J. PRENTICE,  
PRESIDENT, PETITIONERS, VS. STEPHEN B. JOHNSON,  
RESPONDENT.**

### D E C I S I O N

**REYES, J.:**

Before the Court is a Petition for Review on *Certiorari*<sup>[1]</sup> assailing the December 14, 2009<sup>[2]</sup> and February 11, 2010<sup>[3]</sup> Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 111693 which dismissed outright the petition for *certiorari* on technical grounds.

Dreamland Hotel Resort (Dreamland) and its President, Westley J. Prentice (Prentice) (petitioners) alleged the following facts in the instant petition:

9. Dreamland is a corporation duly registered with the Securities and Exchange Commission on January 15, 2003 to exist for a period of fifty<sup>[50]</sup> years with registration number SEC A 1998-6436. Prentice is its current President and Chief Executive Officer. It is engaged in the hotel, restaurant and allied businesses. Dreamland is presently undertaking operations of its business at National Highway, Sto. Tomas, Matina Subic, Zambales, 2209.

10. Respondent **Stephen B. Johnson** is an Australian citizen who came to the Philippines as a businessman/investor without the authority to be employed as the employee/officer of any business as he was not able to secure his Alien Employment Permit ["AEP" for brevity], which fact was duly supported by the Certification dated March 14, 2008 of the Department of Labor and Employment ["DOLE" for brevity] Regional Director, Regional Office No. III, San Fernando City, Pampanga, x x x.

11. As a fellow Australian citizen, Johnson was able to convince Prentice to accept his offer to invest in Dreamland and at the same time provide his services as Operations Manager of Dreamland with a promise that he will secure an AEP and Tax Identification Number ["TIN" for brevity] prior to his assumption of work.

12. Sometime on June 21, 2007, Prentice and Johnson entered into an Employment Agreement, which stipulates among others, that the [sic] Johnson shall serve as Operations Manager of Dreamland from August 1, 2007 and shall serve as such for a period of three (3) years.

13. Before entering into the said agreement[, ] Prentice required the submission of the AEP and TIN from Johnson. Johnson promised that the same shall be supplied within one (1) month from the signing of the contract because the application for the TIN and AEP were still under process. Thus[, ] it was agreed that the efficacy of the said agreement shall begin after one (1) month or on August 1, 2007. x x x.

14. On or about October 8, 2007, Prentice asked on several occasions the production of the AEP and TIN from Johnson. Johnson gave excuses and promised that he is already in possession of the requirements. Believing the word of Johnson, Dreamland commenced a dry run of its operations.

15. Johnson worked as a hotel and resort Operations Manager only at that time. He worked for only about three (3) weeks until he suddenly abandoned his work and subsequently resigned as Operations Manager starting November 3, 2007. He never reported back to work despite several attempts of Prentice to clarify his issues. x x x.<sup>[4]</sup>

On the other hand, respondent Stephen B. Johnson (Johnson) averred that:

4. There is also no truth to the allegation that it was [Johnson] who "offered" and "convinced" petitioner Prentice to "invest" in and provide his services to petitioner Dreamland Hotel Resort x x x. The truth of the matter is that it was petitioners who actively advertised for a resort manager for Dreamland Hotel. x x x

5. It was in response to these advertisements that private respondent Johnson contacted petitioners to inquire on the terms for employment offered. It was Prentice who offered employment and convinced Johnson to give out a loan, purportedly so the resort can be completed and operational by August 2007. Believing the representations of petitioner Prentice, private respondent Johnson accepted the employment as Resort Manager and loaned money to petitioners [consisting of] his retirement pay in the amount of One Hundred Thousand US Dollars (USD 100,000.00) to finish construction of the resort. x x x.

6. From the start of August 2007, as stipulated in the Employment Agreement, respondent Johnson already reported for work. It was then that he found out to his dismay that the resort was far from finished. However, he was instructed to supervise construction and speak with potential guests. He also undertook the overall preparation of the guestrooms and staff for the opening of the hotel, even performing menial tasks (i.e. inspected for cracked tiles, ensured proper grout installation, proper lighting and air-conditioning unit installation, measured windows for curtain width and showers for shower curtain rods, unloaded and installed mattresses, beddings, furniture and appliances and even ironed and hung guest room curtains).

x x x x

8. As [Johnson] remained unpaid since August 2007 and he has loaned all his money to petitioners, he asked for his salary after the resort was opened in October 2007 but the same was not given to him by petitioners. [Johnson] became very alarmed with the situation as it appears that there was no intention to pay him his salary, which he now depended on for his living as he has been left penniless. He was also denied the benefits promised him as part of his compensation such as service vehicles, meals and insurance.

9. [Johnson] was also not given the authority due to him as resort manager. Prentice countermanded his orders to the staff at every opportunity. Worse, he would even be berated and embarrassed in front of the staff. Prentice would go into drunken tiffs, even with customers and [Johnson] was powerless to prohibit Prentice. It soon became clear to him that he was only used for the money he loaned and there was no real intention to have him as resort manager of Dreamland Hotel.

10. Thus, on November 3, 2007, after another embarrassment was handed out by petitioner Prentice in front of the staff, which highlighted his lack of real authority in the hotel and the disdain for him by petitioners, respondent Johnson was forced to submit his resignation, x x x. In deference to the Employment Agreement signed, [Johnson] stated that he was willing to continue work for the three month period stipulated therein.

11. However, in an SMS or text message sent by Prentice to [Johnson] on the same day at around 8:20 pm, he was informed that "... *I consider [yo]ur resignation as immediate*". Despite demand, petitioners refused to pay [Johnson] the salaries and benefits due him.<sup>[5]</sup>

On January 31, 2008, Johnson filed a Complaint for illegal dismissal and non-payment of salaries, among others, against the petitioners.

On May 23, 2008, the Labor Arbiter (LA) rendered a Decision<sup>[6]</sup> dismissing Johnson's complaint for lack of merit with the finding that he voluntarily resigned from his employment and was not illegally dismissed. We quote:

There [is] substantial evidence on record that [Johnson] indeed resigned voluntarily from his position by his mere act of tendering his resignation and immediately abandoned his work as Operations Manager from the time that he filed said resignation letter on November 3, 2007 and never returned to his work up to the filing of this case. Evidence on record also show that [Johnson] only served as Operations Manager for a period of three (3) weeks after which he tendered his voluntary resignation and left his job. This fact was not denied or questioned by him. His claim that there was breach of employment contract committed by the respondents and that he was not refunded his alleged investment with the respondent Dreamland Hotel and Resort were not properly supported with substantial evidence and besides these issues are not within the ambit of jurisdiction of this Commission.

There being competent, concrete and substantial evidence to confirm the voluntary resignation of [Johnson] from his employment, there was no illegal dismissal committed against him and for him to be entitled to reinstatement to his former position and backwages.

x x x x

**WHEREFORE, premises considered, let this case be as it is hereby ordered DISMISSED for lack of merit.**

**All the money claims of the complainant are likewise ordered dismissed for lack of legal basis.**

**SO ORDERED.**<sup>[7]</sup>

Dissatisfied, Johnson appealed to the National Labor Relations Commission (NLRC). The NLRC rendered its Decision<sup>[8]</sup> on April 30, 2009, the dispositive portion of which reads:

**WHEREFORE,** the decision appeared from is hereby **REVERSED**. Respondent Wes[t]ley Prentice and/or Dreamland Resort & Hotel, Inc[.] are hereby ordered to pay [Johnson] the following:

1. Backwages computed at [P]60,000.00 monthly from November 3, 2007 up to the finality of this decision;
2. Separation pay equivalent to one month's salary, or [P]60,000.00;
3. Unpaid salaries from August 1, 2007 to November 1, 2007 amounting to a total of [P]172,800.00.

**SO ORDERED.**<sup>[9]</sup>

The NLRC also noted the following:

Insofar as the charge of abandonment against [Johnson] is concerned, it is significant that the contention that [Johnson] received a total of [P]172,000.00 from the [petitioners] since July 2007 is not supported by the evidence x x x submitted by the [petitioners]. Except for a promissory note x x x for [P]2,200.00, the pieces of evidence in question do not bear [Johnson's] signature, and do not therefore constitute proof of actual receipt by him of the amounts stated therein. Thus, based on the evidence and on the admission by [Johnson] that he received the amount of [P]5,000.00 from the [petitioners], it appears that [Johnson] received a total of only [P]7,200.00 from the [petitioners]. Since based on the Employment Agreement, his employment commenced on August 1, 2007, it follows that as of November 3, 2007, when he tendered his resignation, the [petitioners] had failed to pay him a total of [P]172,800.00 representing his unpaid salaries for three months ([P]60,000.00 x 3 mos. = [P]180,000.00 - [P]7,200 = [P]172,800.00).

Even the most reasonable employee would consider quitting his job after working for three months and receiving only an insignificant fraction of his salaries. There was, therefore, not an abandonment of employment nor a resignation in the real sense, but a constructive dismissal, which is defined as an involuntary resignation resorted to when continued employment is rendered impossible, unreasonable or unlikely x x x. Consequently, [Johnson] is entitled to reinstatement with full backwages. However, due to the strained relation between the parties, which renders his reinstatement inadvisable, separation pay may be awarded in lieu of reinstatement.<sup>[10]</sup>

Consequently, the petitioners elevated the NLRC decision to the CA by way of Petition for *Certiorari* with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction under Rule 47.

In the assailed Resolution<sup>[11]</sup> dated December 14, 2009, the CA dismissed the petition for lack of proof of authority and affidavit of service of filing as required by Section 13 of the 1997 Rules of Procedure. The subsequent motion for reconsideration filed by the petitioners was likewise denied by the CA in a Resolution<sup>[12]</sup> dated February 11, 2010.

Undaunted, the petitioners filed before this Court the present Petition for Review on *Certiorari*, raising the following issues, viz:

A.

THE HONORABLE [CA] COMMITTED A REVERSIBLE ERROR IN PROMULGATING ITS FIRST RESOLUTION (DECEMBER 14, 2009) WHICH OUTRIGHTLY DISMISSED PETITIONERS' PETITION FOR *CERTIORARI*.

B.

THE HONORABLE [CA] COMMITTED A REVERSIBLE ERROR IN PROMULGATING ITS SECOND RESOLUTION (FEBRUARY 11, 2010) WHICH DENIED FOR LACK OF MERIT PETITIONERS' MOTION FOR RECONSIDERATION.

C.

THE HONORABLE [CA] COMMITTED A REVERSIBLE ERROR IN NOT GIVING DUE CONSIDERATION TO THE MERITS OF THE PETITIONERS' PETITION AND IN NOT GRANTING THEIR PRAYER FOR TEMPORARY RESTRAINING ORDER[.]<sup>[13]</sup>

The petition is partially granted.

At its inception, the Court takes note of the Resolutions dated December 14, 2009 and February 11, 2010 of the CA dismissing the Petition for *Certiorari* due to the following infirmities: