Republic of the Philippines
SUPREME COURT
Manila

CERTIFIED TRUE COPY
ALFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUL 0 8 2016

THIRD DIVISION

SOUTH COTABATO COMMUNICATIONS CORPORATION and GAUVAIN J. BENZONAN, Petitioners,	**G.R. No. 217575**
- versus -	Present: VELASCO, JR., *J.*, Chairperson, PERALTA, PEREZ, REYES, and JARDELEZA,* *JJ.*
HON. PATRICIA STO. TOMAS, SECRETARY OF LABOR AND EMPLOYMENT, ROLANDO FABRIGAR, MERLYN VELARDE, VINCE LAMBOC, FELIPE GALINDO, LEONARDO MIGUEL, JULIUS RUBIN, EDEL RODEROS, MERLYN COLIAO, and EDGAR JOPSON, Respondents.	Promulgated: June 15, 2016

x----------x

DECISION

VELASCO, JR., *J.*:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision[1] dated November 28, 2014 and Resolution dated March 5, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 00179-MIN, affirming the Orders dated November 8, 2004 and February 24, 2005 issued by the Secretary of Labor and Employment.

Factual Antecedents

On January 19, 2004, the Department of Labor and Employment Region-XII (DOLE) conducted a Complaint Inspection[2] at the premises of DXCP Radio Station, which is owned by petitioner South Cotabato Communications Corporation. The inspection yielded a finding of violation

---

* On leave.

[1] Penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Romulo V. Borja and Rafael Antonio M. Santos.

[2] Pursuant to Inspection Authority No. R1201-0401-CI-052.

of labor standards provisions of the Labor Code involving the nine (9) private respondents, such as:

1. Underpayment of Wages
2. Underpayment of 13th Month Pay
3. Non-payment of the five (5) days Service Incentive Leave Pay
4. Non-payment of Rest Day Premium Pay
5. Non-payment of the Holiday Premium Pay
6. Non-remittance of SSS Contributions
7. Some employees are paid on commission basis aside from their allowance[s][3]

Consequently, the DOLE issued a Notice of Inspection Result directing petitioner corporation and/or its president, petitioner Gauvain J. Benzonan (Benzonan), to effect restitution and/or correction of the alleged violations within five (5) days from notice. Due to petitioners' failure to comply with its directive, the DOLE scheduled on March 3, 2004 a Summary Investigation at its Regional Office No. XII, Provincial Extension Office, in General Santos City. However, petitioners failed to appear despite due notice. Another hearing was scheduled on April 1, 2004 wherein petitioners' counsel, Atty. Thomas Jacobo (Atty. Jacobo), failed to attend due to an alleged conflict in schedule. Instead, his secretary, Nona Gido, appeared on his behalf to request a resetting, which the DOLE Hearing Officer denied.[4] Thus, in an Order dated May 20, 2004, the DOLE Region-XII OIC Regional Director (DOLE Regional Director) directed petitioners to pay private respondents the total amount of ₱759,752, representing private respondents' claim for wage differentials, 13th month pay differentials, service incentive leave pay, holiday premium pay, and rest day premium pay.

Therefrom, petitioners appealed to the Secretary of Labor, raising two grounds: (1) denial of due process; and (2) lack of factual and legal basis of the assailed Order.

The denial of due process was predicated on the refusal of the Hearing Officer to reset the hearing set on April 1, 2004, which thus allegedly deprived petitioners the opportunity to present their evidence. Likewise, petitioners asserted that the Order of the Regional Director does not state that an employer-employee relationship exists between petitioners and private respondents, which is necessary to confer jurisdiction to the DOLE over the alleged violations.

In an Order[5] dated November 8, 2004, the Secretary of Labor affirmed the findings of the DOLE Regional Director on the postulate that petitioners failed to question, despite notice of hearing, the noted violations or to submit any proof of compliance therewith. And in view of petitioners' failure to present their evidence before the Regional Director, the Secretary of Labor

---

[3] *Rollo*, p. 89.
[4] Id. at 62-63.
[5] Id. at 89-92.

adopted the findings of the Labor Inspector and considered the interviews conducted as substantial evidence. The Secretary of Labor likewise sustained what is considered as the straight computation method adopted by the Regional Office as regards the monetary claims of private respondents,[6] thus:

> WHEREFORE, presmises considered, the appeal by DXCP Radio Station and Engr. Gauvain Benzonan is hereby **DISMISSED** for lack of merit. The Order dated May [20], 2004 of the Regional Director, directing appellants to pay the nine (9) appellees the aggregate amount of Seven Hundred Fifty Nine Thousand Seven Hundred Fifty Two Pesos (Php759,752.00), representing their claims for wage differentials, 13th month pay differentials, service incentive leave pay, holiday pay premium and rest day premium, is **AFFIRMED**.
>
> SO ORDERED.

Petitioners moved for, but was denied, reconsideration of the Secretary of Labor's Order.

Petitioners elevated the case to the Court of Appeals (CA) via a Petition for Certiorari under Rule 65 of the Rules of Court. By a Resolution[7] dated July 20, 2005, the CA dismissed the petition owing to procedural infirmities because petitioners failed to attach a Secretary's Certificate evidencing the authority of petitioner Benzonan, as President, to sign the petition. On appeal,[8] this Court remanded the case back to the CA for determination on the merits.[9]

Ruling of the Court of Appeals

In its Decision dated November 28, 2014 in CA-G.R. SP No. 00179-MIN, the CA upheld the Secretary of Labor, holding that petitioners cannot claim denial of due process, their failure to present evidence being attributed to their negligence.

Petitioners moved for the reconsideration of the Decision, grounded on similar arguments raised before the Secretary of Labor, citing in addition, the pronouncement of the National Labor Relations Commission (NLRC) in the related case of NLRC No. MAC-01-010053-2008 entitled *Rolando Fabrigar, et. al. v. DXCP Radio Station, et. al.* There, the NLRC held that no employer-employee relationship exists between petitioners and private respondents Rolando Fabrigar (Fabrigar), Edgar Jopson (Jopson), and Merlyn Velarde (Velarde). For clarity, two separate actions were instituted by private respondents Fabrigar, Jopson, and Velarde against petitioners: the

---

[6] Id. at 91.
[7] Id. at 262-264.
[8] Id. at 301-340, Petition for Review on Certiorari dated July 17, 2006.
[9] Decision dated December 15, 2010 in G.R. No. 173326, penned by Associate Justice Teresita J. Leonardo-De Castro and concurred in by Chief Justice Renato C. Corona and Associate Justices Presbitero J. Velasco, Jr., Mariano C. Del Castillo, and Jose Portugal Perez.

first, for violation of labor standards provisions with the DOLE; and the second, for illegal dismissal filed with the NLRC. The latter case arose from the three respondents' claim of constructive dismissal effected by petitioners following the inspection by the DOLE. In ruling for petitioners, the NLRC, in its Resolution[10] dated April 30, 2008, declared that there is no employer-employee relationship between the parties, thus negating the notion of constructive dismissal.

The CA denied petitioners' motion for reconsideration in its Resolution dated March 5, 2014. Hence, this petition.

Petitioners presently seek the reversal of the CA's Decision and Resolution and ascribe the following errors to the court *a quo*:

> I. The [CA] did not completely and properly dispose of the case pending before it as it never resolved all justiciable issues raised x x x, particularly, that the determination of presence or absence of employer-employee relationship is indispensable in the resolution of this case as jurisdiction is dependent upon it.
>
> II. There is [no] single basis, either factual or legal, for the issuance of the May 20, 2004 Order of the Regional Director x x x against the petitioners as it was issued relying merely on pure allegations and without any substantial proof on the part of the claimants, contrary to law and jurisprudence.
>
> III. The [CA] gravely erred in ruling that the Secretary of Labor x x x did not act in a whimsical and capricious manner or with grave abuse of discretion tantamount to lack or excess of jurisdiction in affirming the Order of the [Regional Director] despite the glaring fact that no evidence were submitted by private respondents as to the basis of [their] claim and nature of their employment.
>
> IV. The [CA] erred in ruling that the Secretary of Labor x x x did not deny [petitioners their] right to due process in affirming the x x x Order of [the] Regional Director x x x notwithstanding [the evidence] submitted before her [that there] exist no employer-employee relation[ship] among the parties and that the [DOLE] has no jurisdiction over the case.[11]

In the matter of denial of due process, petitioners maintain that they were prevented from presenting evidence to prove that private respondents are not their employees when the Regional Director submitted the case for resolution without affording them an opportunity to ventilate their case or rebut the findings of the inspection. In addition, petitioners assail the Order of the Regional Director for want of factual and legal basis, particularly the lack of categorical finding on the existence of an employer-employee relationship between the parties—an element which petitioners insist is a

---

[10] Id. at 647-651.
[11] Id. at 37-38.

prerequisite for the exercise of the DOLE's jurisdiction,[12] following *People's Broadcasting (Bombo Radyo, Phils., Inc.) v. The Secretary of Labor and Employment, et al.*[13] Petitioners likewise note that the November 8, 2004 Order of the DOLE Secretary denying petitioner's appeal, as well as the Decision of the CA, is silent on the employer-employee relationship issue, which further suggests that no real and proper determination of the existence of such relationship was ever made by these tribunals.

In its Comment, the DOLE counters that the results of the interviews conducted in the premises of DXCP in the course of its inspection constitute substantial evidence that served as basis for the monetary awards to private respondents.[14]

From the foregoing, the issue for the resolution can be reduced into the question of whether the CA erred in upholding the November 8, 2004 Order of the Secretary of Labor, which in turn affirmed the May 20, 2004 Order of the Regional Director. Inextricably linked to the resolution of the said issue is a determination of whether an employer-employee relationship had sufficiently been established between the parties as to warrant the assumption of jurisdiction by the DOLE and issuance of the said May 20, 2004 and November 8, 2004 Orders.

The Court's Ruling

Petitioners were not denied due process

Petitioners' claim of denial of due process deserves scant consideration. The essence of due process, jurisprudence teaches, is simply an opportunity to be heard, or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.[15] As long as the parties are, in fine, given the opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met.[16]

That petitioners were given ample opportunity to present their evidence before the Regional Director is indisputable. They were notified of the summary investigations conducted on March 3, 2004 and April 1, 2004, both of which they failed to attend. To justify their non-appearance, petitioners claim they requested a resetting of the April 1, 2004 hearing due to the unavailability of their counsel.[17] However, no such explanation was proffered as to why they failed to attend the first hearing. At any rate, it

---

[12] *Rollo*, pp. 41-42.

[13] G.R. No. 179652, May 8, 2009, 587 SCRA 724.

[14] DOLE Comment, p. 6.

[15] *Sarapat v. Salanga*, G.R. No. 154110, November 23, 2007, 538 SCRA 324; citing *Westmont Pharmaceuticals, Inc. v. Samaniego*, G.R. Nos. 146653-54 & 147407-408, February 20, 2006, 482 SCRA 611, 619.

[16] *Montemayor v. Bundalian, et. al.*, G.R. No. 149335, July 1, 2003, 405 SCRA 264.

[17] *Rollo*, p. 32.

behooved the petitioners to ensure that they, as well as their counsel, would be available on the dates set for the summary investigation as this would enable them to prove their claim of non-existence of an employer-employee relationship. Clearly, their own negligence did them in. Their lament that they have been deprived of due process is specious.

This thus brings to the fore the issues of whether the Orders of the Regional Director and Secretary of Labor are supported by factual and legal basis, and, concomitantly, whether an employer-employee relationship was sufficiently established between petitioners and private respondents as to warrant the exercise by the DOLE of jurisdiction.

At the outset, the determination as to whether such employer-employee relationship was, indeed, established requires an examination of facts. It is a well-settled rule that findings of fact of quasi-judicial agencies are accorded great respect, even finality, by this Court. This proceeds from the general rule that this Court is not a trier of facts, as questions of fact are contextually for the labor tribunals to resolve, and only errors of law are generally reviewed in petitions for review on certiorari criticizing the decisions of the CA.[18]

The findings of fact should, however, be supported by substantial evidence from which the said tribunals can make their own independent evaluation of the facts. In labor cases, as in other administrative and quasi-judicial proceedings, the quantum of proof necessary is substantial evidence, or such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[19] 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,[20] a finding that the relationship exists must nonetheless rest on substantial evidence.[21]

In addition, the findings of fact tainted with grave abuse of discretion will not be upheld. This Court will not hesitate to set aside the labor tribunal's findings of fact when it is clearly shown that they were arrived at arbitrarily or in disregard of the evidence on record or when there is showing of fraud or error of law.[22]

This case clearly falls under the exception. After a careful review of this case, the Court finds that the DOLE failed to establish its jurisdiction over the case.

---

[18] *Magsaysay Maritime Services and Princess Cruise Lines, Ltd. v. Laurel*, G.R. No. 195518, March 20, 2013, 694 SCRA 225.

[19] *Tenaza, et. al. v. R. Villegas Taxi Transport*, G.R. No. 192998, April 2, 2014.

[20] *Legend Hotel (Manila) v. Realuyo*, G.R. No. 153511, July 18, 2012, July 18, 2012, 677 SCRA 10, 19; citing *Opulencia Ice Plant and Storage v. NLRC*, G.R. No. 98368, December 15, 1993, 228 SCRA 473.

[21] *Legend Hotel (Manila) v. Realuyo*, G.R. No. 153511, July 18, 2012, 677 SCRA 10.

[22] *People's Broadcasting (Bombo Radyo, Phils., Inc.) v. The Secretary of Labor and Employment, et al.*, supra note 13.

The assailed May 20, 2004 Order of the Regional Director and November 8, 2004 Order of the Secretary of Labor were issued pursuant to Article 128 of the Labor Code, to wit:

> ART. 128. *Visitorial and enforcement power.* - (a) The Secretary of Labor and Employment or his duly authorized representatives, including labor regulation officers, shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.
>
> (b) Notwithstanding the provisions of Articles 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection. The Secretary or his duly authorized representatives shall issue writs of execution to the appropriate authority for the enforcement of their orders, except in cases where the employer contests the findings of the labor employment and enforcement officer and raises issues supported by documentary proofs which were not considered in the course of inspection. (As amended by Republic Act No. 7730, June 2, 1994). x x x

Under the aforequoted provision, the Secretary of Labor, or any of his or her authorized representatives, is granted visitorial and enforcement powers for the purpose of determining violations of, and enforcing, the Labor Code and any labor law, wage order, or rules and regulations issued pursuant thereto. Indispensable to the DOLE's exercise of such power is the existence of an actual employer-employee relationship between the parties.

The power of the DOLE to determine the existence of an employer-employee relationship between petitioners and private respondents in order to carry out its mandate under Article 128 has been established beyond cavil in *Bombo Radyo*,[23] thus:

> It can be assumed that **the DOLE in the exercise of its visitorial and enforcement power somehow has to make a determination of the existence of an employer-employee relationship**. Such prerogatival determination, however, cannot be coextensive with the visitorial and enforcement power itself. Indeed, such determination is merely preliminary, incidental and collateral to the DOLE's primary function of enforcing labor standards provisions. The determination of the existence of employer-employee relationship is still primarily lodged with the NLRC. This is the meaning of the clause "in cases where the relationship of employer-employee still exists" in Art. 128 (b).

---

[23] Id.

> Thus, before the DOLE may exercise its powers under Article 128, two important questions must be resolved: (1) Does the employer-employee relationship still exist, or alternatively, was there ever an employer-employee relationship to speak of; and (2) Are there violations of the Labor Code or of any labor law?
>
> **The existence of an employer-employee relationship is a statutory prerequisite to and a limitation on the power of the Secretary of Labor, one which the legislative branch is entitled to impose**. The rationale underlying this limitation is to eliminate the prospect of competing conclusions of the Secretary of Labor and the NLRC, on a matter fraught with questions of fact and law, which is best resolved by the quasi-judicial body, which is the NRLC, rather than an administrative official of the executive branch of the government. If the Secretary of Labor proceeds to exercise his visitorial and enforcement powers absent the first requisite, as the dissent proposes, his office confers jurisdiction on itself which it cannot otherwise acquire. (emphasis ours)

The foregoing ruling was further reiterated and clarified in the resolution of the reconsideration of the same case, wherein the jurisdiction of the DOLE was delineated vis-à-vis the NLRC where the employer-employee relationship between the parties is at issue:

> No limitation in the law was placed upon the power of the DOLE to determine the existence of an employer-employee relationship. No procedure was laid down where the DOLE would only make a preliminary finding, that the power was primarily held by the NLRC. The law did not say that the DOLE would first seek the NLRC's determination of the existence of an employer-employee relationship, or that should the existence of the employer-employee relationship be disputed, the DOLE would refer the matter to the NLRC. **The DOLE must have the power to determine whether or not an employer-employee relationship exists, and from there to decide whether or not to issue compliance orders in accordance with Art. 128(b) of the Labor Code**, as amended by RA 7730.
>
> **The DOLE, in determining the existence of an employer-employee relationship, has a ready set of guidelines to follow, the same guide the courts themselves use. The elements to determine the existence of an employment relationship are: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; (4) the employer's power to control the employee's conduct. The use of this test is not solely limited to the NLRC.** The DOLE Secretary, or his or her representatives, can utilize the same test, even in the course of inspection, making use of the same evidence that would have been presented before the NLRC. (emphasis ours)

Like the NLRC, the DOLE has the authority to rule on the existence of an employer-employee relationship between the parties, considering that the existence of an employer-employee relationship is a condition *sine qua non* for the exercise of its visitorial power. Nevertheless, it must be emphasized that without an employer-employee relationship, or if one has already been terminated, the Secretary of Labor is without jurisdiction to determine if violations of labor standards provision had in fact been

committed,[24] and to direct employers to comply with their alleged violations of labor standards.

The Orders of the Regional Director and the Secretary of Labor do not contain clear and distinct factual basis necessary to establish the jurisdiction of the DOLE and to justify the monetary awards to private respondents

For expediency, the May 20, 2004 Order of the Regional Director is pertinently reproduced hereunder:

ORDER

> This refers to the Complaint Inspection conducted at DXCP Radio Station and/or Engr. Gauvain Benzonan, President, located at NH Lagao Road, General Santos City on January 19, 2004 pursuant to Inspection Authority No. R1201-0401-CI-052 which resulted to the discovery of the Labor Standards violations, namely:
>
> 1. Underpayment of Wages
> 2. Underpayment of 13th Month Pay
> 3. Non-payment of the five (5) days Service Incentive Leave Pay
> 4. Non-payment of Rest Day Premium Pay
> 5. Non-payment of the Holiday Premium Pay
> 6. Non-remittance of SSS Contributions
> 7. Some employees are paid on commission basis aside from their allowance[s]
>
> Proceeding from the conduct of such inspection was the issuance of the Notice of Inspection Result requiring the respondent DXCP Radio Station and/or Engr. Gauvain Benzonan, President, to effect restitution and/or correction of the noted violations at the plant/company level within five (5) calendar days from notice thereof. But, Engr. Gauvain Benzonan failed to do so.
>
> On March 3, 2004, a summary investigation was conducted at the [DOLE], Regional Office No. XII, Provincial Extension Office, General Santos City. In that scheduled Summary Investigation, only complainants appeared, assisted by Mr. Fred Huervana, National President of the Philippine Organization of Labor Unions, x x x while respondent failed to appear despite due notice.
>
> On April 1, 2004, another Summary Investigation was conducted x x x [There] complainants appeared, x x x while respondent was represented by Ms. Nona Gido, Secretary of Atty. Thomas Jacobo, counsel for the respondent. During the deliberation, Ms. Nona Gido manifested that her presence in that scheduled summary investigation was to request for the re-scheduling of such hearing, however, such request was denied. Mr. Fred Huervana declared that as he gleaned from the Notice of

[24] *People's Broadcasting (Bombo Radyo, Phils., Inc.) v. The Secretary of Labor and Employment, et. al*, G.R. No. 179652, March 6, 2012, 667 SCRA 538.

> Inspection Result issued by the labor inspector, the Non-payment of the Provisional Emergency Relief Allowance (PERA) was not included from among the discovered violations, hence he requested that it should be included in the computation. Such request was denied x x x. Further, Mr. Fred Huervana, declared that this case be submitted for decision based on the merit of the case.
>
> Failure of the parties to reach a final settlement prompted this Office to compute the entitlements of the seven (7) affected workers for their salary differential, underpayment of 13th month pay, non-payment of the five (5) days service incentive leave pay, non-payment of holiday premium pay and non-payment of rest day premium pay in the total amount of SEVEN HUNDRED FIFTY NINE THOUSAND SEVEN HUNDRED FIFTY TWO PESOS (P759,752.00) x x x.[25]

In determining the existence of an employer-employee relationship, *Bombo Radyo* specifies the guidelines or indicators used by courts, i.e. (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the employer's power to control the employee's conduct. The DOLE Secretary, or his or her representatives, can utilize the same test, even in the course of inspection, making use of the same evidence that would have been presented before the NLRC.[26]

As can be gleaned from the above-quoted Order, the Regional Director merely noted the discovery of violations of labor standards provisions in the course of inspection of the DXCP premises. No such categorical determination was made on the existence of an employer-employee relationship utilizing any of the guidelines set forth. In a word, the Regional Director had presumed, not demonstrated, the existence of the relationship. Of particular note is the DOLE's failure to show that petitioners, thus, exercised control over private respondents' conduct in the workplace. The power of the employee to control the work of the employee, or the control test, is considered the most significant determinant of the existence of an employer-employee relationship.[27]

Neither did the Orders of the Regional Director and Secretary of Labor state nor make reference to any concrete evidence to support a finding of an employer-employee relationship and justify the monetary awards to private respondents. Substantial evidence, such as proofs of employment, clear exercise of control, and the power to dismiss that prove such relationship and that petitioners committed the labor laws violations they were adjudged to have committed, are grossly absent in this case. Furthermore, the Orders dated May 20, 2004 and November 8, 2004 do not even allude to the substance of the interviews during the inspection that became the basis of the finding of an employer-employee relationship.

---

[25] *Rollo*, pp. 62-63.

[26] *People's Broadcasting (Bombo Radyo, Phils., Inc.) v. The Secretary of Labor and Employment, et al.*, supra note 24.

[27] *Coca Cola Bottlers Phils., Inc. v. NLRC*, G.R. No. 120466, May 17, 1999, 307 SCRA 131, 139.

The Secretary of Labor adverts to private respondents' allegation in their Reply[28] to justify their status as employees of petitioners. The proffered justification falls below the quantum of proof necessary to establish such fact as allegations can easily be concocted and manufactured. Private respondents' allegations are inadequate to support a conclusion absent other concrete proof that would support or corroborate the same. Mere allegation, without more, is not evidence and is not equivalent to proof.[29] Hence, private respondents' allegations, essentially self-serving statements as they are and devoid under the premises of any evidentiary weight, can hardly be taken as the substantial evidence contemplated for the DOLE's conclusion that they are employees of petitioners.

In a similar vein, the use of the straight computation method in awarding the sum of ₱759,752 to private respondents, without reference to any other evidence other than the interviews conducted during the inspection, is highly telling that the DOLE failed to consider evidence in arriving at its award and leads this Court to conclude that such amount was arrived at arbitrarily.

It is quite implausible for the nine (9) private respondents to be entitled to uniform amounts of Service Incentive Leave (SIL) pay, holiday pay premium, and rest day premium pay for three (3) years, without any disparity in the amounts due them since entitlement to said benefits would largely depend on the actual rest days and holidays worked and amount of remaining leave credits in a year. Whoever claims entitlement to the benefits provided by law should establish his or her right thereto.[30] The burden of proving entitlement to overtime pay and premium pay for holidays and rest days lies with the employee because these are not incurred in the normal course of business.[31] In the case at bar, evidence pointing not only to the existence of an employer-employee relationship between the petitioners and private respondents but also to the latter's entitlement to these benefits are miserably lacking.

It may be that petitioners have failed to refute the allegation that private respondents were employees of DXCP. Nevertheless, it was incumbent upon private respondents to prove their allegation that they were, indeed, under petitioners' employ and that the latter violated their labor rights. A person who alleges a fact has the onus of proving it and the proof should be clear, positive and convincing.[32] Regrettably, private respondents failed to discharge this burden. The pronouncement in *Bombyo Radyo* that the determination by the DOLE of the existence of an employer-employee

---

[28] *Rollo*, p. 91; Order dated November 8, 2004.

[29] *Centro Project Manpower Services Corporation v. Naluis*, G.R. No. 160123, June 17, 2015.

[30] *Javier v. Fly Ace Corporation*, G.R. No. 192558, February 15, 2012; citing *Cootauco v. MMS Phil. Maritime Services, Inc.*, G.R. No. 184722, March 15, 2010, 615 SCRA 529

[31] *Loon, et. al. v. Power Master, Inc.*, G.R. No. 189404, December 11, 2013; citing *Lagatic v. NLRC*, 349 Phil. 172, 185-186 (1998).

[32] *Basay v. Hacienda Consolacion*, G.R. No. 175532, April 19, 2010, 618 SCRA 422; citing *Leopard Integrated Services, Inc. v. Macalinao*, G.R. No. 159808, September 30, 2008, 567 SCRA 192, 200.

relationship must be respected should not be construed so as to dispense with the evidentiary requirement when called for.

It cannot be stressed enough that the existence of an employer-employee relationship between the parties is essential to confer jurisdiction of the case to the DOLE. Without such express finding, the DOLE cannot assume to have jurisdiction to resolve the complaints of private respondents as jurisdiction in that instance lies with the NLRC.[33]

The Orders of the Regional Director and Secretary of Labor do not comply with Article VIII, Section 16 of the Constitution

As a necessary corollary to the foregoing considerations, another well-grounded reason exists to set aside the May 20, 2004 Order of the Regional Director and November 8, 2004 Order of the Secretary of Labor. The said Orders contravene Article VIII, Section 14 of the Constitution, which requires courts to express clearly and distinctly the facts and law on which decisions are based, to wit:

> Section 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.
>
> No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

As stressed by this Court in *San Jose v. NLRC*,[34] faithful compliance by the courts and quasi-judicial bodies, such as the DOLE, with Art. VIII, Sec. 14 is a vital element of due process as it enables the parties to know how decisions are arrived at as well as the legal reasoning behind them. Thus:

> This Court has previously held that judges and arbiters should draw up their decisions and resolutions with due care, and make certain that they truly and accurately reflect their conclusions and their final dispositions. A decision should faithfully comply with Section 14, Article VIII of the Constitution which provides that no decision shall be rendered by any court without expressing therein clearly and distinctly the facts of the case and the law on which it is based. If such decision had to be completely overturned or set aside, upon the modified decision, such resolution or decision should likewise state the factual and legal foundation relied upon. The reason for this is obvious: aside from being required by the Constitution, the court should be able to justify such a sudden change of course; it must be able to convincingly explain the taking back of its solemn conclusions and pronouncements in the earlier decision. The same thing goes for the findings of fact made by the NLRC, as it is a settled rule that such findings are entitled to great respect and

---

[33] *People's Broadcasting (Bombo Radyo, Phils., Inc.) v. The Secretary of Labor and Employment, et al.*, supra note 24.

[34] G.R. No. 121227, August 17, 1998, 294 SCRA 336; citing *Juan Saballa, et al. v. NLRC*, G.R. Nos. 102472-84, August 22, 1996, 260 SCRA 697.

> even finality when supported by substantial evidence; otherwise, they shall be struck down for being whimsical and capricious and arrived at with grave abuse of discretion. It is a requirement of due process and fair play that the parties to a litigation be informed of how it was decided, with an explanation of the factual and legal reasons that led to the conclusions of the court. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is especially prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal. x x x

To this end, *University of the Philippines v. Hon. Dizon*[35] instructs that the Constitution and the Rules of Court require not only that a decision should state the ultimate facts but also that it should specify the supporting evidentiary facts, for they are what are called the findings of fact. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is especially prejudicial to the losing party, who is unable to pinpoint the possible errors of the court (or quasi-judicial body) for review by a higher tribunal.[36]

Accordingly, this Court will not hesitate to strike down decisions rendered not hewing to the Constitutional directive, as it did to a Decision rendered by the NLRC in *Anino, et al. v. Hinatuan Mining Corporation*[37] for non-observance of the said requirement:

> In the present case, the NLRC was definitely wanting in the observance of the aforesaid constitutional requirement. Its assailed five-page Decision consisted of about three pages of quotation from the labor arbiter's decision, including the dispositive portion, and barely a page (two short paragraphs of two sentences each) of its own discussion of its reasons for reversing the arbiter's findings. It merely raised a doubt on the motive of the complaining employees and took "judicial notice that in one area of Mindanao, the mining industry suffered economic difficulties." In affirming peremptorily the validity of private respondents' retrenchment program, it surmised that "[i]f small mining cooperatives experienced the same fate, what more with those highly mechanized establishments."

The Court is not unmindful of the State's policy to zealously safeguard the rights of our workers, as no less than the Constitution itself mandates the State to afford full protection to labor. Nevertheless, it is equally true that the law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer.[38] The constitutional policy to provide full protection to labor is not meant to be a sword to oppress employers.[39] Certainly, an employer cannot be made to answer for claims that have neither been sufficiently proved nor substantiated.

---

[35] G.R. No. 171182, August 23, 2012.

[36] *Anino, et. al. v. Hinatuan Mining Corporation, et. al*, G.R. No. 123226, May 21, 1998; citing *Saballa v. NLRC*, August 22, 1996, 260 SCRA 697.

[37] Id.

[38] *Serrano v. NLRC*, 380 Phil. 416 (2000).

[39] *Agabon v. NLRC*, G.R. No. 158693, November 17, 2004.

WHEREFORE, the petition is **GRANTED**. The Decision dated November 28, 2014 and Resolution dated March 5, 2015 of the Court of Appeals in CA-G.R. SP No. 00179-MIN are accordingly **REVERSED** and **SET ASIDE**. The Order of the then Secretary of Labor and Employment dated November 8, 2004 denying petitioners' appeal and the Order of the Regional Director, DOLE Regional Office No. XII, dated May 20, 2004, are **ANNULLED**, without prejudice to whatever right or cause of action private respondents may have against petitioners.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

(On Leave)
FRANCIS H. JARDELEZA
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.

PRESBITERO J. VELASCO, JR.
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.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUL 08 2016