Republic of the Philippines
Supreme Court
Manila

**FIRST DIVISION**

# NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated* **June 17, 2020** *which reads as follows:*

**"G.R. No. 242364** ***(Elesio Mejares and Victor Cayno v. Hyatt Taxi Services, Inc., Tai Taxi Services, Inc., Prime Taxi Services, Inc., WMJJ Taxi Services, Inc., Cesar Lee, Lydia Mercader, Viola Jhessa Virata, Michael Lee, And The National Labor Relations Commission)***

**G.R. No. 242459** ***(Hyatt Taxi Services, Inc., Tai Taxi Services, Inc., Prime Taxi Services, Inc., WMJJ Taxi Services, Inc., Cesar Lee, Lydia Mercader, Viola Jhessa Virata, and Michael Lee v. Elesio G. Mejares and Victor Cayno)***

## Antecedents

Elesio[1] Gonzales Mejares and Victor Flores Cayno charged[2] Hyatt Taxi Services, Inc., Cesar Lee, and Lydia Mercader with illegal dismissal, illegal deductions, damages, and attorney's fees, docketed as NLRC NCR Case No. 04-04973-16.[3] In their Joint Position Paper dated June 9, 2016, Mejares and Cayno essentially alleged:

In September 1996, Cayno applied as a taxi driver with Hyatt under a boundary system. Mejares, on the other hand, applied as a taxi driver with Hyatt in November 2007. In 2009, Mejares left to work abroad, but Hyatt rehired him in March 2010. By 2011, Mejares was allowed to exclusively drive a specific taxi unit.[4]



[1] Sometimes spelled as "Eliseo."
[2] See Complaint dated April 25, 2016; G.R. No. 242459, *rollo*, p. 65.
[3] G.R. No. 242364, *rollo* (Vol. I), p. 25.
[4] G.R. No. 242459, *rollo*, p. 65.

At the end of every shift, Hyatt's taxi drivers would remit their boundaries including a daily cash bond of ₱30.00 to Lydia Mercader, who in turn would issue a receipt with specific breakdown.[5] The cash bond was collected purportedly to cover deficiencies in boundaries and costs of repairs. If unused after one (1) year, the cash bond would be returned to the respective taxi drivers. Despite lack of incidents pertaining to deficient boundaries and repairs, their cash bonds were never returned to them. [6]

Since January 2000, Hyatt also started deducting ₱70.00 per shift day without any written authorization from their taxi drivers. This new deduction was supposedly intended to cover the cost of the drivers' two-way radio system, indicated in the receipt as "Radio" or "RDO".[7]

Beginning 2004, the sum of ₱50.00 per tour of duty was further deducted from the taxi drivers' earnings to allegedly defray for the cost of the Denzo air-conditioning units installed in the taxis. In 2006, Hyatt started deducting ₱150.00 per shift day from the taxi drivers' earnings to allegedly cover the expenses for the conversion of the taxis from gas to LPG.[8]

In 2009, Hyatt, imposed an additional ₱100.00 deduction per shift day, supposedly to cover the cost of recalibrating the taxi's meters. This amount appeared in the receipt as "others".[9]

In 2014, Hyatt again imposed a ₱50.00 deduction per shift day for those who were driving new taxi units like Mejares for the installation of antenna repeaters.

On top of these deductions, Hyatt also collected SSS premiums. But when Cayno went to SSS to verify his contributions, he discovered that Hyatt failed to remit a total of forty-six (46) monthly contributions to his SSS account from 1997 to 2014.[10]

Every time new units would come in, Mercader would favor newer drivers. As a result, Cayno was left to drive an old taxi unit that often broke down. No longer able to take the illegal deductions and the favoritism, Cayno left Hyatt in October 2014.[11]



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5 *Id.*
6 *Id.* at 65-66.
7 *Id.* at 65.
8 *Id.* at 80.
9 *Id.* at 65.
10 *Id.* at 65-66.
11 *Id.* at 66.

Mejares' ordeal began on March 7, 2016 when his unit was number-coded. Around 6 o'clock in the morning that day, he was about to drive the unit to Hyatt's garage when one of his long time passengers, a Thai national, called to ask him if he could pick him up at the Azumi Hotel in Muntinlupa and take him to Laguna. Since Mejares was near the area, he proceeded to the hotel. He thought that since there was no number-coding scheme in Laguna and he was not sharing the unit with another driver, it would be alright to take the trip. He informed Hyatt via two-way radio that he was taking the trip and that he would be late for the car barn. At 9 o'clock of the same morning, Mejares arrived at Hyatt's garage. He apologized to Mercader for being late, paid his daily boundary, and went home.

The following day, Mejares went to the garage at 4 o'clock in the morning to pick up his taxi unit. He got his keys and told Mercader, *"Ma'am. Bibiyahe na ako"* and walked toward his unit.[12] While he was getting his unit ready, Mercader told him he was suspended effective that day. When he asked Mercader what his violation was, Mercader simply told him that he was late for his car barn the day before. He pleaded with Mercader and told her that his action did not inconvenience anyone because he was exclusively driving the unit and the unit was number-coded that day. He added that he never had any violation since he started driving for Hyatt in 2007. When his reasons fell on deaf ears, he begged Mercader to allow him to drive as his four (4) children were counting on his daily earnings for food and allowances.[13] Unconvinced, Mercader ordered a utility boy to immediately confiscate the car keys from him.[14]

The next day, Mejares went to Hyatt and again pleaded with Mercader to let him drive his taxi unit. Out of the blue, Mercader started shouting at him *"Traydor! Traydor! Ang kapal ng mukha mo!"* Shocked and frustrated, he went outside the office to cool himself down. He went back inside and pleaded yet again but Mercader ignored him and acted as though he was not there. Moments later, he saw his taxi unit being loaded in a wrecker truck. In spite of all these, he still returned to the garage several times until March 11, 2016 in the off-chance that he would get to drive his unit again.[15]

On April 25, 2016, Mejares and Cayno filed the complaint below for illegal dismissal, non-payment of benefits, reimbursement of illegal deductions, and damages against Hyatt.[16]



[12] *Id.* at 66-67.
[13] *Id.* at 66.
[14] *Id.*
[15] *Id.* at 67.
[16] *Id.*

In its Position Paper dated June 20, 2016, Hyatt riposted that it hired Mejares and Cayno to drive the company's taxi units under a boundary system. They were assigned one (1) taxi unit each, the use of which was subject to the terms and conditions provided under their respective Contracts to Drive. Later, Cayno voluntarily resigned from his employment. Mejares, on the other hand, abandoned his work.

Mejares was absent from work without prior notice beginning March 11, 2016. On March 16, 2016, another driver, Jet Balmediano, saw Mejares driving another vehicle which appeared to be a private car being operated as a taxi cab.[17] On March 18, 2016, due to unauthorized absences, Hyatt sent Mejares a Notice to Explain via registered mail to his last known address, directing him to report for work and to explain his unauthorized absences.[18] Mejares did not reply nor did he report for work despite and was therefore deemed to have abandoned his employment. Yet it was Mejares who filed an illegal dismissal case against the company.[19]

Cayno, on the other hand, was absent from work without prior notice beginning July 18, 2014. Because of his continued unauthorized absences, the company sent Cayno a Notice to Explain dated August 7, 2014 via registered mail to his last known address, directing him to immediately report for work and to explain his unauthorized absences. Cayno did not reply nor return for work, prompting Hyatt to send yet another Notice dated September 15, 2014. But Cayno again failed to submit his written explanation. On October 6, 2014, Cayno submitted his resignation letter.[20] After almost two (2) years from the date of his letter-resignation, Cayno joined Mejares in filing the illegal dismissal case which was obviously a mere afterthought.[21]

At any rate, Mejares and Cayno were not entitled to their money claims, unsubstantiated as they were by any evidence.[22]

Through an Omnibus Motion for Leave to Amend Complaint and to Grant Extension of Time to File Additional Annexes dated July 4, 2016,[23] Mejares and Cayno sought permission to implead Toyota Alabang, Inc. Taxi Services (TAI TAXI), WMJJ Taxi, and Prime Taxi



[17] G.R. No. 242364, *rollo* (Vol. I), p. 258.
[18] *Id.* at 259-260.
[19] G.R. No. 242459, *rollo*, p. 68.
[20] G.R. No. 242364, *rollo* (Vol. I), p. 265.
[21] G.R. No. 242459, *rollo*, p. 68.
[22] *Id.*
[23] G.R. No. 242364, *rollo* (Vol. I), pp. 275-277.

as additional respondents. They alleged that these three (3) taxi service companies were operating at Hyatt's principal place of business and were ran and managed by the same set of employers. Through Order[24] dated September 7, 2016, Labor Arbiter Joel S. Lustria granted the motion.

**Labor Arbiter's Ruling**

By Decision dated February 14, 2017,[25] Labor Arbiter Lustria ruled that Mejares had been illegally dismissed while Cayno, on the other hand, voluntarily resigned. Labor Arbiter Lustria nonetheless held that both Mejares and Cayno were entitled to the amounts illegally deducted from their respective salaries, *viz*:

> WHEREFORE, premises considered, judgment is hereby rendered declaring respondents guilty of constructive and illegal dismissal. Accordingly, respondents are ordered jointly and severally liable:
>
> 1. To pay complainant Elesio Mejares the amount of ₱165,000.00, representing his backwages computed from the time he was constructively and illegally dismissed up to the finality of this decision;
>
> 2. To pay complainant Elesio Mejares the amount of ₱135,000.00 representing his separation pay;
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> 3. To pay complainants Elesio Mejares the aggregate amount of ₱148,720.00 and Victor Cayno the total sum of P (sic) ₱132,000.00, representing the illegal deductions made by respondents consisting of cash bond deposit, denzo aircon, LPG calibration, meter calibration, and antenna repeater;
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> 4. To pay complainants the amount equivalent to ten percent (10%) of the total judgment awards, as and for attorney's fees.
>
> On the other hand, as above discussed, the case of illegal dismissal in so far as Victor Cayno is dismissed for lack of merit.
>
> With regards to complainants' claims for SSS, Philhealth and Pagibig, the same are disallowed since the Office cannot take cognizance for lack of jurisdiction.
>
> Other claims are dismissed for lack of merit.
>
> SO ORDERED.[26]



[24] *Id.* at 306-315.
[25] G.R. No. 242459, *rollo*, p. 69.
[26] *Id.*

Labor Arbiter Lustria ruled that when Mejares was denied access to his assigned taxi unit for several days without informing him when he could resume work, the same amounted to constructive dismissal as his continued employment was rendered impossible.[27]

As for their money claims, Labor Arbiter Lustria found that while Mejares and Cayno had valid claims, some were filed beyond the three (3) year prescriptive period for filing monetary claims under Article 291[28] of the Labor Code. Hence, they were entitled to recover the illegal deductions made within the three (3)-year prescriptive period which were supported by receipts.[29]

**Ruling of the NLRC**

By Decision[30] dated October 25, 2017, the National Labor Relations Commission (NLRC) reversed, thus:

> WHEREFORE, the Decision of Labor Arbiter Lustria dated 28 February 2017 is set aside and a new one entered as follows:
>
> Complainant Mejares was not illegally dismissed from employment and is therefore not entitled to separation pay and backwages.
>
> Respondents HYATT TAXI SERVICES, INC., TAI TAXI SERVICES, INC., PRIME TAXI SERVICES, INC., AND WMJJ TAXI SERVICES, INC. are jointly and severally ordered to pay complainants the following:
>
> 1. Victor Cayno – ₱39,440.00
>
> 2. Elesio Mejares – ₱14,960.00
>
> Only the award of attorney's fees of ten percent (10%) of the total monetary award is SUSTAINED.
>
> All other claims are dismissed for lack of merit.
>
> SO ORDERED.[31]

The NLRC held that both Mejares and Cayno voluntarily severed their employment with Hyatt. Too, the NLRC deleted the



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[27] *Id.* at 76.

[28] **Art. 291.** *Money claims.* All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred.

[29] G.R. No. 242459, *rollo*, p. 80.

[30] *Id.* at 362-375.

[31] *Id.* at 374-375.

award of reimbursement of the cash bond in favor of Mejares for failure to raise the same as a cause of action. Cayno's claim, on the other hand, was barred by prescription under Article 291 of the Labor Code.

As for the supposed illegal deductions, the NLRC sustained Mejares and Cayno's entitlement to the refund of the radio fee, antenna repeater fee, and meter calibration fee for Hyatt's failure to show written authority from them for such deductions. Meanwhile, the amounts Mejares and Cayno paid for the installation of new air-conditioning units and their taxis' conversion from gasoline to LPG were also deleted since these improvements were for the benefit of the drivers *i.e.* more passengers and more cost-efficient engines. Hence, it was natural for Hyatt to demand increases in boundary fees to cover such improvements.[32]

Both parties filed their respective motions for partial consideration, both of which were denied through NLRC Resolution[33] dated December 18, 2017.

**Proceedings Before the Court of Appeals**

Mejares and Cayno filed a petition for certiorari before the Court of Appeals, ascribing grave abuse of discretion on the part of NLRC in reversing the labor arbiter's factual findings that Mejares was constructively and illegally dismissed; in holding that not all of the charges imposed by Hyatt were illegal; in reducing the monetary award; and in applying the three (3)-year prescriptive period for money claims.[34]

Mejares insisted that he did not abandon his employment but was instead unjustifiably prevented from working. The NLRC should not have focused on whether there was actual dismissal, but on whether circumstances compelled him to stop reporting for work. If he had indeed violated company rules, his attention should have been called on the matter and subjected to proper disciplinary action. Here, there was no proof that he was even informed of any supposed violation.[35]

The NLRC also committed grave abuse of discretion when it made a distinction between the fees imposed and ruled that some fees



[32] *Id.* at 78.
[33] *Id.* at 70.
[34] *Id.* at 71.
[35] *Id.* at 71-72.

were subject to reimbursement while others were not. Too, the three (3)-year prescriptive period was inapplicable since they were seeking reimbursement for illegal deductions, not entitlement to employees' monetary benefits.[36]

Respondents, for their part, reiterated their arguments before the NLRC and added that the alleged illegal deductions were not wage deductions[37] as contemplated by the Labor Code but an increase in the boundary fees that were voluntarily agreed upon by the company and their drivers. Reimbursement should not be granted as it would constitute unjust enrichment in favor of the drivers at the company's expense. For the drivers themselves benefitted from the improvements introduced by the management.[38]

## Ruling of the Court of Appeals

By assailed Decision[39] dated July 4, 2018, the Court of Appeals reversed, *viz*:

> WHEREFORE, premises considered, the Petition for Certiorari is GRANTED. The Decision dated 25 October 2017 and Resolution dated 18 December 2017 of the National Labor Relations Commission (First Division) in NLRC NCR Case No. 04-04971-16, NLRC LAC No. 05-001780-17 are NULLIFIED. The Decision dated 14 February 2017 of Labor Arbiter Joel S. Lustria is hereby REINSTATED. No pronouncement as to costs.
>
> SO ORDERED.[40]

The Court of Appeals found substantial evidence that Mejares was constructively dismissed. In stark contrast, Hyatt failed to prove that Mejares' dismissal was for just or authorized cause and that he was afforded due process. There was simply no showing that Mejares violated any company rule and that he was officially placed on disciplinary action or suspension warranting Hyatt's refusal for him to drive his taxi unit.[41]

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[36] *Id.*

[37] **Article 113.** *Wage deduction.* No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees, except:
a) In cases where the worker is insured with his consent by the employer, and the deduction is to recompense the employer for the amount paid by him as premium on the insurance;
b) For union dues, in cases where the right of the worker or his union to check-off has been recognized by the employer or authorized in writing by the individual worker concerned; and
c) In cases where the employer is authorized by law or regulations issued by the Secretary of Labor and Employment.

[38] G.R. No. 242459, *rollo*, p. 72.

[39] *Id.* at 64-83.

[40] *Id.* at 81.

[41] *Id.* at 73.

Balmediano's affidavit stating he saw Mejares driving a colorum taxicab as well as the purported photographs showing the same were insufficient to establish that Mejares abandoned his work; It was Hyatt which repeatedly refused Mejares access to his taxi unit. At any rate, his filing of a complaint for illegal dismissal is inconsistent with the charge of abandonment.[42]

In lieu of reinstatement, Mejares was entitled to separation pay. But he was not entitled to 13th month pay and service incentive leave pay as a taxi driver paid under a boundary system.[43]

As for the money claims, the Court of Appeals held that any withholding of an employee's wages by the employer may only be allowed in the form of wage deductions under the circumstances stated under Article 113[44] of the Labor Code and with the written authorization of the employee.[45] Apart from the cash bond which appeared in the Contract to Drive, there is no showing that Hyatt had any written authorization from their drivers to make deductions for a two-way radio system, denzo aircon, LPG calibration, meter calibration, and antenna repeater. There is further no showing that the deductions were intended to be increases in boundary rates. Hyatt also failed to substantiate why the costs for the Denzo aircon and the LPG conversion have to be shouldered by its drivers considering it owned the taxi units. Hence, these deductions must be reimbursed to Mejares and Cayno.[46]

The Court of Appeals also rejected the NLRC's finding that Mejares did not raise the reimbursement of his cash bond as a cause of action. For this finding was clearly belied by the allegations in Mejares and Cayno's Joint Position Paper.[47]

As for prescription, the Court of Appeals affirmed the Labor Arbiter's ruling that the three (3)-year prescriptive period under



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[42] *Id.* at 75-77.

[43] *Id.* at 78.

[44] **Article 113.** *Wage deduction.* No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees, except:

a) In cases where the worker is insured with his consent by the employer, and the deduction is to recompense the employer for the amount paid by him as premium on the insurance;

b) For union dues, in cases where the right of the worker or his union to check-off has been recognized by the employer or authorized in writing by the individual worker concerned; and

In cases where the employer is authorized by law or regulations issued by the Secretary of Labor and Employment.

[45] Omnibus Rules Implementing the Labor Code.

[46] G.R. No. 242459, *rollo*, p. 79.

[47] *Id.* at 79.

Article 291 of the Labor Code is applicable. Therefore, Mejares and Cayno's monetary claims for deductions made more than three (3) years before the filing of the complaint on April 25, 2016, *i.e.*, from April 22, 2013 and earlier, had already prescribed.[48]

Both parties filed their separate appeals before this Court.

**The Present Petitions**

In **G.R. No. 242364**,[49] Mejares and Cayno seek to overturn the Court of Appeals' application of the three (3)-year prescriptive period under Article 291 of the Labor Code on the cash bond they regularly remitted to Hyatt, and on all other deductions made by the latter without their consent.

They aver that the ₱30.00 cash bond for every tour of duty is a security deposit – a scheme where drivers remit a certain amount every day to cover future boundary deficiencies and other expenses should the same arise. Jurisprudence[50] dictates that cash bonds collected from drivers are not covered by the three (3)-year prescriptive period under Article 291 of the Labor Code as these deductions are not in the nature of money claims as contemplated in the provision. Money claims refer to those which employees are entitled to but were withheld by employers. Here, they were merely seeking reimbursement for the unlawful collections of their employers *i.e.* daily cash bond, two-way radio system, air conditioning units, LPG conversion, meter calibration, and antenna repeater.

Even assuming that the impositions were subject to the three (3)-year prescriptive period, the period should not have been reckoned from the time the amounts were collected but from when the complaint was filed on April 25, 2016 pursuant to Articles 1150[51] and Article 1169[52] of the Civil Code. Their action is akin to one for recovery of sum of money, where the existence of an employer-employee relationship is only incidental to employer's act of appropriating the sums in question. It was Hyatt's subsequent refusal to reimburse them during the proceedings before the Labor Arbiter, not the act of imposing the additional fees, which triggered the running of the prescriptive period.[53]

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[48] *Id.* at 80.

[49] G.R. No. 242364, *rollo* (Vol. I), pp. 3-23.

[50] *Urbanes, Jr. v. Court of Appeals*, 407 Phil. 856 (2001).

[51] The time for prescription of all kinds of actions, when there is no special provision which ordains otherwise, shall be counted from the day they may be brought.

[52] Those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfilment of their obligation.

[53] G.R. No. 242364, *rollo* (Vol. I), pp. 11-18.

Meantime, in **G.R. No. 242459**,[54] Hyatt, TAI Taxi, Prime Taxi, WMJJ Taxi, and their respective owners Cesar Lee, Lydia Mercader, Viola Jhessa Virata and Michael Lee seek to set aside the Court of Appeals' ruling.

They claim that the Court of Appeals erred in ruling that Mejares was illegally dismissed since the latter failed to adduce evidence that he was either actually or constructively dismissed from service.[55]

The fees for participation operations, the installation of the Denzo airconditioning units, and the conversion to LPG are not illegal deductions but separate and distinct fees constituting payment for the improvement on the taxi units which they chose to drive – which improvements the drivers themselves requested and knew were not free. The alleged deduction for antenna repeaters were actually a fee agreed upon by Hyatt and its drivers for the continued operation of a boundary discount scheme. These were all expressly agreed upon by the parties.

Finally, the Court of Appeals failed to discuss its basis in holding TAI, WMJJ and Prime taxi solidarily liable to Mejares and Cayno. No test was made to determine their solidary liability.[56]

**Issues**

1. Was Mejares constructively dismissed?

2. Were the fees imposed upon Mejares and Cayno considered as illegal deductions?

3. Are Mejares and Cayno's money claims subject to the three (3)-year prescriptive period?

4. Should TAI, WMJJ and Prime taxi be held solidarily liable to Mejares and Cayno?

**Ruling**

At the outset, questions of fact are generally beyond the ambit of a petition for review under Rule 45 of the Rules of Court as it is



[54] G.R. No. 242459, *rollo*, pp. 43-62.
[55] *Id.* at 50-51.
[56] *Id.* at 51-60.

limited to reviewing purely questions of law. The rule, however, admits of exceptions such as when the factual findings of the reviewing tribunals are conflicting.[57] The present petitions fall under this exception as the factual and legal conclusions of the Labor Arbiter, as affirmed by the Court of Appeals, differed from those of the NLRC.

***Mejares was constructively dismissed***

Constructive dismissal is a cessation of work because continued employment is rendered impossible, unreasonable or unlikely, when there is a demotion in rank or diminution in pay or both; or when a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee. The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his position under the circumstances.[58]

Here, as found by both the labor arbiter and the Court of Appeals, the events which transpired between Mejares and Mercader from March 7 to 11, 2016 rendered Mejares' continued employment with Hyatt not only unbearable but impossible, hence, amounted to constructive dismissal.

Mejares narrated that on March 7, 2016, around 6 o'clock in the morning, he was about to bring his taxi unit back to Hyatt's garage because of the number-coding scheme when one of his long time passengers called and asked to be picked up in Muntinlupa and driven to Laguna. Mejares agreed as there was no number-coding scheme in Laguna and he was not sharing the unit with another driver anyway. He informed Hyatt via two-way radio that he would be taking the trip and would therefore be arriving late. When he finally got to Hyatt's garage, he immediately apologized to Mercader for being late, paid his daily boundary, and went home.

The following day, Mercader told him he was suspended effective immediately because he was late for his car barn the day before. Though he pleaded with Mercader, the latter ordered a utility boy to confiscate the car keys from him. He again went to Hyatt the following day and begged anew to be allowed to drive his taxi unit. But all he received was a shouting from Mercader: *"Traydor! Traydor! Ang kapal ng mukha mo!"* Too, his taxi unit was loaded in a



[57] *See Ibon v. Genghis Khan Security Services,* 811 Phil. 250, 256 (2017).
[58] *St. Paul, Pasig v. Mancol and Valera*, G.R. No. 222317, January 24, 2018.

wrecker truck. In spite of all these, he still returned to the garage several times until March 11, 2016 in the off-chance that he would get to drive his unit again, but to no avail.

Evidently, Mejares was willing and was even begging for work. He showed up at Hyatt's garage every single day from March 7 to 11, 2016, only to be ignored by Mercader. When asked when Mejares can drive his taxi unit again, Mercader did not answer. Truly, Mercader's hostile treatment against Mejares forced the latter to forego his employment with Hyatt. Under these circumstances, therefore, Mejares was undoubtedly constructively dismissed from service.

Hyatt et al. nevertheless assert that the Court of Appeals erred in ruling that Mejares was illegally dismissed since the latter failed to adduce evidence that he was actually or constructively dismissed. Mejares abandoned his employment as evidenced by the fact that he stopped reporting for work. More, Mejares was already seen driving another sedan, a colorum taxi unit, days after he failed to report for work.

We do not agree.

Abandonment is defined as the deliberate and unjustified refusal of an employee to resume his employment. It is a form of neglect of duty, hence, a just cause for termination of employment by the employer. For a valid finding of abandonment, two factors should be present: (1) failure to report for work or absence without valid or justifiable reason; and (2) a clear intention to sever the employer-employee relationship. The second is the more determinative factor and becomes manifest through overt acts from which it may be deduced that the employees have no more intention to work; the intent to discontinue the employment must be shown by clear proof that it was deliberate and unjustified.[59] The burden falls upon the employer to offer substantial evidence and to establish that its employee deliberately and unjustifiably refused to resume his employment without any intention of returning.[60]

Here, the following circumstances show that Mejares did not abandon his employment:



[59] *Protective Maximum Security Agency, Inc. v. Fuentes*, 753 Phil. 482, 507 (2015).
[60] *Northwest Tourism Corp. v. Court of Appeals*, 500 Phil. 85, 94 (2005).

**One**. From the time Mejares was prevented to drive his unit on March 8, 2016, he diligently went back to Hyatt's garage to plead Mercader to let him drive his unit. But the latter remained adamant and denied him access to his taxi unit without informing him when he could possibly return to work.[61] Mejares was not even fully informed of any alleged violation for which he could have been *suspended* from work. Neither was he subjected to any disciplinary action.

**Two**. Mejares' act of driving another sedan, if indeed true, should not be interpreted as abandonment. He should not be faulted for his act of looking for gainful employment after continually being denied his livelihood with no clear indication of when he could return. Given the eloquent message that he was never going to be allowed to drive his unit anytime soon, his survival instincts kicked in -- he had a family to feed, children to send to school, and no savings to tide them over.

**Three**. Mejares immediately filed a request for conciliation on March 14, 2016, just days after he was prevented from driving his taxi unit. When the issues remained unresolved, he lost no time in filing an action for illegal dismissal. The Court has repeatedly held that filing of a complaint for illegal dismissal is inconsistent with the charge of abandonment, for employees who take steps to protest their dismissal cannot, by logic, be said to have abandoned their work.[62]

**Four**. Hyatt's act of sending a Notice to Explain to Mejares could hardly support its claim of abandonment. Mejares stopped going to Hyatt's garage on March 12, 2016, after numerous failed attempts to obtain permission to drive his taxi unit. On March 14, 2016, he filed before the NLRC-SENA a request for conciliation. But, it was only on March 18, 2016 that Hyatt sent Mejares a Notice to Explain. Notably, too, Hyatt sent the notice to Mejares' old address when it was aware that he no longer resides therein. Had Hyatt really intended to reach out to Mejares, it could have used other means to contact him. Instead, Hyatt's lack of honest-to-goodness effort to contact Mejares proves that Hyatt had no genuine desire for him to return to work.

In view of these circumstances, the labor arbiter and the Court of Appeals correctly declared Mejares to have been constructively dismissed. ***Diamond Taxi v. Llamas, Jr.*** [63] is apropos:



[61] G.R. No. 242459, *rollo*, pp. 66-67.
[62] *Doctor, et. al. v. NII Enterprises, et. al.*, G.R. No. 194001, November 22, 2017.
[63] 729 Phil. 364, 382 (2014).

> Guided by these parameters, we agree that the petitioners unerringly failed to prove the alleged abandonment. They did not present proof of some overt act of Llamas that clearly and unequivocally shows his intention to abandon his job. We note that, aside from their bare allegation, the only evidence that the petitioners submitted to prove abandonment were the photocopy of their attendance logbook and the July 15, 2005 memorandum that they served on Llamas regarding the July 13, 2005 incident. These pieces of evidence, even when considered collectively, indeed failed to prove the clear and unequivocal intention, on Llamas' part, that the law requires to deem as abandonment Llamas' absence from work. Quite the contrary, the petitioners' July 15, 2005 memorandum, in fact, supports, if not strengthens, Llamas' version of the events that led to his filing of the complaint, *i.e.*, that as a result of the July 13, 2005 incident, the petitioners refused to give him the key to his assigned taxi cab unless he would sign the resignation letter.
>
> Moreover, and as the CA pointed out, Llamas lost no time in filing the illegal dismissal case against them. To recall, he filed the complaint on July 18, 2005 or only two days from the third time he was refused access to his assigned taxi cab on July 16, 2005. Clearly, Llamas could not be deemed to have abandoned his work for, as we have previously held, the immediate filing by the employee of an illegal dismissal complaint is proof enough of his intention to return to work and negates the employer's charge of abandonment. To reiterate and emphasize, abandonment is a matter of intention that cannot lightly be presumed from certain equivocal acts of the employee.

Indeed, absence must be accompanied by overt acts unerringly pointing to the fact that the employee simply does not want to work anymore. And the burden of proof to show that there was unjustified refusal to go back to work rests on the employer.[64] This, Hyatt et al. failed to do.

***The fees imposed on Mejares and Cayno are illegal deductions; applicability of the three (3)-year prescriptive period***

Section 13, Rule VIII of the Omnibus Rules to Implement the Labor Code provides:

> **SECTION 13.** *Wages deduction.* — Deductions from the wages of the employees may be made by the employer in any of the following cases:



[64] *Doctor, et. al. v. NII Enterprises, et. al.*, G.R. No. 194001, November 22, 2017.

> (a) When the deductions are authorized by law, including deductions for the insurance premiums advanced by the employer in behalf of the employee as well as union dues where the right to check-off has been recognized by the employer or authorized in writing by the individual employee himself.
>
> (b) When the deductions are with the written authorization of the employees for payment to the third person and the employer agrees to do so; Provided, That the latter does not receive any pecuniary benefit, directly or indirectly, from the transaction.

The deductions in question were neither insurance premiums advanced by the employer nor union dues. Apart from the cash bond which appeared in the Contract to Drive, Hyatt failed to adduce evidence of any written authorization from their drivers to make deductions for two-way radio system, Denzo air-conditioning system, LPG calibration, meter calibration, and installation of antenna repeater. Hyatt also lacked evidence to show that the deductions were intended as "increases in boundary rates." These deductions, therefore, must be reimbursed to Mejares and Cayno.[65]

The next question is whether Mejares and Cayno's claims for reimbursement of these deductions have prescribed.

Article 306[66] of the Labor Code provides:

> **Article 306.** *Money claims.* All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred.

***Arriola v. Pilipino Star Ngayon, Inc. et. al.*** [67] explicitly declared that Article 291 covers claims for overtime pay, holiday pay, service incentive leave pay, bonuses, salary differentials, and *illegal deductions* by an employer. Thus, Mejares and Cayno may only claim those amounts which were deducted from them within three (3) years from the time the complaint below was filed; all other claims for prior deductions have already prescribed.

***TAI Taxi, WMJJ Taxi, and Prime Taxi are solidarily liable with Hyatt to pay Mejares and Cayno's money claims***



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[65] G.R. No. 242459, *rollo*, p. 79.

[66] Former Article 291 of the Labor Code, as renumbered under DOLE's Department Advisory No. 1, Series of 2015.

[67] 741 Phil. 171, 180 (2014).

Generally, corporations, whether stock or non-stock, are treated as separate and distinct legal entities from the natural persons composing them. But the privilege of being considered a distinct and separate entity is confined to legitimate uses, and is subject to equitable limitations to prevent its being exercised for fraudulent, unfair or illegal purposes.[68] The corporate mask may be removed or the corporate veil, pierced when the corporation is just an alter ego of a person or of another corporation. For reasons of public policy and in the interest of justice, the corporate veil will justifiably be impaled only when it becomes a shield for fraud, illegality or inequity committed against third persons.[69]

The doctrine of piercing the corporate veil applies only in three (3) basic areas: 1) defeat of public convenience as when the corporate fiction is used as a vehicle for the evasion of an existing obligation; 2) fraud cases or when the corporate entity is used to justify a wrong, protect fraud, or defend a crime; or 3) alter ego cases, where a corporation is merely a farce since it is a mere alter ego or business conduit of a person, or where the corporation is so organized and controlled and its affairs are so conducted as to make it merely an instrumentality, agency, conduit or adjunct of another corporation.[70]

In ***Gold Line Tours v. Heirs of Lacsa***,[71] the Court held two bus companies solidarily liable for damages arising from breach of contract of carriage upon finding that the companies are just one and the same, *viz*:

> As we see it, the RTC had sufficient factual basis to find that petitioner and Travel and Tours Advisers, Inc. were one and the same entity, specifically: – (a) documents submitted by petitioner in the RTC showing that William Cheng, who claimed to be the operator of Travel and Tours Advisers, Inc., was also the President/Manager and an incorporator of the petitioner; and (b) Travel and Tours Advisers, Inc. had been known in Sorsogon as Goldline. On its part, the CA cogently observed:
>
> As stated in the (RTC) decision supra, William Ching disclosed during the trial of the case that defendant Travel & Tours Advisers, Inc. (Goldline), of which he is an officer, is operating sixty (60) units of Goldline buses. That the Goldline buses are used in the operations of defendant company is obvious from Mr. Cheng's admission. The Amended Articles of Incorporation of



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[68] *See International Academy of Management and Economics v. Litton and Co., Inc.*, G.R. No. 191525, December 13, 2017.

[69] *Sarona v. National Labor Relations Commission*, 679 Phil. 394, 416 (2012).

[70] *Id.*

[71] 688 Phil. 50, 61-62 (2012).

> Gold Line Tours, Inc. disclose that the following persons are the original incorporators thereof: Antonio O. Ching, Maribel Lim Ching, witness William Ching, Anita Dy Ching and Zosimo Ching. (Rollo, pp. 105-108) We see no reason why defendant company would be using Goldline buses in its operations unless the two companies are actually one and the same.
>
> Moreover, the name Goldline was added to defendant's name in the Complaint. There was no objection from William Ching who could have raised the defense that Gold Line Tours, Inc. was in no way liable or involved. Indeed, it appears to this Court that rather than Travel & Tours Advisers, Inc. it is Gold Line Tours, Inc., which should have been named party defendant.
>
> Be that as it may, we concur in the trial court's finding that the two companies are actually one and the same, hence the levy of the bus in question was proper.

Here, the labor arbiter was correct in allowing the amendment of the complaint to include TAI Taxi, WMJJ Taxi and Prime Taxi as party respondents. Records show that while it was Hyatt which hired Mejares and Cayno, the taxi units they drove were owned by TAI Taxi as indicated in their daily teller's receipt. These teller's receipts on the other hand bear "HYATT TAXI SERVICE, INC." or "PRIME TAXI SERVICES, INC." as header.[72] On some occasions, the drivers were made to drive WMJJ and PRIME taxi units and the ID supplied to them for display in their units also bear "TAI TAXI SERVICE, INC." as their employer.[73] Further, the *pro forma* Notice to Explain Hyatt submitted as documentary evidence indicates that Hyatt and TAI share the same address and contact numbers, among other details. Also, Prime Taxi's application for extension of validity of certificate of public convenience was signed by Lydia Mercader who had also been representing herself to be an employee of Hyatt. Finally, the General Information Sheets of the four (4) taxi companies listed the same exact address.[74]

Verily, it is but logical to conclude that Hyatt Taxi Service, Inc., Tai Taxi Service, Inc., WMJJ Taxi Service, Inc., and Prime Taxi Services, Inc. are mere alter egos of each other. The labor arbiter and the Court of Appeals were therefore correct in holding them solidarily liable for the money claims of Mejares and Cayno.

All told, the Court of Appeals did not err in rendering its Decision dated July 4, 2018 affirming the Labor Arbiter's Decision dated February 14, 2017.



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[72] G.R. No. 242364, *rollo* (Vol. I), p. 287.
[73] *Id.* at 286.
[74] *Id.* at 283-284.

**WHEREFORE**, the consolidated petitions are **DENIED**. The Court of Appeals' Decision dated July 4, 2018 is **AFFIRMED**.

**SO ORDERED."**

Very truly yours,

**LIBRADA C. BUENA**
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**
Deputy Division Clerk of Court
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ROSALES UY AND BERNABE
Counsel for Hyatt Taxi Services, Inc., et al.
Unit R09, Knightsbridge Residences
Valdez Street, Brgy. Poblacion
1210 Makati City

Atty. Allen Liberato-Espino
Counsel for V. Cayno & E. Mejares
#33 Evangeline Padua Street
BF Resort Village, 1740 Las Piñas City

Court of Appeals (x)
Manila
(CA-G.R. SP No. 154684)

NATIONAL LABOR RELATIONS COMMISSION
PPSTA Building, Banawe Street
1100 Quezon City
(NLRC LAC No. 05-001780-17)
(NLRC NCR Case No. 04-04973-16)

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