Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

JONATHAN DY CHUA BARTOLOME, *Petitioner,*	**G.R. No. 254465**
-versus-	**Members:** LEONEN, *Chairperson,* LAZARO-JAVIER, LOPEZ, M., LOPEZ, J., and KHO., *JJ.*
TOYOTA QUEZON AVENUE, INC., LINCOLN T. LIM, ESTEBAN DELA PAZ, JR., JOSEFINA DE JESUS, and PAULINE BACALING, *Respondents.*	**Promulgated:** APR 03 2024

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DECISION

LAZARO-JAVIER, *J.*:

The Case

This *Petition for Review on Certiorari*[1] seeks to reverse the following dispositions of the Court of Appeals in CA-G.R. SP No. 155436:

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[1] *Rollo*, pp. 3–42. Under Rule 45 of the Rules of Court.

1) **Decision**[2] dated January 22, 2020, reversing the finding of the National Labor Relations Commission (NLRC) that petitioner Jonathan Dy Chua Bartolome (Bartolome) was constructively dismissed by respondents Toyota Quezon Ave, Inc., Lincoln T. Lim (President Lim), Esteban Dela Paz, Jr. (Dela Paz), Josefina De Jesus (De Jesus), and Pauline Bacaling; and

2) **Resolution**[3] dated November 19, 2020, denying petitioner's Motion for Reconsideration.

Antecedents

Sometime in March 2009, petitioner Bartolome was hired by respondent Toyota Quezon Avenue, Inc. (TQAI) as a marketing professional trainee of its Vehicles Sales Department. In August 2010, he became a regular employee with the assigned task of selling Toyota brand cars, products, and services.[4]

On December 28, 2015, Bartolome received from the Human Resources Department of TQAI a Notice of Decision for Habitual Absences for the month of October 2015 and a Notice of Explanation for Habitual Absences for the month of November 2015. On top of these, he received another notice placing him under a seven-day suspension for a third offense.[5] To these notices, he submitted his reply.

On January 22, 2016, Bartolome and the management had a meeting where he got assisted by his sibling as counsel. After the meeting, he thought that the matter was already closed and settled. But in a subsequent marketing professionals' meeting, TQAI President Lim uttered the following unsavory remarks against him for bringing his lawyer-sibling to the meeting:[6]

> *"Kung hindi ba kayo nagaabsent gagawa ba kami ng paraan, kung sinusunod nyo nyo (sic) protocol natin gagawa ba kami ng paraan[?] Ayaw naman naming kayo higpitan kasi kailangan namin gawin. Bakit isa lang ba kayong empleyado sa opisinang ito, bakit only child ba kayo? Kung only child pwede kaso pag only child normally ano nangyayari pag only child "spoiled". Wag nyo naman kami subukan, tapos magdadala kayo ng tatay/nanay para isumbong kami, tapos icc: nyo kung sino man dapat nyo icc:"*[7]

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2 *Id.* at 43–55. Penned by Associate Justice Ramon M. Bato, Jr., concurred in by Associate Justices Victoria Isabel A. Paredes and Gabriel T. Robeniol of Special Sixth Division of the Court of Appeals, Manila.

3 *Id.*at 57–59.

4 *Id.* at 45.

5 *Id.*

6 *Id.* at 45–46.

7 *Id.* at 66–67.

On January 25, 2016, TQAI referred the processing and sale of a car to Bartolome. By the time he finished processing the document, the client was already on board a vehicle which had a leather cover seat, albeit this accessory should not be included in the package. All he could do, however, was hand in the signed documents to the client.[8] Later on, he explained the incident to TQAI Group Retail Manager De Jesus and requested an investigation.[9] De Jesus responded "*[a]llangan namang pati si Oda pagbayarin mo pa. Ano ba ang pinaglalaban mo?*" He was, therefore, left with the impression that he will be solely liable for the incident.[10]

On February 5, 2016, he voluntarily submitted documents explaining the incident and requesting an investigation. De Jesus simply collected the documents and did nothing more. Later, he found out that De Jesus paid for the leather seats cover, an action which could be taken against him (as if he admitted the incident and paid for it).[11]

After a few days, many of his accounts were unceremoniously withdrawn and transferred to another marketing professional without any explanation. On March 1, 2016, he was transferred to another team.[12] When he protested the sudden transfer of accounts, De Jesus told him, "*[a]yaw ka na pahawakan ng accounts ni Boss Lincoln. Accounts nya yan. Siya ang may say.*"[13]

Still, he tried to process one particular sale under these accounts only to be stopped by TQAI General Sales Manager Dela Paz, who refused to sign the vehicle sales proposal. Dela Paz told him, "*[h]indi ka pwede magrelease sa kliyenteng ito. Pwede mo iprocess pero ipangalan mo sa iba.*" He retorted, "*[e]h bakit ko po ipapangalan sa iba e, ako ang nagtrabaho?*"[14] Dela Paz merely tapped another marketing professional to process the transaction. Dela Paz would subsequently refuse to sign off his sales proposal and pushed his unit allocation to the end of the line each time despite the "first to submit/pay reservation" policy.[15]

Meantime, his transfer to a new team did not go well either. His new boss Susan Sobreviñas asked him "*[a]no plano mo, magreresign ka?*" It then became clear to him that his transfer to another team was intended to force his resignation. On March 9, 2016, when he was asked by De Jesus to sign his 2015 Performance Scorecard, he raised certain concerns about it. A week

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8 *Id.* at 46.
9 *Id.*
10 *Id.*
11 *Id.* at 67.
12 *Id.* at 68.
13 *Id.*
14 *Id.*
15 *Id.* at 46–47.

after, he got back the scorecard which this time bore grades lower than when he first received it. He was nonetheless constrained to sign it under protest.[16]

Thereafter, he had another encounter with Dela Paz when the latter pressured him to sign a memorandum accepting changes in his performance bonus. That encounter was followed by his receipt of yet another Memorandum dated March 16, 2016, asking him to explain why he failed to meet his sales quota for the month of February 2016. On March 30, 2016, he replied that had he been allowed to release the units under his accounts, he would have met or exceeded his quota for February 2016.[17]

According to Bartolome, these series of events and the eventual hostile working environment which he endured every day made it impossible and unbearable for him to continue working for TQAI. Thus, he was forced to give up his position and tender his resignation letter on March 31, 2016, effective April 30, 2016. He also requested approval of his terminal leave beginning April 4, 2016. When he tried to process his clearance on April 21, 2016, he was treated like a stranger-criminal and was subjected to undue harassment. After almost three months of processing his clearance, he claimed that he received his last salary on July 9, 2016. It was less than what he ought to receive as salary; it also did not include his 13th month pay nor his earned commissions.[18]

On August 4, 2016, he filed a Complaint for illegal/constructive dismissal and money claims, titled *Jonathan Dy Chua Bartolome v. Toyota Quezon Avenue, Inc., Lincoln Lim, Franklin T. Lim, Esteban Dela Paz, Glecy Gamboa, Josefina De Jesus, and Pauline* Bacaling, docketed as NLRC NCR Case No. 08-09774-16.[19]

Proceedings before the Labor Arbiter

In his Position Paper,[20] petitioner narrated the incidents surrounding his constructive illegal dismissal and prayed that respondents jointly and severally pay him backwages and separation pay in lieu of reinstatement, unpaid difference in salary and 13th month pay, commissions from 2009 to 2016 plus legal interests, expense; incurred in the follow-up of clearance and commissions, moral damages and exemplary damages, attorney's fees, and litigation expenses; and that respondents provide him a copy of his Performance Scorecards from 2010 to 2013, BIR 2316 Forms from 2009 to 2016, and Certificate of Employment and Commission Slips from 2009 to 2016.

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16 *Id.* at 47.
17 *Id.*
18 *Id.*
19 *Id.*
20 *Id.* at 60–126.

In their Position Paper,[21] respondents riposted that petitioner submitted his resignation letter on April 1, 2016 effective April 30, 2016, with request for approval of terminal leave starting April 4, 2016; that he executed a special release of claim and/or quitclaim on July 9, 2016, indicating beside his signature the term "w/o prejudice"; that his resignation letter was simple, candid, and direct to the point, and left no doubt that he did intend to resign; that his role in the company was not diminished nor was his salary or position, thus, belying his claim of constructive dismissal; and that they (respondents) cannot be held personally liable for his voluntary resignation.

Respondents likewise refuted petitioner's claim of discrimination as his transfer to another team was one of 20 transfers made due to a sharp decline in company sales for 2016 and the employees' failure to meet their respective quotas. At any rate, petitioner failed to present witnesses to their supposed hostile utterances.

Both parties filed their respective Reply[22] and Rejoinder,[23] reiterating the arguments in their respective Position Papers.

The Ruling of the Labor Arbiter

By Decision[24] dated June 28, 2017, Labor Arbiter Irene Castro De Quiroz found respondents liable for constructive dismissal in NLRC NCR Case No. 08-09774-16,[25] *viz.*:

> WHEREFORE, premises considered, this Labor Arbitration Branch finds merit in the complaint. The respondent Toyota is guilty of constructive dismissal.
>
> However, in view of obvious strained relations, the respondent Toyota Quezon Avenue, Inc., is hereby **ORDERED** to pay the complainant the following:
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> 1. Backwages from April 2016 until finality of this decision = [PHP] 520.89/day x 26 days = [PHP] 13,543.14 x 15 months = [PHP] 203,147.10;
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> 2. Separation pay for six (6) years – [PHP] 13,543.14 x 6 = [PHP] 81,258.84;
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> 3. Commissions = [PHP] 83,341.80 plus adjustment of [PHP] 3,115.14 offered by the respondents, plus that of the two

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21 *Id.* at127–153.

22 *Id.* at 154–174. Reply (to Respondent's Position Paper) and *id.* at 175–252, Reply (Re: Position Paper of Complainant dated November 18, 2016).

23 *Id.*

24 *Id.* at 253–371. Rejoinder of Petitioner; and *id.* at 372–410, Rejoinder (Re: Reply of Complainant dated December 14, 2016).

25 *Id.* at 447. Penned by Hon. Labor Arbiter Irene Castro De Quiroz.

accounts mentioned by the complainant if excluded in the total commission [PHP] 6,230.28 for a total of [PHP] 92,687.22;

4. Moral and Exemplary damages = [PHP] 70,000.00;

Sub Total = [PHP] 447,093.16

5. 10% Attorney's fees = [PHP] 44,709.93

TOTAL = [PHP] 491,803.09

The respondents are likewise instructed to hand to the complainant his certificate of employment, complete score cards, pertinent BIR forms and other documents related to his employment as prayed for.

SO ORDERED.[26]

The labor arbiter found that two events triggered petitioner's transfer to another group: the unsavory comments of TQAI President Lim against petitioner; and the leather seat incident where Group Retail Manager De Jesus made sarcastic comments against petitioner. While his transfer was clearly a management prerogative, the labor arbiter noted that it should not have been made under this backdrop.

For one, management prerogative should not be exercised with grave abuse of discretion. The right must not be confused with the manner by which such right was exercised. For another, the supposed justification to transfer petitioner to another group was not supported by substantial evidence. More, subsequent to his transfer, petitioner was immediately stripped of his clients which, according to De Jesus, was in compliance with the directive of TQAI President Lim. Too, the transfer became even more uneasy and complicated when petitioner's new boss, TQAI Group Head Sobreviñas, posed this question to petitioner, "*[a]no plano mo, magreresign ka?*"—a question, again unrefuted, which petitioner took to mean he was no longer wanted and was actually being edged out.[27]

Petitioner's woes continued as he was even stopped from processing a sale and was subsequently discriminated against in terms of vehicle unit allocation and approval. It was the worst form of discrimination insofar as a salesperson is concerned, that is, when the product is not made available to him or to her despite his or her valid reservation thereof.

Verily, the circumstances leading to petitioner's transfer to another team, *i.e.*, being immediately stripped of clients, being prevented from processing sales under his name, being discriminated against in terms of vehicle allocation, reduction of commission fees, and respondents' unsavory,

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[26] *Id.* at 446–447.
[27] *Id.* at 443.

nay, cold responses to him, clearly and largely contributed to his abrupt exit. Any employee, even one with a tough heart, would run to the nearest exit.

Dispositions of the NLRC

On respondents' appeal,[28] under Decision dated October 30, 2017[29] in NLRC LAC No. 09-003092-17, the NLRC affirmed with modification. It held that TQAI President Lim and Glecy Gamboa (Gamboa) were not personally liable for the monetary awards granted to petitioner. It subsequently denied respondents' Motion for Reconsideration under Resolution dated January 25, 2018.[30]

Dispositions of the Court of Appeals

By its Decision dated January 22, 2020[31] in CA-G.R. SP No. 155436, the Court of Appeals reversed. It essentially ruled:

One, respondents were able to prove by substantial evidence that petitioner voluntarily resigned, as shown by his resignation letter dated March 31, 2016 and Clearance Certificate with Special Release of Claim and/or Quitclaim.

Another, petitioner failed to prove that his resignation was actually a case of constructive dismissal, *i.e.*, a product of coercion and intimidation. Sarcastic comments and unpleasant remarks do not qualify as clear discrimination, insensibility, or disdain by an employer. Subsequent withdrawal of accounts is not diminution of benefits as it was petitioner's duty to cultivate his own roster of accounts.

Petitioner's Motion for Reconsideration was subsequently denied under Resolution dated November 19, 2020.[32]

The Present Petition

Petitioner Bartolome now seeks the Court's discretionary appellate jurisdiction to reverse the foregoing dispositions of the Court of Appeals. He asserts anew that he was constructively dismissed based on the totality of the circumstances prior to and after his involuntary resignation.

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28 *Id.* at 448–488.

29 *Id.* at 523–545. Penned by NLRC Presiding Commissioner Hon. Grace M. Venus, concurred in by Commissioners Hon. Mary Ann P. Daytia and Hon. Leonard Vinz O. Ignacio.

30 *Id.* at 576–580.

31 *Id.* at 43–55.

32 *Id.* at 57–59.

In their Comment/Opposition,[33] respondents riposted: (a) that based on the totality of the circumstances and petitioner's voluntary resignation, he was not constructively and illegally dismissed from work; and (b) his unequivocal intent to relinquish his position was manifested when he submitted his letter of resignation.

Our Ruling

As a rule, the Court, not being a trier of facts, will not take cognizance of factual issues, much less analyze or weigh evidence all over again. As an exception, however, it may proceed to probe and resolve factual issues where it appears that the findings of the Court of Appeals are contrary to those of the NLRC and the labor arbiter, as in this case.[34]

Constructive dismissal arises "when continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank and/or a diminution in pay; or when a clear discrimination, insensibility or disdain by an employer becomes unbearable to the employee."[35] In such cases, the impossibility, unreasonableness, or unlikelihood of continued employment leaves an employee with no other viable recourse but to terminate his or her employment.[36]

By definition, constructive dismissal can happen in any number of ways. At its core, however, is the gratuitous, unjustified, or unwarranted nature of the employer's action. As it is a question of whether an employer acted fairly, it is inexorable that any allegation of constructive dismissal be contrasted with the validity of exercising management prerogative.[37]

Was petitioner constructively dismissed?

The Court of Appeals ruled that sarcastic comments and unpleasant remarks do not qualify as clear discrimination, insensibility, or disdain by the employer.

But contrary to this pronouncement, it is settled that acts of disdain and hostile behavior such as demotion, uttering insulting words, asking for resignation, and apathetic conduct toward an employee constitute constructive

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33 *Id.* at 831–875.

34 *Gimalay v. Court of Appeals, et al.*, 874 Phil. 627 (2020) [Per J. Lazaro-Javier, First Division]; *see also, Status Maritime Corporation, et al. v. Sps. Delalamon*, 740 Phil. 175, 189 (2014) [Per J. Reyes, First Division].

35 *St. Paul College, Pasig, et al. v. Mancol, et al.*, 824 Phil. 520 (2018) [Per J. Peralta, Second Division], *citing Tan v. National Labor Relations Commission*, 359 Phil. 499, 511 (1998) [Per J. Panganiban, First Division].

36 *Id., citing Manalo v. Ateneo de Naga University, et al.*, 772 Phil. 366, 381 (2015) [Per J. Leonen, Second Division].

37 *Id.*

illegal dismissal[38] whenever by reason thereof, one's employment becomes so unbearable he or she is left with no choice except to resign. The Court has held that the standard for constructive dismissal is "whether a reasonable person in the employee's position would have felt compelled to give up [their] employment under the circumstances."[39]

Notably, the unreasonably harsh conditions which compel resignation on the part of an employee must be way beyond the occasional discomforts brought about by the misunderstandings between the employer and employee. Strong words may sometimes be exchanged as the employers describe their expectations or as the employees narrate the conditions of their work environment and the obstacles they encounter as they accomplish their assigned tasks. As in every human relationship, there are bound to be disagreements.[40]

However, when these strong words from the employer happen without palpable reason or are expressed only for the purpose of degrading the dignity of the employee, then a hostile work environment will be created. In a sense, the doctrine of constructive dismissal has been the Court's consistent vehicle to assert the dignity of labor.[41]

Here, prior to petitioner's resignation, the following events took place:

1. After his meeting with management on January 22, 2016, where he got assisted by his lawyer-sibling, he attended a marketing professionals' meeting. During the meeting, TQAI President Lim humiliated and called him out for bringing his lawyer-sibling to the aforesaid January 22, 2016 meeting;[42]

2. On January 25, 2016, leather seats covers were wrongly installed in the car unit of his client, without any order from him. Consequently, he pressed for an investigation, but TQAI Group Retail Manager De Jesus spewed this sarcastic remark, "*Alangan naming pati si Oda pagbayarin mo pa. Ano ba ang pinaglalaban mo?*" leaving the impression that he (petitioner) alone would be liable therefore, albeit it was not his fault. He later on found out that De Jesus quietly paid for the leather seats cover which, as a result, depicted him to be liable therefor, albeit he in fact did not place such order.

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38 *Bayview Management Consultants, Inc., et al. v. Pre*, 879 Phil. 176 (2020) [Per J. Reyes, First Division].
39 *Id., citing Rodriguez v. Park N Ride, Inc.*, 807 Phil. 747, 757 (2017) [Per J. Leonen, Second Division].
40 *Id.*
41 *Id.*
42 *Supra* note 7.

3. Following his transfer to another group, many of his accounts were pulled out from him, *sans* any explanation. When he protested, TQAI General Sales Manager Dela Paz quickly responded—"*[a]yaw ka na pahawakan ng accounts ni Boss Lincoln. Accounts nya yan. Siya ang may say.*"

4. When he tried to process one particular sale under one of his few remaining accounts, TQAI General Sales Manager Esteban Dela Paz refused to sign the vehicle sales proposal and warned him, "*[h]indi ka pwede magrelease sa kliyenteng ito. Pwede mo iprocess pero ipangalan mo sa iba.*"

5. His new boss Susan Sobreviñas asked him point blank, "*[a]no plano mo, magreresign ka?*"

6. TQAI Group Retail Manager De Jesus forced him to sign his 2015 Performance Scorecard. When the latter protested, the former retaliated with a scorecard bearing grades lower than what appeared on the scorecard he was initially forced to sign.

7. He was served with Memorandum dated March 16, 2016, requiring him to explain why he failed to meet his sales quota for the month of February 2016, although it was respondents themselves who pulled out many of his accounts.

In support of his narrative, petitioner submitted the following documents, *viz.*:

a. his Marketing Professional Performance Appraisal for 2014 (Performance Scorecard) indicating his high-performance marks;[43]

b. Memorandum dated December 22, 2015, for suspension of seven days served on him for alleged habitual absences in October 2015;[44]

c. Memorandum dated December 29, 2015, requiring him to explain his alleged habitual absences for November 2015;[45]

d. his Reply dated January 8, 2016, on his alleged absences in October 2015;[46]

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43 *Rollo*, pp. 86–88.
44 *Id.* at 89.
45 *Id.* at 90.
46 *Id.* at 92.

e. his Reply dated January 8, 2016, on his alleged absences in November 2015;[47]

f. copy of the TQAI Working Guidelines & Company Policies noting that Field Marketing Professionals (like him) under the Vehicle Sales Department are not covered by the Attendance Requirement;[48]

g. his Vehicle Sales Proposal dated January 18, 2016, addressed to Marlan S. Manguba, showing he did not order the installation of leather seats on the subject vehicle;[49]

h. Vehicle Sales Transaction Slip dated January 20, 2016, for Marlan S. Manguba, showing that he only ordered a step board as additional accessory to the aforesaid unit;[50]

i. his Letter Explanation dated February 5, 2016, regarding the leather seats cover incident;[51]

j. Memorandum dated March 16, 2016, requiring him to explain why he only had two vehicle units sold below the required quota of six vehicle unit sales for February 2016;[52]

k. his Letter Explanation dated March 30, 2016, to the aforesaid memorandum, stating that four units which he personally processed were not included in the computation and the unceremonious pull-out of his existing accounts caused his sales to decline;[53]

l. the Marketing Professional Performance Appraisal issued to him for 2015 (Performance Scorecard);[54]

m. The Revised Marketing Professional Performance Appraisal for 2015 (Performance Scorecard) showing the performance rating reflected on the score card earlier given him which he was forced to sign, albeit he refused to do so were altered reflecting a lower grade;[55] and

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47 *Id.* at 93.
48 *Id.* at 94.
49 *Id.* at 95.
50 *Id.* at 96.
51 *Id.* at 97–108.
52 *Id.* at 110.
53 *Id.* at 111–112.
54 *Id.* at 113–115.
55 *Id.* at 116–118.

n. his Incident Report dated April 23, 2016, detailing the circumstances which transpired since he commenced processing his clearance.[56]

Indeed, the foregoing chain of events created a hostile working environment that made it impossible and unbearable for petitioner to continue working for TQAI. On this score, we emphasize that these events were not even refuted by respondents themselves.

In *JR Hauling Services v. Solamo*,[57] the Court believed the version of events by the employer because of the affidavits offered in evidence and the absence of rebuttal evidence on the part of the employee. Conversely applied here, since respondents did not offer any affidavit to support their version of events or explain their side, petitioner's factual version should be accorded respect and credit. More so considering respondents' resources and availability of witnesses they could have easily harnessed and secured but opted not to.

In weighing the arguments of the parties, it is important to examine the evidence presented. As substantial evidence, or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion," the detailed series of events supported by documentary evidence of petitioner must be given credence over the general denial of the respondents. The uttered words of respondents against petitioner, contrary to the respondents' allegation, are not self-serving statements. In the Concurring and Dissenting Opinion of then Chief Justice Lucas P. Bersamin in *Umali, Jr. v. Hernandez*,[58] the learned jurist stated:

> A most basic rule is that a witness can only testify on matters that he or she knows of her personal knowledge. **This rule does not change even if the required standard be substantial evidence, preponderance of evidence, proof beyond reasonable doubt, or clear and convincing evidence.** The observations that the statements of Luy and Sula were made amidst the "challenging and difficult setting" of the Senate hearings, and that the witnesses were "candid, straightforward[,] and categorical" during the administrative investigation did not excise the defect from them. **The concern of the hearsay rule is not the credibility of the witness presently testifying, but the veracity and competence of the extrajudicial source of the witness's information.**
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> To be clear, personal knowledge is a substantive prerequisite for accepting testimonial evidence to establish the truth of a disputed fact. . . (Emphasis in the original)

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56 *Id.* at 122–123.

57 *JR Hauling Services, et al. v. Solamo, et al.*, 886 Phil. 842 (2020) [Per J. Hernando, Second Division], *citing Functional, Inc., v. Granfil*, 676 Phil. 279, 287 (2011) [Per J. Perez, Second Division].

58 Re: *Verified Complained dated July 13, 2015, of Alfonso V. Umali, Jr. v. Hon. Jose R. Hernandez, Associate Justice, Sandiganbayan*, 781 Phil. 375 (2016) [Per J. Brion, *En Banc*].

Here, petitioner's account of the events which rendered his employment conditions unbearable, leaving him with no other choice but to resign, was "candid, straightforward[,] and categorical." It came from matters of his own personal knowledge. It should not be brushed aside, more so since it was unrefuted by the other party and was even amply corroborated by documentary evidence. Verily, petitioner was constructively dismissed. Surely, the calculated and combined acts of TQAI President Lim, TQAI Group Retail Manager De Jesus, TQAI General Sales Manager Dela Paz, and Group Head Sobreviñas toward petitioner constitute acts of disdain and hostile behavior, supporting the conclusion that they were collectively easing out petitioner who consequently had no choice but leave his employment. This is constructive dismissal pure and simple.

Letter of Resignation was involuntary and not genuine

At the core of respondents' defense is the so-called petitioner's Letter of Resignation dated March 31, 2016[59] with request for approval of terminal leave starting April 4, 2016. They posit that his resignation letter was simple, candid, and direct to the point, and left no doubt that he did intend to resign. Thus, respondents insist they cannot be held personally and individually liable for his voluntary resignation.

We are not convinced.

In *Torreda v. ICCP*,[60] the Court, through the excellent *ponencia* of Chief Justice Alexander G. Gesmundo, ordained that constructive dismissal is a "dismissal in disguise" and restated the procedure to determine the voluntariness of an employee's resignation, *viz.*:

> There is a difference between illegal and constructive dismissal. Illegal dismissal is readily shown by the act of the employer in openly seeking the termination of an employee while **constructive dismissal, being a dismissal in disguise, is not readily indicated by any similar act of the employer that would openly and expressly show its desire and intent to terminate the employment relationship.**
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> In *SHS Perforated Materials, Inc., et al. v. Diaz*, the Court ruled that there is constructive dismissal if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it would foreclose any choice by him except to forego his continued employment. In said case, the employee was forced to resign and submit his resignation letter because his salary was unlawfully withheld by the employer.

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59 *Rollo*, p. 121.

60 *Torreda v. Investment and Capital Corporation of the Philippines*, 839 Phil 1087 (2018) [Per J. Gesmundo, Third Division].

> In *Tuason v. Bank of Commerce, et al.*, it was explained that the law resolves constructive dismissal in favor of employees in order to protect their rights and interests from the coercive acts of the employer. In that case, the employer communicated to the employee therein to resign to save her from embarrassment, and when the latter did not comply, the employer hired another person to replace the employee. The Court ruled that it was a clear case of constructive dismissal.
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> In this case, respondent argues that even though it was Valtos who initially presented the resignation letter, petitioner still voluntarily signed the same because he substantially edited the letter and added words of courtesy. Respondent insists that petitioner failed to overcome the validity of his resignation letter.
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> The Court is not convinced.
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> In Fortuny Garments/Johnny Co v. Castro, the Court clarified the **procedure to determine the voluntariness of an employee's resignation**, *viz.*:
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> . . . the intention to relinquish an office must concur with the overt act of relinquishment. **The act of the employee before and after the alleged resignation must be considered to determine whether in fact, he or she intended to relinquish such employment. If the employer introduces evidence purportedly executed by an employee as proof of voluntary resignation and the employee specifically denies the authenticity and due execution of said document, the employer is burdened to prove the due execution and genuineness of such document.** (Emphasis supplied, citation omitted)

As discussed, petitioner's resignation was brought about by respondents' acts of disdain and hostility toward him, rendering his continued employment with respondents impossible, nay unbearable.

Though the labor arbiter found nothing extraordinary about the resignation letter as it did not exactly indicate a tone of anger nor some sense of ingratitude, the circumstance before the resignation would show that he did not contemplate nor had any intention of resigning from the company were it not for respondents' hostile and disdainful actions. When he tried to process his clearance on April 21, 2016, he was treated like a "stranger-criminal" and subjected to undue harassment. Notably, the document titled "special release of claim and/or quitclaim" dated July 9, 2016, bore, beside his signature, the term "*w/o prejudice.*" It was an unequivocal reservation of his right to bring an action against respondents despite his execution thereof. Thus, merely 24 days after, on August 4, 2016, he filed a Complaint for illegal/constructive dismissal and money claims against respondents. Doubtless, his resignation was involuntary and bore a clear reservation to file an action against respondents.

Respondents are solidarily liable for petitioner's money claims, moral and exemplary damages, attorney's fees plus legal interest

Gimalay v. Court of Appeals[61] aptly discussed the consequences of illegal dismissal, *viz.*:

> On the consequences of the illegality of petitioner's dismissal, *Noblado v. Alfonso* held:
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> In fine, respondent's lack of just cause and non-compliance with the procedural requisites in terminating petitioners' employment taints the latter's dismissal with illegality.
>
> Where the dismissal was without just or authorized cause and there was no due process, Article 279 of the Labor Code, as amended, mandates that the employee is entitled to reinstatement without loss of seniority rights and other privileges and full backwages, inclusive of allowances, and other benefits or their monetary equivalent computed from the time the compensation was not paid up to the time of actual reinstatement. However, if reinstatement is no longer possible, the backwages shall be computed from the time of the employee's illegal termination up to the finality of the decision.
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> . . .
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> In addition to payment of backwages, petitioners are also entitled to separation pay equivalent to one (1) month pay for every year of service, with a fraction of at least six (6) months considered as one (1) whole year, from the time of their illegal dismissal up to the finality of this judgment, as an alternative to reinstatement.
>
> Also, in accordance with prevailing jurisprudence, legal interest shall be imposed on the monetary awards herein granted at the rate of six percent (6%) per annum from the finality of this Decision until fully paid.
>
> Thus, an illegally dismissed employee is ordinarily entitled to: (a) reinstatement without loss of seniority rights and other privileges, or in lieu thereof, separation pay equivalent to one (1) month pay for every year of service, with a fraction of at least six (6) months considered as one (1) whole year, from the time of the employee's illegal dismissal up to the finality of the judgment; and (b) full backwages inclusive of allowances and other benefits or their monetary equivalent computed from the time compensation was not paid to the time of his actual reinstatement.
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> As for reinstatement, petitioner has not sought the same way back in the proceedings before the labor arbiter and up until here. On this score, we reckon with the pronouncement of the labor arbiter:

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[61] *Supra note* 34, *citing Noblado v. Alfonso*, 773 Phil. 271, 286 (2015) [Per J. Lazaro-Javier, Third Division].

> . . . this Labor Arbitration Court finds that reinstatement is no longer feasible because of the existence of strained relation between the parties and the respondent's lack of intention to reinstate the complainant by their offer, by way of amicable settlement, of separation pay during the mandatory conference. Notably, the settlement through payment of separation pay failed to materialize because of the parties' disagreement as to the rate of pay to be used.[62]

Thus, an illegally dismissed employee is ordinarily entitled to: (a) reinstatement without loss of seniority rights and other privileges, or in lieu thereof, separation pay equivalent to one month pay for every year of service, with a fraction of at least six months considered as one whole year, from the time of the employee's illegal dismissal up to the finality of the judgment; and (b) full backwages inclusive of allowances and other benefits or their monetary equivalent computed from the time compensation was not paid to the time of his actual reinstatement.[63]

Here, as found by the labor arbiter, respondents are liable for petitioner's full backwages from April 2016 until finality of this Decision. They are likewise liable for unpaid commissions admitted in their pleading in the amount of PHP 83,341.80, with adjustment of PHP 3,115.14, plus two accounts mentioned by petitioner to have been excluded from his total commission of PHP 6,230.28.

As for reinstatement, while it is a normal consequence of illegal dismissal, where reinstatement, however, is no longer viable as an option, separation pay equivalent to one month for every year of service should be awarded as an alternative. The payment of separation pay is in addition to the payment of backwages.[64] As correctly ruled by the labor arbiter, petitioner is entitled to separation pay of one month per year of service in lieu of reinstatement due to the parties' strained relations considering the manner by which petitioner got dismissed from his employment, from the time of the employee's illegal dismissal up to the finality of the judgment.

On the award of damages, *Leus v. St. Scholastica's College Westgrove*[65] bears the ground rules, *viz.*:

> . . . A dismissed employee is entitled to moral damages when the dismissal is attended by bad faith or fraud or constitutes an act oppressive to labor or is done in a manner contrary to good morals, good customs or public policy. Exemplary damages may be awarded if the dismissal is effected in a wanton, oppressive or malevolent manner.
>
> Bad faith, under the law, does not simply connote bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and

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62 *Id.*
63 *Id.*
64 *Golden Ace Builders, et al. v. Talde*, 634 Phil. 354 (2010) [Per J. Carpio-Morales, Third Division].
65 *Leus v. St. Scholastica's College Westgrove*, 752 Phil. 186, 218–220 (2015).

> conscious doing of a wrong, or a breach of a known duty through some motive or interest or ill will that partakes of the nature of fraud.
>
> It must be noted that the burden of proving bad faith rests on the one alleging it since [the] basic is the principle that good faith is presumed and he who alleges bad faith has the duty to prove the same. Allegations of bad faith and fraud must be proved by clear and convincing evidence.
>
> The records of this case are bereft of any clear and convincing evidence showing that the respondents acted in bad faith or in a wanton or fraudulent manner in dismissing the petitioner. That the petitioner was illegally dismissed is insufficient to prove bad faith. A dismissal may be contrary to law but by itself alone, it does not establish bad faith to entitle the dismissed employee to moral damages. The award of moral and exemplary damages cannot be justified solely upon the premise that the employer dismissed his employee without cause.
>
> However, the petitioner is entitled to attorney's fees in the amount of 10% of the total monetary award pursuant to Article 111 of the Labor Code. It is settled that where an employee was forced to litigate and, thus, incur expenses to protect his rights and interest, the award of attorney's fees is legally and morally justifiable.[66]

Thus, moral damages are recoverable when the dismissal of an employee is attended by bad faith or fraud or constitutes an act oppressive to labor or is done in a manner contrary to good morals, good customs, or public policy. Exemplary damages, on the other hand, are recoverable when the dismissal was done in a wanton, oppressive, or malevolent manner.[67]

As found by the labor arbiter, bad faith attended the constructive dismissal of petitioner. The fact that the **top officials of the TQAI** followed the cue of their president sends a chilling effect on its current employees that they should not be trifled with. As ordained, we could just imagine the mental anguish petitioner was going through when no less than the top officials of the TQAI conspired to push him out of his employment. The concerted efforts of these top officials to force petitioner into submission was done in an oppressive and wanton manner, hence, the award of moral and exemplary damages is sustained.

Following both statutory and case law, petitioner should be paid attorney's fees equivalent to 10% of the total monetary award. This is because he was forced to litigate and incur expenses to protect his rights and interests.

In *RNB Garments Philippines, Inc. v. Ramrol Multi-Purpose Cooperative*,[68] We held that corporate officers are solidarily liable with the

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66 *Id.*

67 *Id.*, *citing Symex Security Services, Inc., et al. v. Rivera, Jr., et al.*, 820 Phil. 653 (2017) [Per J. Caguioa, Second Division].

68 883 Phil. 432 (2020) [Per J. Delos Santos, Second Division].

corporation for the termination of employment of employees, only if such is done with malice or in bad faith.

Here, to reiterate, the top officials of TQAI was led by no less than its president, Lim, together with TQAI Group Retail Manager De Jesus, TQAI General Sales Manager Dela Paz, and Group Head Sobreviñas to force petitioner into submission. As such, they should be solidarily liable to petitioner for the money claims, damages, and interest due him. However, for some reason, Group Head Susan Sobreviñas was not impleaded as respondent. Therefore, in the interest of due process and fair play, she cannot be held solidarily liable with respondents.

More, as correctly held by the NLRC, President Lim and Gamboa are not personally liable for the monetary awards to petitioner, *sans* any showing that they acted with malice toward him. We likewise rule that HR Assistant Pauline Bacaling is not personally liable for the same reason.

So must it be.

ACCORDINGLY, the Petition is **GRANTED**. The **Decision** dated January 22, 2020, and **Resolution** dated November 19, 2020 of the Court of Appeals in CA-G.R. SP No. 155436 are **REVERSED**. Respondent Toyota Quezon Ave, Inc., Lincoln T. Lim, Esteban Dela Paz, Jr. and Josefina De Jesus are **SOLIDARILY LIABLE** for the illegal dismissal of petitioner Jonathan Dy Chua Bartolome. They are ordered to **PAY** him the following:

1) full Backwages computed from April 1, 2016 up to the finality of this Decision;

2) separation pay equivalent to one month pay for every year of service, with a fraction of at least six months considered as one whole year, computed from March 2009 up to the finality of this Decision;

3) commissions in the amount of PHP 83,341.80 plus adjustment of PHP 3,115.14 and PHP 6,230.28 representing two accounts excluded from his total commission; and

4) moral and exemplary damages in the amount of PHP 70,000.00.

Respondents are further ordered to **PAY** attorney's fees to petitioner equivalent to 10% of the total monetary award.

The total monetary award shall earn legal interest at 6% per annum from finality of this Decision until fully paid.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
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.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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