

BY: YSA
TIME: 9:28 AM

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 28, 2019 which reads as follows:

**“G.R. No. 235512– FEDERATED DISTRIBUTORS, INC.
vs. COURT OF APPEALS AND ALEXANDER A. ANGELES**

The Court resolves to **DENY** the petition for review on *certiorari* for failure to comply with the contents of the petition under Section 4,¹ Rule 45 of the Rules of Court. Petitioner’s failure to comply with the contents of and the documents which should accompany the petition, specifically, the duplicate original or a certified true copy of the judgment of the Labor Arbiter and the NLRC Decision and Resolution is sufficient ground for the dismissal of the petition under Section 5² of the same Rule. On this score alone, the petition should be dismissed.

But even on the merits, the petition must fail. For³ there is no sufficient showing, as none was shown that the Court of Appeals committed reversible error when it rendered the assailed dispositions

- over – four (4) pages ...

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¹ Section 4. Contents of petition. — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court a quo and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42.

² Section 5. Dismissal or denial of petition. — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

as to warrant the exercise of this Court's discretionary appellate jurisdiction.

In termination cases, the employer bears the burden of proving that the dismissal of the employee was for a valid and authorized cause. It must be shown by substantial evidence that the termination was validly effected. Failure to discharge this duty will mean the dismissal was not justified and was, therefore, illegal.³ Here, the company failed to discharge its burden of proving the validity of the termination. In the NLRC Decision, it was held that the alleged theft was not clearly established. On reconsideration, however, the NLRC found merit on the petitioner's motion for reconsideration on the basis of purportedly newly adduced evidence, Genes Loro's judicial affidavit.

Indeed, the NLRC gravely abused its discretion in blindly giving probative weight to the judicial affidavit, sans any explanation why it was belatedly submitted. True, the application of technical rules of procedure may be relaxed to serve the demands of substantial justice.⁴ It is well-settled too, that the NLRC is not precluded from receiving evidence, even for the first time on appeal. This rule applies equally to both the employee and the employer. Thus, in the interest of due process, the Labor Code directs labor officials to use all reasonable means to ascertain the facts speedily and objectively, with little regard to technicalities or formalities. But in all instances, the delayed submission of evidence should be clearly explained and should adequately prove the employer's allegation pertaining to the cause of termination.⁵

Here, Genes Loro's judicial affidavit was already in existence as early as September 1, 2014, even before Angeles filed his appeal, and the company its motion for reconsideration. There was, however, no justification at all for its belated submission. Too, the judicial affidavit did not adequately prove the company's ground for termination for it was a mere reiteration of Genes Loro's sworn statement already presented before the labor tribunals. Notably, this Court is not a trier of facts. It will not entertain questions of fact as the factual findings of the appellate courts are final, binding or conclusive upon this Court when supported by substantial evidence. Factual findings of the appellate courts will not be reviewed nor disturbed on appeal to this Court.⁶

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³ See *Casco v. National Labor Relations Commission*, G.R. No. 200571, February 19, 2018.

⁴ See *Samahan ng Manggagawa sa Moldex Products, Inc. v. National Labor Relations Commission*, 381 Phil. 254, 264 (2000).

⁵ See *Tanjuan v. Philippine Postal Savings Bank*, 457 Phil. 993, 1004-1005 (2003).

⁶ See *Ong Bun v. Bank of the Philippine Islands*, G.R. No. 212362, March 14, 2018.

Quite apart from the insufficient documentary proof on record, it is contrary to human experience that Angeles loaded the stolen properties in the truck, performed his delivery job throughout the day and returned to the company premises still in possession of the alleged stolen items.

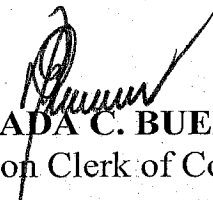
Lastly, the NLRC correctly denied respondent's claim for backwages. An illegally dismissed employee is entitled to either reinstatement, if viable, or separation pay if reinstatement is no longer viable, and backwages. In certain cases, however, the Court has ordered the reinstatement of the employee without backwages when the employee was at fault but dismissal was too harsh a penalty and the employer was in good faith in terminating the employee, as in this case.⁷

All told, the Court of Appeals did not commit reversible error when it rendered the assailed dispositions.

ACCORDINGLY, the petition is **DENIED**. The Decision dated May 26, 2017 and Resolution dated October 24, 2017 of the Court of Appeals in CA-G.R. SP No. 143207 is **AFFIRMED**.

SO ORDERED. *Caguioa, J., on official leave; Inting, J., designated as Additional Member per S.O. No. 2726 dated October 25, 2019.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

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⁷ See Pepsi-Cola Products, Phils., Inc. v. Molon, 704 Phil. 120, 144 (2013).



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