Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **June 17, 2020**, *which reads as follows:*

"G.R. No. 226602 (*Marilou R. Albaño v. Dipolog Rose Basic Learning School, and/or Engr. Nelson Manlaso, Owner/Administrator*). – After a judicious review of the records, the Court resolves to **DENY** the petition for failure of the petitioner to prove that the Court of Appeals *(CA)* committed any reversible error when it promulgated its July 29, 2015 Decision[1] and July 4, 2016 Resolution.[2]

As a general rule, the Court is not a trier of facts and a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court must exclusively raise questions of law.[3] The findings of the National Labor Relations Commission, especially when affirmed by the CA, are conclusive upon this Court.[4]

When the employer denies dismissing the employee, the latter must prove the fact of dismissal with clear, positive and convincing evidence.[5] While it is an established rule that the employer bears the burden of proof to prove that the employee's dismissal was for a valid or authorized cause, the employee must first establish by substantial evidence that indeed he or she was dismissed. If there is no dismissal, then there can be no question as to the legality or illegality thereof.[6]

The Court notes that the respondent denied dismissing the petitioner and that she had disassociated herself from schoolwork to focus on operating the school canteen full-time. Hence, it is incumbent on the part of the petitioner to present substantial evidence that the employer-employee

---

[1] *Rollo*, pp. 26-33; penned by Associate Justice Edgardo A. Camello with Associate Justices Henri Jean Paul B. Inting (now a Member of this Court) and Rafael Antonio M. Santos, concurring.
[2] Id. at 39-40.
[3] *Sarona v. National Labor Relations Commission,* 679 Phil. 394, 414 (2012).
[4] *Madridejos v. NYK-Fil Ship Management, Inc.,* 810 Phil. 704, 724 (2017); *Milan v. National Labor Relations Commission*, 753 Phil. 217, 238 (2015).
[5] *Villola v. United Philippine Lines, Inc.,* G.R. No. 230047, October 9, 2019.
[6] Id.

- over -

relationship continued to exist until January 24, 2012 when she claimed to have been unlawfully terminated by the respondent. Also, the petitioner has the burden to establish the fact of her termination by supplying the details surrounding the same. We find that the petitioner failed in both regards.

WHEREFORE, the Petition for Review is **DENIED** and the July 29, 2015 Decision and July 4, 2016 Resolution promulgated by the Court of Appeals in CA-G.R. SP No. 05512-MIN are **AFFIRMED**.

SO ORDERED."

Very truly yours,

MisDCBatt
MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court
7/9/20

Atty. Levy Fabre
PUBLIC ATTORNEY'S OFFICE
Special & Appealed Cases Unit
2/F BJS Building
Tiano Brothers cor. San Agustin Sts.
9000 Cagayan de Oro City

COURT OF APPEALS
CA G.R. SP No. 05512-MIN
9000 Cagayan de Oro City

ABARQUEZ LAW OFFICE
Counsel for Respondents
WTO Building, Gen. Luna Street
7100 Dipolog City

NATIONAL LABOR RELATIONS COMMISSION
8th Division
Tirso Neri St., Cagayan de Oro City
(NLRC LAC No. MAC-04-012521-2012)
(NLRC Case No. Sub-RAB 09-01-10007-2012)

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila