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SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

CELIA R. ATIENZA, Petitioner,	**G.R. No. 233413**
	Present:
- versus-	CARPIO, *J., Chairperson,* PERLAS-BERNABE, CAGUIOA, REYES, J. JR., and LAZARO-JAVIER, *JJ.*
NOEL SACRAMENTO SALUTA, Respondent.	**Promulgated:** 17 JUN 2019

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DECISION

REYES, J. JR., *J.:*

The Facts and the Case

Before the Court is a Petition for Review on *Certiorari* seeking to reverse and set aside the April 21, 2017 Decision[1] and the August 9, 2017 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 147356. The questioned CA Decision affirmed with modification the April 27, 2016 Decision[3] and the June 21, 2016 Resolution[4] of the National Labor Relations Commission (NLRC) in NLRC LAC No. 01-000121-16 which

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1 Penned by Associate Justice Franchito N. Diamante, with Associate Justices Japar B. Dimaampao and Zenaida T. Galapate-Laguilles, concurring; *rollo*, pp. 28-39.

2 Id. at 41-42.

3 Id. at 70-92.

4 Id. at 96-98.

reversed and set aside the October 29, 2015 Decision[5] of the Labor Arbiter in NLRC NCR Case No. 04-04089-15, while the questioned CA Resolution denied petitioner's motion for reconsideration.

The instant case stemmed from the complaint for illegal dismissal, non-payment of wages, overtime pay, holiday pay, premium pay for work on holidays and rest day, illegal deduction, and issuance of a certificate of employment filed by Noel Sacramento Saluta (respondent) against Celia R. Atienza (petitioner) and CRV Corporation before the NLRC.

Respondent alleged that he was hired as a company driver by CRV Corporation in May 2012. He was assigned to drive for the petitioner, one of the company's top officials and received ₱9,000.00 monthly salary.

On December 11, 2014, while driving along North Luzon Expressway, respondent hit the rear portion of the vehicle in front of him. Thus, he was made to pay the amount of ₱15,000.00 to answer for the damages caused to the said vehicle. The amount was first advanced by the company, but will be deducted from his monthly salary. On the said occasion, the authorities confiscated his driver's license and issued him a Temporary Operator's Permit (TOP).

On December 23, 2014, respondent told the petitioner that he needed to absent himself from work because he had to claim his driver's license since his TOP had already expired. According to him, petitioner refused to excuse him from work because she had appointments lined up that day. As it was illegal for him to drive without a license, he was constrained to get his license the following day, December 24, 2014; thus, he failed to report for work. However, before going on leave, he first requested another company driver to drive for the petitioner. When petitioner learned that he was not around, she immediately called him up saying, *"kung hindi ka makakapag-drive ngayon, mabuti pa maghiwalay na tayo."* Upon hearing such words, respondent concluded that he had been verbally terminated.

When respondent went to CRV Corporation at around 3:00 p.m. on the same day, Rodolfo Reyes (Reyes), the General Manager of the company, confirmed that he was already terminated from work. As it was Christmas Eve, he requested that he be given his last salary, but this was refused on the ground that he has yet to reimburse the company the ₱15,000.00 it had advanced.[6]

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5 Id. at 178-191.
6 Id. at 267-268.

Thus, on April 7, 2015, respondent filed a complaint against CRV Corporation and the petitioner for illegal dismissal, non-payment of wages, overtime pay, holiday pay, premium pay for work on holidays and rest day, illegal deduction, and issuance of a certificate of employment.

For her part, petitioner contended that respondent was not dismissed from work, rather he abandoned his job when he refused to report for work and took a leave of absence without permission. Petitioner claimed that respondent was not an employee of CRV Corporation, but was hired by the petitioner as her personal/family driver with a monthly salary of ₱9,000.00 and free board and lodging. His duty was simply to drive for her and her family to anywhere they wish to go. His monthly salary was coursed through Reyes.

Sometime in December 2014, while driving her brother-in-law's car, respondent was involved in a vehicular accident. Since respondent readily admitted his fault, she agreed to lend him ₱15,000.00 so that he could immediately pay for the damages he caused.

On the night of December 22, 2014, respondent asked for permission if he could go to Pampanga as he needed to sign some papers. She agreed on the condition that respondent would report for work the following day. On December 23, 2014, respondent did not report for work as instructed. Instead, he simply called petitioner to inform her that he will be absent because he had to renew his expired driver's license. That was the last time she had heard from the respondent. She subsequently learned that on December 27, 2014, respondent asked Reyes for his remaining salary of ₱2,100.00 for the period covering December 16 to 22, 2014. Because respondent had not yet paid his ₱15,000.00 loan, he was told that his salary could not be released. Nevertheless, Reyes extended to him a personal loan in the amount of ₱4,000.00 which respondent promised to pay. Respondent communicated with Reyes for the last time on January 7, 2015 when the former told the latter that he will no longer return to work. Thus, petitioner was surprised to learn that on April 7, 2015, or more than three months from the time he failed to report for work, respondent filed a complaint for illegal dismissal.[7]

In a Decision[8] dated October 29, 2015, the Labor Arbiter dismissed respondent's complaint except insofar as his claim for illegal deduction and request for the issuance of a certificate of employment are concerned.

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7 Id. at 6-7.

8 Supra note 5.

The Labor Arbiter held that respondent failed to prove by substantial evidence that he was an employee of CRV Corporation. Given the admission of the petitioner that respondent was her personal driver and considering that the employer-employee relationship between CRV Corporation and the respondent had not been established, respondent was deemed an employee of the petitioner. Being a personal driver, his compensation for work and indemnity for dismissal were governed by Articles 1689, 1697 and 1699 of the Civil Code. The monthly salary of ₱9,000.00 being received by the respondent was reasonable and in accordance with Article 1689 of the Civil Code. His claims for overtime pay, holiday pay and premium for work done on holidays, as well as premium for work done on rest day cannot be granted as the Labor Code exempts from coverage househelpers and persons in the personal service of another from such benefits. The Labor Arbiter further held that the amount of ₱15,000.00 cannot be charged against the respondent as it had not been proved that he was the one responsible for the vehicular accident that transpired in December 2014. As for respondent's request to be issued an employment certificate, the same must be granted as he was entitled thereto pursuant to Article 1699 of the Civil Code. The Labor Arbiter also dismissed the complaint for illegal dismissal for lack of showing that respondent was illegally terminated from the service, or that he was prevented from returning to work. On the contrary, the Labor Arbiter found the respondent to have left his employment without justifiable reason. For such reason, he was deemed to have forfeited the salary due him and unpaid pursuant to Article 1697 of the Civil Code.

On appeal, the NLRC reversed and set aside the decision of the Labor Arbiter in a Decision[9] dated April 27, 2016. The NLRC held that while it may be true that the respondent failed to present substantial evidence to prove that he was under the employ of CRV Corporation as one of its drivers, it is also true that petitioner did not dispute that respondent was driving for her. By alleging that the respondent was her personal driver, it becomes incumbent upon her to prove their employer-employee relationship which she failed to do. The respective allegations of the parties show that respondent was an employee of CRV Corporation. Furthermore, the allegation put forward by petitioner that respondent customarily reported for work to Reyes, the General Manager, and the act of the latter of extending a personal loan to the former proved that respondent was indeed under the employ of the company.

On whether respondent was illegally dismissed from work or had abandoned his job, the NLRC held that both parties failed to adduce

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9 Supra note 3.

evidence to support their respective contentions. Apart from his uncorroborated statement that he was verbally terminated from work, no other evidence was presented by the respondent. On the other hand, petitioner relied on the information relayed to him by Reyes that respondent will no longer be reporting back for work. Be that as it may, considering that petitioner failed to disprove that she verbally terminated respondent, coupled by the fact that when respondent was asking for his December 2014 salary, the same was not released to him, it could reasonably be inferred that respondent was indeed dismissed from work. The NLRC rejected the defense of abandonment raised by the petitioner for lack of proof indicating respondent's clear intention to sever his employer-employee relationship with the company. For failure of the petitioner to discharge the burden of proof that respondent's dismissal was justified, there can be no other conclusion, but that the same was illegal. Thus, it ordered CRV Corporation and the petitioner to pay respondent full backwages from December 2014, separation pay equivalent to one month salary for every year of service, wage differentials, holiday pay, 13th month pay and service incentive leave pay from May 2012. His claims for overtime pay, night shift differentials and premium pay for holidays and rest day were denied for lack of evidence that the same had been incurred and unpaid. Anent the complaint for illegal deduction, the NLRC agreed with the Labor Arbiter that the sum of ₱15,000.00 cannot be deducted from respondent's salary absent any showing that he was responsible for the damage caused during the said vehicular accident.

Petitioner filed a Partial Motion for Reconsideration, but it was denied in a Resolution[10] dated June 21, 2016.

Alleging grave abuse of discretion, petitioner elevated the case before the CA by way of petition for *certiorari*. In a Decision[11] dated April 21, 2017, the CA, like the NLRC, ruled that respondent failed to prove by substantial evidence that he was a company driver of CRV Corporation. However, in order to level the playing field in which the employer was pitted against the employee, the CA deemed it necessary to reexamine the evidence presented by the petitioner in support of her claim that she was the real employer of the respondent. The CA was not convinced that petitioner hired respondent in her personal capacity for the former's failure to present respondent's employment contract duly signed by the petitioner and showing the date the respondent was hired, his work description, salary and manner of its payment. The CA added that as a top official of CRV Corporation, petitioner could have easily negated respondent's allegation that he was employed by the company by

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[10] Supra note 4.
[11] Supra note 1.

presenting the payrolls, complete list of personnel, salary vouchers and SSS registration of the company, but she did not do so. Petitioner also failed to explain why respondent was customarily reporting to and receiving his salary through Reyes if he truly was her personal driver. Petitioner also did not refute that respondent's salaries were paid through Automated Teller Machines (ATM) just like the rest of the employees of the company. That respondent was an employee of CRV Corporation was further showed by the fact that the company wields the power of dismissal. If respondent was indeed the employee of the petitioner, there would be no reason for him to go to CRV Corporation's office to confirm whether he was terminated or not after he was verbally dismissed by the petitioner and ask for the release of his salary from the company.

The CA also held that petitioner failed to adduce evidence showing that the respondent was not terminated for just or authorized cause and after the observance of due process. On the contrary, the appellate court found the failure of the respondent to report for work on December 24, 2014 in order for him to be able to claim his driver's license as his TOP had already expired to be reasonable; thus, not enough reason for his dismissal. The CA was likewise not convinced that the respondent abandoned his job as no evidence was presented indicating respondent's clear intention to sever his employment with the company. Thus, the appellate court affirmed the Decision of the NLRC with modification in that it imposed a 6% interest per annum on all the monetary awards granted to the respondent from the finality of judgment until fully paid.

Petitioner moved for reconsideration, but the CA denied it in a Resolution[12] dated August 9, 2017.

Undaunted, petitioner is now before this Court *via* the present Petition for Review on *Certiorari* contending that the appellate court erred in holding that the respondent was not her personal driver, but a company driver under the employ of CRV Corporation; and that respondent was entitled to full backwages, separation pay, wage differentials, holiday pay, 13th month pay and service incentive leave pay for having been illegally dismissed.

Arguments of the Parties

Petitioner claimed that the CA erred in ruling that respondent was employed as CRV Corporation's company driver and not her personal driver despite respondent's failure to prove by substantial evidence the existence of an employer-employee relationship between him and the company. She asseverated that following the pronouncement of the High Court in *Lopez v. Bodega City,*[13] it is the employee in illegal dismissal

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12 Supra note 2.

13 558 Phil. 666, 674 (2007).

cases, the respondent in this case, who bears the burden of proving the existence of an employer-employee relationship by substantial evidence, not her. Be that as it may, petitioner insisted that the following circumstances show that respondent was hired by her in her personal capacity, *viz.*: (a) respondent was not able to present any employment contract or document showing that he was indeed a company driver of CRV Corporation; (b) respondent received his salaries from the petitioner. The Bank of the Philippine Islands Statements of Cash Deposits and Withdrawals that respondent presented did not at all prove that CRV Corporation was the one paying his salaries; and (c) respondent failed to present any evidence to show how CRV Corporation exercised control over the means and methods by which he performed his work. On the other hand, petitioner had shown that she exercised the power of control over the petitioner as she had the sole authority to give instructions to respondent as to where and when he would drive for her and her family.

Furthermore, petitioner averred that it was error for the CA to have ruled that respondent had been unlawfully terminated from work considering that the fact of his dismissal had not even been established by the respondent by substantial evidence. In this case, petitioner pointed out that respondent never disputed that after he left his work on December 23, 2014, he did not make any attempt to return to work. His refusal to return to work without any justifiable reason amounted to abandonment of work. That respondent intended to put an end to his employment was clearly demonstrated when he informed Reyes that he will no longer report for work. Since it was respondent who decided to end his employment without her prior knowledge, she should not be faulted and be held liable for illegal dismissal.

Petitioner also asseverated that respondent was not entitled to full backwages and separation pay. Since he worked as a family driver who left his work without justifiable reason, pursuant to Article 149 of the Labor Code, he was deemed to have forfeited the unpaid salary due him. He was also not entitled to separation pay because one who abandons and resigns from his work is not qualified to receive the same. Furthermore, petitioner contended that the CA erred in granting respondent's claim for wage differentials, holiday pay, 13th month pay and service incentive leave pay because the Labor Code is clear that family drivers are not entitled to the same.[14]

For his part, respondent insisted that he was one of the company drivers and regular employees of CRV Corporation since May 2012. As one of the company drivers, his work was absolutely necessary and desirable to the usual business of the company. He argued that the

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[14] *Rollo*, pp. 3-24.

petitioner only claimed that he was her personal driver so that she could circumvent the requirement of having to pay company drivers the mandated minimum wage. He added that like the other regular employees of the company, he received his salaries through the ATM.

Furthermore, respondent claimed that he did not resign nor abandon his job, but was illegally dismissed therefrom. His vigorous pursuit of the present illegal dismissal case is a manifestation that he had no intention of relinquishing his employment. At any rate, he asseverated that it is the employer who had the burden of proving that the dismissal was justified. If the petitioner insisted that he resigned from his work, it is incumbent upon her to prove that he did so willingly. Unfortunately, petitioner failed to discharge her burden of proof. Since respondent was not afforded due process as he was not given any notice to explain or a notice of termination, there can be no other conclusion but that he was indeed illegally terminated from work. Having been illegally dismissed from work, the CA rightfully granted him his money claims. On top of full backwages, separation pay, wage differentials, holiday pay, 13th month pay and service incentive leave pay, he must also be awarded damages and attorney's fees even if the same were not included in his complaint as the same had been seasonably raised in his position paper.[15]

The Court's Ruling

Respondent is the personal/family driver of the petitioner

Settled is the tenet that allegations in the complaint must be duly proven by competent evidence and the burden of proof is on the party making the allegation.[16] In an illegal dismissal case, the *onus probandi* rests on the employer to prove that its dismissal of an employee was for a valid cause. However, before a case for illegal dismissal can prosper, an employer-employee relationship must first be established. Thus, in filing a complaint before the Labor Arbiter for illegal dismissal, based on the premise that he was an employee of CRV Corporation, it is incumbent upon the respondent to prove the employer-employee relationship by substantial evidence.[17] Stated otherwise, the burden of proof rests upon the party who asserts the affirmative of an issue. Since it is the respondent who is claiming to be an employee of CRV Corporation, it is, thus, incumbent upon him to proffer evidence to prove the existence of employer-employee relationship between them. He needs to show by substantial evidence that he was indeed an employee of the company against which he claims illegal dismissal. Corollary, the burden to prove the elements of an employer-employee relationship, *viz.*: (1) the selection

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15 Id. at 266-272.

16 *Marsman & Company, Inc. v. Sta. Rita*, G.R. No. 194765, April 23, 2018.

17 *Reyes v. Glaucoma Research Foundation, Inc.*, 760 Phil. 779, 789 (2015); *Lopez v. Bodega City*, supra note 13.

and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the power of control, lies upon the respondent.[18]

It must be pointed out that the issue of whether or not an employer-employee relationship exists in a given case is essentially a question of fact. As a rule, this Court is not a trier of facts and this applies with greater force in labor cases. Only errors of law are generally reviewed by this Court. However, this rule is not absolute and admits of exceptions like in labor cases where the Court may look into factual issues when the factual findings of the Labor Arbiter, the NLRC, and the CA are conflicting.[19] In this case, the findings of the Labor Arbiter differed from those of the NLRC and the CA necessitating this Court to review and to reevaluate the factual issues and to look into the records of the case and reexamine the questioned findings.[20]

To ascertain the existence of an employer-employee relationship, jurisprudence has invariably adhered to the four-fold test, to wit: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the power to control the employee's conduct, or the so-called "control test."[21] Although no particular form of evidence is required to prove the existence of an employer-employee relationship, and any competent and relevant evidence to prove the relationship may be admitted, a finding that the relationship exists must nonetheless rest on substantial evidence, or such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[22] In this case, a scrutiny of the records will bear out that the respondent failed to substantiate his claim that he was a company driver of CRV Corporation.

Apart from his staunch insistence that he was a company driver of CRV Corporation, respondent did not proffer any competent evidence, documentary or otherwise, as would prove his claimed employment with the company. In the case at bench, the respondent did not present his employment contract, company identification card, company pay slip or such other document showing his inclusion in the company payroll that would show that his services had been engaged by CRV Corporation. His contention that he received his salaries through the ATM like the other employees of the company, even if true, does not sufficiently show that his salaries were paid by the company as its employee. Respondent also failed to present any proof showing how the company wielded the power of dismissal and control over him. Evidence is wanting that the company monitored the respondent in his work. It had not been shown that

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18 *Valencia v. Classique Vinyl Products Corporation*, G.R. No. 206390, January 30, 2017, 816 SCRA 144, 156.

19 *South East International Rattan, Inc. v. Coming*, 729 Phil. 298, 305 (2014).

20 *Javier v. Fly Ace Corp.*, 682 Phil. 359, 371 (2012).

21 *Alba v. Espinosa*, G.R. No. 227734, August 9, 2017, 837 SCRA 52, 61.

22 *South Cotabato Communications Corp. v. Sto. Tomas*, 787 Phil. 494, 505 (2016).

respondent was required by the company to clock in to enable it to check his work hours and keep track of his absences. On the other hand, the records showed that petitioner had a say on how he performed his work. It is the petitioner who decides when she needed the services of the respondent. As a matter of fact, the respondent had to secure permission from the petitioner before he can take a leave of absence from work. That petitioner also enjoyed the power of dismissal is beyond question given that respondent himself believed that the petitioner verbally terminated him.[23] Because the respondent failed to establish his employment with CRV Corporation, the Court must necessarily agree with the Labor Arbiter that respondent was the personal/family driver of the petitioner.

Both the NLRC and the CA made it the petitioner's obligation to prove that respondent was under her employ and not a company driver of CRV Corporation. The Court does not agree. It must be emphasized that the rule of thumb remains: the *onus probandi* falls on the respondent to establish or substantiate his claim by the requisite quantum of evidence given that it is axiomatic that whoever claims entitlement to the benefits provided by law should establish his or her right thereto.[24] Unfortunately, respondent failed to hurdle the required burden of proof as would give ground for this Court to agree with him.

Respondent was not dismissed from employment

It is axiomatic that in illegal dismissal cases, the employer bears the burden of proving that the termination was for a valid or authorized cause. However, there are cases wherein the facts and the evidence do not establish *prima facie* that the employee was dismissed from employment. Before the employer is obliged to prove that the dismissal was legal, the employee must first establish by substantial evidence the fact of his dismissal from service. If there is no dismissal, then there can be no question as to the legality or illegality thereof.[25]

Here, respondent alleged that when he failed to report for work on December 24, 2014, he was verbally terminated by the petitioner. Respondent claimed that Reyes confirmed his termination. On the other hand, petitioner contended that the respondent just stopped reporting for work after he left his work on December 23, 2014.

Respondent's bare claim of having been dismissed from employment by the petitioner, unsubstantiated by impartial and independent evidence, is insufficient to establish such fact of dismissal. Bare and unsubstantiated allegations do not constitute substantial

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23 Supra note 6.

24 *Javier v. Fly Ace Corp.*, supra note 20, at 372.

25 *Claudia's Kitchen, Inc. v. Tanguin*, G.R. No. 221096, June 28, 2017, 828 SCRA 397, 407; *Doctor v. NII Enterprises*, G.R. No. 194001, November 22, 2017, 846 SCRA 53, 66-67.

evidence and have no probative value.[26] It must be emphasized that aside from the allegation that he was verbally terminated from his work, respondent failed to present any competent evidence showing that he was prevented from returning to his work. Reyes did not issue any statement to corroborate the claimed termination of the respondent. That he was refused to be given his salary covering the period from December 15, 2014 to December 22, 2014 did not at all prove the fact of his termination. It must be taken into account that salaries of employees may not be released for myriad of reasons. Termination may only be one of them. The Court reiterates the basic rule of evidence that each party must prove his affirmative allegation, that mere allegation is not evidence. The Court must also stress that the evidence presented to show the employee's termination from employment must be clear, positive, and convincing. Absent any showing of an overt or positive act proving that petitioner had dismissed the respondent, the latter's claim of illegal dismissal cannot be sustained — as the same would be self-serving, conjectural, and of no probative value.[27]

Respondent did not abandon his work

Abandonment is a matter of intention and cannot lightly be inferred or legally presumed from certain equivocal acts.[28] In *Protective Maximum Security Agency, Inc. v. Fuentes,*[29] this Court held:

> Abandonment is the deliberate and unjustified refusal of an employee to resume his employment. It is a form of neglect of duty, hence, a just cause for termination of employment by the employer. For a valid finding of abandonment, these two factors should be present: (1) the failure to report for work or absence without valid or justifiable reason; and (2) a clear intention to sever employer-employee relationship, with the second as the more determinative factor which is manifested by overt acts from which it may be deduced that the [employee] has no more intention to work. The intent to discontinue the employment must be shown by clear proof that it was deliberate and unjustified.

The burden of proving abandonment is upon the employer who, whether pleading the same as a ground for dismissing an employee or as a mere defense, additionally has the legal duty to observe due process.[30]

The Court finds that there is no abandonment in this case. Aside from his absence from work, petitioner failed to present any proof of respondent's overt conduct which clearly manifested his desire to end his employment. Settled is the rule that mere absence or failure to report for

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26 *LNS International Manpower Services v. Padua, Jr.*, 628 Phil. 223, 224 (2010).
27 *Doctor v. NII Enterprises*, supra note 25, at 67-68.
28 *Tegimenta Chemical Phils. v. Oco*, 705 Phil. 57, 67 (2013).
29 *Protective Maximum Security Agency, Inc. v. Fuentes*, 753 Phil. 482, 507 (2015).
30 *Functional, Inc. v. Granfil*, 676 Phil. 279, 288-289 (2011).

work is not tantamount to abandonment of work.[31] This is especially so in light of his having filed a case for illegal dismissal which is inconsistent with abandonment of employment. An employee who takes steps to protest his dismissal cannot logically be said to have abandoned his work. The filing of such complaint is proof enough of his desire to return to work, thus, negating any suggestion of abandonment.[32]

The Civil Code shall govern the rights of family drivers

Article 141, Chapter III, Book III on Employment of Households of the Labor Code provides that family drivers are covered in the term domestic or household service. It states:

> ART. 141. *Coverage.* – This Chapter shall apply to all persons rendering services in household for compensation.
>
> "Domestic or household service" shall mean service in the employer's home which is usually necessary or desirable for the maintenance and enjoyment thereof and includes ministering to the personal comfort and convenience of the members of the employer's household, including services of **family drivers**. (Emphasis and underscoring supplied)

Thus, under the Labor Code, the rules for indemnity in case a family driver is terminated from the service shall be governed by Article 149 thereof which provides:

> ART. 149. *Indemnity for unjust termination of services.* – If the period of household service is fixed, neither the employer nor the househelper may terminate the contract before the expiration of the term, except for a just cause. If the househelper is unjustly dismissed, he or she shall be paid the compensation already earned plus that for fifteen (15) days by way of indemnity.
>
> If the househelper leaves without justifiable reason, he or she shall forfeit any unpaid salary due him or her not exceeding fifteen (15) days.

However, Section 44 of Republic Act No. 10361, otherwise known as the "Domestic Workers Act" or "*Batas Kasambahay*" (*Kasambahay* Law), expressly repealed Chapter III (Employment of Households) of the Labor Code, which includes Articles 141 and 149 mentioned above.

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[31] *L.C. Ordoñez Construction v. Nicdao,* 528 Phil. 1124, 1135 (2006) and *Shie Jie Corp. v. National Federation of Labor,* 502 Phil. 143, 151 (2005), citing *Samarca v. Arc-Men Industries, Inc.,* 459 Phil. 506, 516 (2003).

[32] *Intec Cebu, Inc. v. Court of Appeals*, 788 Phil. 31, 41 (2016).

The *Kasambahay* Law, on the other hand, made no mention of family drivers in the enumeration of those workers who are covered by the law. This is unlike Article 141 of the Labor Code. Section 4(d) of the *Kasambahay* Law states:

> SEC. 4. *Definition of Terms* – As used in this Act, the term:
> x x x x
>
> (d) *Domestic worker* or "Kasambahay" refers to any person engaged in domestic work within an employment relationship such as, but not limited to, the following: general househelp, nursemaid or "yaya", cook, gardener, or laundry person, but shall exclude any person who performs domestic work only occasionally or sporadically and not on an occupational basis.
>
> The term shall not include children who are under foster family arrangement, and are provided access to education and given an allowance incidental to education, *i.e.*[,] "baon", transportation, school projects and school activities.

Thus, Section 4(d) of the *Kasambahay* Law pertaining to who are included in the enumeration of domestic or household help cannot also be interpreted to include family drivers because the latter category of worker is clearly not included. It is a settled rule of statutory construction that the express mention of one person, thing, or consequence implies the exclusion of all others — this is expressed in the familiar maxim, *expressio unius est exclusio alterius*.[33] Moreover, Section 2 of the Implementing Rules and Regulations of the *Kasambahay* Law provides:

> SEC. 2. *Coverage*. – This x x x [IRR] shall apply to all parties to an employment contract for the services of the following *Kasambahay*, whether on a live-in or live-out arrangement, such as but not limited to:
>
> (a) General househelp;
> (b) *Yaya*;
> (c) Cook;
> (d) Gardener;
> (e) Laundry person; or
> (f) Any person who regularly performs domestic work in one household on an occupational basis.
>
> The following are ***not* covered**:
>
> (a) Service providers;
> (b) **Family drivers**;
> (c) Children under foster family arrangement; and
> (d) Any other person who performs work occasionally or sporadically and not on an occupational basis. (Emphasis supplied)

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[33] *De La Salle-Araneta University v. Bernardo*, G.R. No. 190809, February 13, 2017, 817 SCRA 317, 340.

The aforecited administrative rule clarified the status of family drivers as among those *not* covered by the definition of domestic or household help as contemplated in Section 4(d) of the *Kasambahay* Law. Such provision should be respected by the courts, as the interpretation of an administrative government agency, which is tasked to implement the statute, is accorded great respect and ordinarily controls the construction of the courts.[34] Moreover, the statutory validity of the same administrative rule was never challenged. This Court has ruled time and again that the constitutionality or validity of laws, orders, or such other rules with the force of law cannot be attacked collaterally. There is a legal presumption of validity of these laws and rules. Unless a law or rule is annulled in a direct proceeding, the legal presumption of its validity stands.[35] And while it is true that constitutional provisions on social justice demand that doubts be resolved in favor of labor, it is only applicable when there is *doubt*. Social justice principles cannot be used to expand the coverage of the law to subjects not intended by the Congress to be included.

Due to the express repeal of the Labor Code provisions pertaining to househelpers, which includes family drivers, by the *Kasambahay* Law; and the non-applicability of the *Kasambahay* Law to family drivers, there is a need to revert back to the Civil Code provisions, particularly Articles 1689, 1697 and 1699, Section 1, Chapter 3, Title VIII, Book IV thereof. The Articles provide:

> SEC. 1 – *Household Service.*
>
> ART. 1689. Household service shall always be reasonably compensated. Any stipulation that household service is without compensation shall be void. Such compensation shall be in addition to the [househelper's] lodging, food, and medical attendance.
>
> x x x x
>
> ART. 1697. If the period for household service is fixed neither the head of the family nor the [househelper] may terminate the contract before the expiration of the term, except for a just cause. If the [househelper] is unjustly dismissed, he shall be paid the compensation already earned plus that for fifteen days by way of indemnity. If the [househelper] leaves without justifiable reason, he shall forfeit any salary due him and unpaid, for not exceeding fifteen days.
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> x x x x
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> ART. 1699. Upon the extinguishment of the service relation, the [househelper] may demand from the head of the family a written statement on the nature and duration of the service and the efficiency and conduct of the [househelper].

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[34] *Commissioner of Internal Revenue v. Bicolandia Drug Corporation*, 528 Phil. 609, 617 (2006).
[35] *Chevron Philippines, Inc. v. Commissioner of the Bureau of Customs*, 583 Phil. 706, 735 (2008).

The reason for reverting back to the Civil Code provisions on household service is because, as discussed earlier, Section 44 of the *Kasambahay* Law expressly repealed Articles 141 to 152 of the Labor Code which deals with the rights of family drivers. Obviously, an expressly repealed statute is not anymore binding for it has no more force and effect.

On the other hand, Article 302 of the Labor Code, its repealing clause, which provides:

> ART. 302. *Repealing clause.* – All labor laws not adopted as part of this Code either directly or by reference are hereby repealed. All provisions of existing laws, orders, decrees, rules and regulations inconsistent herewith are likewise repealed.

did not repeal the said Civil Code provisions since they are not inconsistent with the Labor Code. Besides, repeals by implication are not favored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject, the congruent application of which the courts must generally presume.[36]

Since what were expressly repealed by the *Kasambahay* Law were only Articles 141 to 152, Chapter III of the Labor Code on Employment of Househelpers; and the Labor Code did not repeal the Civil Code provisions concerning household service which impliedly includes family drivers as they minister to the needs of a household, the said Civil Code provisions stand. To rule otherwise would leave family drivers without even a modicum of protection. Certainly, that could not have been the intent of the lawmakers.

Pursuant to Article 1697 of the Civil Code, respondent shall be paid the compensation he had already earned plus that for 15 days by way of indemnity if he was unjustly dismissed. However, if respondent left his employment without justifiable reason, he shall forfeit any salary due him and unpaid for not exceeding 15 days. Given that there is neither dismissal nor abandonment in this case, none of the party is entitled to claim any indemnity from the other. Verily, in a case where the employee's failure to work was occasioned neither by his abandonment nor by a termination, the burden of economic loss is not rightfully shifted to the employer; each party must bear his own loss.[37] Otherwise stated, the respondent's act of not reporting to work after a verbal miscommunication cannot justify the payment of any form of remuneration.

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[36] *Philippine International Trading Corporation v. Commission on Audit*, 635 Phil. 447, 459 (2010).

[37] *MZR Industries v. Colambot,* 716 Phil. 617, 628 (2013); *Borja v. Miñoza*, G.R. No. 218384, July 3, 2017, 828 SCRA 647, 662.

Petitioner is not liable for wage differentials, holiday pay, 13th month pay and service incentive leave pay

As found by the Labor Arbiter, the ₱9,000.00 salary respondent receives a month is reasonable and in accordance with Article 1689 of the Civil Code. Hence, petitioner may not be made to pay the respondent wage differentials.

Petitioner is not also liable to the respondent for the payment of holiday pay, 13th month pay and service incentive leave pay because persons in the personal service of another, such as family drivers, are exempted from the coverage of such benefits pursuant to Articles 82,[38] 94[39] and 95[40] of the Labor Code, and Section 3(d)[41] of the implementing rules of Presidential Decree No. 851.

The reversal of the judgment rendered by the appellate court will not inure to the benefit of CRV Corporation

It is not lost on this Court that only the petitioner appealed the CA Decision which found the respondent to have been illegally dismissed and

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38 Art. 82. *Coverage.* –The provisions of this Title shall apply to employees in all establishments and undertakings whether for profit or not, but not to government employees, managerial employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, and workers who are paid by results as determined by the Secretary of Labor in appropriate regulations.

As used herein, "managerial employees" refer to those whose primary duty consists of the management of the establishment in which they are employed or of a department or subdivision thereof, and to other officers or members of the managerial staff.

"Field personnel" shall refer to non-agricultural employees who regularly perform their duties away from the principal place of business or branch office of the employer and whose actual hours of work in the field cannot be determined with reasonable certainty.

39 Art. 94. *Right to holiday pay.* – (a) Every worker shall be paid his regular daily wage during regular holidays, except in retail and service establishments regularly employing less than ten (10) workers;

(b) The employer may require an employee to work on any holiday but such employee shall be paid a compensation equivalent to twice his regular rate; and

(c) As used in this Article, "holiday" includes: New Year's Day, Maundy Thursday, Good Friday, the ninth of April, the first of May, the twelfth of June, the fourth of July, the thirtieth of November, the twenty-fifth and thirtieth of December and the day designated by law for holding a general election.

40 Art. 95. *Right to service incentive leave.* – (a) Every employee who has rendered at least one year of service shall be entitled to a yearly service incentive leave of five days with pay.

(b) This provision shall not apply to those who are already enjoying the benefit herein provided, those enjoying vacation leave with pay of at least five days and those employed in establishments regularly employing less than ten employees or in establishments exempted from granting this benefit by the Secretary of Labor and Employment after considering the viability or financial condition of such establishment.

(c) The grant of benefit in excess of that provided herein shall not be made a subject of arbitration or any court or administrative action.

41 Sec. 3. *Employers covered.* - The Decree shall apply to all employers except to:

x x x x

(d) Employers of household helpers and persons in the personal service of another in relation to such workers[.] (Underscoring supplied)

ordered both the CRV Corporation and the petitioner liable to the respondent for the payment of backwages, separation pay, wage differentials, holiday pay, 13th month pay and service incentive leave pay. Considering that CRV Corporation did not appeal the decision of the appellate court, the same stands insofar as the corporation is concerned.

At this juncture, this Court takes this opportune time to emphasize that a reversal of a judgment on appeal is binding on the parties to the suit, but shall not benefit the parties against whom the judgment was rendered in the court *a quo*, but who did not join in the appeal, unless their rights and liabilities and those of the parties appealing are so interwoven and dependent as to be inseparable, in which case a reversal as to one operates as a reversal as to all.[42]

It is basic that under the general doctrine of separate juridical personality, stockholders of a corporation enjoy the principle of limited liability: the corporate debt is not the debt of the stockholder.[43] This is because a corporation has a separate and distinct personality from those who represent it.[44]

Here, it was not disputed that CRV Corporation had been impleaded, duly notified of the suit, and properly served with legal processes, but it never participated in the case by sending an authorized representative or filing a single pleading. The Securities and Exchange Commission i-Report[45] dated May 14, 2015 which showed that the company status of CRV Corporation as revoked can hardly mean that the NLRC did not acquire jurisdiction over it inasmuch as the i-Report did not indicate when the CRV Corporation ceased to exist. Besides, the complaint had already been filed on April 7, 2015. Moreover, under Section 122 of Batas Pambansa Bilang 68 or "The Corporation Code of the Philippines," a corporation whose registration had been revoked has three years from dissolution to continue to be a body corporate for purposes of winding up its affairs which includes prosecuting and defending suits by or against it.

Although a reversal of the judgment as to one would operate as a reversal as to all where the rights and liabilities of those who did not appeal and those of the party appealing are so interwoven and dependent on each other as to be inseparable,[46] CRV Corporation and petitioner have

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42 *Municipality of Orion v. Concha*, 50 Phil. 679, 684 (1927) and *Government of the Republic of the Philippines v. Tizon*, 127 Phil. 607, 611-612 (1967).

43 *Bustos v. Millians Shoe, Inc.*, 809 Phil. 226, 234 (2017).

44 *Pioneer Insurance & Surety Corporation v. Morning Star Travel & Tours, Inc.*, 763 Phil. 428, 437 (2015).

45 *Rollo*, p. 153.

46 *Citytrust Banking Corporation v. Court of Appeals*, 253 Phil. 743, 748 (1989).

no commonality of interest because each bears the injury of an adverse judgment. CRV Corporation will not be harmed had petitioner been held liable to pay the respondent his unpaid wages. Conversely, petitioner did not suffer any monetary injury when CRV Corporation was made liable to pay the respondent his unpaid wages.

Even if petitioner is allegedly one of CRV Corporation's top officials, such hypothetical fact does not translate, or even imply that she will be financially injured by an adverse money-claim judgment against the latter. Much like stockholders, corporate officers and employees only have an inchoate right (only to the extent of their valid collectibles in the form of salaries and benefits) to the assets of the corporation which, in turn, is the real owner of the assets by virtue of its separate juridical personality.[47]

Moreover, no evidence was offered by both parties that petitioner was equipped with a board resolution (even if belatedly submitted)[48] or, at least, authorized by corporate by-laws[49] to represent CRV Corporation in the instant suit. Therefore, petitioner's appeal cannot benefit CRV Corporation.

WHEREFORE, premises considered, the petition is **GRANTED.** The April 21, 2017 Decision and the August 9, 2017 Resolution of the Court of Appeals in CA-G.R. SP No. 147356 are **REVERSED** and **SET ASIDE** and the October 29, 2015 Decision of the Labor Arbiter in NLRC NCR Case No. 04-04089-15 is **AFFIRMED** only insofar as petitioner Celia R. Atienza is concerned.

SO ORDERED.

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

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47 *See Marcos-Araneta v. Court of Appeals*, 585 Phil. 38, 59 (2008).
48 *See Novelty Philippines, Inc. v. Court of Appeals*, 458 Phil. 36 (2003).
49 *See Cebu Mactan Members Center, Inc. v. Tsukahara*, 610 Phil. 586, 592 (2009).

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LUCAS P. BERSAMIN
Chief Justice