



Misael Domingo C. Battung III  
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Deputy Division Clerk of Court  
Third Division

OCT 07 2019

Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

SKYWAY O & M CORPORATION,  
*Petitioner,*

G.R. No. 222233

Present:

- versus -

PERALTA, J., *Chairperson,*  
LEONEN,  
REYES, A., JR.  
HERNANDO,\* and  
INTING, JJ.

Promulgated:

WILFREDO M. REINANTE,  
*Respondent.*

August 28, 2019

Misael Domingo C. Battung III

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DECISION

INTING, J.:

This is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court, assailing the Decision<sup>2</sup> dated June 30, 2015 and Resolution<sup>3</sup> dated December 17, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 134419. The CA affirmed the October 31, 2013<sup>4</sup> and December 23, 2013<sup>5</sup> Resolutions of the National Labor Relations

\* On Leave.

<sup>1</sup> *Rollo*, pp. 3-35.

<sup>2</sup> Id. at 456-464. Penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Franchito N. Diamante and Zenaida T. Galapate-Laguilles.

<sup>3</sup> Id. at 474-475.

<sup>4</sup> Id. at 369-404. Penned by Commissioner Teresita D. Castillon-Lora and concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Erlinda T. Agus.

<sup>5</sup> Id. at 416-419.

Commission (NLRC) sustaining the finding of the Labor Arbiter (LA) that respondent Wilfredo M. Reinante (Wilfredo) was illegally dismissed.

The facts.

Petitioner Skyway O & M Corporation (Skyway) hired Wilfredo as Intelligence Officer for a fixed period from June 26, 2008 to November 25, 2008.<sup>6</sup> Immediately thereafter, on November 26, 2008, Skyway renewed his services and appointed him as a probationary employee.<sup>7</sup> In May 2009, Wilfredo took a vacation leave and filed an application for sick leave upon the advice of his physician due to hypertension. In a Memorandum<sup>8</sup> dated May 4, 2009, Skyway disapproved his application for vacation leave and directed him to report for work to discuss his on-the-job performance and continued absence without proper authority.<sup>9</sup>

On May 21, 2009, Wilfredo received a pre-termination notice<sup>10</sup> from Skyway's Traffic Safety Management and Security Department (TSMSSD) for supposedly failing to meet the pre-performance standards of the company based on the Performance Appraisal Report<sup>11</sup> submitted by his supervisor, Augusto Alcantara. On May 25, 2009, on his last day as probationary employee, Wilfredo was dismissed. Based on the termination letter,<sup>12</sup> his performance during the probationary period starting November 26, 2008 to April 2009 was below average. Hence, he failed to meet the performance standards set forth by Skyway. Five days later, Wilfredo secured a clearance certificate<sup>13</sup> and claimed his terminal pay through an attorney-in-fact.<sup>14</sup>

Meanwhile, Wilfredo filed administrative complaints against Augusto, assailing the latter's authority to assess his performance, as well as against Skyway for hiring and promoting unqualified security officers. The parties eventually entered into a compromise

<sup>6</sup> See Fixed-Term Employment Contract, *id.* at 59-60.

<sup>7</sup> See Probationary Employment Conforme Agreement, *id.* at 61-62.

<sup>8</sup> *Rollo*, p. 193.

<sup>9</sup> *Id.* at 456-457.

<sup>10</sup> *Id.* at 63.

<sup>11</sup> *Id.* at 64.

<sup>12</sup> *Id.* at 65.

<sup>13</sup> *Id.* at 66.

<sup>14</sup> *Id.* at 457.

agreement/amicable settlement wherein Wilfredo agreed not to file any case against Skyway and to withdraw the administrative cases he had filed against its security officers. Notwithstanding demand, TSMDS failed to comply with the terms and conditions of the compromise agreement prompting Wilfredo to file a complaint for constructive dismissal, non-payment of service incentive leave, moral and exemplary damages, and attorney's fees.<sup>15</sup>

On January 30, 2013, the LA rendered a Decision,<sup>16</sup> the *fallo* of which reads:

**WHEREFORE**, judgment is hereby (*sic*) ordering respondent Skyway O & M Corporation to pay complainant as follows:

1. [Backwages] up to the finality of Decision which [as] of this moment is already P642,900.00 (P15,000.00 x P42.86 mos.);
2. Separation pay equivalent to one (1) month salary or P15,000.00;
3. Pro-rated 13<sup>th</sup> month pay or P6,250.00;
4. Moral damages in the amount of P10,000.00; and
5. Exemplary damages in the amount of P10,000.00,

**GRAND TOTAL- P684,150.00**

All other claims are dismissed for lack of merit.

**SO ORDERED.**<sup>17</sup>

Skyway appealed to the NLRC which, in a Resolution<sup>18</sup> dated October 31, 2013, affirmed with modification the disquisition of the LA by deleting the award of 13<sup>th</sup> month pay. According to the NLRC, Wilfredo's appraisal report has no basis and was biased. For failure of Skyway to show by substantial evidence the basis of the said evaluation

<sup>15</sup> Id. at 457.

<sup>16</sup> Id. at 258-273. Penned by Labor Arbiter Adolfo C. Babiano.

<sup>17</sup> Id. at 272-273.

<sup>18</sup> Supra note 4.

that led to Wilfredo's termination, the NLRC found his dismissal illegal.<sup>19</sup> It ruled:

**WHEREFORE**, premises considered, judgment is hereby rendered partially granting the appeal only with respect to the award for the 13<sup>th</sup> month pay, which award is hereby deleted. The rest of the Decision of Labor Arbiter Adolfo C. Babiano dated 30 January 2013 is hereby affirmed with the award for attorney's fees (sic) hereby declared as 10% of the total monetary award.

**SO ORDERED.**<sup>20</sup>

Aggrieved, Skyway filed a Motion for Reconsideration, but it was denied for lack of merit.<sup>21</sup>

Thereafter, Skyway filed a petition for *certiorari* with the CA which was dismissed in the assailed Decision.<sup>22</sup> The CA held that Wilfredo was rehired for the same position as Intelligence Officer after his fixed term employment had expired; hence, it can be inferred that management was satisfied with his performance; and that he was qualified and competent for the job; otherwise, it would not have engaged him as a probationary employee.<sup>23</sup>

Skyway filed a Motion for Reconsideration which was denied by the CA in the assailed Resolution dated December 17, 2015.<sup>24</sup>

Thus, the instant petition presenting the following issues for the Court's consideration:

1. WHETHER THE CA GRAVELY ERRED IN RULING THAT WILFREDO WAS ILLEGALLY DISMISSED; AND
2. WHETHER THE CA GRAVELY ERRED IN RULING THAT WILFREDO WAS ENTITLED TO HIS MONETARY CLAIMS.<sup>25</sup>

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<sup>19</sup> Id. at 402.

<sup>20</sup> Id. at 403.

<sup>21</sup> Supra note 5.

<sup>22</sup> Supra note 2.

<sup>23</sup> Id. at 460.

<sup>24</sup> Supra note 3.

<sup>25</sup> Id. at 13.

The petition is bereft of merit.

First, the determination of whether Wilfredo was illegally dismissed from his employment with Skyway is essentially a factual question and, therefore, not a proper subject in the instant petition.<sup>26</sup> This Court is not a trier of facts, and it is not for the Court to re-examine and re-evaluate the probative value of evidence presented before the LA and the NLRC, which were already passed upon and formed as basis of the assailed Decision of the CA.

Second, the LA, NLRC and the CA uniformly found that Wilfredo was illegally dismissed. Factual findings of quasi-judicial bodies like the NLRC, if supported by substantial evidence, are accorded respect and even finality by this Court, more so when they coincide with those of the LA. Such factual findings are given more weight when affirmed by the CA.<sup>27</sup>

Third, a probationary employee is one who is placed on trial by an employer, during which the latter determines whether or not the former is qualified for permanent employment.<sup>28</sup> The essence of a probationary period of employment lies primordially in the purpose and objective of both the employer and employee during such period. On one hand, the employer observes the fitness, propriety and efficiency of a probationary employee in order to ascertain whether or not such person is qualified for regularization. The latter, on the other hand, seeks to prove to the former that he or she has the qualifications and proficiency to meet the reasonable standards for permanent employment.<sup>29</sup>

Though not on the same plane as that of a permanent employee, a probationary employee enjoys security of tenure. Other than being terminated for a just or authorized cause, a probationary employee may be dismissed due to his or her failure to qualify in accordance with the standards of the employer made known to him or her at the time of his or her engagement. Simply put, the services of a probationary employee may be terminated for any of the following: (1) a just cause;

<sup>26</sup> See *Bank of Lubao, Inc. vs. Manabat, et al.*, 680 Phil. 792, 800 (2012), citing *Cabigting vs. San Miguel Foods, Inc.*, 620 Phil. 14, 26 (2009).

<sup>27</sup> *Emeritus Security and Maintenance Systems, Inc. vs. Dailig*, 731 Phil. 319, 324-325 (2014).

<sup>28</sup> *Moral vs. Momentum Properties Management Corporation*, G.R. No. 226240, March 6, 2019, citing *Canadian Opportunities Unlimited, Inc. vs. Dalangin, Jr.*, 681 Phil. 21, 33 (2012).

<sup>29</sup> *Id.*

(2) an authorized cause; and (3) failure to qualify as a regular employee in accordance with the reasonable standards prescribed by the employer.<sup>30</sup>

Here, the fact that Wilfredo was deliberately given an unmeritorious rating to prevent him from attaining the status of a regular employee was acknowledged by Augusto himself, Wilfredo's supervisor. This is corroborated by Domingo T. Hernandez, an employee of Skyway. Both admitted rendering false and unfounded rating to Wilfredo's performance when, in truth, he should not have been dismissed from the company. Augusto stated in his affidavit:<sup>31</sup>

x x x x

3. Due to my own volition, I rendered an unmeritorious rating against complainant Wilfredo M. Reinante which was made the basis of TSMSSD of Skyway O & M Corporation leading to his untimely ouster from the company. Be that as it may, administrative and criminal cases were filed against me and my six co-employees, where in one case before the PNP-SOSIA, we were found to be disqualified as security officers;
4. That having reconciled with complainant Wilfredo M. Reinante for old time sake, I am admitting my unmeditated wrongdoing that I was one of the factors leading to his termination, where in truth and in fact, he should not have been dismissed and hereby likewise admit that I am not qualified as a security officer as ruled upon by the PNP-SOSIA in finality;
5. I am fully aware of the legal effects of this admission in the spirit of reconciliation, goodwill, humanitarian reasons and for old time sake; x x x

Considering that Wilfredo was not dismissed for a just or authorized cause, his dismissal from employment was illegal. As properly observed by the CA, the termination of his employment based on his alleged unsatisfactory performance rating was effected merely as a subterfuge after he discovered the hiring or appointment by Skyway of unqualified security officers.<sup>32</sup>

<sup>30</sup> Id., citing *Philippine National Oil Company-Energy Development Corp., et al. vs. Buenavista*, 788 Phil. 508, 536 (2016) and *Abbott Laboratories, Phils. vs. Alcaraz*, 714 Phil. 510, 532-533 (2013).

<sup>31</sup> *Rollo*, pp. 189-190.

<sup>32</sup> Id. at 460.

Fourth, Skyway argues that the previous settlement between the parties constitutes a valid waiver. However, it must be stressed that the employee's waiver or quitclaim cannot prevent the employee from demanding benefits to which he or she is entitled, and from filing an illegal dismissal case. Waivers or quitclaims are looked upon with disfavor, and are frowned upon for being contrary to public policy. Unless it can be shown that the person executing the waiver voluntarily did so, with full understanding of its contents, and with reasonable and credible consideration, the same is not a valid and binding undertaking. The burden is with the employer to prove that the waiver or quitclaim was voluntarily executed.<sup>33</sup>

Skyway failed to discharge this burden. As noted by the NLRC, there was no reasonable consideration stipulated in the settlement agreement inasmuch as it failed to specify when, how, and in what manner the agreement is to be fulfilled by the parties. On his part, Wilfredo stressed that the three basic considerations for the settlement are: (1) payment of the amount of ₱100,000.00; (2) suspension of the so-called significant seven; and (3) a security officer position. Skyway maintains, on the other hand, that the only consideration for the contract is the payment of ₱100,000.00. Obviously, there is no meeting of the minds between the parties.<sup>34</sup>

In view of Wilfredo's illegal dismissal, he is entitled to backwages and reinstatement. He should be paid full backwages from the time of his illegal dismissal until the finality of this Decision. Anent reinstatement, payment of separation pay in lieu of reinstatement is proper due to the strained relations between the parties. Hence, Wilfredo is entitled to separation pay equivalent to one (1) month salary for every year of service, with a fraction of at least six (6) months considered as one (1) whole year, from the time of his illegal dismissal by Skway until the finality of this Decision.

The award of ₱20,000.00 as moral damages and ₱10,000.00 as exemplary damages to Wilfredo is, likewise, reasonable and proper under the circumstances, because the LA aptly found that the dismissal

<sup>33</sup> See *Dagasdas vs. Grand Placement and General Services Corp.*, 803 Phil. 463, 478-479 (2017), citing *Universal Staffing Services, Inc. vs. NLRC, et al.*, 581 Phil. 199, 209-210 (2008).

<sup>34</sup> *Rollo*, p. 388.

of Wilfredo was orchestrated as a retaliatory action by Skyway after Wilfredo discovered its hiring of unqualified security officers.<sup>35</sup>

Finally, attorney's fees in labor cases are sanctioned when the employee is dismissed in bad faith and is compelled to litigate or incur expenses to protect his or her rights by reason of the unjustified acts of the employer,<sup>36</sup> as in this case.

All monetary awards due to Wilfredo shall earn legal interest at the rate of six percent (6%) *per annum* from the finality of this decision until full payment.<sup>37</sup>

**WHEREFORE**, the Petition is **DENIED**. The Decision and the Resolution, dated June 30, 2015 and December 17, 2015, respectively, of the Court of Appeals in CA-G.R. SP No. 134419 are **AFFIRMED with MODIFICATION**. Petitioner is **ORDERED** to **PAY** respondent:

1. Full backwages from the time of respondent's illegal dismissal until the finality of this Decision;
2. Separation pay equivalent to one (1) month salary for every year of service, with a fraction of at least six (6) months considered as one (1) whole year, from the time of respondent's illegal dismissal until the finality of this Decision;
3. Moral damages in the amount of ₱20,000.00 and exemplary damages in the amount of ₱10,000.00; and
4. Attorney's fees equivalent to 10% of the total monetary award.

The above monetary awards shall earn legal interest at the rate of six percent (6%) *per annum* from the date of the finality of this Decision until fully paid. The case is **REMANDED** to the Labor

<sup>35</sup> Id. at 272.

<sup>36</sup> *Alba vs. Espinosa, et al.*, G.R. No. 227734, August 9, 2017, 837 SCRA 52, 70, citing *Pepsi Cola Products Phils., Inc., et al. vs. Santos*, 574 Phil. 400, 408 (2008).

<sup>37</sup> *Barroga vs. Quezon Colleges of the North, et al.*, G.R. No. 235572, December 5, 2018 citing *Nacar vs. Gallery Frames, et al.*, 716 Phil. 267-282 (2013).

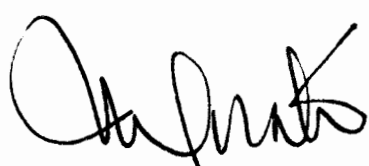



Arbiter for the computation of respondent's monetary award in accordance with this decision.

**SO ORDERED.**

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

WE CONCUR:

  
**DIOSDADO M. PERALTA**  
Associate Justice  
Chairperson

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**ANDRES B. REYES, JR.**  
Associate Justice

(On Leave)  
**RAMON PAUL L. HERNANDO**  
Associate Justice

**ATTESTATION**

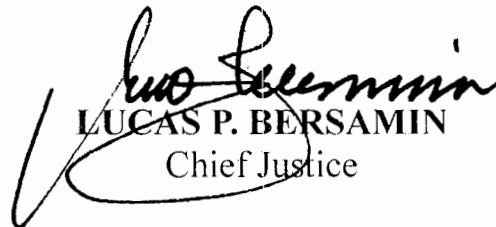
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
Associate Justice  
Chairperson, Third 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.



**LUCAS P. BERSAMIN**  
Chief Justice

**CERTIFIED TRUE COPY**

*Mis D C Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
Deputy Division Clerk of Court  
Third Division

OCT 07 2019

