Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

FROEL M. PU-OD, BOMBOM L. LAYAONA, DANILO L. ORSAL, JOSEPH B. FLORES and JOEL M. PU-OD,	**G.R. No. 230791**
Petitioners,	Present:
	SERENO, *CJ.*, *Chairperson*,
	LEONARDO-DE CASTRO,
	DEL CASTILLO,
-versus -	JARDELEZA, and
	TIJAM, *JJ.*
	Promulgated:
ABLAZE BUILDERS, INC./ROLANDO PAMPOLINO,	NOV 20 2017
Respondents.	

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DECISION

TIJAM, *J.*:

In this Petition for Review on *Certiorari* under Rule 45,[1] petitioners assail the Decision[2] dated November 8, 2016 and Resolution[3] dated March 20, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 142970.

The Factual Antecedents

Respondent-company Ablaze Builders, Inc., headed by its president, private respondent Rolando Pampolino, is engaged in the construction business. It has been respondents' practice to hire construction workers,

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[1] *Rollo*, pp. 11-32.

[2] Penned by Associate Justice Romeo F. Barza, and concurred in by Associate Justices Franchito N. Diamante and Agnes Reyes-Carpio; Id. at 212-221.

[3] Penned by Associate Justice Romeo F. Barza, and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Franchito N. Diamante, Id. at 240-242.

foreman, and other personnel on a per project basis.[4] Respondents hired petitioners on different dates, positions and daily salaries, as follows:

Name	Date of Employment	Position	Daily Salary
Froel M. Pu-od	June 2013	Carpenter	Php370.00
Joel M. Pu-od	07/08/08	Welder	Php370.00
Bombom L. Layaona	07/15/08	Mason	Php370.00
Joseph B. Flores	07/22/13	Helper	Php280.00
Danilo L. Orsal	11/19/11	Mason	Php370.00[5]

Sometime in June 2013, respondents hired petitioners to work in its project located at Roces Avenue, Quezon City (QC Project), specifically for the finishing phase.[6]

On February 28, 2014, a project engineer of respondents allegedly told the petitioners that they are already terminated from their employment because there was no more work to be done, even if in reality, the phase on which they were working on was not yet completed.[7]

Aggrieved by the verbal dismissal, petitioners filed a complaint[8] for illegal dismissal, against respondents before the Labor Arbiter (LA). Petitioners admitted that they no longer chose to be reinstated due to the strained relationship of the parties.[9]

Both parties were required to file their respective position papers.

Petitioners averred, among others, that respondents unceremoniously terminated their employment without giving them an opportunity to explain their side. They maintained that they are entitled to their money claims, as follows: salary differential; thirteenth (13th) month pay; service incentive leave pay; holiday pay; refund for illegal deductions; including moral damages, exemplary damages and attorney's fees.[10]

Respondents, on the other hand, alleged that the company did not terminate petitioners' employment, but rather, this is a case of abandonment of work on the part of the petitioners.[11] Respondents likewise claimed that sometime in February 2014, after the resignation of its project site engineer,

[4]Id. at 36.
[5]Id. at 13.
[6]Id. at 14.
[7]Id. at 13, 149.
[8]"*Complaint for Illegal Dismissal; Underpayments of Salar y/Wages; Non-payment of Holiday Pay; Non-Payment of Service Incentive Leave; Non-Payment of 13th Month pay; Illegal Deduction; Moral and Exemplary Damages; and Attorney's Fees*"; Id. at 156-159.
[9]*Par. 17 of Rejoinder for Complainants, as mentioned in Ablaze's Petition for Certiorari filed with the Court of Appeals*, Id. at 48.
[10]Id. at 151-153.
[11]Id. at 136-146.

Engr. Romeo Calma (Engr. Calma), the petitioners stopped appearing for work, which caused delay in the turnover of the project to respondents' client. Consequently, respondents has not yet been fully paid by its client due to discussions on penalties. Respondents made efforts in communicating with petitioners, specifically, through complainant Layaona, but to no avail. As a result, respondents were compelled to engage the services of other personnel for the completion of the QC project. Respondents further alleged that the company never heard from the petitioners again, except on the information given by Engr. Calma to the effect that petitioners have already accepted employment at another construction company.[12] Respondents submitted the affidavits of Engr. Calma and Engr. Pedro Bacalso, Jr. (Engr. Bacalso, Jr.) who were the project site engineers at the time the petitioners were assigned to the QC project. The engineers denied under oath that either of them informed the petitioners on February 28, 2014, of their alleged verbal dismissal.[13]

Respondents claimed that the petitioners were not underpaid, considering that during the course of their employment they were provided with transportation allowances, boarding houses, free but limited use of electricity and water.[14]

On February 27, 2015, the LA rendered a decision[15] against the petitioners, thereby dismissing their complaint. The LA ruled that there was no dismissal, actual or constructive, committed by respondents, since the petitioners have failed to substantiate their allegation of the fact of dismissal. The LA denied the petitioners their money claims. The dispositive portion of the decision, reads:

> WHEREFORE, premises considered, judgment is entered dismissing the case for lack of merit.
>
> SO ORDERED.[16]

Petitioners filed a *Memorandum of Appeal with Notice of Appeal*[17] before the National Labor Relations Commission (NLRC), questioning the LA's decision.

On July 24, 2015, the NLRC issued a resolution,[18] in favor of the petitioners, thereby reversing the LA's decision. The NLRC held respondents liable to pay the petitioners their backwages and separation pay. The dispositive portion of the resolution reads, thus:

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[12]Id. at 36-37.
[13]Id. at 76.
[14]Id. at 75.
[15]Penned by Labor Arbiter Renaldo O. Hernandez, *Rollo*, pp. 72-80.
[16]Id. at 80.
[17]Id. at 81-94.
[18]Penned by Commissioner Pablo C. Espiritu, Jr. with the concurrence of Presiding Commissioner Alex A. Lopez, Id. at 59-70.

WHEREFORE, premises considered, Complainants-Appellants' appeal is hereby GRANTED. The February 27, 2015 Decision of the Labor Arbiter Renaldo Hernandez is hereby REVERSED AND SET ASIDE.

Respondents are liable to pay complainants:

1. full backwages in the following amounts:

a. **FROEL M. PU-OD**
2/2014 – 4/3/15
P451.00 x 26 x 14.13 = P165,688.38

4/4/15-7/15/15
P466.00 x 26 x 3.40 = P 41,194.40
P206,8[8]2.78

b. **JOEL PU-OD**
1/2014 – 4/3/15
P451.00 x 26 x 15.13 = P177,414.38

4/4/15 – 7/15/15
P466.00 x 26 x 3.40 = P 41,194.40
P218,608.78

c. **BOMBOM LAYAONA**
1/2014 – 4/3/15
P451.00 x 26 x 15.13 = P177,414.38

4/4/15 – 7/15/15
P466.00 x 26 x 3.40 = P 41,194.40
P218,608.78

d. **JOSEPH FLORES**
2/2014 – 4/3/15
P451.00 x 26 x 14.13 = P165,688.38

4/4/15 – 7/15/15
P466.00 x 26 x 3.40 = P 41,194.40
P206,882.78

e. **DANILO ORSAL**
11/2013 – 12/31/13
P436.00 x 26 x 2 = P 22,672.00

1/1/14 – 4/3/15
P451.00 x 26 x 15.10 = P177,062.60

4/4/15 – 7/15/15
P466.00 x 26 x 3.40 = P 41,194.40
P 240,929.00

2. separation pay in lieu of reinstatement in the amounts of:

a. **FROEL PU-OD**
6/20/13 – 7/15/2015
P466.00 x 26 x 2 = P 24,232.00

b. **JOEL PU-OD**
7/2008 – 7/15/15
P466.00 x 26 x 7 = P 84,812.00

c. **BOMBOM LAYAONA**
7/2008 – 7/15/15
P466.00 x 26 x 7 = P 84,812.00

d. **JOSEPH FLORES**
6/2013 – 7/15/15
P466.00 x 26 x 2 = P 24,232.00

e. **DANILO ORSAL**
3/2011 – 7/15/15
P466.00 x 26 x 4 = P 48,[4]64.00

SO ORDERED."[19]

On August 10, 2015, respondents filed a *Motion for Extension of Time to File Motion for Reconsideration with Substitution of Counsel*,[20] stating therein that: (1) they received a copy of the NLRC's decision on July 31, 2015; (2) they terminated the legal services of their previous lawyer, Atty. Michael M. Racelis, and hired Malcolm Law as their new counsel; and, (3) due to lack of material time, volume and pressure of work, they cannot complete the motion within the period allowed by the 2011 NLRC Rules of Procedure. Subsequently, respondents filed a *Motion for Reconsideration*,[21] on August 20, 2015, arguing, among others, that: since there was no proper service of the petitioners' *Memorandum of Appeal with Notice of Appeal* to respondents, there was no perfected appeal, hence, the LA's decision has attained finality; the petitioners proffered no evidence that they were either dismissed from employment or that they were prevented from returning to work or otherwise deprived of any work assignment; and, the petitioners are not entitled to backwages and separation pay since they failed to prove that they were illegally dismissed.

Both motions, however, were denied in the NLRC's September 29, 2015 resolution.[22] The NLRC ruled that the motion for extension was denied since the substitution of counsel was not a valid ground to extend the period to file a motion for reconsideration. Consequently, the motion for reconsideration proper, was deemed to have been filed out of time.

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[19]Id. at 63-65.
[20]Id. at 111-113.
[21]Id. at 114-128.
[22]Id. at 67-70.

Unfazed, respondents elevated the matter to the CA by filing a *Petition for Certiorari* under Rule 65 of the Rules of Court, urgently praying for a *Temporary Restraining Order and/or Writ of Preliminary Injunction.*[23]

The Ruling of the CA

On November 8, 2016, the CA rendered a decision, granting the petition and reversing the NLRC decision. The CA brushed aside technicalities and ruled that the NLRC is given the discretion to exercise liberality to enable it to ascertain the facts of the case speedily and objectively without any ill intent to wear out the laborer's resources. The CA found that respondents were not in any way motivated to unnecessarily delay the resolution of the case. The CA likewise ruled that the petitioners failed to establish the fact of their dismissal and that they abandoned their employment. The dispositive portion of the CA's decision, reads:

> WHEREFORE, finding the petition to be impressed with merit, the same is hereby GRANTED. The assailed NLRC resolutions are hereby ANNULLED, and a new judgment is hereby ENTERED finding no unlawful termination of private respondents' employment in the case at bar. The Labor Arbiter's dismissal of private respondents' complaint is hereby REINSTATED.[24]

Their motion for reconsideration[25] having been denied in the CA's resolution dated March 20, 2017, petitioners filed the instant petition, and raised the following issues:

> **I.**
>
> **WHETHER OR NOT THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION WHEN IT GRANTED THE RESPONDENTS' PETITION FOR CERTIORARI DESPITE THE BELATED FILING OF THEIR MOTION FOR RECONSIDERATION OF THE NLRC 24 JULY 2015 RESOLUTION.**
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> **II.**
>
> **WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN ANNULLING THE DECISION OF THE NLRC FINDING THE PETITIONERS TO HAVE BEEN ILLEGALLY DISMISSED AND, IN EFFECT, REINSTATING THE LABOR ARBITER'S DECISION DISMISSING THE PETITIONERS' LABOR COMPLAINT.**[26]

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[23] Id. at 33-57.
[24] Id. at 220.
[25] Id. at 222-228.
[26] Id. at 20.

The petition lacks merit.

The Ruling of the Court

Procedural:

The CA did not err when it gave due course to Respondents' Petition for Certiorari —

The 2011 NLRC Rules of Procedure mandate that a motion for reconsideration of the NLRC decision must be filed within 10 calendar days from receipt of said decision, otherwise, the decision shall become final and executory.[27] "A motion for reconsideration of the NLRC decision must be filed before the remedy of a petition for *certiorari* may be availed of, to enable the commission to pass upon and correct its mistakes without the intervention of the courts. Failure to file a motion for reconsideration of the decision is a procedural defect that generally warrants a dismissal of the petition for *certiorari*".[28] However, "We held that despite procedural lapses, fundamental consideration of substantial justice may warrant this Court to decide a case on the merits rather than dismiss it on a technicality. In so doing, We exercise our prerogative in labor cases that no undue sympathy is to be accorded to any claim of procedural misstep, the idea being that our power must be exercised according to justice and equity and substantial merits of the controversy",[29] in order to avoid further delay.[30]

Likewise, the NLRC is not restricted by the technical rules of procedure and is allowed to be liberal in the application of its rules in hearing and deciding labor cases.[31] Under Section 2, Rule I of the 2005 Revised Rules of Procedure and reiterated verbatim in the same provision of the 2011 NLRC Rules of Procedure, it is provided that:

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[27]Sections 14 and 15 of Rule VII of the 2011 Rules of Procedure provide: ***Section 14. Finality of Decision of the Commission and Entry Of Judgment.*** — (a) Finality of the Decisions, Resolutions or Orders of the Commission. – Except as provided in Section 9 of Rule X, the decisions, resolutions or orders of the Commission shall become final and executory after ten (10) calendar days from receipt thereof by the counsel or authorized representative or the parties if not assisted by counsel or representative. (b) Entry of Judgment. – Upon the expiration of the ten (10) calendar day period provided in paragraph (a) of this Section, the decision, resolution, or order shall be entered in a book of entries of judgment.

x x x x

Section 15. Motions For Reconsideration. — Motion for reconsideration of any decision, resolution or order of the Commission shall not be entertained except when based on palpable or patent errors; provided that the motion is filed within ten (10) calendar days from receipt of decision, resolution or order, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party; and provided further, that only one such motion from the same party shall be entertained.

[28]*PLDT v. Berbano, Jr.*, 621 Phil. 76, 85-86 (2009), citing *PLDT v. Imperial*, 524 Phil. 204, 218-219 (2006).

[29]Id. at 86, citing *Surima v. NLRC*, 353 Phil. 461, 469 (1998).

[30]See *PLDT v. Imperial*, 524 Phil. 204 (2006).

[31]*Alberto J. Raza v. Daikoku Electronics Phils., Inc. and Mamoru Ono*, 765 Phil. 61, 84 (2015).

> ***Section 2. Construction***. — These Rules shall be liberally construed to carry out the objectives of the Constitution, the Labor Code of the Philippines and other relevant legislations, and to assist the parties in obtaining just, expeditious and inexpensive resolution and settlement of labor disputes.

Then, too, under Section 10, Rule VII of both the 2005 Revised Rules of Procedure and the 2011 NLRC Rules, it is also identically stated that:

> ***Section 10. Technical Rules Not Binding***. — The rules of procedure and evidence prevailing in courts of law and equity shall not be controlling and the Commission shall use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process.
>
> In any proceeding before the Commission, the parties may be represented by legal counsel but it shall be the duty of the Chairman, any Presiding Commissioner or Commissioner to exercise complete control of the proceedings at all stages.

In view of the factual circumstances of the case, We are persuaded that the rigid rules of procedure must give way to the demands of substantial justice, and that the case must be decided on the merits. Indeed, the prevailing trend is to accord party litigants the amplest opportunity for the proper and just determination of their causes, free from the constraints of needless technicalities,[32] especially so in this case where the varying and conflicting factual deliberations of the LA, the NLRC and the CA are factored in.

Thus, the CA committed no error when it admitted Ablaze's petition for *certiorari*, and had jurisdiction over said petition.

Substantial:

Neither illegal dismissal by the employer nor abandonment by the employees exists in this case —

This Court is aware of the familiar rule in labor cases that the employer has the burden of proving that the termination was for a valid or authorized cause.[33] However, We stress that it remains incumbent upon the employees that they should first establish by competent evidence the fact of their dismissal from employment.[34] Since an allegation is not evidence, it is elementary that a party alleging a critical fact must support his allegation

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[32] *Negros Slashers, Inc., et.al., v. Alvin L. Teng*, 682 Phil. 593, 604, (2012).
[33] *Tri-C General Services v. Nolasco B. Matuto, et. al.*, 770 Phil. 251, 262 (2015).
[34] *Dionarto Q. Noblejas v. Italian Maritime Academy, Phils., Inc.*, 735 Phil. 713, 721 (2014).

with substantial evidence.[35] It has also been held that the evidence to prove the fact of dismissal must be clear, positive and convincing.[36]

Stated otherwise, in cases of illegal dismissal, before the employer must bear the burden of proof to establish that the termination was for a valid or authorized cause, the employees must first prove by substantial evidence the fact of their dismissal from service. Logically, if there is no dismissal, then there can be no question as to the legality or illegality thereof, as in this case.

Here, there is no ample evidence to establish a *prima facie* case that petitioners were dismissed from employment. That they were told on February 28, 2014 by one of respondents' project engineer that their employment has been terminated since there is no more work to be done is at best, speculative. The identity of the project engineer was not revealed. There is even no proof that respondents authorized the unnamed project engineer, or any project engineer for that matter, to notify the petitioners of their alleged dismissal. Petitioners were likewise inconsistent as to the date of their alleged employment and under what particular circumstance were they dismissed from employment. Respondents, on the other hand, presented affidavits executed by their project engineers, Engr. Calma and Engr. Bacalso, Jr., who adamantly denied that they eased the petitioners out of their employment.[37]

As correctly observed by the LA, thus:

> There would be no dismissal committed by respondents, actual, or constructive, as complainants have failed to substantiate their allegation that there was in fact a dismissal "On 28 February 2014, a Project Engineer of Respondent Corporation told them that they are terminated from their employment since there was no work to be done, even if the phase on which they were working was not yet completed," whereas respondents substantiated their denial of any dismissal effected thru the Affidavits of their two project engineers, one Romeo Calma and Pedro Bacalso, Jr., Project Site Engineers, Pedro Bacalso, Jr. being the Project Engineer at the Roces Avenue QC Finishing phase Project whereof complainants were last engaged as project employees, and denying under oath of having told complainants on 2/28/2014 that they were already terminated, re their allegation that "On 28 February 2014, a Project Engineer of Respondent Corporation told them that they are terminated from their employment since there was no work to be done, even if the phase on which they were working was not yet completed."
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> Of note, adding to this disbelief as to complainants (sic) claim of constructive dismissal is that complainants stated in their complaint that the date of their respective dismissal was Froel Pu-od - "FEBRUARY

[35] *Tan Brothers Corp. of Basilan City v. Edna R. Escudero,* 713 Phil. 392, 394 (2013).

[36] *Exodus Int.'l. Construction Corp., et. al., v. Guillermo Biscocho, et. al.,* 659 Phil. 142, 155 (2011).

[37] *Rollo*, pp. 44-45.

> 2014," Bombom Layaona "01-2014" Joel Pu-od "01-2014" Danilo Orsal "11-2003) (sic) and Joseph Flores "02-2014" whereas in their position paper, they all inconsistently alleged a single date on 2/28/2014 of having been told of their dismissal by a Project Engineer, which makes it impossibly hard to tie the knots of credibility to this allegation of constructive dismissal. Moreover, complainants did not even present even a speck of assertion, far less any evidence as to the motivation or factual circumstances why they would be discriminated, harassed, their employment made unbearable as defined in a charge of constructive dismissal, and eventually dismissed on 2/28/2014.[38] [Citations Omitted.]

The records are likewise bereft of any indication that petitioners were barred from respondents' premises or were otherwise deprived of any work assignment after the alleged verbal dismissal. On the contrary, the evidence showed that respondents tried to contact them, but its effort was to no avail. Consequently, respondents learned that petitioners were already reporting for work in another construction company.

Thus, in the absence of any showing of an overt or positive act proving that respondents had dismissed petitioners, the latter's claim of illegal dismissal cannot be sustained as the same would be self-serving, conjectural and of no probative value.[39]

Be that as it may, however, the Court finds that petitioners did not abandon their employment, as erroneously claimed by the respondents.

Abandonment is a matter of intention and cannot lightly be presumed from certain equivocal acts.[40] It is incumbent upon the employer to prove the two elements that must concur in order for an act to constitute abandonment: First, respondents must provide evidence that petitioners failed to report for work for an unjustifiable reason. Second, respondents must prove petitioners' overt acts showing a clear intention to sever their ties with their employer,[41] with the second element as the more determinative factor, and being manifested by some overt acts.

The record shows that respondents proffered nothing beyond bare allegations to prove that petitioners had abandoned their employment. Although respondents made an effort in requiring petitioners to return to work, there was neither proof that petitioners' failure to comply with the same was for an unjustifiable reason; nor was there any proof that petitioners' absence amounted to a clear intention to sever their employment. Indeed, the mere absence or failure to report for work, even after notice to return, does not necessarily amount to abandonment.[42]

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[38] Id. at 78-79.
[39] *MZR Industries, et.al., v. Majen Colambot*, 716 Phil. 617, 624 (2013).
[40] *JOSAN, et. al., v. Aduna*, 682 Phil. 641, 648 (2012).
[41] *Protective Maximum Security Agency, Inc. v. Celso E. Fuentes*, 753 Phil. 482, 508 (2015).
[42] *Ruben C. Jordan v. Grandeur Security & Services, Inc.*, 736 Phil. 676, 697 (2014).

This Court recalls to mind that petitioners filed a complaint for illegal dismissal without opting to be reinstated, and admitting in their *Rejoinder* that reinstatement is no longer feasible due to strained relationship.

This act of filing the complaint is inconsistent with abandonment of employment. This effectively negates any suggestion that they had the intention to abandon their employment.[43]

Verily, respondents failed to show a clear proof of deliberate and unjustified intent on the part of the petitioners to sever the employer-employee relationship. The operative act is still the employees' ultimate act of putting an end to their employment, which is totally missing in this case.

Deletion of Award of Backwages and Separation Pay —

In cases where there is both an absence of illegal dismissal on the part of the employer and an absence of abandonment on the part of the employees, the remedy is reinstatement but without backwages. However, considering that the reinstatement was already impossible by reason of the strained relations of the parties, and the fact that petitioners already found another employment, each party must bear his or her own loss, thus, placing them on equal footing.

Thus, in ***MZR Industries, et.al. v. Majen Colambot***,[44] We held that:

> These circumstances, taken together, ***the lack of evidence of dismissal and the lack of intent on the part of the respondent to abandon his work, the remedy is reinstatement but without backwages. However, considering that reinstatement is no longer applicable due to the strained relationship between the parties and that Colambot already found another employment, each party must bear his or her own loss, thus, placing them on equal footing***.
>
> Verily, ***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***.[Emphasis Supplied.]

So too, in ***John L. Borja and Aubrey L. Borja/Dong Juan v. Randy B. Miñoza and Alaine S. Bandalan***,[45] wherein this Court deleted the award of separation pay in a factual situation analogous to the instant case, We explained that:

> "Therefore, since respondents were not dismissed and that they were not considered to have abandoned their jobs, it is only proper for

[43] *Jordan v. Grandeur, etc.,* supra note 42, at 697.
[44] Supra note 39, at 628. [Citations omitted.]
[45] G.R. No. 218384, July 3, 2017. [Citations omitted.]

> them to report back to work and for petitioners to reinstate them to their former positions or substantially-equivalent positions. In this regard, jurisprudence provides that in instances where there was neither dismissal by the employer nor abandonment by the employee, the proper remedy is to reinstate the employee to his former position, but without the award of backwages. However, since reinstatement was already impossible due to strained relations between the parties, as found by the NLRC, each of them must bear their own loss, so as to place them on equal footing. At this point, it is well to emphasize that '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.'
>
> In sum, the NLRC ruling holding that ***respondents were not constructively dismissed and that they did not abandon their jobs must be reinstated, subject to the modification that the award of separation pay in their favor must be deleted.***" [Emphasis Supplied.]

Based on the doctrines embodied in the aforementioned cases, this Court is constrained to rule that the petitioners are not entitled to the award of backwages and separation pay.

To restate, considering that petitioners' cessation of employment was neither brought about by abandonment nor illegal dismissal, and their reinstatement is no longer feasible due to strained relations and because they did not opt to be reinstated, coupled with the fact that they already found employment elsewhere, the legal effect is that the burden of economic loss is not rightfully shifted to the employer; the parties must bear the burden of their own loss.

WHEREFORE, We **DENY** the petition. The Decision dated November 8, 2016 and Resolution dated March 20, 2017 of the Court of Appeals in CA-G.R. SP No. 142970, are hereby **REVERSED** and **SET ASIDE** and a new judgment is rendered declaring petitioners' failure to prove the fact of their dismissal; and that respondent-company in turn, failed to show abandonment on the part of the petitioners. Thus, petitioners are not entitled to their money claims, either in the form of backwages or separation pay.

SO ORDERED.

NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Associate Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

MARIA LOURDES P. A. SERENO
Chief Justice