Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RODESSA QUITEVIS RODRIGUEZ,
Petitioner,

- versus -

SINTRON SYSTEMS, INC. and/or JOSELITO CAPAQUE,
Respondents.

G.R. No. 240254

Present:

CARPIO, *J., Chairperson,*
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO- JAVIER, *JJ.*

Promulgated:

24 JUL 2019

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DECISION

CAGUIOA, *J.*:

Before the Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, assailing the Decision[2] dated February 26, 2018 (Assailed Decision) and Resolution[3] dated June 22, 2018 (Assailed Resolution) of the Court of Appeals (CA) Special Fifteenth Division and Former Special Fifteenth Division, respectively, in consolidated cases docketed as CA-G.R. SP Nos. 145853 and 145922.

Facts

Petitioner Rodessa Rodriguez (Rodriguez) was hired by respondent Sintron Systems, Inc. (SSI) as Sales Coordinator on July 4, 2001.[4] Her duties included the following: 1) communicating with sales engineers, customers and event organizers; 2) preparing invoices and delivery receipts for delivery

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[1] *Rollo*, pp. 10-39.

[2] Id. at 43-53 Penned by Associate Justice Ramon Paul L. Hernando (now a member of the Court) with Associate Justices Marlene B. Gonzales-Sison and Rafael Antonio M. Santos concurring.

[3] Id. at 68-69.

[4] Id. at 44.

schedules; and 3) arranging goods in the stockroom upon the instructions of SSI's president, respondent Joselito Capaque (Capaque).[5]

The conflict between the parties arose when SSI received an invitation letter for a factory visit with training from its supplier in Texas, USA scheduled on October 22-24, 2013.[6] The parties had different versions of the events succeeding this.

Version of Rodriguez:

According to Rodriguez, she attended the training in the USA without any condition imposed upon her attendance.[7] However, when she returned for work on November 7, 2013, SSI asked her to sign a training agreement which required her to remain with SSI for three years, otherwise, she was to pay a penalty of ₱275,500.00.[8] She refused to sign the agreement, arguing that she should have been informed of the same prior to her departure for the training.[9]

Thereafter, in a meeting held on November 18, 2013, Capaque humiliated Rodriguez and shouted at her vindictive words such as "*mayabang*" and "*mahadera.*"[10] Rodriguez then went on absences from November 19 to 20, for which she filed requests for leave.[11] When she reported back to work on November 21, 2013, she was surprised to learn that Capaque sent emails to clients stating that Rodriguez had abandoned her job and accused her of intentionally hurting the reputation of SSI to the latter's clients.[12] The following day, Capaque sent Rodriguez an email stating that he did not receive any request for leave and that her absence was "a ground of abandonment of work."[13] Embarrassed, Rodriguez filed for leave to be absent from November 22 to 29, 2013 and from December 2, 2013 to January 2, 2014.[14]

While on leave, on November 19, 2013,[15] Rodriguez filed the present complaint for constructive illegal dismissal, non-payment of Service Incentive Leave (SIL) pay, separation pay, damages and attorney's fees.[16] Rodriguez alleges that she was forced to go on absences in order to avoid the abusive words of Capaque.[17]

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5 Id.
6 Id. at 44-45.
7 Id at 45.
8 Id.
9 Id.
10 Id.
11 Id. at 91.
12 Id. at 45.
13 Id. at 108.
14 Id. at 109.
15 Id. at 115.
16 Id. at 21.
17 Id. at 30.

On December 20, 2013, Rodriguez went to SSI's office to obtain her half-month salary and 13th month pay.[18] Therein, Capaque verbally informed her that she was dismissed from employment.[19] Moreover, her co-workers forcibly removed the contents of her bag and confiscated documents she intended to use as evidence in her complaint.[20] Only when she contacted an officer from the Department of Labor and Employment (DOLE), who then talked to Capaque, was she given a check representing her half-month salary and 13th month pay.[21] Thereafter, she reported the incident to the Philippine National Police – Criminal Investigation and Detection Group (PNP – CIDG) in Camp Crame, Quezon City.[22]

Version of SSI:

According to SSI, Rodriguez was never maltreated, verbally or otherwise, and she failed to adduce proof thereof. In contrast, SSI offered in evidence affidavits of employees present in the November 18, 2013 meeting, who all claimed that there was no shouting that took place.[23] In truth, it was Rodriguez who was tardy, inefficient[24] and disrespectful to clients. She failed to respond to emails of clients, forcing Capaque to personally send replies.[25] Due to these events and the decline in sales performances, SSI reorganized the Sales Department and hired an executive assistant (EA) and sales manager.[26] When Rodriguez reported back to work on November 21, 2013, SSI required her to give the newly appointed EA copies of sales documents as well as to share the password to her company-provided email account.[27] She was likewise told not to tamper with the files in her assigned computer. Rodriguez failed to follow these instructions.[28] Hence, Rodriguez was not constructively dismissed. She merely preempted what would have been a valid dismissal by going on unapproved absences.[29]

As to this absenteeism, SSI denied having received requests for leave from Rodriguez for her absence on November 19 and 20, 2013.[30] As to the succeeding leaves from November 22 to 29, 2013 and December 2, 2013 to January 2, 2014, her request therefor was denied by SSI in a letter dated December 2, 2013.[31] Hence, in an SSI memorandum, Rodriguez was warned that her continued absence may be ground for termination and required her to

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18 Id. at 21.
19 Id.
20 Id.
21 Id.
22 Id.
23 Id. at 118.
24 Id.
25 Id. at 45.
26 Id.
27 Id.
28 Id.
29 Id. at 118.
30 Id. at 45.
31 Id. at 45-46.

respond to the memorandum, else her termination would be reported to the DOLE.[32]

On January 3, 2014, SSI sent Rodriguez a letter requiring her to turn over her office computer's password and surrender the keys to her assigned drawers and cabinets. The letter also stated that the 2013 records of sales and other transactions could not be found.[33] When Rodriguez took no action, SSI had her office computer unlocked by an Information Technology (IT) expert.[34] It was then that SSI discovered that the contents of Rodriguez's company-provided email account had been deleted.[35] In a letter dated June 3, 2014, SSI informed Rodriguez that the act of deleting information and files from her company-issued computer and the removal of company documents constitute serious misconduct, willful disobedience to a lawful order and dishonesty or breach of trust which are just causes for dismissal under the Labor Code.[36]

Ruling of the Labor Arbiter

In a Decision[37] dated October 7, 2015, the Labor Arbiter dismissed Rodriguez's complaint for lack of merit. According to the Labor Arbiter, Rodriguez failed to prove by substantial evidence the unbearable working environment which supposedly forced her to go on several absences. Hence, there was no constructive dismissal. Instead, it appeared that Rodriguez simply did not want to report to the newly appointed EA.[38]

Moreover, Rodriguez's prolonged absences without turning in vital information and deleting the files from her company-issued computer and email account, causing injury to clients and SSI, constituted gross negligence which would have been a valid ground for her termination. However, SSI did not have any opportunity to dismiss her due to her continued absences.[39]

Rodriguez appealed to the National Labor Relations Commission (NLRC).

Ruling of the NLRC

In a Decision[40] dated December 29, 2015, the NLRC affirmed the Labor Arbiter's Decision with the modification that Rodriguez was held to be entitled to SIL pay. According to the NLRC, the Labor Arbiter's findings that SSI did not dismiss Rodriguez is supported by substantial evidence on record.

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32 Id. at 46.
33 Id.
34 Id.
35 Id.
36 Id.
37 Id. at 104-124; penned by Labor Arbiter Lilia S. Savari.
38 Id. at 121.
39 Id. at 122.
40 Id. at 89-103; penned by Commissioner Cecilio Alejandro C. Villanueva with Presiding Commissioner Alex A. Lopez and Commissioner Pablo C. Espiritu, Jr. concurring.

Hence, Rodriguez is not entitled to her claim for separation pay and backwages.[41] However, the NLRC noted that the Labor Arbiter failed to dispose of Rodriguez's claim for SIL pay. On this issue, the NLRC ruled that SSI failed to controvert the allegation that Rodriguez's SIL pay remained unpaid.[42] The NLRC disposed of the case, thus:

> **WHEREFORE**, the instant Appeal by the respondents-appellants is PARTLY GRANTED. The assailed Decision dated *(sic)* is hereby AFFIRMED with modification in that respondent-appellee SINTRON SYSTEMS, INC. is hereby ordered to pay complainant-appellant Rodessa Q. Rodriguez her service incentive leave in the amount of ₱98,181.81.
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> **SO ORDERED.**[43]

Both Rodriguez and SSI filed Motions for Reconsideration, but the same were denied in the NLRC Resolution dated March 31, 2016.[44] Thereafter, both parties filed petitions for *certiorari* with the CA which were therein consolidated.

Ruling of the CA

In the Assailed Decision, the CA denied both parties' petitions and affirmed the NLRC's Decision. The CA agreed with the labor tribunals as to the lack of substantial evidence presented that Rodriguez was constructively dismissed.[45] As to the question of whether Rodriguez's actions constituted abandonment of work, the CA struck down this allegation of SSI and ruled that Rodriguez did not have any intention to sever her employer-employee relationship with SSI.[46] The CA concluded that since there was neither dismissal nor abandonment, the remedy would have been reinstatement without payment of backwages.[47] However, the CA noted that the relationship between the parties is already strained. Hence, reinstatement may no longer be ordered.[48] In the end, the CA made the parties bear their own losses.[49] As regards the award of SIL, the CA affirmed the same. In sum, the CA disposed the case, thus:

> **WHEREFORE**, both petitions are **DENIED.** The assailed Decision dated December 29, 2015 and Resolution dated March 31, 2016 are hereby **AFFIRMED.**
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> **SO ORDERED.**[50]

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41 Id. at 99-101.
42 Id. at 101-102.
43 Id. at 102.
44 Id. at 84-87.
45 Id. at 50-51.
46 Id. at 51.
47 Id.
48 Id. at 52.
49 Id.
50 Id. at 53.

Both parties filed motions for reconsideration which were both denied in the Assailed Resolution. Rodriguez then filed the present petition.

In assailing the findings of the CA, Rodriguez avers that: 1) SSI committed overt and positive acts of dismissal, including Capaque's emails to clients and his declaration that she had abandoned her work;[51] 2) assuming SSI had valid grounds to dismiss her, SSI nevertheless did so without due process of law;[52] 3) she was constructively dismissed as she was forced to go on numerous absences because of the abusive treatment from Capaque and SSI;[53] 4) she did not abandon her work as she clearly had no intention to sever her employment with SSI.[54] She prays for the Court to find her as having been constructively and illegally dismissed and to order the payment of separation pay, backwages, SIL, attorney's fees and damages.[55]

In their Comment, respondents allege that: 1) Rodriguez failed to substantiate her allegations to support a finding of illegal constructive dismissal;[56] 2) nevertheless, the records of the case show that the relationship between the parties are so strained that reinstatement is no longer feasible.[57] Both Rodriguez[58] and respondents[59] made assertions showing the damaged relations between them;[60] and 3) since reinstatement is no longer possible due to the strained relationship between the parties, each of them must bear their own loss. On this note, respondents claim that Rodriguez should not be awarded separation pay in lieu of reinstatement as in fact, it is more acceptable that she be reinstated and proceed with administrative investigation to determine her culpability for gross misconduct, gross negligence and loss of trust and confidence than to pay her separation pay for her misdeeds.[61]

Issues

1) Whether the CA erred in finding that there was neither illegal dismissal nor abandonment; and

2) If so, whether the CA committed reversible error in finding that reinstatement of Rodriguez is no longer feasible, hence, the parties must just bear their own losses.

Ruling of the Court

The petition must be denied.

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51 Id. at 24.
52 Id. at 24-27.
53 Id. at 30-32.
54 Id. at 32.
55 Id. at 39.
56 Id. at 295-296.
57 Id. at 301.
58 Id. at 295-296.
59 Id. at 296-298.
60 Id. at 298.
61 Id. at 303.

Rodriguez's petition raises both questions of fact and law, with the core question being one of fact — how was her employment relationship with SSI severed? Put differently, Rodriguez asks the question, was she illegally dismissed?

In a Rule 45 petition of Rule 65 labor case decisions of the CA, the Court cannot address questions of facts, except in the course of determining whether the CA erred in ruling that the NLRC did or did not commit grave abuse of discretion in its assailed decision.[62] This is because first, the Court is not a trier of facts as it generally resolves only questions of law, and, second, the NLRC's decision was final and executory and can be reviewed by the CA only when the NLRC committed grave abuse of discretion amounting to a lack or excess of jurisdiction.[63]

Hence, in the present case, the question to ask is not really whether Rodriguez was dismissed. Rather, it is whether the CA correctly ruled that the NLRC did not gravely abuse its discretion and affirming the latter's finding that Rodriguez was not dismissed.

The CA was correct in affirming the NLRC's ruling that Rodriguez was not dismissed.

In illegal dismissal cases, before the employer must bear the burden of proving that the dismissal was legal, the employee must first establish by substantial evidence the fact of his dismissal from service.[64] Obviously, if there is no dismissal, then there can be no question as to its legality or illegality.[65] As an allegation is not evidence, it is elementary that a party alleging a critical fact must support his allegation with substantial evidence. Bare allegations of dismissal, when uncorroborated by the evidence on record, cannot be given credence.[66] Moreover, the evidence to prove the fact of dismissal must be clear, positive and convincing.[67]

Here, the Labor Arbiter, NLRC and CA unanimously found that Rodriguez failed to discharge her burden of proving, with substantial evidence, her allegation that she was dismissed by SSI, constructively or otherwise. As the CA put it:

> Moreover, Rodriguez's claim that she was constructively dismissed by SSI lacks factual and legal basis. There was no evidence to prove that indeed Capaque shouted invectives at Rodriguez during the November 18, 2013 meeting. Also, her allegation that the root cause of Capaque's mistreatment towards her was because of her refusal to sign an agreement

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62 See *Brown Madonna Press, Inc. v. Casas*, 759 Phil. 479, 491 (2015); *Nightowl Watchman & Security Agency, Inc. v. Lumahan*, 771 Phil. 391, 403 (2015).

63 *Brown Madonna Press, Inc. v. Casas*, supra note 62.

64 *Philippine Rural Reconstruction Movement v. Pulgar*, 637 Phil. 244, 256 (2010).

65 *Ledesma, Jr. v. NLRC-Second Division*, 562 Phil. 939, 951 (2007).

66 See *Philippine Rural Reconstruction Movement v Pulgar*, supra note 64.

67 *Tri-C General Services v. Matuto*, 770 Phil. 251, 262 (2015).

> to work for SSI for a period of three years or pay a penalty of PhP 275,000.00 in lieu of the training she participated in, remains an allegation as even the complaint she filed before the PNP-CIDG, Camp Crame, Quezon City did not mention of any invectives allegedly uttered by Capaque to humiliate and insult her. She merely narrated that she was allegedly held by SSI and its employees for an hour and a half on December 20, 2013 when she went to SSI's office to demand the payment of her half month salary for November 2013 and 13th month pay.[68]

The Court has no reason to disturb such factual findings of the labor tribunals, as affirmed by the CA, being that they are supported by substantial evidence on record. Indeed, it is evident that Rodriguez was not dismissed. As the Labor Arbiter likewise found, it appears that she stopped reporting to work and successively filed applications for leave of absence (which were not approved) because she did not want to report to the newly appointed EA.[69]

The Court shall not likewise reverse the credence given by the labor tribunals and CA on SSI's version of events. Indeed, despite the mishaps of Rodriguez as substantially proven by SSI, SSI did not have the chance to actually terminate her employment because of her continued absences.[70] Instead, she was *warned*, in an electronic mail (email) sent to her by Capaque, that her unauthorized absences may be regarded as abandonment of work — a just cause for dismissal.[71] When she was on absences without approved leaves and failed to comply with SSI's orders to turn over vital company documents and information, SSI merely informed her, through the letter dated June 3, 2014, that her acts constituted serious misconduct, willful disobedience of a lawful order and dishonesty.[72]

Rodriguez is not guilty of abandonment of work

Abandonment of employment is a deliberate and unjustified refusal of an employee to resume his employment, without any intention of returning.[73] While it is not expressly enumerated under Article 297[74] of the Labor Code as a just cause for dismissal of an employee, it has been recognized by jurisprudence as a form of, or akin to, neglect of duty.[75] It requires the concurrence of two elements: 1) failure to report for work or absence without

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68 *Rollo*, pp. 50.
69 Id. at 121.
70 Id. at 122.
71 Id. at 49.
72 Id. at 118.
73 See *Reyes v. Global Beer Below Zero, Inc.*, G.R. No. 222816, October 4, 2017, 842 SCRA 183, 203.
74 *Termination by Employer.* – An employer may terminate an employment for any of the following causes:
(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
(b) Gross and habitual neglect by the employee of his duties;
(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
(e) Other causes analogous to the foregoing.
75 *Demex Rattancraft, Inc. v. Leron*, G.R. No. 204288, November 8, 2017, 844 SCRA 461, 470.

valid or justifiable reason; and 2) a clear intention to sever the employer-employee relationship as manifested by some overt acts.[76]

The rule is that one who alleges a fact bears the burden of proving it.[77] Here, respondents failed to prove that Rodriguez abandoned her work. To be specific, they failed to prove the second element of abandonment — that she had intent to abandon. The Court quotes with affirmation the following findings of the CA:

> SSI has the burden of proof to show a deliberate and unjustified refusal of the employee to resume her employment without any intention of returning. It is therefore incumbent upon SSI to determine Rodriguez's interest or non-interest in the continuance of her employment. This, SSI failed to do so. In fact, Rodriguez wrote in the attached exchange of e-mail that she was surprised that Capaque said to SSI's clients that she abandoned her work. Also, the continued filing of applications for leave of absence by Rodriguez even without awaiting SSI's approval indicate that she did not intend to leave her work in SSI for good.[78]

In conclusion, The Court affirms the findings of the CA that Rodriguez was neither dismissed nor had abandoned her work.

Reinstatement, separation pay and doctrine of strained relations in cases where there is neither dismissal nor abandonment.

Rodriguez prays for separation pay instead of reinstatement, "considering that reinstatement is already out of the question due to records of harassment and detention endured by the petitioner in the hands of private respondent and other co-employees."[79] Respondents, for their part, allege that Rodriguez would have been dismissed had administrative proceedings been conducted because of "the presence of substantial evidence to hold her accountable for gross misconduct, gross negligence, and loss of trust and confidence."[80] Respondents categorically submit that reinstatement is no longer feasible because the parties' relationship has gone strained.[81]

The CA, after finding that there was neither dismissal nor abandonment, ruled that the remedy of the parties should be reinstatement without backwages.[82] However, the CA concluded that such reinstatement is no longer possible due to strained relations between the parties. Hence, the parties must bear their own losses.[83] In letting the parties be and bear the economic losses of their respective actions because of strained relations

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76 See *Samarca v. ARC-Men Industries, Inc.*, 459 Phil. 506, 515 (2003).
77 *Cosue v. Ferritz Integrated Development Corporation*, 814 Phil. 77, 87 (2017).
78 *Rollo*, p. 51.
79 Id. at 38-39.
80 Id. at 298.
81 Id. at 301.
82 Id. at 51.
83 Id. at 51-52.

between them, the CA effectively refused to order neither reinstatement nor separation pay in lieu thereof.

The Court cannot agree with the CA as regards the remedy it has afforded the parties.

Indeed, in cases where the parties failed to prove the presence of either dismissal of the employee or abandonment of his work, the remedy is to reinstate such employee without payment of backwages.[84] There is, however, a need to clarify the import of the term "reinstate" or "reinstatement" in the context of cases where neither dismissal nor abandonment exists. The Court has clarified that "reinstatement," as used in such cases, is merely an affirmation that the employee may return to work as he was not dismissed in the first place.[85] It should not be confused with reinstatement as a relief proceeding from illegal dismissal as provided under Article 279 of the Labor Code, to wit:

> Art. 294 [279]. Security of tenure. In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. **An employee who is unjustly dismissed from work shall be entitled to reinstatement** without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. (Emphasis and underscoring supplied)

Reinstatement under the aforequoted provision restores the employee who was unjustly dismissed to the position from which he was removed, that is, to his status quo ante dismissal.[86] In the present case, considering that there has been no dismissal at all, there can be no reinstatement as one cannot be reinstated to a position he is still holding.[87] Instead, the Court merely declares that the employee may go back to his work and the employer must then accept him because the employment relationship between them was never actually severed.

Moreover, as there can be no reinstatement in the technical sense of Article 279, the doctrine of strained relations likewise has no application.[88] This doctrine only arises when there is an order for reinstatement that is no longer feasible.[89] It cannot be invoked by the employer to prevent the employee's return to work nor by the employee to justify payment of separation pay. As discussed, there having been no abandonment nor

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84 See *Cosue v. Ferritz Integrated Development Corporation*, supra note 77 at 90; *HSY Marketing, Ltd., Co.v. Villastique*, 793 Phil. 560, 570 (2016); *Exodus International Construction Corporation v. Biscocho*, 659 Phil. 142, 159 (2011); *Leonardo v. NLRC*, 389 Phil. 118, 128 (2000).

85 *HSY Marketing, Ltd., Co. v. Villastique*, id. at 571; *Jordan v. Grandeur Security & Services, Inc.*, 736 Phil. 676, 692 (2014).

86 *Verdadero v. Barney Autolines Group of Companies*, 693 Phil. 646, 659 (2012).

87 *See* id. at 660.

88 *HSY Marketing, Ltd., Co., v. Villastique*, supra note 84 at 571.

89 *Verdadero v. Barney Autolines Group of Companies*, supra note 86 at 660.

dismissal, the employee-employer relationship between the parties subsists. Hence, there is no need for reinstatement.

Hence, too, there can be no payment of separation pay. Separation pay is generally not awarded to an employee whose employment was not terminated. In *Claudia's Kitchen, Inc. v. Tanguin*,[90] the Court has summed up the instances where such award of separation pay is warranted:

> **In sum, separation pay is only awarded to a dismissed employee in the following instances**: 1) in case of closure of establishment under Article 298 [formerly Article 283] of the Labor Code; 2) in case of termination due to disease or sickness under Article 299 [formerly Article 284] of the Labor Code; 3) as a measure of social justice in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character; 4) where the dismissed employee's position is no longer available; 5) when the continued relationship between the employer and the employee is no longer viable due to the strained relations between them or 6) when the dismissed employee opted not to be reinstated, or the payment of separation benefits would be for the best interest of the parties involved. In all of these cases, the grant of separation pay presupposes that the employee to whom it was given was dismissed from employment, whether legally or illegally. **In fine, as a general rule, separation pay in lieu of reinstatement could not be awarded to an employee whose employment was not terminated by his employer.**[91] (Emphasis and underscoring supplied)

In the present case, Rodriguez prays for the payment of separation pay in lieu of reinstatement, evidently relying on the alleged strained relations between her and SSI.[92] Under the doctrine of strained relations, such payment of separation pay is considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable.[93] On the one hand it liberates the employee from what could be a highly oppressive work environment. On the other hand, it releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker it could no longer trust.[94] However, as discussed, the doctrine presupposes that the employee was dismissed. This factor is clearly absent in Rodriguez's case.

Besides, the doctrine of strained relations cannot be applied indiscriminately since every labor dispute almost invariably results in "strained relations;" otherwise, reinstatement can never be possible simply because some hostility is engendered between the parties as a result of their disagreement. That is human nature.[95] Strained relations must be demonstrated as a fact. The doctrine should not be used recklessly or loosely applied, nor be based on impression alone.[96]

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90 811 Phil. 784 (2017).
91 Id. at 799.
92 *Rollo*, pp. 38-39.
93 *Claudia's Kitchen v. Tanguin*, supra note 90 at 800.
94 Id.
95 *Capili v. NLRC*, 337 Phil. 210, 216 (1997).
96 *Claudia's Kitchen v. Tanguin*, supra note 90 at 800.

In the present case, there is no compelling evidence to support the conclusion that the parties' relationship has gone so sour so as to render reinstatement impracticable. The CA, which was the only tribunal here to have declared the presence of strained relations, failed to discuss its basis in supporting this conclusion. Instead, in a brief and sweeping statement, it just merely declared the existence of strained relations, to wit:

> Under these circumstances, when taken together, the lack of evidence of illegal dismissal and the lack of intent on the part of Rodriguez to abandon her work, the remedy is reinstatement but without backwages. However, considering that reinstatement is no longer applicable due to the strained relationship between the parties, each party must bear his or her own loss, thus placing them on equal footing.[97]

As regards the prayer for payment of backwages, the same must likewise be denied because there was no dismissal. Article 279 provides for the payment of full backwages, among others, **to unjustly dismissed employees**. The grant of backwages allows the employee to recover from the employer that which he had lost by way of wages **as a result of his dismissal**.[98] Moreover, the Court has held that 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.[99]

In sum, the Court affirms the factual findings of the lower tribunals that Rodriguez failed to substantiate her claim that she was dismissed by SSI, constructively or otherwise. SSI likewise failed to prove by substantial evidence that Rodriguez had abandoned her work. Moreover, the doctrine of strained relations does not apply in the present case and may not excuse the parties from resuming their employment relationship or justify the award of separation pay. This being the case, SSI must be ordered to reinstate Rodriguez to her former position without payment of backwages. If Rodriguez voluntarily chooses not to return to work, she must then be considered as having resigned from employment.[100] This is, however, without prejudice to the parties willingly continuing with their former contract of employment or entering into a new one.

WHEREFORE, premises considered, the petition is **DENIED**. The Assailed Decision dated February 26, 2018 and Assailed Resolution dated June 22, 2018 of the Court of Appeals in CA-G.R. SP Nos. 145853 and 145922 are **PARTIALLY AFFIRMED.** Respondents are **ORDERED TO REINSTATE** petitioner Rodessa Quitevis Rodriguez to her former position without payment of backwages, in accordance with this Decision.

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97 *Rollo*, pp. 51-52.

98 *Verdadero v. Barney Autolines Group of Companies*, supra note 86.

99 *Exodus International Construction Corporation v. Biscocho*, supra note 84 at 160, citing *Leonardo v. NLRC*, supra note 84 at 128.

100 See similar ruling in *HSY Marketing, Ltd., Co. v Villastique*, supra note 84 at 572; see also *Verdadero v. Barney Autolines Group of Companies*, supra note 86 at 660.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ESTELA M. PERLAS-BERNABE
Associate Justice

JOSE C. REYES, JR.
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
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.

LUCAS P. BERSAMIN
Chief Justice