

## THIRD DIVISION

[ G.R. No. 152234, April 15, 2010 ]

**DIVERSIFIED SECURITY, INC., PETITIONER, VS. ALICIA V. BAUTISTA, RESPONDENT.**

### DECISION

**PERALTA, J.:**

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying that the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated August 31, 2001 affirming the finding that petitioner illegally dismissed respondent, and the CA Resolution<sup>[2]</sup> dated February 11, 2002 denying herein petitioner's motion for reconsideration, be reversed and set aside.

The undisputed facts are as follows.

Respondent was employed by petitioner as an Executive Pool Secretary, but petitioner alleged that respondent turned out to be incompetent. Petitioner then assigned her to perform menial or insignificant jobs and allegedly transferred her to their branch office in Makati City. However, respondent allegedly failed to report for work at said branch office on the day she was supposed to do so.

On the other hand, respondent claimed that petitioner dismissed her on October 31, 1997 without any valid reason, neither was she given any notice and hearing.

In December of 1997, respondent filed a case for illegal dismissal against petitioner. Petitioner countered that respondent was not dismissed; rather, she was the one who severed her connection with petitioner by her "voluntary and unequivocal acts."

On September 29, 1998, the Labor Arbiter issued a Decision,<sup>[3]</sup> the dispositive portion of which reads as follows:

WHEREFORE, premises considered, judgment is hereby entered, ordering the respondents [herein petitioner and its officers], jointly and severally, to pay the total sum of P92,733.33 as separation pay and proportionate mandatory 13<sup>th</sup> month pay of complainant. Other issues or claims are hereby DISMISSED for want of substantial evidence.

SO ORDERED.<sup>[4]</sup>

The foregoing Decision was appealed to the National Labor Relations Commission (NLRC), but the NLRC affirmed the Labor Arbiter's ruling that herein respondent was illegally dismissed. The dispositive portion of the NLRC Decision<sup>[5]</sup> dated February

23, 2000 is set forth hereunder:

WHEREFORE, premises considered, the decision under review is hereby MODIFIED by ordering the respondents, jointly and severally, to pay the complainant her proportionate 13<sup>th</sup> month pay for 1997 and full backwages from the date of her dismissal in October 31, 1997 up to the date of the Labor Arbiter's decision when separation pay was adjudged as an alternative relief to reinstatement in the total amount of SIXTY-SEVEN THOUSAND THREE HUNDRED PESOS (P67,300.00). Respondents are likewise ordered to pay the complainant severance compensation equivalent to her one month salary for every year of service reckoned from February 1990 to October 1997, a fraction of six (6) months being considered as one year, the total amount being FORTY-ONE THOUSAND SIX HUNDRED PESOS (P41,600.00).

SO ORDERED.<sup>[6]</sup>

Petitioners then filed a petition for *certiorari* with the CA under Rule 65 of the Rules of Court and on August 31, 2001, the CA issued the assailed Decision which disposed, thus:

WHEREFORE, in view of the foregoing, the decision of the National Labor Relations Commission is hereby **MODIFIED**, in that, the liability of individual petitioners is hereby **DELETED** while the rest of the decision is **AFFIRMED**.

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

Petitioner moved for reconsideration, but the same was denied in the Resolution dated February 11, 2002. Hence, this petition wherein it is alleged that:

I.

THE COURT OF APPEALS ERRED IN FINDING THAT RESPONDENT BAUTISTA WAS DISMISSED FROM EMPLOYMENT AND THE DISMISSAL WAS ILLEGAL, DESPITE THE ABSENCE OF ANY ACT, ON THE PART OF PETITIONER, CONSTITUTIVE OF DISMISSAL OR MUCH LESS ILLEGAL DISMISSAL, IN CONTRAVENTION OF THE LAW AND THE APPLICABLE DECISIONS OF THE SUPREME COURT;

II.

THE COURT OF APPEALS ERRED IN HOLDING THAT PETITIONER DSI DISMISSED RESPONDENT ON THE GROUND OF ABANDONMENT, DESPITE THE UNCONTROVERTED FACT THAT THE SAID GROUND WAS NEVER RAISED BY PETITIONER BY WAY OF DEFENSE AND ERRED IN THE AUTOMATIC APPLICATION OF THE RULE THAT A COMPLAINT OF ILLEGAL

DISMISSAL IS INCONSISTENT WITH ABANDONMENT;

III.

THE COURT OF APPEALS ERRED IN GRANTING SEPARATION PAY TO RESPONDENT COMPUTED FROM 1990 ON THE BASIS ALONE OR PETITIONER DSI'S ARTICLE OF INCORPORATION DATED 1990, DESPITE THE UNCONTROVERTED FACT THAT RESPONDENT WAS EMPLOYED BY PETITIONER ONLY IN NOVEMBER 1996;

IV.

THE COURT OF APPEALS ERRED IN APPLYING ARTICLE 279 OF THE LABOR CODE BY ORDERING THE PAYMENT OF FULL BACKWAGES AND THIRTEENTH MONTH PAY TO THE RESPONDENT, DESPITE THE ABSENCE OF ANY SHOWING OF ILLEGAL DISMISSAL, OR EVEN OF ANY DISMISSAL.<sup>[8]</sup>

The Court finds the petition unmeritorious.

Petitioner's assignment of errors boils down to the sole issue of whether the CA correctly upheld the NLRB ruling that respondent was illegally dismissed by petitioner.

The Court sees it fit to reiterate and emphasize the oft-repeated ruling in *Reyes v. National Labor Relations Commission*,<sup>[9]</sup> to wit:

x x x findings of facts of quasi-judicial bodies like the NLRB, and affirmed by the Court of Appeals in due course, are conclusive on this Court, which is not a trier of facts.

x x x x

x x x **Findings of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect, but finality when affirmed by the Court of Appeals.** Such findings deserve full respect and, without justifiable reason, ought not to be altered, modified or reversed.<sup>[10]</sup>

In this case, the Labor Arbiter, the NLRB and the CA were all consistent in their factual findings that respondent's employment was indeed terminated without giving her notice and hearing. The NLRB's finding that respondent had been petitioner's employee since 1990, had also been affirmed by the CA. A close perusal of the records show that there is no cogent reason for this Court to deviate from the settled rule that factual findings of the NLRB, when affirmed by the Court of Appeals, are accorded not only respect but **finality**.

Moreover, the Court cannot subscribe to petitioner's argument that it did not dismiss