Republic of the Philippines
Supreme Court
Manila

SPECIAL SECOND DIVISION

RADIO MINDANAO NETWORK, INC. and ERIC S. CANOY, Petitioners,	**G.R. No. 198662** Present:
- versus -	SERENO, *C.J.*, CARPIO, *J.*, Chairperson, BRION, PEREZ, and REYES, *JJ.*
DOMINGO Z. YBAROLA, JR. and ALFONSO E. RIVERA, JR., Respondents.	Promulgated: SEP 12 2012

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RESOLUTION

BRION, *J.*:

We resolve the motion for reconsideration[1] of petitioners Radio Mindanao Network, Inc. (*RMN*) and Eric S. Canoy addressing our Resolution[2] of December 7, 2011 which denied the appeal from the decision[3] and the resolution[4] of the Court of Appeals (*CA*) in CA-G.R. SP No. 109016.

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1 *Rollo*, pp. 204-220.
2 *Id.* at 202-203.
3 *Id.* at 8-21; dated February 17, 2011.
4 *Id.* at 23-24; dated September 23, 2011.

Factual Background

Respondents Domingo Z. Ybarola, Jr. and Alfonso E. Rivera, Jr. were hired on June 15, 1977 and June 1, 1983, respectively, by RMN. They eventually became account managers, soliciting advertisements and servicing various clients of RMN.

On September 15, 2002, the respondents' services were terminated as a result of RMN's reorganization/restructuring; they were given their separation pay – ₱631,250.00 for Ybarola, and ₱481,250.00 for Rivera. Sometime in December 2002, they executed release/quitclaim affidavits.

Dissatisfied with their separation pay, the respondents filed separate complaints (which were later consolidated) against RMN and its President, Eric S. Canoy, for illegal dismissal with several money claims, including attorney's fees. They indicated that their monthly salary rates were ₱60,000.00 for Ybarola and ₱40,000.00 for Rivera.

The Compulsory Arbitration Proceedings

The respondents argued that the release/quitclaim they executed should not be a bar to the recovery of the full benefits due them; while they admitted that they signed release documents, they did so due to dire necessity.

The petitioners denied liability, contending that the amounts the respondents received represented a fair and reasonable settlement of their claims, as attested to by the release/quitclaim affidavits which they executed freely and voluntarily. They belied the respondents' claimed salary rates,

alleging that they each received a monthly salary of ₱9,177.00, as shown by the payrolls.

On July 18, 2007, Labor Arbiter Patricio Libo-on dismissed the illegal dismissal complaint, but ordered the payment of additional separation pay to the respondents – ₱490,066.00 for Ybarola and ₱429,517.55 for Rivera.[5] The labor arbiter adjusted the separation pay award based on the respondents' Certificates of Compensation Payment/Tax Withheld showing that Ybarola and Rivera were receiving an annual salary of ₱482,477.61 and ₱697,303.00, respectively.

On appeal by the petitioners to the National Labor Relations Commission (*NLRC*), the NLRC set aside the labor arbiter's decision and dismissed the complaint for lack of merit.[6] It ruled that the withholding tax certificate cannot be the basis of the computation of the respondents' separation pay as the tax document included the respondents' cost-of-living allowance and commissions; as a general rule, commissions cannot be included in the base figure for the computation of the separation pay because they have to be earned by actual market transactions attributable to the respondents, as held by the Court in *Soriano v. NLRC*[7] and *San Miguel Jeepney Service v. NLRC*.[8] The NLRC upheld the validity of the respondents' quitclaim affidavits as they failed to show that they were forced to execute the documents.

From the NLRC, the respondents sought relief from the CA through a petition for *certiorari* under Rule 65 of the Rules of Court.

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5 *Id*. at 69-84.
6 *Id*. at 103-111; Resolution dated January 26, 2009.
7 239 Phil. 119 (1987).
8 332 Phil. 804 (1996).

The CA Decision and the Court's Ruling

In its decision[9] of February 17, 2011, the CA granted the petition and set aside the assailed NLRC dispositions. It reinstated the labor arbiter's separation pay award, rejecting the NLRC's ruling that the respondents' commissions are not included in the computation of their separation pay. It pointed out that in the present case, the respondents earned their commissions through actual market transactions attributable to them; these commissions, therefore, were part of their salary.

The appellate court declared the release/quitclaim affidavits executed by the respondents invalid for being against public policy, citing two reasons: (1) the terms of the settlement are unconscionable; the separation pay the respondents received was deficient by at least ₱400,000.00 for each of them; and (2) the absence of voluntariness when the respondents signed the document, it was their dire circumstances and inability to support their families that finally drove them to accept the amount the petitioners offered. Significantly, they dallied and it took them three months to sign the release/quitclaim affidavits.

The petitioners moved for reconsideration, but the CA denied the motion in a resolution[10] dated September 23, 2011. Thus, the petitioners appealed to this Court through a petition for review on *certiorari* under Rule 45 of the Rules of Court.

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9 *Supra* note 3.
10 *Supra* note 4.

By a Resolution[11] dated December 7, 2011, the Court denied the petition for failure to show any reversible error or grave abuse of discretion in the assailed CA rulings.

The Motion for Reconsideration

The petitioners seek reconsideration of the Court's denial of their appeal on the ground that the CA, in fact, committed reversible error in: (1) failing to declare that Canoy is not personally liable in the present case; (2) disregarding the rule laid down in *Talam v. National Labor Relations Commission*[12] on the proper appreciation of quitclaims; and (3) disregarding prevailing jurisprudence which places on the respondents the burden of proving that their commissions were earned through actual market transactions attributable to them.

The petitioners fault the CA for not expressly declaring that no basis exists to hold Canoy personally liable for the award to the respondents as they failed to specify any act Canoy committed against them or to explain how Canoy participated in their dismissal. They express alarm as they believe that unless the Court acts, the respondents will enforce the award against Canoy himself.

On the release/quitclaim issue, the petitioners bewail the CA's disregard of the Court's ruling in *Talam* that the quitclaim that Francis Ray Talam, who was not an unlettered employee, executed was a voluntary act as there was no showing that he was coerced into signing the instrument, and that he received a valuable consideration for his less than two years of service with the company. They point out that in this case, the labor arbiter

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11 *Supra* note 2.

12 G.R. No. 175040, April 6, 2010, 617 SCRA 408.

and the NLRC correctly concluded that the respondents are hardly unlettered employees, but intelligent, well-educated and who were too smart to be caught unaware of what they were doing. They stress, too, that the respondents submitted no proof that they were in dire circumstances when they executed the release/quitclaim document.

With regard to the controversy on the inclusion of the respondents' commissions in the computation of their separation pay, the petitioners reiterate their contention that the respondents failed to show proof that they earned the commissions through actual market forces attributable to them.

The Respondents' Position

Through their Comment/Opposition (to the Motion for Reconsideration),[13] the respondents pray that the motion be denied for lack of merit. They argue that the motion is based on arguments already raised in the petition for review which had already been denied by this Court.

The respondents submit that the issue of Canoy's personal liability has become final and conclusive on the parties as the petitioners failed to raise the issue on time. They maintain that as the records show, the petitioners failed to raise the issue in their appeal to the NLRC and neither did they bring it up in their motion for reconsideration of the CA's decision reinstating the labor arbiter's award.

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13 *Rollo*, pp. 236-245.

The Petitioners' Reply

In their reply (to the respondents' Comment/Opposition),[14] the petitioners ask that their petition be reinstated to allow the full ventilation of the issues presented for consideration. They contend that the respondents merely reiterated the CA pronouncements and have not confronted the issues raised and the jurisprudence they cited.

On the question of Canoy's personal liability, the petitioners take exception to the respondents' submission that the matter had been resolved with finality and has become conclusive on them. They assert that they did not raise the issue with the CA because there was no reason for them to do so as the ruling then being reviewed was one which held that they were not liable to the respondents.

Our Ruling on the Motion for Reconsideration

We find the motion for reconsideration unmeritorious. The motion raises substantially the same arguments presented in the petition and we find no compelling justification to grant the reconsideration prayed for.

The petitioners insist that the respondents' commissions were not part of their salaries, because they failed to present proof that they earned the commission due to actual market transactions attributable to them. They submit that the commissions are profit-sharing payments which do not form part of their salaries. **We are not convinced.** If these commissions had been really profit-sharing bonuses to the respondents, they should have received the same amounts, yet, as the NLRC itself noted, Ybarola and Rivera received ₱372,173.11 and ₱586,998.50 commissions, respectively, in

2002.[15] The variance in amounts the respondents received as commissions supports the CA's finding that the salary structure of the respondents was such that they only received a minimal amount as guaranteed wage; a greater part of their income was derived from the commissions they get from soliciting advertisements; these advertisements are the "products" they sell. As the CA aptly noted, this kind of salary structure does not detract from the character of the commissions being part of the salary or wage paid to the employees for services rendered to the company, as the Court held in *Philippine Duplicators, Inc. v. NLRC*.[16]

The petitioners' reliance on our ruling in *Talam v. National Labor Relations Commission*,[17] regarding the "proper appreciation of quitclaims," as they put it, is misplaced. While Talam, in the cited case, and Ybarola and Rivera, in this case, are not unlettered employees, their situations differ in all other respects.

In *Talam*, the employee received a valuable consideration for his less than two years of service with the company;[18] he was not shortchanged and no essential unfairness took place. In this case, as the CA noted, the separation pay the respondents each received was deficient by at least ₱400,000.00; thus, they were given only half of the amount they were legally entitled to. To be sure, a settlement under these terms is not and cannot be a reasonable one, given especially the respondents' length of service – 25 years for Ybarola and 19 years for Rivera. The CA was correct when it opined that the respondents were in dire straits when they executed the release/quitclaim affidavits. Without jobs and with families to support,

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14 *Id*. at 248-255.
15 *Supra* note 6, at 107.
16 G.R. No. 110068, November 11, 1993, 227 SCRA 747, 753.
17 *Supra* note 12.
18 *Supra* note 1, at 211.

they dallied in executing the quitclaim instrument, but were eventually forced to sign given their circumstances.

Lastly, the petitioners are estopped from raising the issue of Canoy's personal liability. They did not raise it before the NLRC in their appeal from the labor arbiter's decision, nor with the CA in their motion for reconsideration of the appellate court's judgment. The risk of having Canoy's personal liability for the judgment award did not arise only with the filing of the present petition, it had been there all along – in the NLRC, as well as in the CA.

WHEREFORE, premises considered, we hereby **DENY** the motion for reconsideration with finality. No second motion for reconsideration shall be entertained. Let judgment be entered in due course.

SO ORDERED.

ARTURO D. BRION
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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 Resolution 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