Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

EDWARD M. COSUE,
Petitioner,

- versus -

FERRITZ INTEGRATED DEVELOPMENT CORPORATION, MELISSA TANYA F. GERMINO AND ANTONIO A. FERNANDO,
Respondents.

G.R. No. 230664

Present:

VELASCO, JR., *J.*,
Chairperson,
BERSAMIN,
JARDELEZA,
TIJAM, and
REYES, JR., *JJ.*

Promulgated:

July 24, 2017

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DECISION

TIJAM, *J.*:

This is a Petition for Review under Rule 45 of the Rules of Court, assailing the Court of Appeals' (CA's) Decision[1] dated December 2, 2016 and Resolution[2] dated February 23, 2017, in CA-G.R. SP No. 142491, which affirmed the Resolutions of the National Labor Relations Commission

[1] Penned by Associate Justice Marlene B. Gonzales-Sison and concurred in by Associate Justices Ramon A. Cruz and Henri Jean Paul B. Inting, *Rollo*, pp. 29-38.

[2] Id. at 40-41.

(NLRC)[3] upholding the Labor Arbiter's finding[4] that petitioner Edward M. Cosue was not illegally dismissed.

The Facts

Petitioner started working for respondent Ferritz Integrated Development Corporation (FIDC) on August 23, 1993 as a construction worker. He subsequently became a regular employee of FIDC, performing work as janitor/maintenance staff.

Around 5 p.m. of July 10, 2014, respondent Melissa Tanya Germino (Germino), as Head of FIDC's Property Management Division, asked petitioner to stay in the FIDC's building to watch over the generator due to the frequent power outage, and to assist the guards on duty since they were newly hired. Petitioner agreed.

According to petitioner, around 9 p.m. on July 10, 2014, he saw two security guards (the Officer-in-Charge and one Gomez), together with an unidentified man, on their way to the electrical room. They had a knapsack which did not look heavy. When they left the room, petitioner saw Gomez carrying the knapsack which, by this time, appeared to contain something heavy. The next morning, petitioner borrowed the key to the electrical room and together with fellow maintenance personnel, Joel Alcallaga (Alcallaga), looked for the electrical wires that were stored therein. Unfortunately, the wires were no longer there. Petitioner was convinced that the two guards and their unidentified companion took the wires. At 1 p.m., he was summoned by Germino who verbally informed him that he was suspended from July 16, 2014 to August 13, 2014 on suspicion that he stole the electrical wires. Beginning July 16, 2014 until August 13, 2014, he was no longer allowed to work.[5] Thus, on October 9, 2014, he filed a Complaint against FIDC, Germino and FIDC President Antonio Fernando (collectively, respondents), for actual illegal dismissal and underpayment of salaries, with prayer for moral and exemplary damages and attorney's fees.[6] In his Position Paper, petitioner additionally made claims for underpayment of his holiday pay, 13th month pay and service incentive leave pay. He sought to recover on the alleged underpayments for the period covering "three (3) years backward from the time of the filing of (his) complaint."[7]

Refuting petitioner's version of the events, respondents alleged that at

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[3] Penned by Commissioner Pablo C. Espiritu, Jr. and concurred in by Presiding Commissioner Alex A. Lopez, *Rollo*, pp. 63-71.

[4] Reached by Labor Arbiter Beatriz T. De Guzman; Id. at 72-80.

[5] *Rollo*, p. 30.

[6] Id. at 82-83.

[7] Id. at 93.

7 p.m. on July 10, 2014, Alcallaga's bag was found to contain bundled wires when it was examined by the security personnel, per routine, as he checked out from his shift. Alcallaga returned the wires to the electrical room shortly after he was interrogated by the security personnel. The following day, petitioner and Alcallaga obtained the keys to the electrical room after misrepresenting to the key custodian that they had been ordered by the head of the FIDC electrical staff to inspect the room. Thereafter, it was discovered that the electrical wires returned by Alcallaga to the electrical room were nowhere to be found. Following an investigation, Germino issued a memorandum of suspension to petitioner for obtaining the keys to the electrical room and entering without permission, and for leaving his post and joining Alcallaga in the electrical room. Petitioner was suspended for twenty-five (25) days from July 16, 2014 to August 13, 2014, pending further investigation. Petitioner returned to FIDC on August 13, 2014, but was told to come back as Germino was on leave. When petitioner came back on August 27, 2014, he was able to speak to Germino and they agreed that he would voluntarily resign. However, petitioner did not file his resignation, and eventually instituted his Complaint for illegal dismissal.[8]

Respondents further averred that years ago, petitioner admitted to acting as messenger and depositing money in the bank for Rizza Alenzuela, the company accountant, who was later discovered to have stolen hundreds of thousands of pesos by collecting from tenants and depositing said collection to her account. However, because petitioner was the son of their longest-staying employee who died due to an illness, he was given a second chance on condition that another offense would lead to the termination of his employment.[9]

Respondents argued that there was no illegal dismissal as there was an agreement between FIDC and petitioner that the latter would just resign. As petitioner reneged on this agreement and chose to be absent, he should be considered absent without leave. As for petitioner's money claims, FIDC averred that petitioner was entitled to receive only his latest unpaid salary, if any, and his *pro rata* 13th month pay.[10] Respondents, however, would later concede that there were underpayments which would have to be computed.

The Labor Arbiter's Ruling

On February 12, 2015, the Labor Arbiter (LA) rendered her Decision, the dispositive portion of which reads:

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[8] *Rollo*, p. 31.
[9] Id. at 30-31.
[10] Id.

> WHEREFORE, premises considered, the complaint for illegal dismissal is dismissed for lack of evidence to support the same. Respondent Ferritz Integrated Development Corporation, is hereby ordered to reinstate complainant, Edward M. Cosue, to his former position, without loss of seniority rights but without backwages.
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> The order of reinstatement is immediately executory and the respondents are hereby directed to submit a report of compliance to the said order without *(sic)* ten (10) calendar days from receipt of the said decision.
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> Respondent Ferritz Integrated Development Corporation is further ordered to pay salary differentials in the amount of P8,819.01.
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> All other claims are dismissed for lack of merit.
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> SO ORDERED.[11]

The LA held that other than petitioner's general assertion that he was dismissed, no evidence was presented to support such claim. Petitioner was admittedly suspended from July 16, 2014 to August 13, 2014. Thus, as of July 27, 2014, the date of dismissal as averred in petitioner's Complaint, he was still serving his preventive suspension. In fact, he was not barred from the premises or categorically informed that he was already dismissed from work.[12]

The LA stressed that the rule that the employer bears the burden of proof in illegal dismissal cases could not be applied as respondents denied dismissing petitioner.[13]

The LA, however, found no reason to conclude that petitioner abandoned his job, absent proof of petitioner's clear intention to sever the employer-employee relationship.

Backwages were not awarded as there was neither dismissal nor abandonment. However, finding that there was underpayment of salaries, the LA awarded salary differentials computed at PhP8,819.01.

Petitioner's Partial Appeal

In his partial appeal from the LA's Decision, petitioner asked the NLRC to declare him to have been "illegally (constructively) dismissed" and entitled to full backwages from the time of illegal dismissal up to actual

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[11] *Rollo*, p. 80.
[12] Id. at 78.
[13] Id.

reinstatement. He also prayed for the payment of his service incentive leave pay, underpaid 13th month pay, holiday pay and overtime pay, his 13th month pay for 2014, moral and exemplary damages, and attorney's fees.

The NLRC's Resolutions

In its Resolution[14] dated May 29, 2015, the NLRC denied petitioner's partial appeal and affirmed the LA's Decision, holding that the established facts showed that petitioner was not dismissed by FIDC. The NLRC also held that since the claims for service incentive leave, overtime pay and 13th month pay were not indicated in the Complaint nor prayed for in petitioner's Position Paper, the LA did not gravely abuse her discretion in not awarding them. Furthermore, the NLRC found it improper to award damages and attorney's fees given its finding that there was no illegal dismissal.

The NLRC denied petitioner's Motion for Reconsideration in its Resolution[15] dated July 20, 2015.

The CA's Ruling

The NLRC's Resolutions were affirmed in the assailed Decision and Resolution of the CA issued in the *certiorari* proceeding instituted by petitioner under Rule 65 of the Rules of Court.

The CA found sufficient reasons to uphold respondents' position. It rejected petitioner's argument that he had been constructively dismissed, holding that petitioner was merely suspended for 25 days. Such suspension, said the CA, was a valid exercise of management prerogative pending administrative investigation on the incident of theft.

Hence, the instant Petition.

Petitioner's Arguments

Petitioner maintained that he was constructively dismissed because he reported to work immediately after his suspension but was not anymore allowed to work. He argued that mere absence or failure to report to work is not tantamount to abandonment of work. He also asserted that to be dismissed for abandonment, an employee must be shown to have been absent without a valid or justifiable reason, and to have a clear intention to sever the employer-employee relationship, and that the burden of proof falls on the employer. Petitioner further averred that FIDC failed to show proof

[14] *Rollo*, p. 63.
[15] Id. at 70.

of payment of his other monetary claims.

The Court's Ruling

Only errors of law are generally reviewed in Rule 45 petitions assailing decisions of the CA, and questions of fact are not entertained.[16] Accordingly, the Court does not re-examine conflicting evidence or re-evaluate the credibility of witnesses.[17] The Court is not a trier of facts, and this doctrine applies with greater force in labor cases.[18] When supported by substantial evidence, factual findings of labor officials, who are deemed to have acquired expertise in matters within their respective jurisdiction, are generally accorded not only respect but even finality, more so when upheld by the CA.[19]

Petitioner has not shown cause for the Court to depart from this rule.

As the LA, NLRC and the CA found, petitioner was not illegally dismissed. This common finding is supported by substantial evidence, defined as "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."[20]

Petitioner himself alleged that he was suspended from July 16, 2014 to August 13, 2014 pending further investigation of the pilferage of electrical wires. Thus, on July 27, 2014, the date of dismissal alleged in his Complaint, petitioner was still serving his suspension; his employment was not terminated.

Petitioner's claim that he was not allowed to report for work after his suspension was unsubstantiated. Petitioner has not shown by any evidence that he was barred from the premises. Furthermore, an entry in the FIDC security logbook for August 27, 2014, which petitioner had not challenged, showed him informing security personnel that he came to FIDC because he was asked to report to the office. The rule is that evidence not objected to is deemed admitted and may be validly considered by the court in arriving at its judgment.[21] This is true even if by its nature, the evidence is

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[16] See *Peckson v. Robinsons Supermarket Corp., et. al.,* 713 Phil. 471, 486 (2013); and *Career Philippines Shipmanagement, Inc. et. al., v. Serna*, 700 Phil. 1, 9 (2012); citing *Montoya v. Transmed Manila Corp/Mr. Ellena, et. al.,* 613 Phil. 696, 707 (2009).

[17] *Career Philippines Shipmanagement, Inc., et. al. v. Serna*, supra note 4.

[18] *New City Builders, Inc. v. NLRC*, 499 Phil. 207 (2005); *Angeles, et. al., v. Bucad, et. al.*, 739 Phil. 261, 262 (2014).

[19] See *Angeles, et. al., v. Bucad, et. al.,* supra note 18; *Peckson v. Robinsons Supermarket Corp., et. al.*, supra note 16; and *New City Builders, Inc. v. NLRC*, supra note 18.

[20] *Skippers United Pacific, Inc. v. NLRC,* 527 Phil. 248, 257 (2006).

[21] *People v. Lopez,* 658 Phil. 647, 651 (2011); *Heirs of Marcelino Doronio v. Heirs of Fortunato Doronio*, 565 Phil. 766, 780-781 (2007).

inadmissible and would have surely been rejected if it had been challenged at the proper time.[22]

Petitioner's claim of constructive dismissal fails. Bare allegations of constructive dismissal, when uncorroborated by the evidence on record, as in this case, cannot be given credence.[23]

In *Jomar S. Verdadero v. Barney Autolines Group of Companies Transport, Inc., et. al.,*[24] the Court held that:

> Constructive dismissal exists where there is cessation of work, because "continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank or a diminution in pay" and other benefits. Aptly called a dismissal in disguise or an act amounting to dismissal but made to appear as if it were not, constructive dismissal may, likewise, exist if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment.[25]

In this case, records do not show any demotion in rank or a diminution in pay made against petitioner. Neither was there any act of clear discrimination, insensibility or disdain committed by respondents against petitioner which would justify or force him to terminate his employment from the company.[26]

Respondents' decision to give petitioner a graceful exit is perfectly within their discretion. It is settled that there is nothing reprehensible or illegal when the employer grants the employee a chance to resign and save face rather than smear the latter's employment record.[27]

The rule is that one who alleges a fact has the burden of proving it; thus, petitioner was burdened to prove his allegation that respondents dismissed him from his employment. It must be stressed that the evidence to prove this fact must be clear, positive and convincing. The rule that the employer bears the burden of proof in illegal dismissal cases finds no application here because the respondents deny having dismissed the

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[22] *Heirs of Marcelino Doronio v. Heirs of Fortunato Doronio*, supra note 9.

[23] *Vicente v. Court of Appeals (Former 17th Div.),* 557 Phil. 777, 787 (2007).

[24] 693 Phil. 646, 656 (2012).

[25] Id.

[26] See *Verdadero v. Barney Autolines Group of Companies Transport, Inc.*, supra note 24.

[27] *Central Azucarera de Bais, Inc. v. Siason,* G.R. No. 215555, July 29, 2015, 764 SCRA 494, 495; *Willi Hahn Enterprises v. Maghuyop*, G.R. No. 160348, December 17, 2004, 447 SCRA349, 354.

petitioner.[28] In illegal dismissal cases, while the employer bears the burden to prove that the termination was for a valid or authorized cause, the employee must first establish by substantial evidence the fact of dismissal from service.[29]

In the instant case, other than petitioner's bare allegation of having been dismissed, there was no evidence presented to show that his employment was indeed terminated by respondents. In the absence of any showing of an overt or positive act proving that respondents had dismissed petitioner, the latter's claim of illegal dismissal cannot be sustained – as the same would be self-serving, conjectural and of no probative value.[30]

Petitioner's insistence that he had been unjustifiably dismissed for abandonment of his job, without the benefit of due process, is untenable. *Firstly,* petitioner failed to establish that he had been dismissed. *Secondly*, it was not respondents' position that petitioner abandoned his job. As they were waiting for petitioner to tender his resignation conformably with their agreement, they did not consider petitioner's absence as an abandonment of his job which would necessitate the sending of a notice of abandonment or an order to return to work.[31]

In this regard, the Court's ruling in *Nightowl Watchman & Security Agency, Inc. v. Nestor Lumahan,*[32] reiterated in *Dee Jay's Inn and Café and/or Melinda Ferraris v. Ma. Lorina Rañeses,*[33] is instructive:

> We find that the CA erred in disregarding the NLRC's conclusion that there had been no dismissal, and in immediately proceeding to tackle Nightowl's defense that Lumahan abandoned his work.
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> **The CA should have first considered whether there had been a dismissal in the first place. To our mind, the CA missed this crucial point as it presumed that Lumahan had actually been dismissed.** The CA's failure to properly appreciate this point - which led to its erroneous conclusion - constitutes reversible error that justifies the Court's exercise of its factual review power.
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[28] *MZR Industries, et. al. v. Colambot,* 716 Phil. 617, 626 (2013); citing *Machica v. Roosevelt Services Center, Inc., and/or Dizon,* 523 Phil. 199 (2006).

[29] *Dee Jay's Inn and Café v. Rañeses,* G.R. No. 191825, October 5, 2016.

[30] See *MZR Industries, et. al. v. Colambot*, supra note 28.

[31] CA's Decision, p. 10; *Rollo*, p. 35.

[32] G.R. No. 212096, October 14, 2015, 772 SCRA 638, 650-655.

[33] Supra note 29.

We agree with the NLRC that Lumahan stopped reporting for work on April 22, 1999, and never returned, as Nightowl sufficiently supported this position with documentary evidence.

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In addition, we find that Lumahan failed to substantiate his claim that he was constructively dismissed when Nightowl allegedly refused to accept him back when he allegedly reported for work from April 22, 1999 to June 9, 1999. In short, Lumahan did not present any evidence to prove that he had, in fact, reported back to work.

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All told, we cannot agree with the CA in finding that the NLRC committed grave abuse of discretion in evaluating the facts based on the records and in concluding therefrom that Lumahan had not been dismissed.

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As no dismissal was carried out in this case, any consideration of abandonment - as a defense raised by an employer in dismissal situations - was clearly misplaced. To our mind, the CA again committed a reversible error in considering that Nightowl raised abandonment as a defense.

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The CA, agreeing with LA Demaisip, concluded that Lumahan was illegally dismissed because Nightowl failed to prove the existence of an overt act showing Lumahan's intention to sever his employment. To the CA, the fact that Nightowl failed to send Lumahan notices for him to report back to work all the more showed no abandonment took place.

The critical point the CA missed, however, was the fact that Nightowl never raised abandonment as a defense. What Nightowl persistently argued was that Lumahan stopped reporting for work beginning April 22, 1999; and that it had been waiting for Lumahan to show up so that it could impose on him the necessary disciplinary action for abandoning his post at Steelwork, only to learn that Lumahan had filed an illegal dismissal complaint. **Nightowl did not at all argue that Lumahan had abandoned his work, thereby warranting the termination of his employment.**

Significantly, the CA construed these arguments as abandonment of work under the labor law construct. **We find it clear, however, that Nightowl did not dismiss Lumahan; hence, it never raised the defense of abandonment**.

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> Finally, failure to send notices to Lumahan to report back to work should not be taken against Nightowl despite the fact that it would have been prudent, given the circumstance, had it done so. Report to work notices are required, as an aspect of procedural due process, only in situations involving the dismissal, or the possibility of dismissal, of the employee. **Verily, report-to-work notices could not be required when dismissal, or the possibility of dismissal, of the employee does not exist.** *(Citation ommitted and emphasis ours.)*

Since there was neither dismissal nor abandonment, the CA correctly sustained the LA and the NLRC's decision to order petitioner's reinstatement but without backwages, consistent with the following pronouncement in *Danilo Leonardo v. National Labor Relations Commission and Reynaldo's Marketing Corporation, et. al.*:[34]

> Accordingly, given that FUERTE may not be deemed to have abandoned his job, and neither was he constructively dismissed by private respondent, the Commission did not err in ordering his reinstatement but without backwages. In a case where the employee's failure to work was occasioned neither by his abandonment nor by a termination, the burden of economic loss is not rightfully shifted to the employer; each party must bear his own loss.[35] (Citation ommitted)

Although not specified in the *pro forma* Complaint, petitioner's claim for underpayment of holiday pay, 13th month pay and service incentive leave pay was alleged in his Position Paper.[36] In fact, respondents squarely addressed this issue in their Rejoinder, stating that "(w)hat is left therefore that respondent should pay are the underpayments which should now be computed properly."[37] Thus, the labor tribunals were not precluded from passing upon this cause of action.[38] Petitioner's cause of action "should be ascertained not from a reading of his complaint alone but also from a consideration and evaluation of both his complaint and position paper."[39]

Petitioner was found to have been paid salaries below the minimum wage rates and was, thus, awarded salary differentials in the amount of ₱8,819.01 for the period October 9, 2011 to July 27, 2014.[40] Holiday pay, 13th month pay and service incentive leave pay are all computed based on an employee's salary. Therefore, there is necessarily an underpayment if these

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[34] 389 Phil. 118 (2000).

[35] Id. at 128.

[36] Petitioner's Position Paper, p. 9; *Rollo*, p. 93.

[37] Respondents' Rejoinder, p. 3; Id. at 148.

[38] *Our Haus Realty Development Corp. v. Parian, et. al.*, 740 Phil. 699, 708 (2014).

[39] *Our Haus Realty Development Corp. v. Parian, et. al.*, supra note 38, citing *Samar-Med Distribution v. NLRC,et. al.*, 714 Phil. 16, 27-28 (2013).

[40] Based on the LA's computation, however, underpayment commenced on June 3, 2012.

benefits were computed and paid based on salaries below minimum wage rates.

Anent petitioner's claim for his 13th month pay for 2014, the same was not alleged in his Complaint or his Position Paper. It appears to have been raised for the first time in his partial appeal to the NLRC. However, it should be noted that respondents effectively admitted in their Position Paper that petitioner was entitled to his *pro-rata* 13th month pay for 2014.[41] To withhold this benefit from petitioner, despite respondents' admission that he should be paid the same, will not serve the ends of substantial justice. Hand in hand with the concept of admission against interest, the concept of estoppel, a legal and equitable concept, necessarily must come into play.[42] Furthermore, it is settled that technical rules of procedure may be relaxed in labor cases to serve the demands of substantial justice.[43]

The LA is, thus, directed to determine any underpayment of holiday pay, 13th month pay and service incentive leave pay for the period covered by the award of salary differentials, and to compute the corresponding differentials. The LA is further directed to compute petitioner's *pro rata* 13th month pay for 2014.

In *San Miguel Corporation v. Eduardo L. Teodosio*[44], the Court held that:

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> Moral damages are recoverable where the dismissal of the employee was attended by bad faith or fraud or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy. On the other hand, exemplary damages are proper when the dismissal was effected in a wanton, oppressive or malevolent manner, and public policy requires that these acts must be suppressed and discouraged.[45]

In the present case, petitioner failed to sufficiently establish that he had been dismissed, let alone in bad faith or in an oppressive or malevolent manner. Petitioner, thus, cannot rightfully claim moral and exemplary damages.[46]

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[41] Respondents' Position Paper, p. 2; *Rollo,* p. 109.

[42] *Tongko v. The Manufacturers Life Insurance Co. (Phils.), Inc., et. al.*, 636 Phil. 57, 92 (2010); See *L.C. Ordonez Construction v. Nicdao*, 528 Phil. 1124, 1133 (2006).

[43] *Iligan Cement Corp. v. Iliascor Employees and Workers Union-Southern Phils. Federation of Labor, IEWU-SPFL) et. al.,* 604 Phil. 345, 347 (2009).

[44] G.R. No. 163033, October 2, 2009, 602 SCRA 197-219.

[45] Id. at 200.

[46] See *Bilbao v. Saudi Arabian Airlines,* 678 Phil. 793 (2011).

Petitioner, however, is entitled to attorney's fees at ten percent (10%) of the total monetary award.[47] It has been determined that petitioner was underpaid his wages. Attorney's fees may be recovered by an employee whose wages have been unlawfully withheld.[48] There need not even be any showing that the employer acted maliciously or in bad faith; there need only be a showing that lawful wages were not paid accordingly, as in this case.[49]

WHEREFORE, the Court of Appeals' Decision dated December 2, 2016 and Resolution dated February 23, 2017, in CA-G.R. SP No. 142491, are **AFFIRMED with MODIFICATION** in that petitioner is additionally entitled to: (a) differentials in any underpaid holiday pay, 13th month pay and service incentive leave pay for the period October 9, 2011 to July 27, 2014; (b) *pro rata* 13th month pay for 2014; and (c) attorney's fees at ten percent (10%) of the total monetary award.

The case is remanded to the Labor Arbiter for the determination of any underpayment of holiday pay, 13th month pay and service incentive leave pay for the period October 9, 2011 to July 27, 2014, and for the proper computation of the corresponding differentials. The Labor Arbiter is also directed to compute petitioner's *pro rata* 13th month pay for 2014. The Labor Arbiter shall report compliance with these directives within thirty (30) days from notice of this Decision.

SO ORDERED.

NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

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[47] Article 111 of the Labor Code provides that "(i)n cases of unlawful withholding of wages, the culpable party may be assessed attorney's fees equivalent to ten percent of the amount of wages recovered." *Skippers United Pacific, Inc. v. Doza,* 681 Phil. 427, 445 (2012).

[48] See *San Miguel Corporation v. Teodosio*, supra note 44; *Dr. Reyes v. Court of Appeals*, 456 Phil. 520, 540 (2003); *Mayon Hotel & Restaurant v. Adana*, 497 Phil. 892, 931 (2005); *Our Haus Realty Development Corp. v. Parian et. al.*, supra note 39.

[49] *San Miguel Corporation v. Teodosio*, supra note 44; *Dr. Reyes v. Court of Appeals*, supra note 48.

LUCAS P. BERSAMIN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ANDRES B. REYES, 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.

PRESBITERO J. VELASCO, JR.
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.

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
OCT 06 2017

MARIA LOURDES P.A. SERENO
Chief Justice