

SPECIAL ELEVENTH DIVISION

[CA-G.R. SP NO. 137218, November 24, 2014]

MEY I. SARMIENTO, DARLEN B. CABRIA AND MA. LUISA D. CASADOR, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), COPYTRADE DIGITAL COPY SYSTEMS, CESAR J. ORBE, JR. AND MS. MYLENE S. POLICARPIO, RESPONDENTS.

D E C I S I O N

DICDICAN, J.:

Before us is a petition for *Certiorari*^[1] filed by Mey Sarmiento, Darlen Cabria and Ma. Luisa Casador ("petitioners") pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to reverse and set aside the Decision^[2] promulgated by the Third Division of the National Labor Relations Commission ("NLRC") dated June 30, 2014 in NLRC NCR Case CN. 06-08114-13 and 06-08991-13 which reversed and set aside the Decision promulgated by Labor Arbiter Joel Lustria ("Labor Arbiter") on December 20, 2013. Likewise assailed in the instant petition is the Resolution^[3] promulgated by the NLRC on July 30, 2014 which denied reconsideration of the June 30, 2014 Decision.

The material and relevant facts of the case, as culled from the record, are as follows:

Private respondent Copytrade Digital Copy Systems ("Copytrade" for brevity) is a domestic corporation, duly registered under Philippine laws and engaged in the business of duplicating or copying various documents and selling copy supplies such as bond paper, toner, copying machines, spare parts and the like. Individual respondents Cesar J. Orbe and Mylene Policarpio are the president and area manager of Copytrade, respectively.

On the other hand, herein petitioners, Mey I. Sarmiento (Sarmiento), Darlen B. Cabria (Cabria) and Ma. Luisa D. Casador (Casador) ("petitioners") were employed by Copytrade as machine operators. As such machine operators, the petitioners were paid on purely commission basis or per task basis.

Petitioners filed a consolidated complaint against Copytrade and its officers on June 4, 2013 for purported acts of illegal dismissal. After the parties failed to amicably settle their differences, the Labor Arbiter directed them to submit their respective position papers.

In their position paper, the petitioners alleged the following acts of illegal dismissal which were purportedly committed by Copytrade, to wit:

"WE, MEY ICAMEN SARMIENTO, DARLEN B. CABRIA and MA. LUISA D. CASADOR, Filipinos, of legal ages, single/married and with common address at Blk. 6, Lot 10 St. Francis St., Maricaban, Pasay City, after having been duly sworn to an oath, depose and state as follows:

"x x x

"3. That our dismissal was illegal because:

"a. There was no just cause as we did not commit any violation.

"b. No due process as we were not first investigated.

"c. No termination letter stating the cause.

"d. We did not leave or abandoned, we were dismissed.

"e. We were not recalled back to work. [4]"

In the aforesaid position paper, petitioner Sarmiento stated that she was hired as a machine operator at Copytrade's branch in Sta. Mesa and that she had been receiving an average commission of Php1,651.00 every 15 days. Sarmiento further stated that the said branch of Copytrade closed on May 15, 2013 and the latter never gave her a new assignment.

As for petitioner Cabria, she stated that she was a machine operator assigned at Isetann-Recto branch of Copytrade and had been receiving an average commission of Php1,651.00 every 15 days. She admitted that she was absent from August 25 to September 3, 2012, but she contended that she had a prior permission from Copytrade's management. Cabria further asseverated that she reported back for work but Copytrade refused to accept her.

Meanwhile, petitioner Casador, stated that she was also a machine operator who was initially assigned at Copytrade's Metropoint branch. Casador evinced that she was transferred several times to Copytrade's different branches. However, she lamented that, in all instances of her transfer, she was not given any machine to work on.

For its part, private respondent Copytrade, alleged in its Position Paper [5] that there was no illegal and/or constructive dismissal in this case, as there was no actual dismissal to speak of. Copytrade alleged that the petitioners stopped reporting for work, apparently after they were transferred to another branch by the former. In fact, Copytrade exerted efforts to require the petitioners to report back to work by sending them letters through registered mail to their last known addresses. It even tried to convince the petitioners to report back for work during the preliminary conferences set by the labor arbiter, but to no avail.

Copytrade averred that, even the petitioners admitted in their own position paper, that no termination letters were issued to them. Hence, even if the law imposes the burden to prove the legality of employees' dismissal to employers, it must first be

established for a fact that the employees were dismissed.

Moreover, Copytrade alleged that its act or decision to transfer the petitioners from one branch to another did not constitute illegal dismissal, as this was a valid exercise of management prerogative.

Subsequently, on December 20, 2013, the Labor Arbiter ruled in favor of the herein petitioners. The dispositive portion of the Labor Arbiter's Decision provides:

"WHEREFORE, premises considered, judgment is hereby rendered, declaring respondents guilty of illegal dismissal. Accordingly, respondent are hereby ordered jointly and severally liable:

- 1) To reinstate complainants MEY I. SARMIENTO, DARLEN CABRIA and MA. LUISA CASADOR to their former and/or substantially equivalent positions, without loss of seniority rights, privileges, and other benefits.
- 2) To pay complainants their backwages. As of this date, their backwages amounted to, as follows:

NAMES	BACKWAGES
Mey I. Sarmiento	P77,775.36
Darlen Cabria	P183,293.76
Ma. Luisa Casador	P139,426.56

- 3) To pay complainants an amount equivalent to ten (10%) percent of the total judgment award, as and for attorney' s fees."

"Other claims are dismissed for lack of merit.

"SO ORDERED."

Unsatisfied with the foregoing disposition by the Labor Arbiter, Copytrade appealed from the same to the NLRC. On June 30, 2014, the NLRC promulgated the assailed Decision, which reads:

"WHEREFORE, premises considered, respondents' Partial Appeal is GRANTED.

"The Decision of the Labor Arbiter is REVERSED and SET ASIDE. The above-entitled case is DISMISSED for lack of merit.

"SO ORDERED.^[6]"

Herein petitioners sought for a reconsideration of the said Decision rendered by the

NLRC. On July 30, 2014, the NLRC promulgated a Resolution which denied the herein petitioners' Motion for Reconsideration.

Unstirred by the foregoing disquisition of the NLRC, petitioners filed the instant petition with this Court raising the following issue of grave abuse of discretion purportedly committed by the NLRC:

WHETHER THE NLRC WAS CORRECT AND DID NOT COMMIT GRAVE ABUSE OF DISCRETION WHEN THEY REVERSED THE ARBITER'S DECISION AND DISMISSED THE CASE FOR LACK OF MERIT.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant petition to be devoid of merit.

In the present case, the petitioners alleged that the NLRC committed grave abuse of discretion when it declared that the petitioners were not illegally dismissed from their employment as there was no actual dismissal made; hence, petitioners are not entitled to the reliefs prayed for. Petitioners insisted that they were, in fact, illegally dismissed from their employment by the herein private respondents. Petitioners argued that:

"The NLRC reversed the Arbiter's Decision below because allegedly there was no evidence that petitioners were dismissed by the respondents from their employment. Allegedly, respondent did not issue them any Termination Letter and was not prevented from entering the premises after they were given assignments.

"It is submitted that the NLRC committed grave abuse of discretion in their findings of facts.

"The allegation of respondents that petitioners abandoned their work is far from the truth. The truth was that they were not given assignment at all. The letters which respondents allegedly sent to petitioners and which they presented in evidence were all fake. Petitioners never receive those letters. There was no proof thereof. They were never recalled back to work. Petitioners never absented from work without valid reasons. They never have any intention to severed their employer-employee relationship with respondents. They love their work and they wanted to continue working. That was the reason why they immediately filed this case for illegal dismissal with prayer for reinstatement and backwages. [7]"

Likewise, petitioners claimed that the Labor Arbiter correctly ruled that:

"The Labor Arbiter below correctly held that that petitioners were illegally dismissed. It was correctly held that the respondents failed to carry out the burden providing that the dismissal of petitioners was for a valid and