Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JOSE R. DELA TORRE,
Petitioner,

- *versus* -

TWINSTAR PROFESSIONAL PROTECTIVE SERVICES, INC.,
Respondent.

G.R. No. 222992

Present:

LEONEN, *J.*,*
HERNANDO,
Acting Chairperson,
INTING,
DELOS SANTOS, and
LOPEZ, J. Y., *JJ.*

Promulgated:

June 23, 2021

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DECISION

HERNANDO, *J.*:

This Petition for Review on *Certiorari*[1] assails the September 3, 2015 Decision[2] and the February 11, 2016 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 129324 which found petitioner Jose R. Dela Torre (petitioner) not illegally dismissed from the service.

The facts of the case are as follows:

In October 1988, petitioner was employed as a security guard by respondent Twinstar Professional Protective Services, Inc. (Twinstar).[4] He

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* On Wellness Leave.
1 *Rollo*, pp. 11-47.
2 Id. at 49-63; penned by Associate Justice Samuel H. Gaerlan (now a member of this Court) and concurred in by Associate Justices Normandie B. Pizarro and Ma. Luisa C. Quijano-Padilla.
3 Id. at 64-66.
4 Id. at 50.

was deployed at the Las Haciendas in Tarlac City and was paid a daily wage of ₱240.00.[5]

Sometime in January 2011, petitioner sought assistance from the program of a certain Mr. Tulfo to complain about the underpayment of his salaries.[6] On January 24, 2011, Commander Cesario Guhilde directed petitioner to report to Twinstar's office in Quezon City.[7] Upon reporting to the office the next day, he was informed by Twinstar's administrative officer that he was being placed on floating status.[8]

Petitioner alleged that he was on floating status for more than six (6) months which prompted him to file a complaint for illegal dismissal and underpayment/non-payment of certain salaries and benefits on August 23, 2011 against Twinstar.[9] On October 18, 2011, the said complaint was amended to limit his cause of action to illegal dismissal and non-payment of separation pay.[10]

Despite receipt of summons for mandatory conferences on various dates, Twinstar failed to appear and thus, the Labor Arbiter (LA) required the parties to submit their respective position papers on the mandatory conference scheduled December 5, 2011.[11] However, since Twinstar still failed to attend the said mandatory conference and considering that petitioner was not ready to submit his position paper on said date, the submission of position papers was reset to January 11, 2012, and later to January 30, 2012 because of the same reasons.[12] On January 30, 2012, only petitioner appeared and submitted his position paper.[13]

Ruling of the Labor Arbiter:

In a Decision dated March 19, 2012, the LA held that petitioner was constructively dismissed, and thus entitled to backwages and separation pay in lieu of reinstatement.[14] The dispositive portion of the LA Decision reads:

> IN SUM, respondent Twinstar Professional Protective Services, Inc. is hereby ordered to pay complainant Jose Dela Torre backwages in the amount of Php118,6645.83 and separation pay in the amount of Php 157,560.00.
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> SO ORDERED.[15]

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5 Id.
6 Id.
7 Id.
8 Id.
9 Id. at 50-51.
10 Id. at 50.
11 Id. at 51.
12 Id.
13 Id.
14 Id. at 169-173.
15 Id. at 173.

Twinstar then filed an appeal with the National Labor Relations Commission (NLRC).[16] Twinstar admitted that it hired petitioner as a security guard and that his latest assignment was in Las Haciendas Luisitas in Tarlac City during which he went on absence without leave (AWOL) on or about January 21, 2011.[17] Twinstar alleged in its defense that it had sent several notices to petitioner for him to report for duty, specifically: 1) Order to Report for Duty dated June 3, 2011; 2) 2nd Notice to Report for Work dated June 9, 2011; and 3) Last & Final Order to Report for Duty dated June 22, 2011. Moreover, Twinstar claimed that aside from these notices, a duty officer of the company sent text messages and tried to call petitioner but to no avail. In fact, petitioner has also refused to receive a company letter on June 8, 2011, and manifested his unwillingness to go on duty anymore to a company officer who was tasked to deliver such letter.[18]

Thus, since petitioner did not report back to Twinstar for reassignment despite all the opportunities given to him, the latter teminated the former's employment on July 19, 2011. Subsequently, petitioner filed his second complaint for illegal dismissal and money claims, but notably, during the October 18, 2011 hearing, he declined Twinstar's offer of reassignment and opted to be paid separation pay instead.[19] Regarding its failure to submit its position paper and documentary evidence before the LA, Twinstar blamed the negligence of its previous counsels. Relevantly, Twinstar alleged that petitioner had already filed an earlier labor complaint with the DOLE-NCR and executed a Deed of Quitclaim and Release on March 3, 2012, but the same was not established with the LA due to the aforementioned negligence of its previous counsels.[20]

Ruling of the National Labor Relations Commission:

On August 16, 2012, the NLRC rendered a Decision[21] granting Twinstar's appeal and reversing the assailed LA Decision. The NLRC applied liberality and allowed the presentation of Twinstar's evidences for the first time on appeal,[22] and ruled that no constructive dismissal took place.[23] Despite having just cause, the NLRC ruled that Twinstar indeed failed to observe due process in terminating petitioner, but did not direct the company to pay nominal damages anymore, which, generally, the employee is entitled to, in this case due the existence of a valid Quitclaim and Release dated March 3, 2012 (Quitclaim).[24] The dispositive portion of the NLRC ruling reads:

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[16] Id. at 174-221.
[17] Id. at 176.
[18] Id. at 176-177.
[19] Id. at 177-178.
[20] Id. at 179-180.
[21] Id. at 230-242.
[22] Id. at 235-236.
[23] Id. at 236-237.
[24] Id. at 237-239.

> WHEREFORE, respondents' appeal is GRANTED and the appealed Decision is hereby REVERSED and SET ASIDE. Accordingly, the complaint for illegal dismissal is hereby DISMISSED for lack of merit.
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> SO ORDERED.[25]

Petitioner moved for reconsideration[26] but was subsequently denied by the NLRC.[27] Thus, he filed a petition for *certiorari* with the CA.

Ruling of the Court of Appeals:

On September 3, 2015, the CA rendered the assailed Decision[28] which denied the petition of petitiomer for lack of merit. The CA ruled that the NLRC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when it allowed Twinstar to present its evidence for the first time on appeal and when it ruled that petitioner was not illegally dismissed.[29]

The CA also ruled that the Quitclaim was valid and hence it erased whatever infirmities there might have been in the notice of termination, which consequently meant that no abuse of discretion can be imputed to the NLRC in not awarding nominal damages.[30] The dispositive portion of the CA Decision reads:

> WHEREFORE, premises considered, the instant petition is DENIED for lack of merit.
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> SO ORDERED.[31]

On February 11, 2016, the CA issued a resolution denying petitioner's motion for reconsideration.[32] Hence, the instant petition.

Issues:

> 1) Whether or not the CA gravely erred in affirming the NLRC when it admitted and gave credence to Twinstar's evidence submitted for the first time on appeal; and
> 2) Whether or not the CA gravely erred in finding that Jose was not illegally dismissed.
> 3) Whether or not the CA erred in affirming the NLRC when it denied the award of nominal damages by reason of the alleged quitclaim.[33]

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[25] Id. at 241.
[26] Id. at 243-249.
[27] Id. at 255-258.
[28] Id. at 48-63.
[29] Id. at 60.
[30] Id. at 62.
[31] Id. at 63.
[32] Id. at 64-66.
[33] Id at 18-19.

Our Ruling

The petition is denied.

The NLRC was well within its discretion when it admitted Twinstar's evidence on appeal.

We have explained in *Millenium Erectors Corporation v. Magallanes*[34] that the rules of procedure in labor cases may be relaxed in certain instances as they are intended to facilitate the attainment of justice and not to frustrate it, to wit:

> In labor cases, rules of procedure should not be applied in a very rigid and technical sense. They are merely tools designed to facilitate the attainment of justice, and where their strict application would result in the frustration rather than promotion of substantial justice, technicalities must be avoided. Technicalities should not be permitted to stand in the way of equitably and completely resolving the rights and obligations of the parties. Where the ends of substantial justice shall be better served, the application of technical rules of procedure may be relaxed.[35] (Underscoring supplied)

Indeed, the LA and the NLRC are mandated to use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law and procedure all in the interest of substantial justice.[36] In this connection, the NLRC is not precluded from receiving evidence on appeal as technical rules of evidence are not binding in labor cases.[37] As applied in this case, the NLRC, acting within its lawful authority, decided to admit evidence for the first time during appeal, and the circumstances would show that the said decision was not made arbitrarily or capriciously. The records would show that Twinstar, to its prejudice, failed to submit any evidence before the LA and thus, the latter was not able to make an informed decision on the issues presented before it.

While the alleged negligence of Twinstar and its previous counsels generally does not excuse the non-submission of its position paper and evidence despite notice, it is within the prudent discretion of the NLRC to decide on whether or not to admit and consider the evidence presented before it. Considering the relevance and veracity of the evidence presented by Twinstar, not to mention the primacy given to substantive justice over procedural technicalities, this Court is constrained to agree with the CA in affirming the NLRC Decision.

There was no constructive dismissal in this case.

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[34] 649 Phil. 199 (2010).

[35] Id. at 204.

[36] *Wallem Maritime Services, Inc, v. Pedrajas*, 741 Phil. 67, 76 (2014).

[37] *Princess Joy Placement and General Services, Inc. v. German A. Binalla*, 735 Phil. 270, 280-281 (2014).

Given the evidence on record, this Court agrees with the findings of the CA and the NLRC that there no illegal dismissal took place in this case. Petitioner utterly failed that he was constructively dismissed by Twinstar. *Philippine Span Asia Carriers Corporation v. Pelayo*[38] reiterated the standards for ascertaining constructive dismissal as follows:

> There is constructive dismissal when an employer's act of clear discrimination, insensibility or disdain becomes so unbearable on the part of the employee so as to foreclose any choice on his part except to resign from such employment. It exists where there is involuntary resignation because of the harsh, hostile and unfavorable conditions set by the employer. We have held that the standard for constructive dismissal is "whether a reasonable person in the employee's position would have felt compelled to give up his employment under the circumstances."[39] (Underscoring supplied)

However, it must be emphasized that "not every inconvenience, disruption, difficulty, or disadvantage that an employee must endure sustains a finding of constructive dismissal."[40] What is vital is the weighing of the evidence presented and a consideration of whether, given the totality of circumstances, the employer acted fairly in exercising a prerogative.[41] Applying the foregoing standards to this case, petitioner utterly failed to prove that he was constructively dismissed. He never presented any evidence, aside from his self-serving allegations, that he was forced to be on floating status for more than six (6) months without being given new assignment by Twinstar.

In comparison, Twinstar was able to establish that Jose went on absence without leave on or about January 21, 2011 and that it had subsequently sent several notices to petitiomer, including the Order to Report for Duty dated June 3, 2011,[42] 2nd Notice to Report for Work dated June 9, 2011,[43] and Last & Final Order to Report for Duty dated June 22, 2011.[44] Aside from the said notices, a duty officer of Twinstar vainly tried to contact petitioner by calling him and sending text messages,[45] and a field inspector of Twinstar attempted to deliver a company letter on June 8, 2011 but petitioner refused to receive the same.[46]

More importantly, as correctly found by the NLRC and affirmed by the CA, petitioner himself admitted declining the assignment offered to him by the Twinstar within six (6) months from the time he was placed on floating status in the hearing dated October 18, 2011 before the LA.[47] Petitioner's flimsy claim that he did not understand the question of the LA and the

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38 826 Phil. 776 (2018).
39 Id. at 793.
40 Id.
41 Id.
42 CA *rollo*, p. 133.
43 Id. at 134.
44 Id. at 135.
45 Id. at 136.
46 Id. at 137.
47 Id. at 139.

Minutes of the said hearing, as both were in the English language, would seem like a desperate attempt to feign ignorance in order to retract such statements. Petitioner had all the opportunity to request the LA to translate the question and the Minutes to a language he understood, but he chose not to. In any case, this Court finds it hard to believe petitioner's allegations as he himself indicated in his bio-data that English is one of the languages he can speak and write.[48]

Clearly, the totality of circumstances would lead us to conclude that no constructive dismissal happened in this case. Instead, the circumstances would show the stubborn unwillingness of petitioner to return to work despite being required by Twinstar to report to work multiple times within six (6) months from January 21, 2011, even assuming *arguendo* that he was indeed placed on floating status. Thus, this Court agrees with the CA and the NLRC that Twinstar had just cause to terminate Jose's employment. Be this as it may, this Court finds that Twinstar was remiss in following the due process required by law and that Jose should be entitled to nominal damages as will be discussed below.

Jose's right to procedural due process was violated.

While this Court finds that there was no constructive dismissal in this case and that there was just cause to terminate petitioner's employment, it is evident that statutory due process was not followed by Twinstar. It must be reiterated that in the case of termination of employment for offenses and misdeeds by employees, i.e., for just causes under Article 297 (formerly 282) of the Labor Code, employers are required to adhere to the so-called "two-notice rule." *King of Kings Transport v. Mamac*[49] *(King of Kings Transport)* outlined what should be considered in terminating the services of the employees, to wit:

> (1) The first written notice to be served on the employees should contain the specific causes or grounds for termination against them, and a directive that the employees are given the opportunity to submit their written explanation within a reasonable period. "Reasonable opportunity" under the Omnibus Rules means every kind of assistance that management must accord to the employees to enable them to prepare adequately for their defense. This should be construed as a period of at least five (5) calendar days from receipt of the notice to give the employees an opportunity to study the accusation against them, consult a union official or lawyer, gather data and evidence, and decide on the defenses they will raise against the complaint. Moreover, in order to enable the employees to intelligently prepare their explanation and defenses, the notice should contain a detailed narration of the facts and circumstances that will serve as basis for the charge against the employees. A general description of the charge will not suffice. Lastly, the notice should specifically mention which

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[48] Id. at 189.
[49] 553 Phil. 108 (2007).

> company rules, if any, are violated and/or which among the grounds under Art. 282 is being charged against the employees.
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> (2) After serving the first notice, the employers should schedule and conduct a hearing or conference wherein the employees will be given the opportunity to: (1) explain and clarify their defenses to the charge against them; (2) present evidence in support of their defenses; and (3) rebut the evidence presented against them by the management. During the hearing or conference, the employees are given the chance to defend themselves personally, with the assistance of a representative or counsel of their choice. Moreover, this conference or hearing could be used by the parties as an opportunity to come to an amicable settlement.
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> (3) After determining that termination of employment is justified, the employers shall serve the employees a written notice of termination indicating that: (1) all circumstances involving the charge against the employees have been considered; and (2) grounds have been established to justify the severance of their employment.[50]

As applied in this case, Twinstar found the petitioner guilty of insubordination or willful disobedience, which is just cause under Article 297 of the Labor Code, for his refusal to report to work and accept reassignment despite receipt of the notices to return to work.[51] However, there is nothing in the records that would show that Twinstar gave petitioner ample chance to explain and be heard on the allegations against him, which is the purpose of the first notice in the "two-notice rule." Twinstar merely terminated the employment of petitioner on July 19, 2011,[52] without complying with the rules laid down in *King of Kings Transport* and thus, in violation of the "two-notice rule."

This Court has long upheld the importance of complying with the "two-notice rule", regardless of whether or not there is just cause present in the termination of the services of the employee. In *Sy v. Neat, Inc.,*[53] this Court upheld the award of nominal damages when the respondent-employer therein deprived petitioners-employees of their right to due process prior to their termination despite there being just cause to terminate said employees, to wit:

> The Court likewise upholds the award of nominal damages awarded in favor of petitioners Sy and Alix. Nominal damages are "adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him." Jurisprudence holds that such indemnity to be imposed should be stiffer to discourage the abhorrent practice of "dismiss now, pay later." The sanction should be in the nature of indemnification or penalty and should depend on the facts of each case, taking into special consideration the gravity of the due process violation of the

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[50] Id. at 115-116.
[51] CA *rollo*, p. 137.
[52] Id.
[53] 821 Phil. 751 (2017).

> employer. Considering that petitioners were deprived of their right to notice and hearing prior to their termination, the Court affirms the CA's award of ₱30,000.00 as nominal damages.[54] (Underscoring supplied)

As applied in this case, it is clear that Twinstar deprived petitioner of his right to notice and hearing when the former terminated the latter's employment without complying with the procedural requirements as laid down by law and jurisprudence, i.e. the "two-notice rule." Thus, it is undisputed that Twinstar's patent violation of petitioner's right to procedural due process necessitates the award of nominal damages to the latter.

Petitioner's Release, Waiver and Quitclaim is valid, but only to the extent that is not contrary to law and public policy. He is still entitled to nominal damages.

In this regard, this Court find the decision of the NLRC to not award nominal damages, which was affirmed by the CA, on the basis of the existence of the Quitclaim executed on March 3, 2012, to be erroneous. *Aujero v. Philippine Communications Satellite Corporation*[55] reiterated the standards that must be observed in determining whether a waiver and quitclaim has been validly executed:

> Not all waivers and quitclaims are invalid as against public policy. If the agreement was voluntarily entered into and represents a reasonable settlement, it is binding on the parties and may not later be disowned simply because of a change of mind. It is only where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or the terms of settlement are unconscionable on its face, that the law will step in to annul the questionable transaction. But where it is shown that the person making the waiver did so voluntarily, with full understanding of what he was doing, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as a valid and binding undertaking.[56]

As applied in this case, we agree with the findings of the lower tribunals that the Quitclaim appears to have been voluntarily entered into and the amount therein represents a reasonable settlement.

However, while the Quitclaim is valid for complying with all the requisites stated above, the stipulations in this quitclaim must still be interpreted within the bounds of law and reason. A waiver/quitclaim is a contract by nature, and thus, following the rule that the law is deemed written into every contract,[57] the stipulations therein must be interpreted with this in mind.

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[54] Id. at 778.
[55] 679 Phil. 463 (2012).
[56] Id. at 478, citing *Goodrich Manufacturing Corporation v. Ativo*, 625 Phil. 102 (2010).
[57] *Heirs of San Miguel v. Court of Appeals*, 416 Phil. 943, 954 (2001).

Given the foregoing, petitioner's statement in the Quitclaim that he has "no more claim, right or action of whatsoever nature whether past, present or contingent against the said respondent and/or its officers" cannot be deemed to include the illegal dismissal case, contrary to the findings of the CA.[58] This is because the legality of an employee's dismissal is determined by law and it is the LA that has the original and exclusive jurisdiction to determine such a case. [59]

While an employee may indeed accept his dismissal and agree to waive his claims or right to initiate or continue any action against his employer, both parties do not have the jurisdiction or authority to determine whether such termination is legal or not; such question of law is still subject to the final determination of the competent labor tribunals and courts, as the case may be. It follows then that the award of nominal damages, which by its nature, arises from the determination of whether the employee's rights were violated or not in an illegal dismissal case cannot be deemed to be covered by the Quitclaim.

To stress, nominal damages are "adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him."[60]

Moreover, any quitclaim or agreement executed by the parties, as with all contracts, must not be contrary to law or public policy. It is apparent that the public policy in the stiffer imposition of nominal damages is to discourage the abhorrent practice of "dismiss now, pay later."[61] If this Court were to allow the Quitclaim to cover nominal damages, this will promote, either advertently or inadvertently, the practice of "dismiss now, pay later," which obviously runs afoul to the public policy behind the imposition of such nominal damages in the first place. Therefore, regardless of the Quitclaim, and contrary to the findings of the CA and NLRC, Jose is entitled to the award of ₱30,000.00 as nominal damages.

WHEREFORE, the petition is **PARTIALLY GRANTED**. The Decision dated September 3, 2015, and Resolution dated February 11, 2016 of the Court of Appeals in CA-G.R. SP No. 129324 are **AFFIRMED WITH MODIFICATION**.

Respondent Twinstar Professional Protective Services, Inc. is ordered to pay petitioner Jose Dela Torre the amount of THIRTY THOUSAND PESOS (₱30,000.00) as nominal damages. This award shall bear interest of six percent (6%) per *annum* from date of finality of this Decision until fully paid.

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[58] *Rollo*, p. 62.
[59] LABOR CODE, Art. 217.
[60] *Sy v. Neat, Inc.*, supra note 53 at 778.
[61] Id.

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

WE CONCUR:

On Wellness Leave.
MARVIC M. V. F. LEONEN
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that 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.

RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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