

TWELFTH DIVISION

[CA–G.R. SP No. 131353, June 30, 2014]

**ROBERT TRINIDAD DEE, DOING BUSINESS UNDER THE NAME
AND STYLE PAYA CONSTRUCTION SUPPLY, PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION, JUAN CORDOVEZ
AND RONNIE ARCEGA, RESPONDENTS.**

D E C I S I O N

DICDICAN, J.:

Before this Court is a Petition for Certiorari^[1], under Rule 65 of the Revised Rules of Court, seeking the reversal of the Resolutions, dated March 27, 2013^[2] and May 31, 2013^[3], promulgated by the public respondent National Labor Relations Commission in NLRC LPRJC Case No. 01-001-13. Likewise assailed is the Labor Arbiter's Decision dated May 30, 2011 rendered in NLRC NCR Case No. 06-09562-11^[4].

The antecedent facts are as follows:

In a Complaint^[5] dated June 21, 2011, private respondents Juan Cordovez and Ronnie Arcega claimed that they were illegally dismissed by "Paya Construction Supply/Top View Construction Supply" whose owner/manager/president is/are "Robert Trinidad/Cai Yun a.k.a. Kikay." They alleged underpayment of wages and non-payment of 13th month pay, overtime pay, holiday pay, rest day premium, service incentive leave and ECOLA.

Petitioner Robert Dee explained in his position paper^[6] that Cai Yun is his spouse and that he owns Paya Construction Supply while a certain Patrick Sy owns Top View Construction Supply. He further stated that private respondent Juan Cordovez was his truck driver and, therefore, a field personnel, while private respondent Ronnie Arcega was not his employee but an employee of Top View Construction Supply. The case, docketed as NLRC NCR Case No. 06-09562-11, was submitted for decision after the parties submitted their position paper, reply and rejoinder.

Sometime in September 2012, after one year of allegedly not getting any update on the case, petitioner was surprised to receive private respondent's Motion for Issuance of Writ of Execution^[7] dated September 4, 2012 via registered mail. After taking it upon himself to secure copies of the records of the case, petitioner discovered on November 26, 2012 that the labor arbiter had already rendered a Decision, dated May 30, 2012, the dispositive of which states as follows:

"WHEREFORE, judgment is hereby rendered dismissing the charge of illegal dismissal for lack of merit but ordering respondents to pay complainants as follows:

1. Juan I. Cordovez:

Wage Diff.	P148,204.94
Overtime Pay	56,701.08
Holiday Pay	13,225.00
SILP	5,815.50
13 th Mo. Pay	<u>30,240.58</u>
TOTAL	P254,187.10

2. Ronnie Arcega

Wage Diff.	P148,204.94
Overtime Pay	56,701.08
Holiday Pay	13,225.00
SILP	5,815.50
13 th Mo. Pay	<u>30,240.58</u>
TOTAL	P254,187.10

GRAND
TOTAL -- **P508,374.20**

SO ORDERED.”^[8]

The labor arbiter likewise stated that the records showed that both Paya Construction Supply and Top View Construction Supply are owned by spouses Robert Dee and Cai Yun-Dee.

Petitioner grieves the alleged fact that he was never served with a copy of the labor arbiter's decision. He found in the records in the labor arbiter's office that a single envelope, containing his name and the names of Cai Yun, Paya Construction Supply and Top View Construction Supply, was stamped as “Unlocated RTS” (return to sender). Said envelope contained a copy of the labor arbiter's decision and was sent to the address of Top View Construction Supply.

Petitioner's former counsel, Atty. Nilo Martin, however, received a copy of the decision on July 26, 2012 but the latter failed to inform petitioner thereof.^[9] Private respondents and their counsel, on the other hand, were all sent copies of the labor arbiter decision.

Hence, petitioner, assisted by a new counsel, filed a Petition for Relief^[10], dated January 25, 2013, before the National Labor Relations Commission, praying, among others, that the labor arbiter's decision be annulled, vacated and set aside.

In the assailed Resolution dated March 27, 2013, the Commission refused to give due course to the petition for relief. The Commission held that the petition for relief filed by petitioner was a prohibited pleading and that, even if Section 1, Rule 38 of the Revised Rules of Court^[11] would be given suppletory application, the petition would still be considered as improperly filed before the Commission considering that the petition, under the Rules of Court, should have been filed before the same court which rendered the questioned decision. The body which rendered the assailed decision in this case was the Office of the Labor Arbiter. Under the NLRC Rules of Procedure, however, the labor arbiter is expressly barred from entertaining petitions for relief.

The dispositive portion of the decision thus states:

"WHEREFORE, premises considered, the petition is hereby **DISMISSED** for being prohibited under the 2011 NLRC Rules of Procedure.

SO ORDERED."^[12]

Petitioner filed a Motion for Reconsideration^[13] thereof, invoking substantial justice. In its second challenged Resolution, dated May 31, 2013, the Commission denied petitioner's motion for reconsideration. The *fallo* of the resolution reads:

"WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

"No further motion of similar nature will be entertained."^[14]

Hence, this petition before this Court, based on several alleged grounds:

A. PUBLIC RESPONDENT NLRC COMMITTED GRAVE AND PATENT ABUSE OF DISCRETION AS EVIDENCED BY THE FOLLOWING:

1. PUBLIC RESPONDENT NLRC DISMISSED THE PETITION FOR RELIEF SOLELY ON THE BASIS OF TECHNICALITIES DESPITE EVIDENT MERIT OF PETITIONER'S CAUSE / SUBMISSION.

2. PUBLIC RESPONDENT NLRC AND THE LABOR ARBITER COMPLETELY IGNORED FACTS WHICH HAD BEEN PROVEN BY SUBSTANTIAL DOCUMENTARY EVIDENCE:

xxx xxx xxx

3. REGARDLESS OF THE EMPLOYER OF PRIVATE RESPONDENTS, THEIR EXPRESS DECLARATION THAT THEY WERE DRIVER AND PAHINANTE IS AN ADMISSION THAT THEY ARE / WERE "FIELD PERSONNEL". THUS, PUBLIC RESPONDENT NLRC AND THE LABOR ARBITER COMMITTED GRAVE AND PATENT ABUSE OF DISCRETION IN AWARDING OVERTIME PAY, HOLIDAY PAY AND SERVICE INCENTIVE LEAVE UNDER ARTICLE 82, BOOK III OF THE LABOR CODE, AS AMENDED.

B. PUBLIC RESPONDENT NLRC COMMITTED GRAVE AND PATENT ABUSE OF DISCRETION IN NOT CONSIDERING THAT PETITIONER WAS