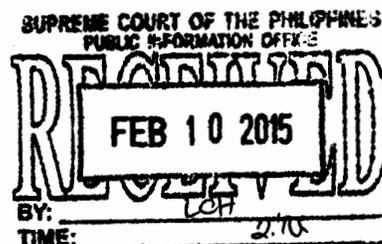




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 3, 2014** which reads as follows:*

“G.R. No. 214718 – (VINCENT V. OTACAN, petitioner vs. LBC EXPRESS, INC., AND/OR FERNANDO G. ARANETA, ET AL., respondents.)

This is a petition for review on certiorari of the Resolutions dated February 7, 2014¹ and August 19, 2014² of the Court of Appeals in CA G.R. SP No. 05943-MIN.

The records show that petitioner Vincent Otacan was employed by respondent LBC Express Inc., on February 7, 2006 as probationary employee in charge of pick-up and delivery of shipments of LBC distribution center in Davao City. Petitioner was given a regular status on July 2006³.

In a letter dated November 23, 2011, petitioner expressed his desire to resign from the company as he is planning to work with NGO. He was however, not given the money claims he demanded for but only his severance pay.

- over – four (4) pages

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¹ rollo, pp. 95-97.
² *Id.* at 13-15.
³ *Id.* at 43.

Asserting that he was only persuaded to sign his resignation letter, petitioner filed a complaint⁴ against respondents. The Labor Arbiter found that there is no illegal dismissal case, petitioner's resignation letter being the best evidence that he had resigned from the company. The complaint was dismissed on December 28, 2012 for want of factual and legal basis.

Petitioner appealed to the National Labor Relations Commission (NLRC) alleging that he was only forced to resign and he succumbed to it because he would not otherwise receive his monthly compensation.

The NLRC, in a Decision⁵ promulgated on August 30, 2013, found no merit in petitioner's appeal, stating petitioner's resignation from employment was voluntary and that bare allegations of constructive dismissal, when uncorroborated by the evidence on record, cannot be given credence. It dismissed petitioner's appeal for lack of merit.

Petitioner elevated his case before the Court of Appeals (CA). By Resolution⁶ promulgated on February 7, 2014, the CA dismissed the petition for the following defects:

1. Erroneous remedy. Assailed Decisions are the issuances of the National Labor Relations Commission which can only be assailed via a petition for certiorari under Rule 65 of the Rules of Court;
2. Improper verification as it was based on "personal knowledge and belief in contravention of Rule 7, Section 4 of the Rules of Court;
3. Incomplete statement of material dates. The date of receipt of the assailed August 30, 2013 NLRC Decision is not stated;
4. Failure to attach pertinent pleadings and material portions of the record, i.e. position papers of the parties before the Labor Arbiter;
5. The notarial certificates of the Verification/Certificate of Non Forum Shopping and the Affidavit of Mailing/Explanation do not indicate competent evidence of affiant's identity, in non-compliance with Rule IV, Section 2(b) (2) in relation to Rule II, Section 12 of the 2004 Rules on Notarial Practice;

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⁴ *Id.* at 43.

⁵ *Id.* at 69-74.

⁶ Penned by CA Cagayan de Oro City, Associate Justice Edgardo A. Camello and by Associate Justices Jhosep Y. Lopez and Henri Jean Paul B. Inting, concurring, *rollo*, pp. 95-97.



6. The notarial certificates of the Verification/Certificate on Non Forum Shopping and the Affidavit of Mailing/Explanation do not indicate (a) the serial number of the notary public's commission; (b) the province or city where the notary public is commissioned; and (c) the notary public's office address, in non-compliance with Rule VIII, Section 2 of the 2004 Rules on Notarial Practice.

Hence, the present petition.

The Court affirms the finding that there is no illegal dismissal in this case since petitioner resigned. Petitioner's Letter⁷ states:

November 23, 2011

TO: George Cordova
Team Leader

Dear Sir,

It was my sworn commitment when I applied for a job to be loyal with the company for as long as it has been good to me. Up to this date I believe that the company never failed me of the benefits, compensation, professional and personal growth that I expected. It has given me some of the best privileges. Working with the company gave me the opportunity to help my family and satisfy my personal needs.

But as time passes, place and situation change, so are the interest and needs of a person. In this connection, may I express my interest to work with the government or to the Non Government Organization. I would like to join Public Service rather than Customer Service. I would like to tender my resignation from my job as Customer Associate preferably effective after my vacation leave (December 19 to January 06, 2012)

From my heart, I am in deep gratitude for the experienced of working with HARD Working team.

Hoping for your affirmative decision and action. Thank you very much.

(sgd.) Vincent V. Otacan
Customer Associate

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⁷ *Id.* at 44.

Petitioner's letter apparently indicates that his resignation was voluntary and that it will therefore be the best evidence that he was not forced to resign from the company.

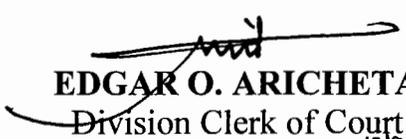
The Court thus **AFFIRMS** the Resolutions of the Court of Appeals dated February 7, 2014 and August 19, 2014.

The petitioner is hereby required to **SUBMIT** within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed petition for review on certiorari and its annexes pursuant to the Resolution dated February 25, 2014 in A.M. Nos. 10-3-7-SC and 11-9-4-SC; and the Cash Collection and Disbursement Division is hereby **DIRECTED** to **RETURN** to the petitioner the excess amount of ₱470.00 paid for filing fees under O.R. No. 0103043-SC-EP dated October 30, 2014.

The Court of Appeals, the National Labor Relations Commission, and the National Labor Relations Commission, Regional Arbitration Branch XI, are **DELETED** as party respondents in this case pursuant to Sec. 4, Rule 45, 1997 RCP, as amended.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA

Division Clerk of Court

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Mr. Vincent V. Otacan
Petitioner
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San Fernando, Bislig City
8311 Surigao del Sur

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No. 12-7-1-SC)

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Division (x)
Supreme Court

SR

Court of Appeals
9000 Cagayan de Oro City
(CA-G.R. SP No. 05943-MIN)

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National Labor Relations Commission
Regional Arbitration Branch No. XI
8000 Davao City
(NLRC Case No. RAB XI-06-00340-
12; NLRC MAC No. 03-012950-2013)

National Labor Relations Commission
Eighth Division
9000 Cagayan de Oro City

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