

EIGHTEENTH DIVISION

[CA-G.R. SP. NO. 05862, November 28, 2014]

**MELENCIA REBETILLO, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION, 7TH DIVISION, CEBU CITY, JIMKY
FARMS/ SPOUSES GENALYN F. GARCIA AND JAMES S. GARCIA,
RESPONDENTS.**

D E C I S I O N

INGLES, G. T., J.:

THE CASE

Before this court is a petition for certiorari filed under Rule 65 of the 1997 Revised Rules on Civil Procedure, as amended seeking to annul and set aside the Decision^[1] dated August 31, 2010 of the National Labor Relations Commission, Seventh Division (formerly Fourth Division), Cebu City, in NLRC VAC-02-000077-2010 which modified the Decision dated December 14, 2009 of the Executive Labor Arbiter ordering respondents to jointly and severally pay complainant Angelito Laging wage differentials, 13th month pay, service incentive leave and holiday pay while declaring petitioner Melencia Rebetillo not an employee of respondents. Also assailed is the Resolution^[2] dated November 25, 2010 which denied petitioner's Motion for reconsideration.

THE FACTS:

Respondent Jimky Farms is a four-hectare vegetable and palay plantation owned and managed by respondents spouses Genalyn and James Garcia. Hogs are also raised on the farm.

In March, 1999, respondent spouses decided to embark on vegetable production aside from growing palay. They hired Melchor Rebetillo, petitioner's husband, as overseer because of his skills in the field of vegetable growing. Petitioner's husband relocated their house within the premises of the farm upon the advice of respondents bringing along with him his family.

Upon the insistence of the spouses Garcia, petitioner was made to work at the farm but she was considered her husband's assistant at first despite working long hours like her husband. She performed all types of work needed at the farm including weeding, transplanting, plotting and cultivating, among others. Petitioner and her husband worked eight hours a day, seven days a week including all holidays of the year. During her first year, petitioner was not paid most of time since her services were deemed merely as payment of her debt of gratitude for their stay in the premises of the farm. However, she did not complain to the spouses Garcia.

In 2000, she was finally considered an employee even if she received only P800.00 a month whether or not there were holidays. She was not issued any pay slip or placed in the payroll of the farm. Neither did she enjoy social security benefits.

In 2001, petitioner's salary increased to P 1,000.00 which became her regular monthly salary until 2004. In 2005, she was paid P70.00 per day or P 490.00 per week which was increased to P 80.00 per day in 2006.

During her period of employment, she was not paid any holiday pay, service incentive leave, and 13th month pay despite working eight hours a day for seven days a week.

On November 7, 2006, petitioner was dismissed from service without any cause. She was not paid separation pay.

Petitioner Rebetillo filed a Complaint for underpayment of salaries/wages with claims for non-payment of holiday pay, service incentive leave (SIL) and 13th month pay against respondents spouses which she later amended to include Jimky Farms and/or together with the spouses Garcia, as owners. Petitioner alleged that she was hired on March 14, 1999 but was later dismissed on November 6, 2006 without cause.

On the other hand, Angelino Layaging, another employee of the farm, filed a Complaint for illegal dismissal with a claim for underpayment of salaries/wages and non-payment of holiday pay, service incentive leave pay and 13th month pay against the spouses Garcia.

Subsequently, the parties filed their respective position paper.

In their position paper, respondents contended that petitioner was the wife of their in-house farm laborer who was known as Nonoy Cebuano introduced to them by Ever Sobesta of Gawahon, Victorias City. Respondents entrusted Melchor Rebetillo in the delivery and sale of vegetables to the local market in Victorias City . He worked with respondents from March 15, 1999 until April 15, 2003 when he left the farm without their consent and knowledge. In March, 2005, Melchor Rebetillo returned to their farm and asked for their forgiveness. They agreed to allow him to work for them again. However, without their knowledge and consent, he left the farm again on October 23, 2006 after he had a heated argument with Edwin Badiana, the farm's foreman. Respondents alleged that petitioner likewise left the farm on November 4, 2006 upon the advice of her husband without remitting the amount of P1,200.00 which she collected from vegetable dealers. Respondents also added that during Melchor Rebetillo's employment, he and his family were assigned a house with free water and electricity, and meal allowances.

The Labor Arbiter's Ruling:

On December 14, 2009, the Executive Labor Arbiter Elbert Restauero, RAB VI, National Labor Relations Commission, Bacolod City rendered a Decision^[3], the pertinent portion of which reads:

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"WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for illegal dismissal for lack of merit. However, respondents Jimky Farms and/or the spouses Genalyn F. Garcia and James S. Garcia are hereby ordered to pay the complainants, namely, Melencia Rebetillo and Angelito Layaging their claimed salary differentials, 13th month pay, SILP, and holiday pay in the total sum of ONE HUNDRED TWENTY FOUR THOUSAND EIGHT HUNDRED ONE PESOS & 54/100 (P124,801.54)

All other claims not herein discussed are dismissed for lack of legal and factual basis.

SO ORDERED."

Aggrieved, petitioner filed an appeal with the National Labor Relations Commission, Fourth Division, Cebu City.

The NLRC Ruling:

On August 31, 2010, the NLRC, Fourth Division, Cebu City rendered a Decision^[4], the pertinent portion of which reads as follows:

"An indispensable precondition of illegal dismissal is the prior existence of an employer-employee relationship. Since it was established that there was no such relationship between complainant Melencia Repetillo^[5] (sic) and the respondents, the allegation of illegal dismissal does not have any leg to stand on. The claims for backwages, separation pay and other benefits must, likewise fail (Palomado vs NLRC, 257 SCRA 680). Thus, complainant Melencia Repetillo's awards of salary differentials, 13th month pay, service incentive leave pay and holiday pay in the aggregate amount of P83,811.10 should be as it is, hereby deleted.

On the second issue, complainant Angelito Layaging alleges that during his employment with respondents since 15 October 2002 until 15 June 2005, he was not paid the minimum wage, 13th month pay, service incentive leave pay and holiday pay.

The respondents failed to present payroll or any other proof that would show that complainant Angelito Layaging had been paid said benefits. The burden of proving payments of monetary claims rests on the employer (Villar vs NLRC, 331 SCRA 686). Accordingly, complainant Layaging is entitled to wage differentials, 13th month pay, SILP, and holiday pay in the total amount of P 40,990.44 as computed by the Labor Arbiter.

WHEREFORE, premises considered, the decision of the Executive Labor

Arbiter dated 14 December 2009 is hereby MODIFIED to wit:

Ordering the respondents to jointly and severally pay complainant Angelito Layaging wage differentials, 13th month pay, service incentive leave and holiday pay in the aggregate amount of Forty Thousand Nine Hundred Ninety and 44/100 (P40,990.44) as computed by the Labor Arbiter and broken down as follows:

a) wage differential	- P31,538.10
b) 13 th month pay	- 5,053.96
c) SILP	- 1,933.33
d) Holiday pay	- 2,465.00

Total	P 40,990.44

SO ORDERED."

Dissatisfied, petitioner filed a Motion for reconsideration which was denied in a Resolution^[6] dated November 25, 2010, the pertinent portion of which states as follows:

"It bears stressing that although we considered the document submitted by the respondents in their appeal particularly the affidavit of Melchor Rebetillo which stated that complainant Melencia P. Rebetillo was never an employee of respondents but only helped her husband in his work. The said document was never the sole basis in rendering said decision. The allegations of complainant that the said affidavit was obtained through fraud and deceit would not thwart our findings that complainant Melencia P. Rebetillo was not an employee of respondent.

Finding no employer-employee relationship between the parties, the monetary award granted by the Labor Arbiter to complainant Melencia Rebetillo has no basis.

WHEREFORE, premises considered, the Motion for reconsideration of complainant Melencia Rebetillo is DENIED. The Decision sought to be reconsidered hereby STANDS."

Hence, this petition for certiorari.

THE ISSUES:

I.

"WHETHER OR NOT PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO WANT AND EXCESS OF