



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**FIAMETTE A. RAMIL,**  
 Petitioner,

**G.R. No. 222416**

**Present:**

- versus -

PERALTA, *C.J., Chairperson,*  
 CAGUIOA, *Working Chairperson,*  
 REYES, J. JR.,  
 LAZARO-JAVIER, and  
 LOPEZ, *JJ.*

**STONELEAF INC. / JOEY DE  
 GUZMAN / MAC DONES /  
 CRISelda DONES,**  
 Respondents.

**Promulgated:**

**JUN 17 2020**

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**DECISION**

**REYES, J. JR., J.:**

Fiduciary rank-and-file employees are entitled to labor standards benefits under the Labor Code of the Philippines.

**The Case**

This petition for review on *certiorari* under Rule 45 questions the August 13, 2015 Decision<sup>1</sup> and January 14, 2016 Resolution of the Court of Appeals (CA) in CA-G.R. SP. No. 135062 which modified the December 26, 2013 National Labor Relations Commission’s (NLRC) Decision and February 25, 2014 NLRC Resolution by dismissing the monetary claims except for indemnity. The NLRC affirmed the September 26, 2013 Labor Arbiter’s (LA) Decision, which dismissed

<sup>1</sup> Penned by Associate Justice Stephen C. Cruz, with Associate Justices Franchito N. Diamante and Ramon Paul L. Hernando (now a Member of the Court), concurring, docketed as CA-G.R. SP. No. 135062; *rollo*, pp. 39-53.

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the complaint for illegal dismissal but awarded monetary claims to petitioner Fiamette A. Ramil (Ramil).

### The Facts

On June 7, 2009, Ramil was hired as a Spa Supervisor and Massage Therapist at respondent's establishment, Stoneleaf Spa and Wellness Center. Respondent Stoneleaf, Inc. (Stoneleaf) paid Ramil a monthly salary of ₱10,000.00 and ₱100.00 per massage service rendered. Ramil was also an incorporator/director in Stoneleaf's Articles of Incorporation.<sup>2</sup>

In January 2010, Ramil inquired about the payment of contributions for Social Security System (SSS), Philippine Health Insurance Corporation (Philhealth), and Pag-Ibig Fund [Pagtutulungan sa kinabukasan: Ikaw, Bangko, Industriya at Gobyerno Fund]<sup>3</sup> (Pag-Ibig), which were necessary in processing the spa's permit. She also questioned the deduction of 12% value-added tax from her commission. As a result, she got the ire of Stoneleaf President, respondent Joseph Anthony P. De Guzman (De Guzman).<sup>4</sup>

On August 27, 2012, Stoneleaf's receptionist/cashier, Jingle Abarquez, (Abarquez), was on official leave, and Ramil took over her duties. In the afternoon of that day, a regular client came in for massage service. However, the service was not recorded in the computer as required by company procedure. After closing of business day, Ramil reported to De Guzman through a short messaging system (SMS) that there were only three clients, when in fact there were four. The cash box contained ₱1,300.00 instead of ₱1,650.00.<sup>5</sup>

When Abarquez reported for work the following day, she checked the previous day's transactions. Another spa employee, Rowena Beloy (Beloy), told Abarquez about Ramil's anomalous transaction. Abarquez and Beloy reported the matter to De Guzman. Julius Tabangcora (Tabangcora), another spa employee, confirmed that he rendered a massage service to a client on August 27, 2012, but it was not reflected in the computer and the billing was not on file.<sup>6</sup>

De Guzman investigated the matter and discovered Ramil's dishonest act. When Ramil was confronted, she denied the allegation against her. On September 27, 2012, Stoneleaf terminated Ramil's employment due to serious misconduct, betrayal of trust, and loss of confidence.<sup>7</sup>

Ramil filed a complaint for illegal dismissal against Stoneleaf, De Guzman, and Maximo M. Dones<sup>8</sup> (Dones) before the labor tribunal. She alleged that she was

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<sup>2</sup> Id. at 39-40

<sup>3</sup> Republic Act No. 9679 or the Home Development Mutual Fund Law of 2009.

<sup>4</sup> Id. at 40.

<sup>5</sup> Id. at 41.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Also referred to as Maximo M. Diones in some parts of the *rollos* and records.

not given a copy of the charge against her, and she was fired on the same day that she was notified of her dismissal. She averred that she was denied of substantial and procedural due process. She claimed to be entitled to reinstatement with backwages, last salary for September 16-30, 2012, proportionate 13<sup>th</sup> month pay, unpaid commission, labor standard benefits, moral and exemplary damages of ₱100,000.00, and 10% attorney's fees.<sup>9</sup>

Stoneleaf, De Guzman, and Dones contended that investigations and meetings were conducted, and sworn statements of the spa's employees were submitted. Ramil also offered her explanation in a lunch meeting with De Guzman sometime in September 2012.<sup>10</sup>

### The Labor Arbiter's Decision

On September 26, 2013, LA Alberto B. Dolosa rendered a Decision<sup>11</sup> dismissing the complaint for lack of merit. The individual respondents, De Guzman and Dones, were dropped for lack of factual basis. However, the LA ordered Stoneleaf to pay Ramil the following labor standards benefits since Stoneleaf was unable to prove payment. All other claims were dismissed for lack of merit.<sup>12</sup>

1. Indemnity for violation of right to due process	– ₱ 5,000.00
2. Service Incentive Leave Pay (3 yrs.)	– 5,759.00
3. Holiday Pay (3 yrs.)	– 12,692.00
4. Prorated 13 <sup>th</sup> Month Pay (2012)	– 7,500.00
	<u>₱30,951.00</u>
5. 10% Attorney's Fees	<u>3,095.10</u>
	<u>₱34,046.10</u> <sup>13</sup>
	<b>GRAND TOTAL</b>

The LA ruled that Ramil was dismissed for a valid cause, that is, loss of trust and confidence for her dishonest act. Stoneleaf was able to support the dismissal through documentary evidence and found the following: (1) on August 27, 2012, a massage service on a client was not recorded in the computer; (2) Ramil instructed Abarquez to cover-up the shortage on August 27, 2012 with undeclared sales; (3) Ramil took the credit for services rendered by Dia Camilon, another spa employee; (4) Ramil sold to others the ointments that were used in the spa; (5) Ramil took home the towels in the spa; and (6) Ramil did not reflect the sales in the computer and took the money instead.<sup>14</sup>

However, Ramil was dismissed without due process, which entitled her to an indemnity of ₱5,000.00. The LA resolved that the alleged meeting cannot take the

<sup>9</sup> Id. at 41-42.

<sup>10</sup> Id. at 42.

<sup>11</sup> Id. at 191-196.

<sup>12</sup> Id. at 195-196.

<sup>13</sup> Id.

<sup>14</sup> Id. at 193-194.

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place of the required notice. Ramil was also entitled to attorney's fees since she was forced to litigate her case.<sup>15</sup>

### The NLRC Decision

Stoneleaf appealed to the NLRC, which affirmed the LA's Decision in its December 26, 2013 Decision.<sup>16</sup> The NLRC held that Ramil was not a managerial employee/staff because her duties and responsibilities do not fall under any of the categories of Section 2(b), Rule 1, Book III of the Implementing Rules of the Labor Code. Ramil's work does not: (1) directly relate to management policies; (2) involve regular exercise of discretion and judgment; and (3) pertain to policy formulation, hiring, or firing of employees.<sup>17</sup>

The NLRC explained that the test of supervisory or managerial status depends on whether a person possesses authority to act in the interest of his employer, and whether such authority is not merely routinary or clerical in nature, but requires the use of independent judgment. Here, there is no evidence that Ramil has authority equivalent to managerial actions which uses independent judgment. It was apparent that she executed approved and established policies.<sup>18</sup>

The NLRC determined that although Ramil looked for suppliers for the spa, she cannot decide whether to get a particular supplier. Ramil evaluated applicants for the spa, but her evaluation was subject to De Guzman's approval. She also reported to De Guzman the number of clients served and how much sales were made for the day.<sup>19</sup>

Lastly, Stoneleaf failed to refute that Ramil received ₱100.00 as commission for every massage service that she rendered. Furthermore, one of the employees stated in her sworn statement that Ramil assigned to herself clients who give tips and claimed that the client specifically requested her. This indicated that Ramil was a massage therapist or a rank-and-file employee, and not a managerial employee/staff. Thus, she was entitled to the labor standards benefits awarded by the LA.<sup>20</sup>

Stoneleaf moved for reconsideration, which the NLRC denied in its February 25, 2014 Resolution.<sup>21</sup> Unconvinced, Stoneleaf filed a petition for *certiorari* in the CA.

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<sup>15</sup> Id. at 193, 195.

<sup>16</sup> Id. at 87-94.

<sup>17</sup> Id. at 91-93.

<sup>18</sup> Id. at 93.

<sup>19</sup> Id.

<sup>20</sup> Id. at 94.

<sup>21</sup> Id. at 97-98.

### The CA Decision

On August 13, 2015, the CA rendered a Decision<sup>22</sup> partially granting the petition and modifying the NLRC Decision and Resolution by retaining only the indemnity award of ₱5,000.00 for violation of right to procedural due process.<sup>23</sup>

The CA resolved that Ramil was a supervisory/managerial employee based on her admission and the scope of assignments she indicated in her position paper. She exercised management prerogatives for Stoneleaf's interest.<sup>24</sup> Consequently, she was not entitled to 13<sup>th</sup> month pay, holiday pay, and service incentive leave pay. The CA also ruled that there was no basis for the award of attorney's fees.<sup>25</sup>

However, the CA sustained that she was dismissed for a valid cause but without observance of due process; thus, she was entitled to nominal damages of ₱5,000.00.<sup>26</sup>

Ramil moved for reconsideration, which the CA denied in its January 14, 2016 Resolution.<sup>27</sup> Aggrieved, Ramil filed this petition before the Court.

### The Issue Presented

Whether or not the CA erred in partially granting the petition and deleting the monetary awards of service incentive leave pay, holiday pay, pro-rated 13<sup>th</sup> month pay, and attorney's fees.

### The Court's Ruling

The petition is granted.

The general rule in a petition for review on *certiorari* under Rule 45 of the Rules of Court is that only questions of law should be raised. In *Republic of the Philippines v. Heirs of Eladio Santiago*,<sup>28</sup> the Court enumerated that one of the exceptions to the general rule is when the CA's findings are contrary to those of the trial court. Considering the different findings of fact and conclusions of law of the LA, the NLRC and the CA, the Court shall entertain this petition, which involves a re-assessment of the evidence presented.

Foremost, the Court clarifies that the Court shall no longer discuss the legality of the dismissal and the propriety of the award of nominal damages of ₱5,000.00, because the labor tribunals and the CA are consistent in its findings that Ramil was dismissed for a valid cause but without due process. Thus, she is

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<sup>22</sup> Supra note 1.

<sup>23</sup> *Rollo*, p. 52.

<sup>24</sup> *Id.* at 50.

<sup>25</sup> *Id.* at 52.

<sup>26</sup> *Id.* at 51.

<sup>27</sup> *Id.* at 56-57.

<sup>28</sup> *Republic v. Heirs of Santiago*, 208 Phil. 1, 9 (2017).

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entitled to nominal damages. Factual findings of administrative agencies are generally accorded respect and even finality by the Court, especially when these findings are affirmed by the CA.<sup>29</sup> Furthermore, Ramil did not appeal the LA's ruling dismissing the complaint for illegal dismissal for lack of merit. It was Stoneleaf who filed an appeal questioning the monetary awards.

The main issue to be resolved is whether or not petitioner Ramil is entitled to service incentive leave pay, holiday pay, pro-rated 13<sup>th</sup> month pay, and attorney's fees. Under the Labor Code of the Philippines (Labor Code), rank-and-file employees are entitled to these monetary awards, but not managerial employees. Stoneleaf claims that Ramil is a managerial employee/staff, while the latter argues otherwise. The Court must determine to which class of employees Ramil belongs.

Article 82 of the Labor Code enumerates the employees excluded from the coverage of labor standards benefits.

ART. 82. *Coverage.* — The provisions of this Title shall apply to employees in all establishments and undertakings whether for profit or not, but not to government employees, **managerial employees**, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, and workers who are paid by results as determined by the Secretary of Labor in appropriate regulations.

As used herein, "**managerial employees**" refer to those whose primary duty consists of the management of the establishment in which they are employed or of a department or subdivision thereof, and to other officers or members of the managerial staff. (Emphasis supplied)

The Omnibus Rules Implementing the Labor Code states that managerial employees and members of the managerial staff are those who meet the following conditions:

(b) Managerial employees, if they meet all of the following conditions:

- (1) Their primary duty consists of the management of the establishment in which they are employed or of a department or sub-division thereof.
- (2) They customarily and regularly direct the work of two or more employees therein.
- (3) They have the authority to hire or fire employees of lower rank; or their suggestions and recommendations as to hiring and firing and as to the promotion or any other change of status of other employees, are given particular weight.

(c) Officers or members of a managerial staff if they perform the following duties and responsibilities:

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<sup>29</sup> *Union Bank of the Philippines v. The Hon. Regional Agrarian Reform Officer*, 806 Phil. 545, 563 (2017).

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- (1) The primary duty consists of the performance of work directly related to management policies of their employer;
- (2) Customarily and regularly exercise discretion and independent judgment; and
- (3) (i) Regularly and directly assist a proprietor or a managerial employee whose primary duty consists of the management of the establishment in which he is employed or subdivision thereof; or (ii) execute under general supervision work along specialized or technical lines requiring special training, experience, or knowledge; or (iii) execute, under general supervision, special assignments and tasks; and
- (4) Who do not devote more than 20 percent of their hours worked in a work week to activities which are not directly and closely related to the performance of the work described in paragraphs (1), (2) and (3) above.

In determining whether Ramil is a managerial employee/staff, her actual work performed, and not her job title, must be considered.

In her Petition, Ramil enumerated the scope of her assignment as Spa Supervisor and Massage Therapist as follows:

- Ensure the spa is in tiptop condition
- Ensure that there are enough therapists to serve customer/s
- Ensure that the items needed in massage service is in full stock all the time in coordination with the assigned inventory clerk, making the sourcing of supplier of merchandise for the spa also part of the job
- In charge of delegating every responsibility of all the staff
- Entertains the guests and promotes the spa services
- Handles the complaints of customers
- Trains the staff on the spa services
- Evaluates the competency of applicants to petitioner De Guzman for his approval
- Enforces company policy and spa regulations<sup>30</sup>

The records show that Ramil does not have the prerogative to lay down management policies and to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees or effectively recommend such managerial actions. The scope of her assignment pertains to the daily operation of the spa by making sure that the business runs smoothly. However, her tasks do not include the regular exercise of discretion. Her authority is limited to the execution of company procedures and policies. She has plenty of administrative work, but none of it involves the use of independent judgment. Her duties are also subject to De Guzman's approval.

The Court agrees with the NLRC's observations as follows:

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<sup>30</sup> *Rollo*, pp. 15-16.

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Applying the above criteria, complainant's duties and responsibilities do not x x x fall under any of the categories enumerated above. Complainant's work was not directly related to management policies. No circumstances were shown by respondents to reveal that complainant regularly exercised discretion and independent judgment. Neither did complainant participate in policy formulation nor in the hiring or firing of employees.

It must be pointed out that the test of "supervisory" or "managerial status" depends on whether a person possesses authority to act in the interest of his employer, and whether such authority is not merely routinary or clerical in nature, but requires the use of independent judgment. Simply put, the functions of the position are not managerial in nature if they only execute approved and established policies leaving little or no discretion at all whether to implement said policies or not.

In the instant case, the position held by complainant and its concomitant duties failed to overcome the above mentioned test. Her assigned tasks do not at all indicate that complainant can exercise the powers equivalent to managerial actions which require independent judgment. At the least, there is no evidence that she was vested with duties attributable to a managerial employee or to a member of the managerial staff.

What is more apparent, however, is that the functions of complainant seem to involve the execution of approved and established policies. While she may be tasked to source out suppliers of merchandise for the spa, there is no showing that she has the last say on whether to get from the supplier or not. Truly, she may evaluate the competency of applicants, but still this is subject to the approval of respondent De Guzman. Noteworthy, complainant reports to respondent De Guzman at the end of business hours to inform the latter how many clients were served by the spa and how much sales was made for the day.

Moreover, the respondents' failure to controvert the complainant's claim that she gets a commission of [P]100.00 for every massage service rendered is a clear manifestation that complainant was one of the massage therapists of the spa. This finds support in the sworn statement of Arcega, wherein the latter attested that complainant assigns to herself clients who give tips and claim that the customer specifically asked for her. Indeed, if it were true that she is a managerial employee or a member of the managerial staff, complainant would not have been entitled to commissions for every massage rendered.<sup>31</sup>

The Court concurs with the NLRC's conclusion that Ramil is not a managerial employee, but a rank-and-file employee. Specifically, she is a fiduciary rank-and-file employee. *Wesleyan University Phils. v. Reyes*<sup>32</sup> defines a fiduciary rank-and-file employee as one who in the normal and routine exercise of his/her functions regularly handle significant amounts of money or property. Cashiers, auditors, and property custodians are some of the employees in the second class.

Here, Ramil regularly handles significant amounts of money or property in the normal and routine exercise of her functions. She was in charge of the facilities of the spa by making sure it is in good condition and that the items

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<sup>31</sup> Id. at 92-94.

<sup>32</sup> 740 Phil. 297, 311 (2014).

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needed are in full stock all the time. She was also in charge of the sales of the spa when she took over the duties of the receptionist/cashier. In fact, Stoneleaf admitted in its Comment that she was entrusted with the finances of the spa, including the handling of cash receipts, billings statements, and the care of the spa's property. Therefore, Ramil is a fiduciary rank-and-file employee, and she is entitled to service incentive leave pay, holiday pay, and pro-rated 13<sup>th</sup> month pay. She is also entitled to attorney's fees equivalent to 10% of the monetary award, because she was compelled to file a complaint to protect her interests.

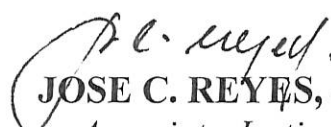
The Court disagrees with Stoneleaf's argument that Ramil is a corporate officer. While the Articles of Incorporation states that she is one of the incorporators, Stoneleaf was unable to rebut Ramil's claim that she has no capital contribution to the corporation. She is merely an incorporator on paper, but not in fact. There was no proof that she participated in any corporate meeting or exercised functions related to a corporate officer.

The Court observes that Stoneleaf was not able to demonstrate how Ramil recommends managerial actions that would make her a managerial employee. What is clear was Stoneleaf's admission that Ramil oversees the daily operation of the spa and supervises the employees. Stoneleaf admitted the scope of assignment given to her.

In sum, Ramil was able to overcome the burden of proving that she is a fiduciary rank-and-file employee, while Stoneleaf was unable to show evidence that she is a corporate officer. Ramil is entitled to service incentive leave pay, holiday pay, pro-rated 13<sup>th</sup> month pay, and attorney's fees equivalent to 10% of the monetary award. Pursuant to *Nacar v. Gallery Frames*,<sup>33</sup> the monetary awards are subject to 6% interest per annum from the finality of this decision until fully paid.

**WHEREFORE**, the petition is **GRANTED**. The Court of Appeals Decision dated August 13, 2015 and the Resolution dated January 14, 2016, docketed as CA-G.R. SP. No. 135062, are **REVERSED**. The National Labor Relations Decision dated December 26, 2013 and the NLRC Resolution dated February 25, 2014 are **REINSTATED WITH MODIFICATION** by imposing an interest rate of 6% per annum on all monetary awards from the finality of this decision until full payment.

**SO ORDERED.**

  
**JOSE C. REYES, JR.**  
Associate Justice

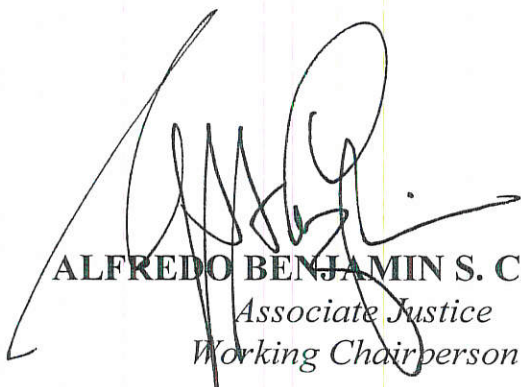
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<sup>33</sup> *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

**WE CONCUR:**



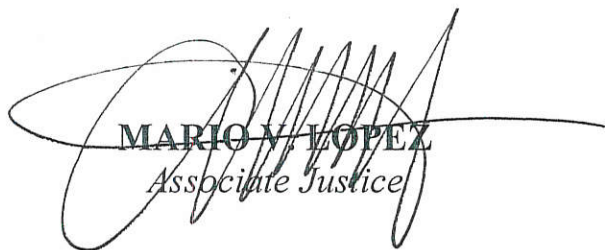
**DIOSDADO M. PERALTA**  
*Chief Justice*  
*Chairperson*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Working Chairperson*



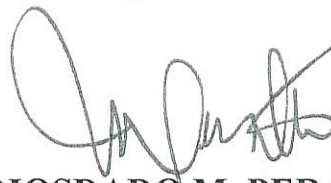
**AMY C. LAZARO-JAVIER**  
*Associate Justice*



**MARIO V. LOPEZ**  
*Associate Justice*

**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.



**DIOSDADO M. PERALTA**  
*Chief Justice*

