Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

N O T I C E

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **March 4, 2020** *which reads as follows:*

"G.R. No. 215620 (Lolito E. Paytan v. Supermax Steel Corp./ Antonio Hook Chua a.k.a. Tony Chua).- This resolves the Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court from the May 29, 2014 Decision[2] and November 27, 2014 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 132613, finding no grave abuse of discretion on the part of the National Labor Relations Commission (NLRC) when it dismissed the Complaint[4] for illegal dismissal and money claims filed by Lolito E. Paytan (petitioner) against Supermax Steel Corporation (respondent), represented by its President, Antonio Hook Chua.

It is undisputed that respondent, a manufacturer of cyclone wires, employed petitioner as a laborer in March of 1993 and later promoted petitioner to supervisor, with a daily wage of ₱426.00.[5]

As established in the antecedent proceedings, petitioner resigned from his job in May of 2008 so that petitioner could become an independent contractor to his personal clients, which resignation was accepted by respondent.[6] Thus, on May 28, 2008, respondent paid petitioner the latter's resignation pay in the amount of ₱20,793.50, as shown by a Cash Voucher and a Quitclaim executed and signed on the same day.[7]

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1 *Rollo*, pp. 8-25.
2 Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Vicente S.E. Veloso and Nina G. Antonio-Valenzuela, concurring; id. at 26-32.
3 Id. at 33-34.
4 Id. at 67-69.
5 Id. at 27.
6 Id. at 54.
7 Id. at 88-89.

In January of 2009, however, petitioner appeared at the office of respondent, inquiring about available contractual work.[8] Thus, respondent contracted petitioner to fabricate cyclone wires, for which the latter was paid based on the quantity and sizes produced.[9] Respondent explained that it had no control over the specific days and number of hours that petitioner worked in any given day, nor petitioner's hiring of assistants.[10] Consequently, petitioner received varying amounts in payment, depending on the quantity and size of cyclone wires delivered, as shown by "salary" vouchers and their attached supporting documents.[11] Petitioner was allegedly contracted also by other clients.[12]

On the other hand, petitioner claimed that on March 12, 2012, he was erroneously charged with violating company rules and regulations and as a result, respondent terminated his employment on the same day *sans* notice and due process.[13] Thus, petitioner filed a Complaint before the Labor Arbiter on March 27, 2012.[14]

The Labor Arbiter concluded that there was an existing employer-employee relationship between respondent and petitioner when the latter's engagement was summarily terminated, in view of the Employee Static Information[15] from the Social Security System (SSS) and the employee's identification card (ID)[16] issued by respondent to petitioner. Given that respondent does not deny that petitioner's subsequent engagement was terminated *sans* due process on March 12, 2012, the Labor Arbiter concluded that respondent was liable for illegal dismissal. Consequently, the Labor Arbiter ordered the payment of backwages and separation pay in lieu of reinstatement, as well as holiday pay and 13th month pay, in the absence of proof of payment. The dispositive portion of the Labor Arbiter's Decision[17] dated December 28, 2012, thus, reads:

> **WHEREFORE**, premises considered, judgment is hereby rendered [ordering] respondents **Supermax Steel Corporation/Tony Chua** to pay [petitioner] **Lolito E. Paytan** the amount of **FOUR HUNDRED TEN THOUSAND EIGHT**

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8 Id. at 54-55.
9 Id. at 55.
10 Id.
11 Id. at 90-302.
12 Id. at 55.
13 Id. at 54.
14 Supra note 4.
15 *Rollo*, pp. 81-82.
16 Id. at 83.
17 Id. at 311-316.

HUNDRED TWENTY FIVE PESOS & 42/100 (₱410,825.42) representing his judgment award.

All other claims are **DISMISSED** for lack of merit.

SO ORDERED.[18]

Both parties appealed to the NLRC.[19] Respondent insisted that petitioner was no longer its employee, but was an independent contractor, when it discontinued engaging petitioner's services.[20] Petitioner, on the other hand, questioned the extent of backwages awarded and the fact that the Labor Arbiter did not award attorney's fees and damages.[21]

In a July 24, 2013 Decision,[22] the NLRC overturned the Labor Arbiter's ruling that petitioner was illegally dismissed by respondent when petitioner's services were terminated on March 12, 2012. Given that the employee's ID of petitioner shows that it was valid only until 1995, or within petitioner's initial engagement as employee of respondent which is not in dispute, the NLRC observed that it was insufficient to conclude that petitioner continued or resumed employment with respondent until 2012. The NLRC also noted that the SSS Employee Static Information merely confirms that petitioner started working for respondent in 1993, which seemed to have lasted only until 1996, which is not the period subject of the controversy. Given that petitioner's May 28, 2008 resignation and Quitclaim were not in dispute, and the "salary" vouchers during petitioner's re-engagement confirmed that petitioner was paid varying amounts, relative to the quantity and dimensions of the cyclone wires delivered, the NLRC found substantial evidence supporting respondent's claim that petitioner was no longer its employee when it discontinued engaging his services. As, thus, disposed:

IN VIEW WHEREOF, the respondents' appeal is **GRANTED** while that of the complainant is **DENIED**. The assailed Decision is hereby **SET ASIDE**. The complaint of Paytan is **DISMISSED** for lack of merit.

SO ORDERED.[23]

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18 Id. at 316.
19 Id. at 317-341.
20 Id. at 329.
21 Id. at 321-322.
22 Id. at 53-62.
23 Id. at 61.

In a Resolution[24] dated September 6, 2013, the NLRC denied petitioner's motion for reconsideration (MR) and affirmed its decision; hence, petitioner's Rule 65 Petition[25] before the CA. Finding no merit, however, in the said petition, the CA dismissed it *via* the Decision[26] subject of this review. As worded:

> **ACCORDINGLY**, the instant *Petition* is **DISMISSED** and the assailed *Decision* dated 24 July 2013 and *Resolution* dated 6 September 2013 of the National Labor Relations Commission, Fourth Division, in NLRC LAC NO. 02-000594-13, are hereby **AFFIRMED**.
>
> **SO ORDERED**.[27]

Petitioner's subsequent MR also suffered the same fate.[28] Aggrieved, petitioner is now before us, essentially claiming that the CA erred in concurring with the NLRC's appreciation of the evidence and conclusion that from January of 2009 until March 12, 2012, petitioner was no longer an employee, but an independent contractor of respondent.[29] Resolution of this case ultimately comes down to whether or not the CA committed reversible error in ruling that the NLRC did not abuse its discretion when the latter reversed the Labor Arbiter's decision, thereby dismissing petitioner's complaint. In this regard:

> [T]he CA must look at an NLRC Decision and ascertain if it merits a reversal exclusively on the basis of one ground-the presence of grave abuse of discretion amounting to lack or excess of jurisdiction. Necessarily then, when a CA decision is brought before us through a petition for review on *certiorari* under Rule 45, the question of law presented before us is this-whether the CA correctly found that the NLRC acted with grave abuse of discretion in rendering its challenged Decision.[30]

The present petition fails.

"In labor disputes, grave abuse of discretion may be ascribed to the NLRC when, *inter alia*, its findings and the conclusions reached thereby are not supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate

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24 Id. at 63-66.
25 Id. at 35-50.
26 Supra note 2.
27 *Rollo*, p. 31.
28 Id. at 33-34.
29 Id. at 14-15.
30 *Philippine National Bank v. Gregorio*, 818 Phil. 321, 333 (2017).

to justify a conclusion."[31] Guided by this, it is apparent in this case that the NLRC's decision to overturn the Labor Arbiter's ruling is borne by substantial evidence; hence, it was not reversible error for the CA to sustain the same.

"In an illegal dismissal case, the *onus probandi* rests on the employer to prove that its dismissal of an employee was for a valid cause. **However, before a case for illegal dismissal can prosper, an employer-employee relationship must first be established.**"[32] It is not necessary to delve into whether or not an employee was dismissed from employment, much less whether or not the dismissal was valid, if the existence of an employer-employee relationship was not successfully established in the first place. Indeed, the employee's ID from which the Labor Arbiter derived its conclusion could only prove that petitioner was an employee of respondent for the duration of its stated validity or until March of 1995. The SSS Employee Static Information also does not prove anything more than the undisputed fact of petitioner's employment with respondent from 1993 to 1996.

Here, petitioner failed to establish that his employment with respondent resumed or continued after his voluntary resignation on May 28, 2008. Without disproving the fact of his resignation, petitioner merely argues that only the method of payment for his services changed, from a monthly fixed salary to "*pakyawan*" or on a per-piece basis. *"[P]akyaw* workers are considered regular employees for as long as their employers exercise control over them."[33] Petitioner, however, failed to adduce any evidence that, between January of 2009 and March of 2012, respondent exercised control over the manner, means or method by which the cyclone wires were produced, or even any evidence that the materials or equipment used are provided by respondent. Without substantial evidence to establish the existence of an employer-employee relationship after petitioner's resignation on May 28, 2008 and before respondent discontinued contracting petitioner's services on March 12, 2012, then there is no dismissal from employment to speak of.

ACCORDINGLY, finding no reversible error in the May 29, 2014 Decision and November 27, 2014 Resolution of the Court of Appeals in CA-G.R. SP. No. 132613, the instant petition is **DENIED**.

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31 *Ace Navigation Company v. Garcia*, 760 Phil. 924, 932 (2015).

32 *Marsman & Company, Inc. v. Rodil C. Sta. Rita*, G.R. No. 194765, April 23, 2018 (emphasis supplied).

33 *A. Nate Casket Maker and/or Armando and Anely Nate v. Arango,* 796 Phil. 597, 611 (2016).

SO ORDERED." ***PERALTA, C.J.,*** on official business.

Very truly yours,

LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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(NLRC RAB NCR Case No. 03-04963-12)

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