



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

ADSTRATWORLD HOLDINGS, G.R. No. 233679
 INC., JUDITO B. CALLAO and
 JUDITO DEI R. CALLAO,

Petitioners,

Present:

CAGUIOA, J.,

Chairperson,

INTING,

GAERLAN,

DIMAAMPAO, and

SINGH, JJ.

- versus -

CHONA A. MAGALLONES and
 PAULINE JOY M. LUCINO,

Respondents.

Promulgated:

July 6, 2022

Misap PCB-IT

X-----X

DECISION

INTING, J.:

The Petition for Review on *Certiorari*¹ assails the Decision² dated November 29, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 140702. The CA reversed and set aside the ruling³ of the National Labor Relations Commission (NLRC) which affirmed with modification the Decision⁴ dated October 3, 2014 of the Labor Arbiter (LA) dismissing the complaint for illegal dismissal and money claims filed by Chona A. Magallones (Magallones) and Pauline Joy M. Lucino (Lucino) (collectively,

¹ *Rollo*, pp. 236-260.

² *Id.* at 36-56. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Renato C. Francisco.

³ The NLRC Decision dated February 4, 2015 and Resolution dated March 3, 2015 were penned by Presiding Commissioner Herminio V. Suelo and concurred in by Commissioner Numeriano D. Villena. Commissioner Angelo Ang Palana submitted his concurring and dissenting opinion in the case; *id.* at 144-154, 156-158.

⁴ *Id.* at 139-142. Penned by Labor Arbiter Quintin B. Cueto III.

respondents) against Adstratworld Holdings, Inc. (Adstratworld), Judito B. Callao and Judito Dei R. Callao, its President/Chief Executive Officer, and Executive Vice President/Chief Operating Officer, respectively (collectively, petitioners).⁵ Also assailed is the CA Resolution⁶ dated July 10, 2017 denying the motion for reconsideration.

Antecedents

In their Position Paper,⁷ respondents alleged that:

From January 2012 to July 15, 2013,⁸ respondents worked for petitioners as events marketing and logistics officers without any written contract. They were given a basic monthly salary of ₱10,000.00 with no benefits, other than 13th month pay of ₱4,000.00 and cash bonus of ₱1,000.00 given during the Christmas party.⁹ On July 16, 2013, petitioners issued probationary contracts¹⁰ commencing on the same date and until December 16, 2013, giving respondents a basic salary of ₱11,000.00.

On January 8, 2014, respondents were illegally dismissed and were no longer allowed to report for work.¹¹

Respondents argued that they were regular employees of petitioners as they rendered more than one year of continuous service and the nature of their work was necessary in the usual business of Adstratworld. Respondents' probationary contracts were also just a ploy to circumvent their right to security of tenure; and that their dismissal from work was without any just or authorized cause.¹²

Apart from reinstatement and payment of full backwages, respondents prayed that petitioners be ordered to settle their underpaid salary, holiday premium pay, rest day pay, and 13th month pay for 2012

⁵ Id. at 142.

⁶ Id. at 58-59. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Renato C. Francisco.

⁷ Id. at 121-129.

⁸ The alleged period that respondents had no written contract was only until July 15, 2013 as their probationary contracts commenced on July 16, 2013.

⁹ *Rollo*, pp. 121-122.

¹⁰ Id. at 131, 134.

¹¹ Id. at 37.

¹² Id. at 123-124.

and 2013; unpaid holiday pay, overtime pay, service incentive leave pay, emergency cost of living allowance, and night shift differentials; nominal, moral, and exemplary damages; and attorney's fees.¹³

Meanwhile, petitioners denied in their Position Paper¹⁴ that respondents were illegally dismissed and narrated instead the following matters:

On July 16, 2013, Adstratworld, a domestic corporation engaged in advertising business, hired respondents as events marketing and logistics officers on probationary status. It tasked respondents to organize events such as festivals, basketball leagues, and sports fests. It made respondents to understand that their performance shall be evaluated on the third to fifth month of their probationary status to determine whether they would qualify as regular employees.¹⁵

Subsequently, respondents' evaluation slips¹⁶ indicated a decline in their average scores that reflected their overall work performance. Petitioners later on served upon respondents a Notice of Disciplinary Action¹⁷ dated August 8, 2013 requiring them to explain why they should not be held accountable for distributing items (jersey shirts) from their work project to company executives without the permission of the officer-in-charge and in violation of the employee's code of ethics. Despite submitting their written explanations,¹⁸ petitioners suspended Magallones and Lucino for five and three days, respectively.¹⁹

On November 12, 2013, petitioners reprimanded Lucino for bringing items (singlet) inside the company premises without an entry pass to which she submitted her explanation.²⁰ It also reprimanded²¹ Lucino for her accumulated tardiness for the months of August, September, and October 2013. By reason of her tardiness, it suspended Lucino from work for three days, or from December 16, 2013 to December 18, 2013.²²

¹³ Id. at 129.

¹⁴ Id. at 60-73.

¹⁵ Id. at 62-63.

¹⁶ Id. at 78-85, 86-94.

¹⁷ Id. at 95-96.

¹⁸ Id. at 98, 100.

¹⁹ Id. at 63.

²⁰ Id. at 101-102.

²¹ Id. at 103-105.

²² Id. at 63-64.

On December 12, 2013, petitioners notified respondents regarding the termination of their probationary status and their failure to qualify as regular employees.²³ Petitioners gave respondents until January 7, 2014 to complete the turnover of their tasks and transactions to petitioners.²⁴ Petitioners contended that at the time of their engagement, respondents were aware that they must abide by the standards set forth to attain regular status; respondents failed to comply with these standards which proved them unfit for permanent employment. According to petitioners, the dismissal of respondents was legal as it was pursuant to a valid exercise of management prerogative.²⁵

Ruling of the LA

On October 3, 2014, the LA dismissed the complaint for lack of merit but nonetheless directed petitioners to pay Magallones and Lucino their last pay in the respective amounts of ₱5,000.00 and ₱6,500.00.²⁶ The LA ruled that the employment records of respondents showed clear disregard of company rules and unsatisfactory performance. Thus, the LA decreed that respondents were unfit and unqualified for permanent employment.²⁷

Ruling of the NLRC

In its Decision²⁸ dated February 4, 2015, the NLRC affirmed with modification the LA decision in that Adstratworld was solely adjudged to pay the unpaid salary of respondents in the total amount of ₱11,500.00.²⁹ The pertinent portions of the NLRC decision read:

[B]ased on their work performance evaluation and the commission of infractions of company rules and regulations, [respondents] were found by [petitioners] inadequate to meet the reasonable employment standards which were duly made known to them at the time of their engagement. This factual assertion was

²³ See Notice for End of Probationary Employment: *id.* at 108-109.

²⁴ *Id.* at 64.

²⁵ *Id.* at 65-69.

²⁶ *Id.* at 142.

²⁷ *Id.* at 141.

²⁸ *Id.* at 144-153. Penned by Presiding Commissioner Herminio V. Suelo and concurred in by Commissioner Numeriano D. Villena. Commissioner Angelo Ang Palana submitted his concurring and dissenting opinion in the case.

²⁹ *Id.* at 152.

[neither] disputed nor denied by [respondents]. Thus, [Adstratworld] was merely exercising its statutory prerogative when it refused to hire [respondents] after the expiration of the probationary period. x x x [It] is within the exercise of the right to select his employees that the employer may set or fix a probationary period within which the latter may test and observe the conduct of the former before hiring him permanently.

x x x x

In the absence of any substantial proof that [respondents] work beyond the normal working hours and during holidays, their claims for overtime pay and holiday pay premium are denied. Further, there being no evidence that [respondents rendered] work from 10 p.m. to 6 a.m., their demand for night shift differential pay is denied as well.

x x x The individual [petitioners] are hereby exonerated from liability considering that [Adstratworld] has its own separate and distinct juridical personality.³⁰

With the denial of their motion for reconsideration,³¹ respondents filed a petition for *certiorari*³² with the CA.

Ruling of the CA

In the assailed Decision³³ dated November 29, 2016, the CA reversed and set aside the NLRC ruling, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing premises, the Decision rendered by the NLRC is [reversed and set aside]. In addition to the award accorded by the NLRC to [respondents], Adstratworld is further ordered to PAY each [respondent] the following monetary claims, thus:

- (1) underpayment difference of backwages;
- (2) underpayment difference of holiday pay and holiday premium pay;
- (3) underpayment difference of rest pay;
- (4) underpayment difference of overtime pay;
- (5) underpayment difference of service incentive leave pay;
- (6) underpayment difference of ECOLA;

³⁰ Id. at 150-152.

³¹ Id. at 156-157.

³² Id. at 159-175.

³³ Id. at 36-56.

- (7) underpayment difference of night shift differential; and
- (8) underpayment difference of 13th month pay from 2012 to 2013.

Adstratworld is likewise directed to PAY [respondents] separation pay equivalent to one (1) month salary for every year of service in lieu of reinstatement as well as their full backwages, inclusive of allowances and other benefits or their monetary equivalent computed from January 8, 2014 (the date of their last work assignment or from the time compensation was withheld from them) up to the date of finality of this Decision.

Furthermore, Adstratworld is directed to pay each [respondent] the amount of Php80,000.00 as moral damages and another Php80,000.00 as exemplary damages, plus attorney's fee[s] of Php50,000.00.

In view of this Court's inability to compute the correct amount of the rest of monetary awards due [to respondents] because of the deficiency of the record available to us, the case is hereby remanded to the Labor Arbiter for the determination of the appropriate computation.

IT IS SO ORDERED.³⁴

The CA ruled that respondents were regular employees of Adstratworld as their work was necessary and desirable in its advertising business;³⁵ that respondents were neither engaged as fixed term employees nor as probationary employees because Adstratworld employed them without the benefit of a contract in January 2012; that the subsequent "engagement" of respondents as probationary employees on July 16, 2013 could not alter the fact that they were already regular employees of the company; and that even granting that their engagement in January 2012 was merely probationary, respondents should be deemed as regular employees on July 16, 2013 as they had been in the service of Adstratworld for more than one year.³⁶

Moreover, the CA stressed that respondents were illegally dismissed. It pointed out that Adstratworld terminated respondents because of their alleged failure to qualify with the standards for regularization; that such basis, however, is not one of the valid grounds for the dismissal of an employee. It further ruled that Adstratworld did

³⁴ Id. at 54-55.

³⁵ Id. at 44.

³⁶ Id. at 46-49.

not observe procedural due process when it dismissed respondents as it did not give the latter an opportunity to answer for the acts or omissions that served as basis for their dismissal;³⁷ that in lieu of reinstatement, respondents were entitled to receive separation pay due to the strained relations of the parties; and that the grant of full backwages because of the illegal dismissal of respondents is proper.³⁸

Finally, the CA declared that respondents were entitled to their monetary claims because Adstratworld merely denied liability without submitting proof that it paid respondents; that respondents are entitled to moral and exemplary damages because their dismissal was attended by bad faith shown (1) by the employer's non-observance of due process in terminating respondents and (2) by placing them on probationary status, even though Adstratworld was aware that respondents were its regular employees already; and that respondents are entitled to the award of attorney's fees considering that respondents were forced to litigate and they incurred expenses in order to protect their rights and interests.³⁹

On July 10, 2017, the CA denied petitioners' motion for reconsideration,⁴⁰ prompting them to file the present petition.

The Issues

Did the CA err (1) in finding that the NLRC committed grave abuse of discretion in affirming the dismissal of the complaint and (2) in finding that respondents were illegally dismissed from work.

Petitioners' Arguments

Petitioners posit that the instant petition falls within the exception to the rule that only questions of law may be raised in a Rule 45 petition. They assert that the CA manifestly overlooked relevant facts which if properly considered would justify a different conclusion; that the CA's findings are grounded on speculations, surmises, or conjectures; and that

³⁷ Id. at 50.

³⁸ Id. at 54.

³⁹ Id. at 51, 53-54.

⁴⁰ Id. at 58-59.

its judgment is based on misapprehension of facts.⁴¹

Petitioners also contend that the CA erred in finding grave abuse of discretion on the part of the NLRC because the latter carefully evaluated the facts and considered applicable laws and jurisprudence in finding that respondents were not illegally dismissed. They state that respondents were aware of their probationary status for five months; that they were validly terminated for failure to qualify with the standards set forth by Adstratworld for regularization; and that Adstratworld served a written notice upon respondents anent the termination of their probationary contracts.⁴²

Respondents' Arguments

Respondents counter that they were regular employees of Adstratworld from the beginning of their engagement; that their probationary contracts issued on July 16, 2013 was a circumvention of the law as they were working for Adstratworld from January 2012 until they were illegally dismissed on January 8, 2014;⁴³ and that as regular employees, they are entitled to security of tenure and cannot be dismissed without any valid cause.⁴⁴

The Court's Ruling

The petition lacks merit.

The issues of whether respondents were regular employees and whether they were illegally dismissed from work relate to factual matters which are generally not within the scope of a Rule 45 petition. The Court is not a trier of facts and solely questions of law must be raised in a petition for review on *certiorari*. However, considering the varying factual findings of the LA and the NLRC, on the one hand, and the CA, on the other hand, the Court finds it necessary to re-evaluate these findings for the just disposition of the case.⁴⁵

⁴¹ Id. at 21.

⁴² Id. at 14-19.

⁴³ Id. at 477-480.

⁴⁴ Id. at 487.

⁴⁵ *Consolidated Building Maintenance, Inc. v. Asprec*, 832 Phil. 630, 642 (2018).

Moreover, in labor cases, the Court's review is limited to ascertaining whether the CA properly found the presence or absence of grave abuse of discretion on the part of the NLRC in rendering its decision. In other words, the review under Rule 45 pertains to the determination of the legal correctness of the CA ruling as regards the NLRC ruling which in turn must be supported by substantial evidence; for otherwise, the NLRC is guilty of grave abuse of discretion.⁴⁶

More particularly, grave abuse of discretion refers to the "rendition of judgment in a capricious, whimsical or arbitrary manner tantamount to lack of jurisdiction."⁴⁷ It is present where the ruling of the NLRC is *not* supported by substantial evidence or such amount of relevant evidence that a reasonable mind might accept as sufficient to support a conclusion although other equally reasonable minds might conceivably view otherwise.⁴⁸

Keeping in mind the foregoing legal precepts, the Court finds that the CA did not err in ruling that the NLRC committed grave abuse of discretion when it affirmed the dismissal of the complaint.

Petitioners maintain that the employment of respondents only commenced upon the issuance of their probationary contracts on July 16, 2013; that respondents never attained the status of regular employment; and that respondents failed to show by competent evidence that Adstratworld illegally dismissed them.

Petitioners' contentions are unavailing.

Notably, the probationary contracts issued by Adstratworld to respondents only indicated a change in the employment status and an increase in the salary of the latter. These changes presuppose that respondents were already working for Adstratworld and that they were *not* just newly hired employees. The pertinent portions of the probationary contracts provide:

⁴⁶ *Inocentes v. R. Syjuco Construction, Inc.*, G.R. No. 237020, July 29, 2019.

⁴⁷ *Id.*

⁴⁸ *Torrefiel v. Beauty Lane Phils., Inc.*, 792 Phil. 464, 478 (2016).

Employment Status

From

x x x

To

● Contractual Status

● Probationary Status

x x x

x x x x

Merit Increase

From

● Basic Salary

x x x

Php 10,000/mo

To

● Basic Salary

x x x

Php 11,000/mo

effective: July 16, 2013⁴⁹

Moreover, respondents submitted in evidence their payslips⁵⁰ for July 1-15, 2013 or a period prior to the issuance of their probationary contracts. The payslips and the content of the probationary contracts quoted above support the assertion of respondents that they were employed earlier than July 16, 2013, albeit without any written contract, and that they were regular employees of petitioners.

Under Article 295⁵¹ of the Labor Code, a regular employee is one who has been engaged to perform tasks usually necessary or desirable in the employer's usual business or trade — without falling within the category of either a fixed, project, or seasonal employee; or one who has rendered at least a year of service, with respect to the activity he or she is engaged, and the work of the employee remains while such activity exists.

Meanwhile, Article 296 of the Labor Code defines probationary employment in the following manner:

⁴⁹ *Rollo*, pp. 76, 106.

⁵⁰ *Id.* at 362, 365, and 477.

⁵¹ ARTICLE 295. [280] *Regular and Casual Employment*. — The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or service to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: *Provided*, That any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists.

ARTICLE 296. [281] *Probationary Employment.* — Probationary employment shall not exceed six (6) months from the date the employee started working, unless it is covered by an apprenticeship agreement stipulating a longer period. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee.

In the case, pieces of substantial evidence support the finding of the CA that from the time they were employed, respondents were regular employees of Adstratworld.

One, respondents performed tasks necessary and desirable in the usual business of Adstratworld. As pointed out by the CA, Adstratworld needs the expertise of marketing personnel whose primary task is to conceptualize advertising products and services to promote its advertising business and products. For this reason, respondents' work as events marketing and logistics officers is vital in the advertising business of Adstratworld making them its regular employees from the very beginning of their employment.

Two, even assuming that the engagement of respondents in January 2012 was merely probationary, by July 16, 2013 (or at the time their probationary contracts were issued), they were already regular employees. As above-mentioned, the employment for at least one year, with respect to the activity that the employee had been engaged, makes one a regular employee. Considering that respondents were in the service of Adstratworld for more than a year doing the usual tasks that they were engaged to perform, then they are regular employees of the company.

At the same time, substantial evidence supports the finding of the CA that respondents were illegally dismissed from work.

It is settled that in illegal dismissal cases, the employer has the burden to prove that the termination of the employee is with a valid cause. This means that "the employer must affirmatively show rationally

adequate evidence that the dismissal was for a justifiable cause.”⁵² Here, petitioners failed to discharge their burden as they failed to establish compliance with the substantive and procedural due process in terminating respondents.

To validly dismiss a regular employee, the employer must observe substantive and procedural due process. Substantive due process requires that the dismissal must be pursuant to any of the just or authorized causes under the law. Specifically, a “dismissal based on a just cause implies that the employee has committed some violation against the employer, hence, it can be said that the employee initiated the dismissal process.”⁵³ Article 297⁵⁴ of the Labor Code provides for the instances when the employer may dismiss the employee due to a just cause. Meanwhile, procedural due process requires that the employee must be given notice of the reason for one’s dismissal, an opportunity to be heard and defend himself or herself, and a notice of the employee’s termination.⁵⁵

These requirements were not complied in the case.

To recall, Adstratworld dismissed respondents on the latter’s alleged failure to adhere to the standards set forth at the time of hiring and which standards would determine whether respondents would qualify as regular employees. However, as above-discussed, respondents were employed as regular employees from the commencement of their work in January 2012. It is thus inconsistent and absurd that Adstratworld would rehire respondents as probationary employees on July 16, 2013 and expect them to do the very same tasks they were already performing since January 2012.

The alleged decline in the performance of respondents and the imputed violations against them (unauthorized distribution and bringing

⁵² *Torrefiel v. Beauty Lane Phils., Inc.*, supra note 48, at 477.

⁵³ *Bance v. University of St. Anthony*, G.R. No. 202724, February 3, 2021.

⁵⁴ Art. 297. [282] *Termination by Employer*. -- An employer may terminate an employment for any of the following causes:

- (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- (b) Gross and habitual neglect by the employee of his duties;
- (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
- (e) Other causes analogous to the foregoing.

⁵⁵ See *Bance v. University of St. Anthony*, supra.

in of items in the company premises, and tardiness on the part of Lucino) while respondents were under the supposed probationary period would not justify their termination from work. To reiterate, Adstratworld anchored its dismissal on respondents' failure to qualify for regular employment. However, respondents were already regular employees and there was no reason for them to be placed under probationary status after already attaining regular employment status. In fine, there was no apparent and sufficient reason supporting petitioners' view that respondents were validly dismissed for failure to abide by the requirements necessary to attain regular employment status.

Even granting, for the sake of argument, that respondents were employed as mere probationary employees on July 16, 2013, there was no evidence that Adstratworld set forth reasonable standards for respondents' regularization which were made known at the time of their engagement. Let it be underscored that the probationary contracts only contained the changes in employment status and salary and did not mention any terms and conditions as qualification for the regularization of respondents.

In *Agustin v. Alphaland Corp.*,⁵⁶ the Court elucidated that in probationary employment, it is indispensable that the employer informs the employee at the time of engagement the reasonable standards by which he or she will be evaluated for regularization. In case the employer fails to comply with this requirement, the employee shall be deemed a regular employee. The absence of any clear standards set forth and communicated by Adstratworld at the inception of the supposed probationary employment of respondents proved that they were regular employees of Adstratworld.

Further, the alleged unsatisfactory performance during the supposed probationary period does not by itself prove that respondents were validly dismissed. As discussed above, Adstratworld did not distinctly identify and communicate to respondents the parameters as to what would constitute a satisfactory and/or unsatisfactory performance required for the purported regularization of respondents. Moreover, respondents did not sign the evaluation slips which, according to petitioners, established the unsatisfactory performance of respondents. At the same time, Adstratworld failed to show that it afforded

⁵⁶ G.R. No. 218282, September 9, 2020.

respondents the opportunity to be heard and explain themselves prior to being dismissed from work.

In view of all the foregoing, it is beyond cavil that Adstratworld dismissed respondents without observing substantive and procedural due process required under the law. In this regard, the ruling of the NLRC which dismissed the complaint was without factual and legal justifications. Thus, the CA properly found that the NLRC committed grave abuse of its discretion when it affirmed the LA decision dismissing the case.

As a consequence of their illegal dismissal, respondents are entitled to “(1) reinstatement without loss of seniority rights and other privileges; (2) full backwages, inclusive of allowances; and (3) other benefits or their monetary equivalent.”⁵⁷ However, the Court agrees with the CA that in lieu of reinstatement, the award of separation pay will be in the best interest of the parties. Their continued relationship is no longer viable by reason of strained relationship brought about by the passage of time from the termination of respondents until the final disposition of this case.⁵⁸

In addition, there is no reason to overturn the finding of the CA that Adstratworld is liable to pay respondents their claims for holiday pay, service incentive leave pay, emergency cost of living allowance, and 13th month pay considering that Adstratworld failed to present proof of payment thereof.⁵⁹

However, the Court departs from the view of the CA that respondents are entitled to their claim for premium pay for holidays, premium pay for rest days, overtime pay, and night shift differential pay. Notably, the CA granted these claims ruling that Adstratworld has the burden to show the basis of non-payment and that the documents required as proof of payment are in the custody and absolute control of Adstratworld.⁶⁰ The Court nonetheless stresses that respondents have the burden to prove their entitlement to premium pay for holidays and rest days, and overtime pay as they are not incurred in the normal course of the business of the employer. Neither is their claim for night shift differential pay has any merit as respondents failed to show that they

⁵⁷ *Agustin v. Alphaland Corp.*, supra note 56.

⁵⁸ *Id.*

⁵⁹ *Bance v. University of St. Anthony*, supra note 53.

⁶⁰ *Rollo*, p. 52.

rendered work in excess of the regular eight hours a day.⁶¹ In this regard, the Court quotes with approval the pertinent portions of the NLRC decision on the matter:

In the absence of any substantial proof that [respondents] work beyond the normal working hours and during holidays, their claims for overtime pay and holiday pay premium are denied. Further, there being no evidence that [respondents rendered] work from 10 p.m. to 6 a.m., their demand for night shift differential pay is denied as well.⁶²

Lastly, the Court sustains the award of moral damages because Adstratworld's acts of engaging respondents as probationary employees knowing fully well that they were working for the company already and of dismissing them without any valid cause, show bad faith on its part as the employer. In addition to moral damages, the award of exemplary damages is proper by way of example for the public good. The amount of ₱50,000.00 each for moral and exemplary damages is deemed sufficient under the circumstances.⁶³ Respondents are also entitled to attorney's fees of 10% of the total monetary grants as they were forced to litigate to protect their rights unjustly violated by their employer. All the monetary awards shall earn interest at the rate of six percent (6%) *per annum* from the finality of this Decision until full payment.⁶⁴

WHEREFORE, the petition is **DENIED**. The Decision dated November 29, 2016 and the Resolution dated July 10, 2017 of the Court of Appeals in CA-G.R. SP No. 140702 are **AFFIRMED** with the following **MODIFICATIONS**:

(1) the grant of premium pay for holidays and for rest days, overtime pay, and night shift differential pay is **DELETED**; and

(2) Petitioner Adstratworld Holdings Inc. is ordered to pay each respondent, Chona A. Magallones and Pauline Joy M. Lucino, moral and exemplary damages in the respective amounts of ₱50,000.00 and attorney's fees equivalent to 10% of the total monetary awards. All the monetary awards shall earn interest at the rate of six percent (6%) *per annum* from the finality of this Decision until paid in full.

⁶¹ *Loon v. Power Master, Inc.*, 723 Phil. 515 (2013).

⁶² *Rollo*, p. 205.

⁶³ See *Innodata Knowledge Services, Inc. v. Inting*, 822 Phil. 314, 359 (2017).

⁶⁴ *De Silva v. Urban Konstruct Studio, Inc.*, G.R. No. 251156. November 10, 2021.

SO ORDERED:



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson



SAMUEL H. GAERLAN
Associate Justice



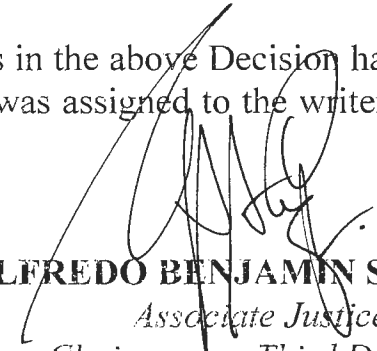
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

✓
ATTESTATION

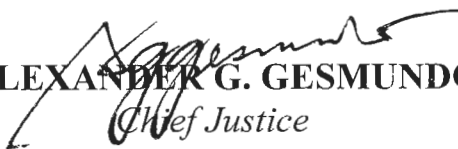
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
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.


ALEXANDER G. GESMUNDO
Chief Justice

