



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

RHODORA R. MORENO,
 Petitioner,

G.R. No. 203942

Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,
HERNANDO,
INTING,
GAERLAN, and
ROSARIO, JJ.

**CHATEAU ROYALE SPORTS
 AND COUNTRY CLUB, INC.,
 JOEL GO, ROWELL DAVID,
 ROLANDO BASILIO AND JAN
 MICHEL GAUTIER,***
 Respondents.

Promulgated:

AUG 04 2021

X-----X

DECISION

GAERLAN, J.:

This is a Petition for Review on *Certiorari*¹ assailing the Decision² dated May 18, 2012 and the Resolution³ dated October 19, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 116429. The CA affirmed the Decision⁴ dated April 15, 2010 and the Resolution⁵ dated July 30, 2010 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 11-002978-09, which reversed the Decision⁶ dated April 29, 2008 of the Labor Arbiter (LA) in NLRC-RAB-IV-03-22539-06-B.

* Also spelled as Jan-Michel Gautier and Jan-Michel Gautter in some parts of the *rollo*.
 1 *Rollo*, pp. 8-45.
 2 *Id.* at pp. 426-438; penned by Associate Justice Rodil V. Zalameda (now a Member of this Court) with the concurrence of Associate Justices Rebecca De Guia-Salvador and Normandie B. Pizarro.
 3 *Id.* at 512-513.
 4 *Id.* at 327-333; penned by Commissioner Perlita B. Velasco with the concurrence of Commissioners Romeo L. Go and Gerardo C. Nograles (on leave).
 5 *Id.* at 396-397.
 6 *Id.* at 278-282; penned by Labor Arbiter Monroe C. Tabingan.

The Antecedent Facts

Respondent Chateau Royale Sports and Country Club, Inc. (Chateau Royale) is a corporation operating a resort hotel in Nasugbu, Batangas. On February 8, 2005, it hired petitioner Rhodora “Dolly” R. Moreno (Moreno) as its Operations Manager on a probationary capacity with a monthly salary of ₱50,000.00 and additional benefits.

Petitioner’s Allegations

Moreno alleged that she filed a notice of resignation on April 28, 2005 because of a better job offer from the Office of Cynthia Villar. However, the President of Chateau Royale, Joel T. Go (President Go), and its Chairman, Jose Go (Chairman Go), asked her to decline it in exchange for her promotion to General Manager (GM) with an increase in salary and benefits. Two weeks later, President Joel Go verbally confirmed the adjustment of her position to GM and a salary increase to ₱110,000.00 per month.

On July 8, 2005, Moreno recommended to the Human Resources Division (HRD) Office the regularization of some probationary employees in the Engineering Department which was rejected. Instead, President Go ordered the HRD Office to transfer the probationary employees to a manpower agency without diminution in position or salary. Moreno questioned this directive and insisted it was illegal. This allegedly drew President Go’s ire.

On August 4, 2005, Moreno received a Memorandum from the HRD Office confirming her regularization as Operations Manager effective August 8, 2005. She noticed that her position was not indicated as GM and immediately called President Go who said that he would look into the matter.

On March 9, 2006, Moreno was surprised when Chateau Royale hired Jan Michel Gautier (Gautier), a French national, as the overall GM of Chateau Royale and its sister companies Evercrest Golf Club and Resort, Inc., Gulod Resorts, Inc., and Lakeboat, Inc. She met with Gautier only briefly but had to go on sick leave the following day until March 21, 2006 to undergo treatment for her hyperthyroidism.⁷

Upon her return to work on March 22, 2006, Moreno was introduced by her accounting clerk, Bambi Camacho (Camacho), to Rolando Basilio (Basilio), another newly appointed Group Human Resources (HR) Manager.

⁷ Id. at 20.

Camacho also handed her an organizational chart which was supposedly used during a meeting while she was on sick leave. To her disbelief, she was no longer included in the organization.⁸

On March 23, 2006, she learned that Gautier already set up his own office at the lobby premises.⁹ She was also approached by Basilio who informed her that management has decided to hire a foreign management group and has lost its trust and confidence in her. She was told that if she refused to resign, the legal department would take appropriate action.¹⁰ She asked what she did wrong and wanted to discuss the matter with President Go, but the latter refused and ordered Basilio to deal with her.

Later that day, Basilio returned to Moreno's office to hand her a Memorandum which directed her to explain why she should not be penalized for negligence and abuse of position. She felt disheartened and unwell after reading this and went home. She initiated the instant labor case the following day.¹¹

In her Position Paper,¹² dated June 20, 2006, Moreno claimed that she was constructively dismissed by Chateau Royale since "the removal of [her] authority over her staff, the non-payment of her benefits, the demand of Mr. Basilio for her to resign, the issuance of [the] memorandum for her preventive suspension, the coming of Jan Michel G[au]tier assuming her position forced her to quit from work."¹³ Consequently, she sought her reinstatement and payment of backwages, moral and exemplary damages, attorney's fees, and litigation expenses.¹⁴

Respondent's Allegations

Chateau Royale in its Position Paper,¹⁵ dated July 6, 2006, alleged that it received an Informative Report¹⁶ from Security Officer Leo Felipe L. Arevalo (Arevalo) on March 23, 2006, which enumerated company policy violations committed by Moreno as follows:

⁸ Id. at 428-429.

⁹ Id. at 21.

¹⁰ Id. at 429.

¹¹ Id.

¹² Id. at 81-103.

¹³ Id. at 95.

¹⁴ Id. at 83.

¹⁵ Id. at 126-137.

¹⁶ Id. at 138.

- (1) Please be inform[ed] that Operation Manager Dholly Moreno of Chateau Royale Sports and Country Club checked/in at Gate-1 together with her husband on board Balitawak Nissan Sentra color white without plate number on or about 1756H; 22 March 2006, proceed to her office and do some paper works. At exactly 2223H: of same date checked/out from office together with her husband and proceed at their quarter in log cabin on board service golf car.
- (2) The following day on or about 0915H: 23 March 2006 Operation Manager Madame Dholly Moreno of Chateau Royale reported to her office together with her husband, ate food in her office. It was also seen by the employees that her husband was smoking inside the office, same activities doing office work related to operation management.

For your information and guidance.¹⁷

These violations of company rules constrained the HRD Office to issue Moreno a Memo to Explain and Preventive Suspension¹⁸ dated March 23, 2006 (Memo to Explain). She was put on preventive suspension for only thirty (30) days and was directed to explain why no disciplinary action should be taken against her. However, instead of explaining her side, she filed a complaint with the LA.

It was further argued that Moreno's complaint for constructive dismissal was premature and highly suspicious considering it was filed only a day after the issuance of the Memo to Explain against her. Moreno was also never dismissed by Chateau Royale. During one of the hearings before the LA, Basilio even informed her that she could report back to work.¹⁹

Nevertheless, the seriousness of Moreno's violations and insubordination are sufficient grounds for Chateau Royale's loss of confidence in her. It bears stressing that she is supposed to be the Operations Manager who should set a good example to employees to abide by the company rules. There being no illegal or constructive dismissal, Moreno is not entitled to her claims for backwages, salaries, allowances, benefits, damages, attorney's fees, and litigation expenses.²⁰

¹⁷ Id.

¹⁸ Id. at 139-140.

¹⁹ Id. at 129-131.

²⁰ Id. at 131-134.

LA Ruling

The LA issued its Decision²¹ ruling that Moreno was constructively dismissed and ordering Chateau Royale to reinstate her and pay full backwages and attorney's fees:

WHEREFORE, premises all considered, judgment is hereby rendered ordering respondent Chateau Royale Sports and Country Club, Inc. liable to:

- 1) reinstate complainant to her former position without loss of seniority rights;
- 2) pay complainant full backwages from the time she was illegally dismissed up to actual reinstatement; and

P110,000.00 x 25 months	= P2,750,000.00
13 th Month Pay: P2,750,000.00 / 12	= 229,166.65
TOTAL BACKWAGES	= P2,979,166.65

- 3) pay complainant attorney's fees at 10% of the total monetary award to be recovered (P2,979,166.65 x 10% = P297,916.65)

All other claims are dismissed for lack of merit.

SO ORDERED.²²

The LA held that the penalty imposed by Chateau Royale on Moreno was not commensurate with the offense she committed. There was no sufficient proof how Moreno breached the trust and confidence reposed in her. It also concluded that Chateau Royale's actions of hiring GM Gautier, removing Moreno from its organizational chart, and issuing the Memo to Explain through a subordinate, were abusive and tantamount to constructive dismissal.²³

Dissatisfied, Chateau Royale appealed the LA Decision to the NLRC.

Chateau Royale filed a Memorandum of Appeal²⁴ alleging that the LA gravely erred in ruling that Moreno was constructively dismissed without any factual basis.²⁵ The LA should not have blindly relied on Moreno's self-serving allegations which were belied by the evidence on record.

²¹ Id. at 278-282.

²² Id. at 282.

²³ Id. at 281-282.

²⁴ Id. at 283-302.

²⁵ Id. at 295.

The following grounds were asserted to refute Moreno's claim of constructive dismissal:

1. The LA had no basis to conclude that Chateau Royale was "estopped to deny that they appointed [Moreno] from her position as Operations Manager to General Manager but her functional title remained as Operations Manager."²⁶ Moreno was appointed as Operations Manager and never GM. This is evident from her Letter of Appointment²⁷ which indicated her position as "Operations Manager." This was reiterated in the Letter²⁸ which regularized her employment for the position of "Operations Manager." Moreno failed to show proof of a binding agreement to appoint her as GM.²⁹

Hence, Gautier's hiring was not tantamount to Moreno's constructive dismissal. Gautier was appointed the overall GM not just of Chateau Royale but also of its sister companies operating establishments nearby. This was done to improve coordination among the companies. All other similarly situated operations managers of its sister companies reported to Gautier and graciously accepted this set-up unlike Moreno. Thus, Gautier's hiring did not mean that Moreno was being eased out of her position as Operations Manager.³⁰

2. Moreno is a subordinate officer who cannot impose her recommendations upon President Go. The implementation of a Job Evaluation Program and reorganization of employees is part of Chateau Royale's powers to conduct its regular business affairs. The fact that her recommendation to regularize several employees was not followed could not amount to her constructive dismissal.

Regardless, Moreno's claim that Chateau Royale's refusal to regularize the employees was illegal had no basis. The records show that there were valid reasons for the same.³¹

3. The organizational chart allegedly shown to Moreno cannot be given any evidentiary value. A perusal of the document readily shows that it did not come from Chateau Royale. It was not printed on Chateau Royale's official paper with letterhead, nor did it have the signature or approval of any of its officers or directors. Even worse, the

²⁶ Id. at 289.

²⁷ Id. at 104-105.

²⁸ Id. at 106.

²⁹ Id. at 289-290.

³⁰ Id. at 292-293.

³¹ Id. at 290-292.

organizational structure reflected does not appear appropriate for a sport and leisure facility.³²

4. Moreno erred when she claimed that the Memo to Explain was coursed through her subordinate. On the contrary, Basilio is not her subordinate and is actually higher than her in rank. As Group HR Manager, Basilio has jurisdiction not just over Chateau Royale employees, such as Moreno, but also those from its other sister companies.

Chateau Royale asserted that all of Moreno's claims are therefore unavailing. It had no intent to sever her employment and it never issued a notice/order of her dismissal. It was Moreno who harbored a grudge against Chateau Royale when it hired Gautier. However, she did not have any vested right to the position of GM and the hiring of Gautier was a valid exercise of management prerogative.³³

In addition, despite the end of Moreno's preventive suspension on March 23, 2006, she failed to report for work. Her obstinate refusal to return to work constitutes a clear case of abandonment. The Memo to Explain issued against her was based on factual reports and was not concocted to harass her. She could have easily answered it but instead filed this baseless and wanton labor suit. Because of this, she is deemed to have forfeited her employment with Chateau Royale.³⁴

Finally, Chateau Royale contended that the LA had no basis to grant Moreno's monetary claims solely on her self-serving assertion that she was promoted to GM and had a salary of ₱110,000.00 per month. This was unsubstantiated and contradicted by the evidence adduced.³⁵

NLRC Ruling

The NLRC First Division rendered its Decision³⁶ granting Chateau Royale's appeal and reversing the LA Decision:

WHEREFORE, the appeal is GRANTED. The Decision of Labor Arbiter Monroe C. Tabinan dated April 29, 2008 is REVERSED and SET ASIDE and a new one entered DISMISSING the complaint.

³² Id. at 292-294.

³³ Id. at 295-296.

³⁴ Id. at 296.

³⁵ Id. at 297-298.

³⁶ Id. at 327-333.

SO ORDERED.³⁷

It held that Moreno was not constructively dismissed and that her perception of being singled out in their organization was unsubstantiated. The organizational chart which allegedly omitted her was not an official document prepared by Chateau Royale. It is also difficult to discern how the hiring of Gautier made her continued employment unreasonable and impossible since she was not a GM but an Operations Manager.³⁸

Moreno filed a Motion for Reconsideration³⁹ of the NLRC Decision, to which Chateau Royale filed an Opposition/Comment.⁴⁰

The NLRC First Division issued its Resolution⁴¹ denying Moreno's Motion for Reconsideration for lack of merit:

WHEREFORE, the motion for reconsideration is hereby DISMISSED for lack of merit. No further motion for reconsideration of the same tenor shall be entertained.

SO ORDERED.⁴²

Aggrieved, Moreno filed a petition for *certiorari*⁴³ with the CA assailing the NLRC Decision and Resolution based essentially on her earlier arguments.

Chateau Royale filed a Comment⁴⁴ to the petition for *certiorari*.

The parties thereafter filed their respective memoranda.⁴⁵

CA Ruling

The CA rendered the assailed Decision⁴⁶ which denied Moreno's petition for *certiorari* and affirmed the NLRC:

³⁷ Id. at 332-333

³⁸ Id. at 331-332.

³⁹ Id. at 334-381.

⁴⁰ Id. at 382-394.

⁴¹ Id. at 396-397.

⁴² Id. at 397.

⁴³ Id. at 46-79.

⁴⁴ Id. at 399-412.

⁴⁵ Id. at 458-492, 493-508.

⁴⁶ Id. at 426-438.

WHEREFORE, premises considered, the instant Petition is DISMISSED. The Decision dated 15 April 2010 and Resolution dated 30 July 2010 of the NLRC First Division are hereby AFFIRMED.

SO ORDERED.⁴⁷

The CA found that the hiring of Gautier was not a discriminatory act against Moreno since she was an Operations Manager exercising different functions. Also, Moreno utterly failed to substantiate her claim that she was the GM.⁴⁸

It further noted that there was a considerable lapse of time between Moreno's alleged promotion to GM and Gautier's hiring. These incidents occurred six months apart and it is questionable that Moreno did not seek a formal confirmation of her alleged promotion for such a long period.⁴⁹

On Moreno's preventive suspension, the CA observed that this could only be validly imposed if her continued employment posed a serious and imminent threat to the life or property of the employer or of his co-workers. However, the validity of the preventive suspension was not put in issue by the parties. Regardless, Moreno's preventive suspension alone cannot be sufficient to support her claim that she was discriminated and forced to leave work.⁵⁰

Moreno filed a Motion for Reconsideration⁵¹ of the CA Decision asking it to reexamine the weight of President Go's verbal confirmation and other overt acts and manifestations which prove her appointment as GM.

Chateau Royale filed a Comment⁵² to the Motion for Reconsideration and stressed that Moreno made a judicial admission that no documentary evidence exists to prove that she was appointed as GM.⁵³

The parties subsequently filed their respective memoranda.⁵⁴

⁴⁷ Id. at 438.

⁴⁸ Id. at 433-434.

⁴⁹ Id. at 434-435.

⁵⁰ Id. at 436-437.

⁵¹ Id. at 439-447.

⁵² Id. at 448-456.

⁵³ Id. at 451.

⁵⁴ Id. at 458-492, 493-509.

The CA issued its Resolution⁵⁵ denying Moreno's Motion for Reconsideration on the ground that all the averments and arguments made were already judiciously considered and passed upon:

WHEREFORE, premises considered, the instant Motion for Reconsideration is DENIED. Accordingly, the Decision of this Court dated 18 May 2012 stands.

SO ORDERED.⁵⁶

Hence, the instant petition.⁵⁷

Issue

The issue is whether or not the CA committed reversible error in affirming the Decision and Resolution of the NLRC finding that Moreno was not constructively dismissed.

The Petition

To summarize, Moreno averred that she was constructively dismissed because of the following circumstances which made her continued employment too difficult to bear:

1. Although she was initially hired as Operations Manager, she was upgraded to GM by President Go as evidenced by his overt acts and manifestations. The hiring of Gautier who subverted all the orders and directions she gave to her staff was done in bad faith and in disregard of her position and capacity as the GM.⁵⁸
2. She sincerely believed that the organizational chart shown to her was an official document because it was presented during a meeting while she was on sick leave. Chateau Royale failed to deny this fact and is estopped.⁵⁹
3. She drew President Go's ire when she fought for the regularization of several employees in the Engineering Department. Her relationships

⁵⁵ Id. at 512-513.

⁵⁶ Id. at 513.

⁵⁷ Id. at 8-45.

⁵⁸ Id. at 34-37.

⁵⁹ Id. at 37-38.

with President Go and Chairman Go were no longer smooth after the incident.⁶⁰

Chateau Royale filed a Comment⁶¹ to the petition reinforcing the findings and legal conclusions of the CA and the NLRC.

Moreno filed a Reply⁶² to the Comment reiterating that all the circumstances, taken together, established that the working environment in Chateau Royale became unbearable and forced her to leave.

Ruling of the Court

The petition is denied.

At the outset, it is a general rule that only questions of law are considered in petitions for review filed under Rule 45 of the Rules of Court. This Court is not a trier of facts and the factual findings of administrative or quasi-judicial bodies such as labor tribunals are deemed binding when supported by substantial evidence.⁶³

This rule may be relaxed only in exceptional circumstances such as when: (1) the findings are grounded entirely on speculations, surmises or conjectures; (2) the inference made is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) the CA in making its findings went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) the findings are contrary to that of the trial court; (8) the findings are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition and briefs are not disputed by the respondent; (10) the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.⁶⁴

⁶⁰ Id. at 38.

⁶¹ Id. at 528-539.

⁶² Id. at 542-552.

⁶³ *Cosue v. Ferritz Integrated Development Corporation*, 814 Phil. 77, 85 (2017).

⁶⁴ *St. Paul College, Pasig v. Mancol*, 824 Phil. 520, 534-535 (2018).

In this case, the factual findings of the CA and the NLRC differed from the LA. This case therefore falls under an exception for this Court to resolve even the factual issues raised.

The CA correctly affirmed that Moreno was not constructively dismissed.

There is constructive dismissal of an employee when “continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank and/or a diminution in pay; or when a clear discrimination, insensibility or disdain by an employer becomes unbearable to the employee.”⁶⁵ In such cases, an employee is left with no other recourse but to terminate his or her employment.

At the core of constructive dismissal is “the gratuitous, unjustified, or unwarranted nature of the employer’s action. As it is a question of whether an employer acted fairly, it is inexorable that any allegation of constructive dismissal be contrasted with the validity of exercising management prerogative.”⁶⁶

It is well-settled that an employee’s claim of constructive dismissal must be substantiated with clear and convincing evidence. Bare and self-serving allegations of such cannot be given credence.⁶⁷

This Court in *Gemina, Jr. v. Bankwise, Inc.*⁶⁸ denied the employee’s claim of constructive dismissal for his failure to prove that the employer committed acts of utter discrimination and insensibility so intense that it became unbearable for him to continue his employment. It was further elucidated that alleged discriminatory acts cannot pertain to the legitimate exercise of management prerogative:

As correctly held by the NLRC and the CA, Gemina’s claim of constructive dismissal is not supported by the facts of the case. Both tribunals ruled that the circumstances mentioned by Gemina do not partake of discriminatory acts calculated to force him to leave employment. **The acts complained of merely pertain to the legitimate exercise of management prerogatives.**

⁶⁵ Id. at 535.

⁶⁶ Id.

⁶⁷ *Cosue v. Ferritz Integrated Development Corporation*, supra note 63 at 86.

⁶⁸ 720 Phil. 358 (2013).

x x x x

A close scrutiny of the facts of the case will bear out that Gemina indeed failed to state circumstances substantiating his claim of constructive dismissal. To begin with, he does not claim to have suffered a demotion in rank or diminution in pay or other benefits. What he claims is that he had been subjected to several acts of harassment by some of the officers of Bankwise by way of (1) asking him to take a forced leave of absence, (2) demanding for the return of his service vehicle, and (3) delaying the release of his salaries and allowances in order to compel him to quit employment.

It is a well-settled rule, however, that 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. Bare allegations of constructive dismissal, when uncorroborated by the evidence on record, cannot be given credence.

In the instant case, **the records are bereft of substantial evidence that will unmistakably establish a case of constructive dismissal**. An act, to be considered as amounting to constructive dismissal, must be a display of utter discrimination or insensibility on the part of the employer so intense that it becomes unbearable for the employee to continue with his employment. Here, the circumstances relayed by Gemina were not clear-cut indications of bad faith or some malicious design on the part of Bankwise to make his working environment insufferable.

x x x x

Without substantial evidence to support his claim, Gemina's claim of constructive dismissal must fail. It is an inflexible rule that a party alleging a critical fact must support his allegation with substantial evidence, for any decision based on unsubstantiated allegation cannot stand without offending due process.⁶⁹ (Emphasis and underscoring supplied; citations omitted)

It was similarly held in *Rodriguez v. Sinitron Systems, Inc.*⁷⁰ (*Rodriguez*) that the employee could not be deemed constructively dismissed for her failure to prove the factual basis of her claims with substantial evidence.

In this case, after reviewing the records, this Court finds no compelling reasons to reverse the CA and the NLRC. Moreno's claim of constructive dismissal is denied.

To reiterate, Moreno anchored her claim of constructive dismissal on Chateau Royale's alleged acts of discrimination, insensibility, and harassment against her. However, she failed to discharge the burden to prove the same on the part of Chateau Royale with clear and convincing evidence.

⁶⁹ Id. at 369-373.

⁷⁰ G.R. No. 240254, July 24, 2019.

Firstly, the hiring of Gautier cannot be considered a discriminatory act, in bad faith, against Moreno to ease her out of employment. This was a legitimate and valid exercise of management prerogative on the part of Chateau Royale.

Moreno failed to prove that she was the GM or had any right to the position. She relied solely on her bare allegation that President Go promised and appointed her as GM while she was still on probation. Such cannot be given credence in the absence of substantial evidence.

The records are replete with evidence disproving Moreno's claim that she was appointed as GM. Her Letter of Appointment⁷¹ explicitly indicated her position as "Operations Manager." When she was subsequently regularized, she was appointed in her letter of regularization⁷² as "Operations Manager." She also admitted in her Affidavit⁷³ that she was hired as an Operations Manager.

Even if it were true that President Joel Go verbally promised Moreno to make her GM, such is not legally binding. Moreno agreed to the terms in her letter of appointment⁷⁴ that there can be no binding verbal agreements between her and the company with regard to her employment:

It is expressly agreed and understood that there are no verbal agreements between you and the company or any of its agents and representatives affecting this agreement and no alterations or variations of the terms hereof shall be binding upon either party to this agreement unless reduced into writing and signed by you and the institution.⁷⁵

The observation of the CA is also well-taken that over six months had lapsed between Moreno's alleged promotion to GM and the hiring of Gautier. If she was truly appointed as GM, it is reasonable to expect that she would be persistent in obtaining its formal confirmation. The GM is notably one of the highest positions in the organization just below the President. It arguably possesses authority to represent the company and make important decisions, and is therefore usually given a formal appointment to enable it to effectively exercise its functions. In this regard, Moreno's claim that she became GM without any formal appointment from management or documentary evidence is highly doubtful.

⁷¹ *Rollo*, pp. 104-105.

⁷² *Id.* at 106.

⁷³ *Id.* at 114-125.

⁷⁴ *Id.* at 104-105.

⁷⁵ *Id.* at 105

Significantly, Moreno likewise failed to prove that Gautier's position and functions were incompatible with hers. On the contrary, Chateau Royale sufficiently explained that the GM and Operations Manager positions were distinct and intended to harmoniously co-exist and work together in the organization.

Moreno admitted that Gautier was hired as the GM of Chateau Royale and its sister companies to improve coordination among them. It is therefore apparent that Gautier's position and functions did not unduly affect Moreno's authority or remove her functions as the Operations Manager of Chateau Royale. Gautier's focus was on a macro level to improve the coordination among the Group's sister companies, while Moreno remained primarily focused on the operations of Chateau Royale. It bears emphasis that the other similarly situated Operations Managers of the sister companies accepted this arrangement and continued to exercise their functions without any issues.

Notably, Gautier set up his office in the lobby premises of Chateau Royale and did not, in any way, intrude or disrupt Moreno's office. Moreno retained her office and all its appurtenant privileges in order to carry out her functions. This further supports Chateau Royale's claim that it had no intent to harass or drive her out of employment.

Secondly, this Court affirms the unanimous conclusion by the CA and the NLRC that the organizational chart allegedly shown to Moreno cannot be considered an official document. Chateau Royale vehemently denied issuing the same and it bears no indication that it was an official document. Moreno also admits that she had no personal knowledge of the circumstances in which it was used since it was only shown to her by her accounting clerk.

Moreno attempts to use the organizational chart against Chateau Royale based only on her "sincere belief" that it was an official document. Regrettably, this personal belief cannot be given any weight without corroborating evidence.

Thirdly, Moreno's claims that she drew President Joel Go's ire and that her relationship with him was no longer smooth are self-serving and unsubstantiated. No evidence was presented to demonstrate any specific acts committed by President Go to harass and discriminate her, or prove that they had strained relations.

The fact that President Go coursed the Memo to Explain through Basilio, the HR Manager of the group of companies, was not an affront to Moreno. It was adequately explained that Basilio's functions covered all human resource

matters of Chateau Royale and its sister companies, which necessarily included her.

The issuance of the Memo to Explain,⁷⁶ by itself, cannot also be considered an act of harassment and abuse. Chateau Royale explained that its actions were done in good faith pursuant to an informative report submitted by Arevalo. It was pertinently stated in the Memo to Explain:

Per attached Security Report, it was reported that yesterday March 22, 2006, you came to the hotel with your husband. It was also reported that he stayed with you in your cabin for the night. And this morning, March 23, 2006, your husband ate in your office and smoked in the presence of employees which is a violation in our company policy.

It was also verbally reported that you are meddling with Security matter as they apprehend one (1) on-call staff passing by the Main Gate of the hotel and you allegedly favored the staff without consulting with the HRD.⁷⁷

x x x

It should be noted that Moreno did not deny committing these acts and merely claimed that these occurred during her leave. The Memo to Explain therefore was based on company policy violations and was not patently abusive and discriminatory. The proper action for Moreno was to respond thereto and explain her side.

It is evident from the foregoing that there is insufficient factual and legal basis that Moreno was constructively dismissed.

Nevertheless, this Court must deny Chateau Royale's claim that Moreno has abandoned or forfeited her employment. Abandonment of employment is defined as "the deliberate and unjustified refusal of an employee to resume his employment." This amounts to neglect of duty sufficient to constitute a just cause for termination. It requires the concurrence of the following elements: (1) failure to report for work or absence without valid or justifiable reason, and (2) a clear intention to sever the employer-employee relationship.⁷⁸

The employer has the burden to prove that there was deliberate and unjustified refusal by the employee to resume employment, without any intention of returning. However, it has been recognized that abandonment is incompatible with constructive dismissal.⁷⁹

⁷⁶ Id. at 139-140.

⁷⁷ Id. at 139.

⁷⁸ *Tan Brothers Corporation of Basilan City v. Escudero*, 713 Phil. 392, 400 (2013).

⁷⁹ *Borja v. Minoza*, 812 Phil. 133, 147 (2017).


In this case, Moreno immediately filed the complaint against Chateau Royale to assail her alleged illegal dismissal. Her consistent prayer to seek reinstatement throughout the proceedings negates her intention to abandon work.⁸⁰

Although Moreno was not illegally dismissed by Chateau Royale, she cannot be considered to have abandoned her work. Hence, as elucidated in *Rodriguez*, there can be no grant of “reinstatement” similar to illegal dismissal cases since “there can be no reinstatement as one cannot be reinstated to a position he is still holding. 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.”⁸¹

Necessarily, Moreno is not entitled to her claims for full backwages, salaries, benefits, and other monetary claims which are granted only to employees who have been unjustly dismissed pursuant to Article 279 of the Labor Code. Nonetheless, Chateau Royale should admit Moreno to her former position, or a substantially-equivalent position, without payment of backwages. If Moreno refuses to return to work, she is considered to have resigned from employment.⁸² In the event that reinstatement to her old position is no longer possible, and the employee’s failure to work was occasioned neither by abandonment nor termination, the Court has recognized that each party must bear their own economic loss.⁸³

WHEREFORE, premises considered, the petition for review is **DENIED**. The Decision dated May 18, 2012 and Resolution dated October 19, 2012 of the Court of Appeals in CA-G.R. SP No. 116429 are **AFFIRMED with MODIFICATION**. Respondent Chateau Royale Sports and Country Club, Inc. is **ORDERED to REINSTATE** petitioner Rhodora R. Moreno to her former position without payment of backwages or other monetary claims.

SO ORDERED.


SAMUEL H. GAERLAN
Associate Justice

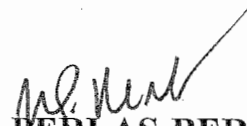
⁸⁰ *Rollo*, p. 102.

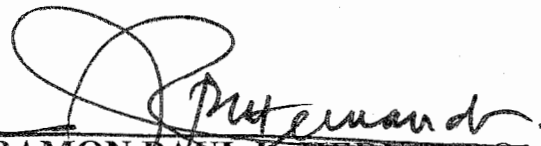
⁸¹ *Rodriguez v. Sinitron Systems, Inc.*, supra note 70.

⁸² *Id.*

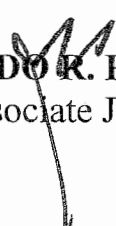
⁸³ *Borja v. Minoza*, supra note 79 at 147, citing *MZR Industries v. Colambot*, 716 Phil. 617, 628 (2013).

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RICARDO R. ROSARIO
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, Second Division

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

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