Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

GEROME B. GINTA-ASON,
Petitioner,

- *versus* -

J.T.A. PACKAGING CORPORATION and JON TAN ARQUILLA,
Respondents.

G.R. No. 244206

Present:
PERLAS-BERNABE, *S.A.J.*,
Chairperson,
HERNANDO,
LAZARO-JAVIER,*
ROSARIO, and
MARQUEZ, *JJ.*

Promulgated:
MAR 16 2022

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DECISION

HERNANDO, *J.:*

This petition for review on *certiorari*[1] seeks to reverse and set aside the Decision[2] and Resolution[3] dated October 11, 2018 and January 24, 2019, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 154362.

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* Per March 7, 2022 Raffle vice J. Zalameda who concurred in the assailed CA Decision.

1 *Rollo*, pp. 11-28.

2 Id. at 31-42. Penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Rodil V. Zalameda (now a Member of the Court) and Marie Christine Azcarraga-Jacob.

3 Id. at 44-45.

Antecedents:

On January 30, 2017, Gerome Ginta-Ason (petitioner) filed a complaint[4] for illegal dismissal, non-payment of salary/wages, service incentive leave, 13th month pay, separation pay and ECOLA, with claims for moral and exemplary damages, and attorney's fees against respondents J.T.A. Packaging Corporation (JTA) and Jon Tan Arquilla (Arquilla collectively, respondents).[5]

Petitioner's Version:

Petitioner alleged that he was hired by JTA on December 26, 2014 as an all-around driver until his constructive dismissal on September 5, 2016. He claimed that on September 5, 2016, he had driven home respondents' officers and thereafter parked the car at JTA's office at around 10:00 p.m. Petitioner then asked his live-in partner Chancie Andea (Chancie) to follow him in the office as it was his pay day. After receiving his salary, petitioner asked permission from Arquilla to leave since Chancie was waiting for him outside of the office premises. However, instead of allowing petitioner to leave, Arquilla allegedly instructed Rodil, his personal collector, to bring Chancie inside the office. According to petitioner, Arquilla was under the influence of alcohol at that time.[6]

Without any reason, Arquilla hit petitioner with a gun and kicked him several times. Thereafter, Arquilla asked petitioner to leave. At this juncture, Chancie arrived. Arquilla then turned his ire on Chancie and hurled invectives at her. He commanded Chancie to kneel, and he also threatened to kill her and petitioner. Arquilla then illegally detained Chancie and petitioner in the office and were released only the next day. Out of fear, petitioner decided not to report to work anymore.[7] Petitioner claimed that he was constructively dismissed because Arquilla made his continued employment impossible, unbearable, and unlikely.[8]

Respondents' Version:

JTA averred that petitioner was not its employee.[9] In support thereof, JTA submitted 1) copies of its alpha list of employees as filed with the Bureau of Internal Revenue (BIR) for the years 2014-2016;[10] 2) payroll monthly reports and 13th month pay it paid for the years 2015-2016;[11] 3) reports on Social Security System (SSS) contributions of its employees remitted for the

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4 Id. at 32.
5 Id. at 32-33.
6 Id. at 13.
7 Id. at 14.
8 Id. at 33.
9 Id. at 32.
10 Id. at 150-186.
11 Id. at 192-271.

years 2015-2016;[12] 4) Philhealth remittance reports on contributions of its employees in 2016;[13] and 5) Pag-Ibig fund membership and registration/remittance forms indicating the names of its employees and their contributions for the period of 2015-2016.[14] All of the foregoing documents did not include petitioner's name. Further, JTA claimed that Arquilla is not the owner of JTA as evidenced by its articles of incorporation which shows that Arquilla was neither a stockholder nor connected in any capacity with the company.[15]

Ruling of the Labor Arbiter (LA):

On June 28, 2017, the LA rendered a Decision[16] declaring petitioner to have been constructively dismissed. The decretal portion thereof reads as follows:

> **WHEREFORE**, premises considered, judgment is hereby rendered DECLARING that complainant was constructively dismissed. Consequently, respondents, in solidum, are hereby ordered to pay complainant backwages reckoned from the time he was constructively dismissed, September 5, 2016 until finality of decision plus Separation Pay of one month for every year of service reckoned from the first day of his employment until finality of this decision.
>
> Furthermore, respondents, *in solidum,* are hereby ordered to pay complainant, P50,000.00 as moral damages; P50,000.00 as exemplary damages, proportionate 13th month pay for 2016 and accumulated service incentive leave pay plus Ten (10%) of the total monetary award as Attorney's fees.
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> The detailed computation of complainant's monetary award is hereto attached and made an integral part of this decision.
>
> SO ORDERED.[17]

The LA ruled that the evidence presented by the parties sufficiently established that an employer-employee relationship existed between petitioner and JTA. Petitioner was constructively dismissed because his continued employment with JTA was rendered impossible due to fear after the September 5, 2016 incident of maltreatment and detention. Finally, the LA gave full faith and credit to the sworn statement[18] of JTA's former employee, Warlito F. Sales, who stated that Arquilla was introduced to him as the owner and manager of JTA.[19]

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[12] Id. at 273-315.
[13] Id. at 317-322.
[14] Id. at 346-370.
[15] Id. at 33.
[16] Id. at 395-407.
[17] Id. at 406.
[18] Id. at 398-406.
[19] Id.

Ruling of the National Labor Relations Commission (NLRC):

On appeal, the foregoing LA Decision was reversed and set aside in the September 29, 2017 Resolution[20] of the NLRC.

The NLRC did not give evidentiary weight to the pay slips submitted by petitioner not only because there was no indication as to who issued the same but also due to the apparent discrepancy in the dates they were issued. The NLRC noted that the pay slips date back as early as March 2014 contrary to petitioner's claim that he was hired only on December 26, 2014. The NLRC, on the other hand, gave credence to the documentary evidence submitted by JTA which showed that petitioner was not among its employees. It also considered the articles of incorporation presented by JTA as sufficient proof that Arquilla is not the owner of JTA, or that he is in anyway connected with JTA. In fine, the NLRC dismissed the complaint for lack of employer-employee relationship between the parties.

The dispositive portion of the NLRC Resolution reads as follows:

> WHEREFORE, finding the appeal impressed with merit, we REVERSE and SET ASIDE the decision of the Labor Arbiter, and find neither respondents as the true and actual employer of complainant.
>
> SO ORDERED.[21]

Petitioner filed a motion for reconsideration but the same was denied by the NLRC in a Resolution[22] dated November 29, 2017.

Ruling of the Court of Appeals:

Dissatisfied, petitioner filed a petition for *certiorari*[23] under Rule 65 with the CA averring grave abuse of discretion, tantamount to lack or excess of jurisdiction, on the part of the NLRC in issuing its assailed Resolutions.

On October 11, 2018, the CA rendered the herein assailed Decision,[24] affirming the NLRC's September 29, 2017 Resolution and denying the petition for lack of merit. The CA held that petitioner failed to substantiate his claim that he is an employee of JTA. Petitioner's motion for reconsideration was likewise denied by the CA in a Resolution[25] dated January 24, 2019.

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20 Id. at 73-84.
21 Id. at 80.
22 Id. at 83-84.
23 CA *rollo*, pp. 2-27.
24 *Rollo*, pp. 31-42.
25 Id. at 44-45.

Hence, petitioner comes before this Court via the instant petition for review on *certiorari*.

Issue

The issue to be resolved is whether or not an employer-employee relationship existed between petitioner and JTA at the time of petitioner's dismissal.

Our Ruling

We rule in the negative.

The issue of petitioner's employment status is essentially a question of fact.

Whether petitioner is an employee of JTA, or whether he was constructively dismissed from employment, are essentially questions of fact, which, as a rule, cannot be entertained in a petition for review on *certiorari* filed under Rule 45 of the Rules of Court.[26] Consistent therewith is the doctrine that this Court is not a trier of facts, and this is strictly adhered to in labor cases.[27] However, where, like in the instant case, there is a conflict between the factual findings of the LA, on one hand, and those of the NLRC and the CA, on the other, it becomes proper for this Court, in the exercise of its equity jurisdiction, to review the facts and re-examine the records of the case.[28] Thus, this Court shall review and pass upon the evidence presented and draw its own conclusions therefrom.

No employer-employee relationship existed between petitioner and JTA.

Settled is the rule that allegations in the complaint must be duly proven by competent evidence and the burden of proof is on the party making the allegation.[29] 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.[30] However, before a case for illegal dismissal can prosper, an employer-employee relationship must first be established.[31] In this instance, since it is petitioner here who is claiming to be an employee of JTA, the burden of proving the existence of an employer-employee relationship lies upon him. Unfortunately, petitioner failed to discharge this burden.

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[26] *Regala v. Manila Hotel Corp.*, G.R. No. 204684, October 5, 2020.
[27] Id.
[28] See id.
[29] *Atienza v. Saluta*, G.R. No. 233413, June 17, 2019.
[30] Id.
[31] *Marsman and Company, Inc. v. Sta. Rita*, 830 Phil. 470, 489 (2018).

Applying the "four-fold test" in determining the existence of an employer-employee relationship, to wit: (a) the selection and engagement of the employee; (b) the payment of wages; (c) the power of dismissal; and (d) the power to control the employee's conduct,[32] the NLRC, as affirmed by the CA, found that petitioner failed to prove, by competent and relevant evidence that he is an employee of JTA.

We concur.

To begin with, We stress that from the lowest tribunal up to this Court, JTA has consistently denied having employed petitioner. It maintained that petitioner is a stranger and was never an employee of JTA. Considering such denial, it was incumbent upon petitioner to prove the fact of his employment with JTA. However, nothing to this effect has been proven by petitioner. He presented no document setting forth the terms of his employment. In particular, no contract of employment or written agreement was introduced by petitioner to establish the true nature of his relationship with JTA. Evident also is the lack of a company identification card to prove petitioner's employment with JTA. The Court has held that in a business establishment, an identification card is usually provided not only as a security measure but mainly to identify the holder thereof as a bona fide employee of the firm that issues it.[33]

To prove the element of payment of wages, petitioner submitted pay slips allegedly issued by JTA.[34] Significantly, the pay slips presented by petitioner bore no indication whatsoever as to their source. Absent any clear indication that the amount petitioner was allegedly receiving came from JTA, We cannot concretely establish payment of wages.[35] In *Valencia v. Classique Vinyl Products Corporation,*[36] the Court rejected the pay slips submitted by the petitioner employee because they did not bear the name of the respondent company. Thus, We cannot sustain petitioner's argument that the failure to indicate who issued the pay slips should not be taken against him. Moreover, a perusal of the pay slips submitted by petitioner would show that he had been receiving compensation as early as February 2014. This clearly belies petitioner's allegation in his complaint that he was hired by JTA only on December 26, 2014.[37] To Our minds, the wide gap between February 2014 and December 2014 cannot be dismissed as a trivial inconsistency.

Additionally, there were no deductions from petitioner's supposed salary such as withholding tax, SSS, Philhealth or Pag-Ibig Fund contributions

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32 *Atienza v. Saluta*, supra.
33 Id., citing *Domasig v. National Labor Relations Commission*, 330 Phil. 518, 524 (1996).
34 *Rollo*, pp. 101-103.
35 See *Bishop Shinji Amari of Abiko Baptist Church v. Villaflor*, G.R. No. 224521, February 17, 2020.
36 804 Phil. 492 (2017).
37 *Rollo*, p. 85.

which are the usual deductions from employees' salaries.[38] Thus, the alleged pay slips may not be treated as competent evidence of petitioner's claim that he is JTA's employee.[39] In contrast, the voluminous documentary evidence adduced by JTA, *i.e.*, alpha list of employees submitted to the BIR for the period of 2014, 2015 and 2016,[40] the years during which petitioner claims to have been been employed by JTA, the payroll monthly reports[41] as well as the remittances made by JTA of its employees' monthly contributions to the SSS,[42] Philhealth[43] and Pag-Ibig Fund,[44] which were duly signed by JTA's authorized representative and stamp received by the concerned government agencies, indubitably show that petitioner was not among its employees. To reiterate, not even a single document showed petitioner's name on it.

As to the power of control, petitioner insists that the copies of driver's itinerary[45] issued by JTA clearly manifest that it exercised control over the means and methods by which petitioner performed his tasks.

While it is true that the purported driver's itineraries presented by petitioner prescribed the manner by which his work as a driver is to be carried out, the NLRC pertinently observed that the said driver's itineraries were not signed by JTA's authorized personnel. In other words, the said driver's itineraries failed to give details on who specifically dispatched petitioner. Moreover, the company name appearing thereon is "J.T.A. Packaging" while the name of respondent company in its certificate of incorporation is "J.T.A. Packaging Corporation".[46] Too, the address appearing on the driver's itineraries is different from the actual office address of respondent JTA as reflected in petitioner's own complaint before the LA.[47] To our minds, the determination of the identity of the authorized personnel of JTA who actually dispatched petitioner gains more importance in light of the unexplained discrepancies in the company name and address appearing on the driver's itineraries. Absent this, it cannot be ascertained who actually exercised control over petitioner. Thus, We find that the herein driver's itineraries did not adequately establish the element of control.

In sum, petitioner failed to sufficiently discharge the burden of showing with legal certainty that employee-employer relationship existed between him and JTA. On the other hand, it was clearly shown by JTA that petitioner was not among its employees. Consequently, the allegation that he was illegally dismissed by JTA must necessarily fail.

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38 See *Reyes v. Glaucoma Research Foundation, Inc.*, 760 Phil. 779 (2015).
39 Id.
40 *Rollo*, pp. 150-186.
41 Id. at 192-271.
42 Id. at 273-315.
43 Id. at 317-322.
44 Id. at 346-370.
45 Id. at 104-119.
46 Id. at 144.
47 Id. at 85.

Settled is the rule that quasi-judicial bodies, like the NLRC, have acquired expertise in the specific matters entrusted to their jurisdiction.[48] Thus, their findings of facts are accorded not only respect but even finality if they are supported by substantial evidence.[49] Such factual findings are given more weight when affirmed by the CA.[50]

Finally, petitioner's reliance in the case of *Opulencia v. National Labor Relations Commission*[51] (*Opulencia*) is misplaced as the said case is not on all fours with the present case. In *Opulencia,* the petitioner company likewise submitted its payroll to prove that the respondent employee Esita was not among its employees. The Court, however, rejected the payroll in view of the rebuttal testimonies of witnesses admitting that not all the names of the employees were reflected in the payroll. The Court explained that for a payroll to be utilized to disprove the employment of a person, it must contain a true and complete list of the employees. The Court moreover observed that the payroll offered by the company did not cover the entire period of nine years during which Esita claimed to have been employed by *Opulencia* but only covered a period of two months. Thus, the Court applied the presumption that evidence willfully suppressed would be adverse if produced.

Our ruling in *Opulencia* is not squarely applicable in the instant case for the following reasons: (1) unlike in *Opulencia,* there was no testimony of witnesses stating that the payroll did not contain a true and complete list of the employees of JTA; (2) in contrast with *Opulencia,* the payroll submitted by JTA covered the entire period during which petitioner claimed to have been employed by them and not only a particular period; and (3) far from *Opulencia* where only the payroll was submitted to disprove Esita's employment, JTA in this case presented corroborating evidence to negate petitioner's claim of employment, *i.e.*, alpha list of employees from 2014-2016 and remittances and registration of its employees with the SSS, Philhealth and Pag-Ibig, which were all duly signed by JTA's authorized representative and properly filed with the concerned government agencies, all of which did not include petitioner's name.

All told, We find no reversible error on the part of the CA in holding that the NLRC did not act with grave abuse of discretion in finding that no employer-employee existed between petitioner and JTA.

WHEREFORE, the instant petition is hereby **DENIED**. The Decision dated October 11, 2018 and Resolution dated January 24, 2019 of the Court of Appeals in CA-G.R. SP No. 154362 are **AFFIRMED**.

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48 *The Heritage Hotel, Manila v. Sio*, G.R. No. 217896 (Resolution), June 26, 2019.
49 Id.
50 *Skyway O & M Corp. v. Reinante*, G.R. No. 222233, August 28, 2019.
51 298-A Phil. 449 (1993).

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

AMY C. LAZARO-JAVIER
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JOSE MIDAS P. MARQUEZ
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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

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.

ALEXANDER G. GESMUNDO
Chief Justice