Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JONALD O. TORREDA,
Petitioner,

- versus -

INVESTMENT and CAPITAL CORPORATION OF THE PHILIPPINES,
Respondent.

G.R. No. 229881

Present:

PERALTA, *J., Chairperson,*
LEONEN,
REYES, JR., A.B.,
GESMUNDO, and
REYES, JR., J.C., *JJ.*

Promulgated:

September 5, 2018

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DECISION

GESMUNDO, *J.:*

This is an appeal by *certiorari* seeking to reverse and set aside the June 13, 2016 Decision[1] and the February 9, 2017 Resolution[2] of the Court of Appeals *(CA)* in CA-G.R. SP No. 133505. The CA reversed and set aside the June 28, 2013 Decision[3] and the October 31, 2013 Resolution[4] of the National Labor Relations Commission *(NLRC)* in NLRC NCR-01-00610-12. The NLRC affirmed the September 27, 2012 Decision[5] of the Labor Arbiter *(LA),* a case for constructive dismissal.

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[1] *Rollo*, pp. 46-54; penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Noel G. Tijam (now a member of this Court) and Francisco P. Acosta, concurring.
[2] Id. at 56-57.
[3] Id. at 245-258.
[4] Id. at 272-276.
[5] Id. at 186-197.

The Antecedents

Jonald O. Torreda *(petitioner)* was hired by Investment and Capital Corporation of the Philippines *(respondent)* on May 17, 2010 as an IT Senior Manager and had a monthly salary of ₱93,200.00. He was tasked to supervise his team in the Information Technology *(IT)* Department and manage the IT-related projects. He reported to William M. Valtos, Jr. *(Valtos),* the Officer-in-Charge of the IT Department and the Group President of the Financial Service of respondent.

Petitioner claimed that he instituted reforms in the IT management because the system was outdated and the staff members were unproductive. He had a falling out with the senior management as the Senior Vice President for the Pueblo De Oro Development Corporation wanted to interfere with the functions of the IT department. Further, in November 2011, respondent decided to create an IT-SAP project without the approval of petitioner.

On January 5, 2012, petitioner went to the office of Valtos for a closed-door conference meeting supposedly regarding his IT projects. In said meeting, Valtos discussed another matter with petitioner and told him that if his performance were to be appraised at that time, Valtos would give him a failing grade because of the negative feedback from the senior management and the IT staff. The performance appraisal of petitioner, however, was not due until May 2012.

Valtos then gave petitioner a prepared resignation letter and asked him to sign; otherwise, the company would terminate him. The said letter indicated that the resignation of petitioner would be effective on February 4, 2012. Petitioner refused to sign the resignation letter but Valtos did not accept his refusal. Thus, Valtos edited the resignation letter. Petitioner thought of leaving the room by making an excuse to go to the restroom, but Valtos and respondent's legal counsel followed him. Because of Valtos' insistence, petitioner placed his initials in the resignation letter to show that the letter was not official. Valtos then accompanied petitioner to his room to gather his belongings and escorted him out of the building. Petitioner was not allowed to report for work anymore and his company e-mail address was deactivated.

Six (6) days after the incident, petitioner filed the instant complaint for illegal dismissal (constructive), moral and exemplary damages and attorney's fees against respondent before the LA.

For its part, respondent countered that petitioner was not illegally dismissed because he voluntarily resigned. It claimed that petitioner was ineffective as an IT manager and that his staff complained about his inefficiencies. Respondent asserted that petitioner failed to integrate himself into the company due to his lack of enthusiasm and cooperation at work, and he did not respond to queries and requests. It even claimed that a female employee resigned because she felt uncomfortable with petitioner.

Respondent stated that while Valtos admitted that he gave a resignation letter to petitioner on January 5, 2012, petitioner himself edited the letter to include courteous words and voluntarily signed the same. Valtos also admitted that the performance appraisal of petitioner was not due until May 2012.

The LA Ruling

In its Decision dated September 27, 2012, the LA held that petitioner was constructively dismissed by respondent. It held that Valtos admitted that he gave a prepared resignation letter. The LA observed that Valtos told petitioner to resign; otherwise, respondent would terminate him. Also, it found that respondent failed to present substantial evidence that petitioner voluntarily resigned from the company due to the following reasons: petitioner did not have a prior contemplation of resigning from the company; Valtos gave a performance appraisal even though it was not yet due; the resignation letter was effective February 4, 2012 but petitioner was barred from the company as early as January 5, 2012; and petitioner immediately filed the constructive dismissal case after signing the resignation letter. The LA also imposed moral and exemplary damages against respondent to serve as a deterrent to other employers. The dispositive portion of the LA decision reads:

> **WHEREFORE**, premises considered, judgment is hereby rendered finding the complainant to have been constructively dismissed. Accordingly, respondent ICCP is hereby directed to REINSTATE complainant to his former or equivalent position without loss of seniority rights and to pay him backwages which as of the date of the decision already amounts to ₱766,104.00; and directing respondent ICCP to pay complainant the amount of ₱50,000.00 as moral damages; and ₱50,000.00 as exemplary damages.
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> All other claims are dismissed.

SO ORDERED.[6]

Aggrieved, respondent appealed to the NLRC.

The NLRC Ruling

In its Decision dated June 28, 2013, the NLRC affirmed the LA ruling. It ruled that the test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his position under the circumstances. The NLRC found that petitioner did not voluntarily resign from the company; rather, he was constructively dismissed. It reaffirmed that it was Valtos who presented a prepared resignation letter for petitioner to sign. The NLRC did not give credence to the defense of respondent that petitioner voluntarily resigned solely because he edited the resignation letter. Further, it observed that respondent could not terminate the employment of petitioner in a despotic manner.

The NLRC likewise affirmed the award of moral and exemplary damages because petitioner suffered from anxiety due to his unlawful termination. It, however, granted separation pay in lieu of reinstatement because the latter was no longer feasible due to the parties' strained relationship. The *fallo* of the NLRC Decision states:

> **WHEREFORE**, in view of the foregoing, the assailed decision of the Labor Arbiter is **AFFIRMED** with **MODIFICATION**, in that, in lieu of reinstatement Investment and Capital Corp. of the Philippines is ordered to pay complainant-appellee separation pay of one (1) month per year of service computed from the time of his employment up to the finality of this decision.
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> SEPARATION PAY
> 5/27/10 – 6/28/13 = 3 yrs.
> ₱93,200.00 x 3 = ₱279,600.00
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> **SO ORDERED.**[7]

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[6] Id. at 197.
[7] Id. at 257.

Respondent filed a motion for reconsideration but it was denied by the NLRC in a Resolution dated October 31, 2013.

Undaunted, respondent filed a petition for *certiorari* before the CA.

The CA Ruling

In its Decision dated June 13, 2016, the CA reversed and set aside the NLRC ruling. It ruled that petitioner voluntarily resigned from the company because he willingly signed the resignation letter. The CA opined that even though Valtos presented a prepared resignation letter, it was petitioner who edited the same and voluntarily added words of courtesy. It also held that it was improbable for petitioner to be intimidated by Valtos due to his managerial position and high educational attainment. The CA underscored that petitioner was not an ordinary employee with limited understanding and he could not be duped or compelled to resign. It further opined that petitioner failed to prove that his consent to the resignation was vitiated, hence, there was no constructive dismissal. The CA disposed the case in this wise:

> **WHEREFORE**, by reason of the foregoing premises, the Petition is **GRANTED**. Hence, the Decision dated June 28, 2013 and Resolution dated October 31, 2013 of the NLRC in NLRC NCR-01-00610-12 are **REVERSED** and the Complaint of private respondent for illegal dismissal is **DISMISSED** for lack of merit.
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> **SO ORDERED.**[8]

Petitioner moved for reconsideration but it was denied by the CA in its Resolution dated February 9, 2017.

Hence, this petition anchored on the following arguments:

> **I**
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> **THE COURT OF APPEALS GRAVELY ERRED WHEN IT GRANTED RESPONDENT'S PETITION FOR *CERTIORARI* AND DENIED [PETITIONER'S] MOTION FOR RECONSIDERATION WITHOUT ANY CATEGORICAL FINDINGS OF GRAVE ABUSE OF DISCRETION.**[9]

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[8] Id. at 53.
[9] Id. at 19.

II

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN REVERSING THE FACTUAL FINDINGS OF THE LABOR ARBITER AND THE NLRC CONSIDERING THAT THEIR DECISIONS AND RESOLUTION ARE SUPPORTED BY CLEAR AND SUBSTANTIAL EVIDENCE.[10]

III

THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER'S RESIGNATION WAS VOLUNTARY BECAUSE THE [UNDISPUTED] FACTS AND [CIRCUMSTANCES] OF HIS ALLEGED RESIGNATION CLEARLY SHOWED THAT HE DID NOT [RESIGN] NOR DID HE INTEND TO RESIGN FROM HIS JOB.[11]

IV

THE COURT *A QUO* ERRED IN RULING THAT PETITIONER'S MONEY CLAIMS [HAVE] NO LEGAL FOUNDATION.[12] (italics supplied)

Petitioner insists that he did not voluntarily resign, instead, he was forced to resign from the company; that respondent has no legal or factual basis to terminate his employment; that Valtos gave him a performance appraisal even though it was not yet due; that Valtos forced him to sign the resignation letter; that he attempted to escape but he was accompanied to the comfort room by Valtos and respondent's legal counsel; that he wanted to leave the premises, so he placed his initials on the resignation letter so that Valtos would let him go; that, on the same night of January 5, 2012, he was instructed to get his belongings and was barred from the premises of respondent even though the resignation was effective only on February 4, 2012; and that he immediately filed the complaint before the LA to show that he did not resign from work.

In its Comment,[13] respondent countered that the issues raised by petitioner are factual in nature, hence, cannot be tackled in a petition for review on *certiorari* under Rule 45 of the Rules of Court; that petitioner voluntarily signed the resignation letter because he substantially edited it and even placed words of courtesy in favor of respondent; that petitioner's exhaustion when

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[10] Id. at 26.
[11] Id. at 29.
[12] Id. at 37.
[13] Id. at 474-500.

he signed the resignation letter is not tantamount to coercion; and that petitioner himself admitted that he signed the resignation letter.

In his Reply,[14] petitioner argued that there are exceptional circumstances when the Court may entertain questions of fact, such as when there are conflicting findings of fact; and that there was no benefit to petitioner to resign from work as he was not even offered separation benefits by respondent, hence, it is illogical for him to voluntarily sign the resignation letter.

The Court's Ruling

The Court finds the petition meritorious.

Generally, a question of fact cannot be entertained by the Court; exceptions

Petitioner essentially raises the issue of whether he was forced to resign from his work by respondent, which constitutes constructive dismissal. The question posited is evidently factual because it requires an examination of the evidence on record. The Court is not a trier of facts and the function of the Court in petitions for review on *certiorari* is limited to reviewing errors of law that may have been committed by the lower courts.[15]

Nonetheless, the Court has enumerated several exceptions to this rule: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to those of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[16]

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[14] Id. at 511-519.
[15] *Gepulle-Garbo v. Spouses Garabato,* 750 Phil. 846, 854-855 (2015).
[16] *Carbonell v. Carbonell-Mendes,* 762 Phil. 529, 537 (2015).

Here, two of the exceptions exist – the findings of absence of facts are contradicted by the presence of evidence on record and the findings of the CA are contrary to those of the NLRC and the LA. They have different appreciations of the evidence in determining the propriety of petitioner's complaint for constructive dismissal. To finally resolve the factual dispute, the Court deems it proper to tackle the factual question presented.

Constructive dismissal; forced resignation

Constructive dismissal is an involuntary resignation resorted to when continued employment is rendered impossible, unreasonable or unlikely; or when there is a demotion in rank and/or a diminution in pay.[17] It exists when there is a clear act of discrimination, insensibility or disdain by an employer, which makes it unbearable for the employee to continue his/her employment. [18] In cases of constructive dismissal, the impossibility, unreasonableness, or unlikelihood of continued employment leaves an employee with no other viable recourse but to terminate his or her employment.[19]

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.[20]

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.[21]

In *SHS Perforated Materials, Inc., et al. v. Diaz*,[22] 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

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[17] *Philippine Wireless Inc. (Pocketbell) v. National Labor Relations Commission*, 369 Phil. 907, 910 (1999).
[18] See *Montederamos v. Tri-Union International Corporation*, 614 Phil. 546, 552 (2009).
[19] *St. Paul College, Pasig, et al. v. Mancol, et al.*, G.R. No. 222317, January 24, 2018.
[20] Id.
[21] Chan, J.G., Bar Review On Labor Law, 2nd ed., p. 459 (2014).
[22] 647 Phil. 580, 598 (2010).

employment. In said case, the employee was forced to resign and submit his resignation letter because his salary was unlawfully withheld by the employer.

In *Tuason v. Bank of Commerce, et al.*,[23] 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.

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.

The Court is not convinced.

In *Fortuny Garments/Johnny Co v. Castro,*[24] the Court clarified the procedure to determine the voluntariness of an employee's resignation, *viz.:*

> xxx 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.[25] (emphasis and underscoring supplied)

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[23] 699 Phil. 171, 183 (2012).
[24] 514 Phil. 317 (2005).
[25] Id. at 323.

Circumstances before the resignation

Before the alleged resignation of petitioner, several circumstances would show that he did not contemplate or had no intention of resigning from the company, *viz.:*

First, on January 5, 2012, petitioner came back from his holiday vacation and was in the office only to present a report on the status of his IT projects and to inquire on the updates in the company with Valtos. Petitioner's presentation started around 4:00 o'clock in the afternoon and it was finished around 5:30 o'clock in the afternoon.[26] He had no other agenda that day and he did not have any prior consideration of resigning from the company.

Second, when petitioner finished his report and updates, Valtos suddenly brought up his performance appraisal even though the said appraisal was supposed to be undertaken in May 2012.[27] Petitioner underscored that in his last performance appraisal in May 2011, he received a satisifactory rating. Thus, he was surprised that Valtos was conducting an early performance appraisal on him. Notably, respondent admitted that the appraisal of its employees' performance was scheduled in May 2012.

Third, the affidavit of Valtos shows that he gave petitioner two options, either to resign or be terminated from his services, to wit:

> 11. On January 5, 2012, I met with Mr. Torreda for one of our regular update meetings. After discussing with him the updates on the IT Department, I started to discuss with him his performance for the past year. I told Mr. Torreda that if I were to give an evaluation on his performance, it would be "Needs Improvement". For a Senior Manager to get a rating of "Needs Improvement", that, to me, was not acceptable. I told him that he may be a better fit somewhere else and so on a friendly basis, I advised him that resignation was an option for him if he wanted to leave this Company gracefully without the embarrassment. xxx.
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> 12. I felt it was all right to discuss this option with him because I was of the impression that he was open to that idea after the Seki incident happened few months earlier. As mentioned above, the impression I got during my meeting with him after the Seki incident is that he may have resigned had I discussed my openness to allow him to go. However, there were still a lot

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[26] *Rollo,* pp. 61-62.
[27] Id. at 62.

> of unfinished work in the IT Department. With the substantial progress of the upgrading of the IT Department, I would be amendable to his departure.
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> 13. I explained to him that if he stayed, this may be bad for the Company given that he is not able to deal directly with the Company's customers and the employees did not want to work with him. He was not successful in motivating his team members in the IT Department. **I felt compelled to discuss with him the option of resignation because I am aware that the Company would commence termination proceedings against him which may lead to his termination due to loss of trust and confidence.** His termination will surely destroy his chances for future employment.[28] (emphasis supplied)

Based on the admission of Valtos, it is clear that petitioner was not given any chance of continued employment by respondent; it was either he resign or he would be terminated. It was Valtos, the Officer-in-Charge of the IT Department and the Group President of the Financial Service of respondent, who presented the prepared resignation letter, and insisted that the petitioner should sign the same. These acts demonstrate the real intent and desire of respondent to remove petitioner. Glaringly, petitioner's supposed resignation was a subterfuge to dismiss him without any just cause.

Further, Valtos prepared the resignation letter, which contained the name and details of petitioner. Verily, it was respondent, not petitioner, which had a prior contemplation of removing the latter as its employee. Through Valtos, respondent wanted petitioner to sign the prepared resignation letter so that it could effortlessly get rid of him.

Fourth, when the prepared resignation letter was presented to petitioner, he refused to sign it. However, Valtos did not accept petitioner's refusal to sign the document. Petitioner even alleged that if respondent truly wanted to terminate his employment, Valtos should just have given him a poor performance appraisal in May 2012.[29] However, Valtos did not relent.

Around 6:20 o'clock in the evening of January 5, 2012, or almost an hour later, Valtos still insisted that petitioner sign the resignation letter. At that point, petitioner excused himself to go to the washroom so that he could escape the meeting but Valtos and respondent's legal counsel followed him. Respondent never denied that petitioner was indeed followed when he went out of the meeting room. Evidently, these acts show that respondent was

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[28] Id. at 110-111.
[29] Id. at 62.

unyielding and uncompromising in requiring petitioner to sign the resignation letter.

Fifth, at that moment, when petitioner realized that respondent would be obstinate in forcing him to resign, he had no other choice but to sign the prepared resignation letter handed by Valtos. However, petitioner simply placed his initials in the said letter to show that it was not his signature and it was not official. Again, respondent did not deny that only petitioner's initials were written in the prepared resignation letter.

Circumstances after the resignation

After petitioner placed his initials in the prepared resignation letter, the circumstances that transpired thereafter consistently show that there was involuntary resignation on his part, to wit:

First, the prepared resignation letter states that petitioner's resignation was effective February 4, 2012.[30] However, on January 5, 2012, or on the same day that he initialed the said letter, petitioner was already asked to turn over the company items and to leave the building premises together with his belongings. Thus, contrary to the date stated in the letter, petitioner's resignation from the company was effective immediately. Respondent eagerly wanted to terminate petitioner's employment that it did not anymore respect the stipulated date of his supposed resignation.

Second, after the purported resignation of petitioner, respondent never discussed with him any compensation or separation pay that he would receive as a result of his separation from the company. It simply wanted to remove petitioner as soon as possible. Respondent did not even provide petitioner any compensation or benefit for his years of service to the company. In the same manner, petitioner had absolutely no financial motivation to tender his resignation as he had nothing to gain from leaving the company.

The case of *Habana v. NLRC, et al.,*[31] cited by respondent – where the Court considered the significant separation pay received by the employee as an *indicium* that there was indeed a voluntary resignation – is not applicable

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[30] Id. at 113.
[31] 359 Phil. 65 (1998).

herein. In the case at bench, there was no financial consideration given to petitioner in view of his alleged resignation.

Third, after petitioner left the premises, he was not anymore allowed to report for work and his company e-mail address was immediately deactivated. There was no winding up process provided by respondent. Petitioner was not given an opportunity to properly settle or transfer his obligations or pending projects. His employment was abruptly dismissed.

Fourth, petitioner promptly assailed the constructive dismissal committed by respondent because six (6) days after his supposed resignation, he immediately filed a complaint before the LA. It is a settled doctrine that the filing of a complaint for illegal dismissal is inconsistent with abandonment of employment. An employee who takes steps to protest his dismissal cannot logically be said to have abandoned his work. The filing of such complaint is proof enough of his desire to return to work, thus, negating any suggestion of abandonment.[32]

Clearly, petitioner had no intention of abandoning his work when he filed the complaint and questioned his purported dismissal.

Based on the foregoing circumstances, which transpired before and after the signing of the prepared resignation letter, it is clear that petitioner was constructively dismissed. Respondent forced petitioner to sign the prepared resignation letter. In fact, he was not given any viable option; it was either he sign the resignation letter or he would be terminated from the company. Doubtless, the resignation of petitioner was involuntary and not genuine.

Petitioner's alleged act of editing the prepared resignation letter and his education attainment are immaterial

Citing *St. Michael Academy, et al. v. NLRC, et al.,*[33] respondent argues that since petitioner edited the resignation letter and added words of courtesy, it was improbable for him to involuntarily sign the letter. It further asserts that

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[32] *GSP Manufacturing Corp., et al. v. Cabanban,* 527 Phil. 452, 455 (2006). (italics omitted)
[33] 354 Phil. 491 (1998).

it was impossible to coerce petitioner to sign a prepared resignation letter because he had a managerial position and a high educational status.

Again, the Court is not convinced.

As stated in *Fortuny Garments/Johnny Co. v. Castro,*[34] the circumstances before and after the signing of the resignation letter must be examined to determine the voluntariness of the said resignation: It was uncontroverted that petitioner was actively taking part in several IT projects; that petitioner received a satisfactory performance rating from the previous year; that petitioner was not due for performance appraisal until May 2012; that there was no scheduled appraisal performance due on January 5, 2012; that it was Valtos who presented the prepared resignation letter; that Valtos persistently rejected petitioner's refusal to sign the said letter; that Valtos followed petitioner even when he left the meeting room; that petitioner merely placed his initials in the letter, instead of his customary signature; that even though the resignation was effective February 4, 2012, he was immediately barred from the company premises on January 5, 2012; and that he immediately questioned his alleged resignation before the LA.

These numerous facts and circumstances certainly contradict the voluntariness of petitioner's resignation. **Any reasonable person in the petitioner's position would have felt compelled to give up his position.** Assuming *arguendo* that petitioner edited the said letter and inserted words of courtesy, these are insufficient to prove the voluntariness of his resignation in light of the various circumstances which demonstrated that he did not have a choice in his forced resignation.

Further, *St. Michael Academy, et al. v. NLRC, et al.*[35] is not applicable because, contrary to the facts therein,[36] there are several and notable circumstances in the case at bench that would show the forced resignation of petitioner before and after he placed his initials in the prepared resignation letter. Consequently, it is the burden of respondent to prove the due execution and genuineness of his resignation. Thus, aside from bare conjectures, respondent failed to prove the legitimacy of petitioner's resignation.

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[34] 514 Phil. 317 (2005).

[35] *St. Michael Academy, et al. v. NLRC, et al.*, supra note 33.

[36] Id. at 507-509; in that case, the employees simply presented the resignation letter and there was no other circumstance which would show that they were coerced to resign.

Respondent failed to terminate petitioner's employment on any just cause

If respondent truly wanted to terminate the employment of petitioner, then it must have presented a just cause for his dismissal. The just causes for dismissing an employee are provided under Article 282 of the Labor Code.[37]

Respondent asserts that petitioner was ineffective as an IT manager and his staff complained about his inefficiencies; that he failed to integrate himself into the company due to his lack of enthusiasm and cooperation at work and he did not respond to queries and requests; and that a female employee resigned because she felt uncomfortable with petitioner.

However, respondent's allegations against petitioner are unsupported by substantial evidence. Other than its bare assertions and suppositions, respondent failed to cite or present any other credible evidence to substantiate the alleged misconduct or shortcomings of petitioner in his employment with respondent.

Oddly, as petitioner was a managerial employee, respondent could have simply dismissed his employment on the basis of loss of trust and confidence. Loss of trust and confidence as a valid ground for dismissal is premised on the fact that the employee holds a position whose functions may only be performed by someone who enjoys the trust and confidence of the management.[38] Still, even on the basis of loss of trust and confidence, respondent did not initiate the termination of petitioner's employment. It bolsters the fact that respondent does not have any genuine ground to dismiss petitioner.

The Court cannot allow respondent to resort to an improper method of forcing petitioner to sign a prepared resignation letter. As respondent has no legitimate basis to terminate petitioner as its employee, then he cannot be forced to resign from work because it would be a dismissal in disguise. **Under the law, there are no shortcuts in terminating the security of tenure of an employee.** Thus, the resignation letter of petitioner must be struck down because it was involuntary.

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[37] Now Article 285 of the Labor Code.

[38] *Casco v. National Labor Relations Commission, et al.*, G.R. No. 200571, February 19, 2018.

Award of moral and exemplary damages must be deleted

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.[39]

Here, the LA imposed moral and exemplary damages against respondent to serve as a deterrent to other employers. On the other hand, the NLRC affirmed the said awards because petitioner suffered from anxiety due to his unlawful termination.

The Court finds that the reasons cited by the NLRC and the LA are insufficient to award moral and exemplary damages to petitioner. The said reasons do not show that respondent employed bad faith or fraud against petitioner. Further, it was not proven that the dismissal of petitioner was done in a wanton, oppressive, or malevolent manner. Hence, the award of moral and exemplary damages must be deleted.

WHEREFORE, the petition is **GRANTED.** The June 13, 2016 Decision and the February 9, 2017 Resolution of the Court of Appeals in CA-G.R. SP No. 133505 are hereby **REVERSED** and **SET ASIDE**. The June 28, 2013 Decision and October 31, 2013 Resolution of the National Labor Relations Commission in NLRC NCR-01-00610-12, which affirmed the award of backwages and granted separation pay in lieu of reinstatement to Jonald O. Torreda, are hereby **REINSTATED** with **MODIFICATION** that the award of moral and exemplary damages be **DELETED**.

SO ORDERED.

ALEXANDER G. GESMUNDO
Associate Justice

[39] *Symex Security Services, Inc., et al. v. Rivera, Jr., et al.*, G.R. No. 202613, November 8, 2017.

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice
Chairperson

MARVIC M.V.F. LEONEN
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

JOSE C. 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.

DIOSDADO M. PERALTA
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.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Chief Justice