



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 3, 2020 which reads as follows:

“G.R. No. 243398 – *Alhazen A. Sandag v. United Global Manpower Resources, Inc., Electrolink Company and Elizabeth S. Corral*

We resolve the Motion for Reconsideration (MR) of the Resolution¹ of this Court dated March 11, 2019 filed by Alhazen A. Sandag (Sandag). The said Resolution denied Sandag’s Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision² dated July 13, 2018 and the Resolution³ dated December 6, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 151453, finding no reversible error on the part of the CA in issuing the assailed Decision and Resolution.

The Labor Arbiter dismissed Sandag’s complaint for illegal dismissal against Electrolink Company (Electrolink), United Global Manpower Resources, Inc. (United Global) and Elizabeth S. Corral, President of United Global in the Decision⁴ dated September 30, 2016 and held that Sandag was unable to prove that he was dismissed. Thus, there is no illegal dismissal to speak of. In a Resolution⁵ dated February 20, 2017, the National Labor Relations Commission (NLRC) affirmed the Labor Arbiter’s Decision. Sandag’s MR was denied by the NLRC in its Resolution⁶ dated April 27, 2017. Aggrieved, Sandag filed a petition for *certiorari* under Rule 65 of the Rules of Court before the CA.

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¹ *Rollo*, p. 136.

² Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Remedios A. Salazar-Fernando and Zenaida T. Galapate-Laguilles, concurring; *id.* at 50-57.

³ *Id.* at 48-49.

⁴ Penned by Labor Arbiter Pablo A. Gajardo, Jr.; *id.* at 60-71.

⁵ Penned by Commissioner Dominador B. Medroso, Jr. and concurred in by Presiding Commissioner Gregorio O. Bilog III and Commissioner Erlinda T. Agus; *id.* at 88-95.

⁶ *Id.* at 108-110.

In its assailed Decision, the CA dismissed the petition for *certiorari*, ruling that Sandag was unable to prove that he was in fact dismissed on August 26, 2015 and held that the September 15, 2015 Letter of Electrolink to the Philippine Overseas Employment Administration does not constitute proof of his dismissal as it merely expressed Electrolink's desire to terminate him on account of poor performance and work attitude, but could not proceed with the proper procedure of repatriation because his passport was needed.⁷ Furthermore, the CA found no grave abuse of discretion on the part of the NLRC in affirming the Labor Arbiter.⁸ Sandag's MR was denied by the CA in a Resolution⁹ dated December 6, 2018.

Sandag filed a Petition for Review on *Certiorari* before this Court, which, as already mentioned, was denied in a Resolution¹⁰ dated March 11, 2019.

In his present MR, Sandag argues that the Court should have reviewed the findings of fact by the CA and the labor tribunals and ruled that he was illegally dismissed and entitled to moral and exemplary damages, as well as attorney's fees.

We deny the present MR.

The Court notes that the MR was filed on June 17, 2019¹¹ through registered mail. Sandag alleges that he received the Resolution dated March 11, 2019 on May 31, 2019. Since the last day of the 15-day period to file an MR (June 15, 2019) fell on a Saturday, Sandag had until June 17, 2019 (a Monday) to file the MR. An Entry of Judgment,¹² however, was issued on June 18, 2019 stating that the Resolution dated March 11, 2019 has become final and executory. Since the MR was filed through registered mail on June 17, 2019, the same was filed on time since the date of mailing is considered the date of filing.¹³ This particular circumstance explains why an Entry of Judgment was issued since the Court actually received the MR only on July 19, 2019.¹⁴ Considering that the MR was filed on time, the Court shall resolve it. Nevertheless, we find no merit to the same and accordingly deny it.

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⁷ Id. at 55.

⁸ Id. at 56.

⁹ Supra note 3.

¹⁰ Supra note 1.

¹¹ *Rollo*, p. 155.

¹² Id. at 137.

¹³ See RULES OF COURT, Rule 13, Sec. 3.

¹⁴ *Rollo*, p. 145.

In illegal dismissal cases, while the employer bears the burden to prove that the termination was for a valid or authorized cause, the employee must first establish the fact of his dismissal from employment. For if there is no dismissal, there can be no question of the legality or illegality thereof.¹⁵ The uniform finding of the Labor Arbiter, the NLRC, and the CA is that Sandag was not dismissed, and did not give credence to Sandag's claim that during the August 26, 2015 meeting, he was verbally terminated when he was told that his services were no longer needed.

The Court finds that Sandag's allegations in his MR, aside from being factual in nature, are mere rehash of the allegations and issues already raised and passed upon by the Court. Again, we do not find any compelling reason to disturb the consistent finding of the CA and the labor tribunals. As a rule, this Court is not a trier of facts and only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court. Although exceptions to this rule have been recognized in jurisprudence,¹⁶ the Court finds that none of the said exceptions apply to the present case.

Acting on Sandag's MR of the Resolution dated March 11, 2019 which denied the petition for review on *certiorari*, the Court resolves to deny the motion with finality, no substantial argument having been adduced to warrant the reconsideration sought.

No further pleadings or motions shall be entertained in this case. Let the entry of judgment issued on June 18, 2019 stand.

WHEREFORE, the Motion for Reconsideration is **DENIED with FINALITY**. The Resolution dated March 11, 2019 is **AFFIRMED**. No further pleadings will be entertained in this case. Let the Entry of Judgment dated June 18, 2019 **STAND**.

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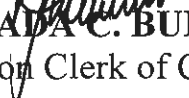
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¹⁵ *Exodus International Construction Corp. v. Biscocho*, 659 Phil. 142, 154 (2011), citing *Ledesma, Jr. v. NLRC-Second Division*, 562 Phil. 939, 948 (2007).

¹⁶ These exceptions are: (1) the findings are grounded entirely on speculations, surmises, or conjectures; (2) the inference made is manifestly mistaken, absurd, or impossible; (3) there is a grave abuse of discretion; (4) the judgment is based on misappreciation of facts; (5) the findings of fact are conflicting; (6) in making its findings, the same are contrary to the admissions of both appellant and appellee; (7) the findings are contrary to those 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 as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record. See *Arriola v. Pilipino Star Ngayon, Inc.*, 741 Phil. 171, 186 (2014), citing *Macasero v. Southern Industrial Gases Philippines*, 597 Phil. 494, 498-499 (2009), which in turn cites *Uy v. Villanueva*, 553 Phil. 69, 79 (2009).

SO ORDERED.”

Very truly yours,


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Division Clerk of Court *in vivo*
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