Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

VICENTE ANG,
Petitioner,

- versus -

CEFERINO SAN JOAQUIN, JR., and DIOSDADO FERNANDEZ,
Respondents.

G.R. No. 185549

Present:

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:
AUG 07 2013

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DECISION

DEL CASTILLO, *J.*:

The employer's act of tearing to pieces the employee's time card may be considered an outright – not only symbolic – termination of the parties' employment relationship.

This Petition for Review on *Certiorari*[1] assails the August 29, 2008 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 75545 which dismissed the Petition for *Certiorari*[3] in said case, as well as its December 4, 2008 Resolution[4] denying reconsideration thereof.

Factual Antecedents

Petitioner Vicente Ang (Ang) is the proprietor of Virose Furniture and Glass Supply (Virose) in Tayug, Pangasinan, a wholesaler/retailer of glass

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[1] *Rollo*, pp. 3-32.
[2] CA *rollo*, pp. 141-166; penned by Associate Justice Regalado E. Maambong and concurred in by Associate Justices Monina Arevalo-Zenarosa and Myrna Dimaranan-Vidal.
[3] Id. at 2-26.
[4] Id. at 187-188.

supplies, jalousies, aluminum windows, table glass, and assorted furniture. Respondents Ceferino San Joaquin, Jr. (San Joaquin) and Diosdado Fernandez (Fernandez) were regular employees of Virose: San Joaquin was hired in 1974 as helper, while Fernandez was employed in 1982 as driver.[5] Respondents have been continuously in Ang's employ without any derogatory record.[6] Each received a daily salary of ₱166.00.[7]

Through the years, San Joaquin – who is Ang's first cousin, their mothers being sisters – became a *pahinante* or delivery helper, and later on an all-around worker of Virose.[8]

On August 24, 1999, respondents attended the court hearing relative to the 41 criminal cases filed by former Virose employee Daniel Abrera (Abrera) against Ang for the latter's non-remittance of Social Security System (SSS) contributions.[9] During that hearing, respondents testified against Ang; it was the second time for San Joaquin to testify, while it was Fernandez's first.[10] Previously, respondents joined Abrera in questioning Ang's procedure in remitting their SSS contributions.[11] After the said hearing Ang began to treat respondents with hostility and antagonism.

On August 28, 1999, Ang's wife, Rosa, instructed a Virose salesclerk to find helpers who would transfer monobloc chairs from the Virose store to her restaurant, Leng-Leng's Foodshop, located just beside the store. The salesclerk instructed San Joaquin to help, but the latter refused, saying that he was not an employee of the restaurant but a glass installer of Virose. A heated argument ensued between San Joaquin on the one hand and Rosa, her son Jonathan, and the salesclerk on the other. San Joaquin left the store, shouting invectives.[12]

On August 30, 1999, San Joaquin returned to the store, only to find out that Ang had torn his DTR to pieces that day while the DTR of Fernandez was torn to pieces by Ang immediately after the August 24, 1999 hearing in which the respondents testified.[13] On the same day, Fernandez reported for work and received a memorandum of even date issued by Ang informing him that he was placed on a one-week suspension for insubordination.[14] The memorandum did not specify the act of insubordination.[15]

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5 Records, p. 24.
6 Id.
7 Id.
8 Id. at 50-51.
9 Id. at 25.
10 Id.
11 Id. at 26.
12 Id. at 51-52.
13 Id. at 25, 72.
14 Id. at 127.
15 Id.

On August 31, 1999, respondents filed against Ang Complaints for illegal constructive dismissal with claims for backwages and separation pay.[16] The Complaints were docketed as NLRC Case No. SUB-RAB-1-07-8-0175-99 Pang.

On September 5, 1999, Fernandez confronted Ang, demanding that the latter sign certain documents which the former had with him. Ang refused, and Fernandez – who was then intoxicated – left uttering unsavory remarks and threatening to sue Ang.[17]

On September 8, 1999, San Joaquin received a memorandum from Ang dated August 30, 1999, placing the former under preventive suspension and ordering him to explain in writing, within three days, why no disciplinary action should be imposed against him for his refusal to obey the August 28, 1999 instructions to transfer the monobloc chairs.[18]

On September 13, 1999, Fernandez received another memorandum from Ang, ordering him to report for work after being absent for a week.[19]

On September 21, 1999, Ang issued a memorandum terminating San Joaquin's employment.[20]

Ruling of the Labor Arbiter

In their Position Paper,[21] respondents claimed that they were constructively dismissed on August 30, 1999, when the situation in the workplace became extremely unbearable owing to their attendance at the August 24, 1999 hearing of the criminal cases against Ang, where they testified against the latter. They accused Ang of irregularities relative to the remittance of their SSS contributions; subjecting them to verbal abuse; unfair practices – specifically assigning them tasks which were not part of their work; and removing their DTRs and tearing them to pieces, soon after they testified against him in the criminal cases and after complaining of irregularities in the remittance of their SSS contributions. Respondents referred to Ang's act of tearing their DTRs to pieces as the "last straw that finally broke the camel's back."[22]

Respondents further argued that Ang's memoranda which he later issued were intended to cover up his illegal acts, an afterthought whose purpose was to

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16 Id. at 1-2.
17 Id. at 54.
18 Id. at 26.
19 Id. at 27.
20 Id.
21 Id. at 23-31.
22 Id. at 25.

conceal Ang's unlawful act of removing and tearing up their time cards.[23]

For his part, Fernandez claimed that the August 30, 1999 memorandum suspending him for insubordination was illegal as it did not specify the act constituting insubordination, the date it was committed, and the particular company policy or rule that was violated. Fernandez further alleged that the September 13, 1999 memorandum which ordered him to report for work after being absent for a week was another prevarication, because he reported for work on three occasions following receipt of the said memorandum, but he could not find his time card. Finally, Fernandez claimed that he did not receive any notice of dismissal from Ang.[24]

Respondents claimed that their relationship with Ang had become so strained that their reinstatement was no longer feasible, and ordering them back to work would only subject them to further harassment and embarrassment.[25] They thus prayed for an award of backwages, separation pay, ₱100,000.00 each as moral and exemplary damages, and 10% attorney's fees.[26]

In his Position Paper,[27] Ang claimed that respondents were disrespectful, disobedient, and that they abandoned their employment, went on absence without leave (AWOL), and failed to respond to his memoranda. They were thus accordingly dismissed for cause, and were not entitled to backwages, separation pay, damages and attorney's fees. He prayed for the dismissal of the case.

On July 25, 2000, Labor Arbiter Gerardo A. Yulo issued a Decision[28] decreeing as follows:

> WHEREFORE, premises considered, the complaint is hereby DISMISSED for lack of merit.
>
> SO ORDERED.[29]

The Labor Arbiter held that respondents were unable to show how Ang discriminated against them. He pointed out that respondents cited only two instances of alleged discrimination/reprisal committed against them: the August 28, 1999 incident regarding the transfer of the monobloc chairs and Fernandez's failure to find his DTR when he reported for work following receipt of the September 13, 1999 memorandum; but these were not acts of discrimination/

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23 Id. at 26.
24 Id. at 27.
25 Id. at 28.
26 Id. at 29.
27 Id. at 50-61.
28 Id. at 72-85.
29 Id. at 75.

reprisal. The Labor Arbiter found that the order to transfer the chairs to Rosa's restaurant was reasonable considering the exigencies of the moment, and the order was given by the Virose salesclerk; on the contrary, San Joaquin was guilty of insubordination in not carrying out a reasonable order of his employer. As for Fernandez, the Labor Arbiter held that the loss of his time card is not sufficient reason to suppose that his employment had been terminated. Fernandez should have approached the person charged with keeping his time cards so that a new one could be issued, but he did not do so.

The Labor Arbiter added that Ang's issuance of the memoranda does not constitute an afterthought, since it has not been shown that they were issued with knowledge that respondents previously filed Complaints on August 31, 1999. Moreover, the Labor Arbiter found that Ang correctly assumed that respondents were no longer interested in resuming their employment, when they failed to respond to his memoranda and did not report for work.

Finally, the Labor Arbiter concluded that respondents were guilty of abandonment of work, and that their accusation of constructive dismissal was false. As such, respondents were not entitled to the awards as prayed for in their Complaints.

Ruling of the National Labor Relations Commission (NLRC)

Respondents filed an Appeal[30] with the NLRC. In a September 30, 2002 Decision,[31] the NLRC decreed, thus:

> WHEREFORE, the Decision of the Labor Arbiter is hereby AFFIRMED and complainants' appeal therefrom is DISMISSED for lack of merit.
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> SO ORDERED.[32]

The NLRC declared that there was no constructive dismissal. It held that respondents failed to prove that they were constructively dismissed; nor do the facts of the case sufficiently show that they were constructively dismissed from employment.

Respondents moved for reconsideration,[33] but in a November 22, 2002

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30 Id. at 77-92.

31 Id. at 141-145; penned by Presiding Commissioner Lourdes C. Javier and concurred in by Commissioner Ireneo B. Bernardo.

32 Id. at 145.

33 Id. at 154-162.

Resolution,[34] the NLRC denied the same.

Ruling of the Court of Appeals

Respondents went up to the CA via an original Petition for *Certiorari*.[35] On August 29, 2008, the CA issued the assailed Decision,[36] decreeing as follows:

> **WHEREFORE**, in view of the foregoing, finding that petitioners Ceferino San Joaquin and Diosdado A. Fernandez were illegally dismissed, the instant petition for *certiorari* is hereby **GRANTED**. The 30 September 2002 Decision of the National Labor Relations Commission, Third Division is hereby **REVERSED** and **SET ASIDE**.
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> Private respondent Vicente Ang is hereby ordered to pay petitioners:
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> 1. Separation pay in lieu of reinstatement considering that resentment and enmity have transpired between the parties paving the way for strained relations;
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> 2. Backwages computed from the time of illegal dismissal of San Joaquin and Fernandez from August 30, 1999, both up to the date of the finality of this decision, without qualification or deduction;
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> 3. Attorney's fees in the amount of ten (10) percent of the total amount awarded to petitioners.
>
> This case is hereby remanded to the National Labor Relations Commission for the proper computation of the awards hereinstated, **with DISPATCH**.
>
> No pronouncement as to costs.
>
> **SO ORDERED**.[37]

The CA held that the Labor Arbiter and the NLRC misappreciated the facts which thus led to the erroneous conclusion that there was no constructive dismissal. It considered Ang's act of tearing the respondents' DTRs or time cards as a categorical indication of their dismissal from employment. The CA declared, thus:

> San Joaquin and Fernandez were constructively dismissed when Ang tore their time cards to pieces thus preventing them from returning to work.[38]

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34 Id. at 182-183; penned by Presiding Commissioner Lourdes C. Javier and concurred in by Commissioners Ireneo B. Bernardo and Tito F. Genilo.

35 CA *rollo*, pp. 2-26.

36 Id. at 141-166.

37 Id. at 164-165. Emphases in the original.

38 Id. at 155.

The CA also found that respondents did not abandon their employment, as they both voluntarily reported for work: San Joaquin went to the store on August 30, 1999 after the unfortunate incident of August 28, 1999, only to find out that his time card had been torn to pieces by Ang, while Fernandez reported for work and even received a memorandum from Ang placing him under suspension, and this despite the fact that previously, Ang had torn his time card to pieces. It added that the immediate filing of illegal dismissal Complaints by the respondents goes against the very concept of abandonment of work.[39]

The CA further declared that constructive dismissal does not only mean forthright dismissal or diminution in rank, compensation, benefits and privileges; it may be equated with acts of clear discrimination, insensibility or disdain by an employer as to be unbearable on the part of the employee that it forecloses any choice but to forego continued employment.[40] Likewise, dismissal may be defined as a quitting because continued employment is rendered impossible, unreasonable or unlikely.[41] It added that constructive dismissal may occur when by the employer's conduct or behavior, an employee could not reasonably be expected to continue his employment on account of the employer's making his life very difficult, as by vindictive action, harassment, or humiliation, among others.[42]

The CA found unreasonble San Joaquin's assignment to perform tasks related to Ang's other businesses, specifically Rosa's restaurant. It held that assigning San Joaquin to transfer Virose's monobloc chairs for use by Leng-Leng's Foodshop was improper as it was beyond San Joaquin's scope of work.

Petitioner moved for reconsideration,[43] but in its December 4, 2008 Resolution,[44] the CA stood firm in its stance. Hence, the present Petition.

Issues

Petitioner submits the following assignment of errors:

I

THE QUESTIONED DECISION AND RESOLUTION OF THE COURT OF APPEALS REVERSING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION WHICH AFFIRMED THE DECISION OF THE LABOR ARBITER IS NOT IN ACCORDANCE WITH LAW AND JURISPRUDENCE APPLICABLE TO THE CASE.

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39 Id., citing *Villar v. National Labor Relations Commission*, 387 Phil. 706, 714 (2000).

40 Id. at 156, citing *Masagana Concrete Products v. National Labor Relations Commission*, 372 Phil. 459, 478 (1999).

41 Id. at 156-157, citing *Blue Dairy Corporation v. National Labor Relations Commission*, 373 Phil. 179, 186 (1999).

42 Id. at 157, citing *Hantex Trading Co., Inc. v. Court of Appeals*, 438 Phil. 737, 746 (2002).

43 Id. at 167-179.

44 Id. at 187-189.

II

THE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION AND THE LABOR ARBITER AND ORDERING HEREIN PETITIONER TO PAY PRIVATE RESPONDENTS SEPARATION PAY, BACKWAGES AND ATTORNEY'S FEES.

III

WHETHER X X X THE PRIVATE RESPONDENTS HAVE ABANDONED THEIR JOB THERE BEING NO PRAYER FOR REINSTATEMENT IN THEIR COMPLAINT OR WERE THEY DISMISSED ILLEGALLY WHEN AT THE TIME THEY FILED THEIR COMPLAINT THEY WERE STILL VERY MUCH IN THE EMPLOY OF THE HEREIN PETITIONER.[45]

Petitioner's Arguments

In his Petition and Reply,[46] petitioner insists that respondents abandoned their employment; that they are guilty of gross insubordination/disobedience and misconduct, given the manner they conducted themselves during the period in question. He cites that contrary to the CA pronouncement, San Joaquin was an all-around helper who could not refuse to carry out the August 28, 1999 order to transfer monobloc chairs from Virose to Leng-Leng's Foodshop, such being within the scope of San Joaquin's work. Petitioner accuses San Joaquin of arrogance and disrespect when after refusing to carry out the order, the latter shouted invectives at petitioner's wife, Rosa, and left the workplace. His dismissal from employment was thus justified.

Petitioner further cites that he provided housing and assistance to San Joaquin, his cousin; and yet the latter abused petitioner's generosity and rewarded the latter with acts of ingratitude and disrespect.

Petitioner insists that Fernandez abandoned his employment when, after receiving the August 30, 1999 memorandum of suspension for his alleged insubordination and serving out the same, he failed to report for work; and in spite of the September 13, 1999 memorandum ordering him to return to work, Fernandez continued to absent himself from the store. Petitioner likewise charges Fernandez with gross misconduct for the September 5, 1999 incident.

Petitioner claims that his argument that abandonment exists is bolstered by the fact that respondents' respective Complaint and Position Paper contain no prayer for reinstatement.

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45 *Rollo*, pp. 19-20.

46 Id. at 207-216.

Respondents' Arguments

In their Comment,[47] respondents cite procedural errors, specifically that the attached copies of the assailed Decision and Resolution of the CA were not certified by the appellate court's Clerk of Court and that the same contained no certification that they were from original copies on file. They echo the appellate court's finding of illegal constructive dismissal, and implore the Court to consider their length of service and lack of a derogatory record. They beg the Court to consider Ang's oppressive conduct which is tied to the criminal cases where they stood as witnesses against the latter, and how such behavior made life in the workplace unbearable for them, which should justify an affirmance of the assailed disposition.

Our Ruling

The Court affirms the CA ruling.

The Court opts to forego the matter of procedural errors attributed by respondents. This is a labor case whose substantive issues must be addressed, more than anything else. Besides, the nature of the alleged procedural infirmity cannot prod the Court to dismiss the Petition outright without first considering its merits.

When there is a divergence between the findings of facts of the NLRC and that of the CA, there is a need to review the records.[48] In the present case, not only is there a divergence of findings of facts; the conclusions arrived at by the two tribunals are diametrically opposed. For this reason, the doctrine that the findings of specialized administrative agencies or tribunals should be respected must be set aside for a moment.

There is considerable reason to believe that Ang began to treat respondents with disdain and discrimination after the hearing of the criminal cases on August 24, 1999, where respondents testified against him. Indeed, respondents' claim in their Position Paper that Ang began to subject them to verbal abuse, as well as assigning them tasks which were not part of their work, is not far-fetched. All these, respondents claim, are rooted in the 41 charges of estafa pending against Ang, where they were compelled to testify as witnesses for the State. Ang did not successfully dispute this claim; indeed, on this issue, he has remained silent all along. His silence on this issue is telling; considering that upon him lay the burden of proof to show that no illegal dismissal was effected. He should have addressed this issue, which is material and significant to the case as it forms the foundation

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47 Id. at 192-203.

48 *Best Wear Garments v. De Lemos*, G.R. No. 191281, December 5, 2012.

for respondents' claim of illegal constructive dismissal.

The Court has held before that the filing of criminal charges by and between the employer and employee confirms the existence of strained relations between them.[49] In the instant case, Ang is in danger of being punished for the alleged commission of 41 counts of estafa; worse, respondents testified against him while they were under his employ, and they join the complainant in said cases in accusing Ang of irregularities relative to the remittance of their SSS contributions. Ang could not reasonably be expected to thank respondents for it, yet he may not be allowed to treat them oppressively either. Nevertheless, the existence of the criminal charges and respondents' testifying against petitioner prove that their relations have been strained, and that respondents' allegations of oppression and abuse are not without basis. It thus became incumbent upon Ang to dispute such claims.

The Court can only imagine how the relationship between Ang and respondents deteriorated to a point where both parties began treating each other with disrespect and hostility, subjecting each other to indignities and resentful acts, thus making the store an insufferable place to be in for respondents, who are mere employees and as such were placed constantly under the mercy of petitioner. But it must be emphasized that this situation was not brought about by respondents; it appears without dispute that it was Ang who started treating the respondents unfairly and oppressively. Respondents' reaction to their employer's oppressive conduct may be explained within the context of human nature and the need to defend oneself against constant abuse. Respondents have stayed long with Ang with no apparent derogatory record – San Joaquin since 1974, while Fernandez was employed in 1982 – that they must be credited with good faith. They merely reacted to the unfair treatment they received from their employer after being called to testify against him in a criminal trial. "Our norms of social justice demand that we credit employees with the presumption of good faith in the performance of their duties, especially (where the employees have served the employer for so long) without any tinge of dishonesty."[50]

This is not to say that respondents' behavior toward Ang should be condoned; indeed it is deplorable that an employee should shout invectives against his employer or that he should show up in the workplace in an intoxicated state. However, this only characterizes the extent to which their employer-employee relationship had degenerated, owing to vindictive and oppressive acts perpetrated by the employer. Indeed, it is inconceivable that respondents would suddenly take such a belligerent stance toward petitioner for no reason at all; more so if it indeed is true that Ang provided the land and housing of San Joaquin. Certainly, San Joaquin would not sacrifice his blessings and dare go against Ang – his cousin and

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49 *RDS Trucking v. National Labor Relations Commission*, 356 Phil. 122, 131 (1998).

50 *Pizza Hut/Progressive Development Corporation v. National Labor Relations Commission*, 322 Phil. 579, 588 (1996). (Words in parentheses supplied)

provider of employment and shelter – unless he is pushed to the wall by the latter. Yet while gross and abusive conduct on the part of respondents is not tolerated, the Court notes that petitioner's treatment of respondents is equally unacceptable, and is tantamount to constructive dismissal.

"Constructive dismissal exists where there is cessation of work because continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay."[51] It is a "dismissal in disguise or an act amounting to dismissal but made to appear as if it were not."[52] Constructive dismissal may likewise exist if an "act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment."[53] "Constructive dismissal exists when the employee involuntarily resigns due to the harsh, hostile, and unfavorable conditions set by the employer."[54] "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."[55]

The CA is correct in its pronouncement that respondents were constructively dismissed from work. Moreover, by destroying respondents' time cards, Ang discontinued and severed his relationship with respondents. The purpose of a time record is to show an employee's attendance in office for work and to be paid accordingly, taking into account the policy of "no work, no pay". A daily time record is primarily intended to prevent damage or loss to the employer, which could result in instances where it pays an employee for no work done;[56] it is a mandatory requirement for inclusion in the payroll, and in the absence of an employment agreement, it constitutes evidence of employment. Thus, when Ang tore the respondents' time cards to pieces, he virtually removed them from Virose's payroll and erased all vestiges of respondents' employment; respondents were effectively dismissed from work. The act may be considered an outright – not only symbolic – termination of the parties' employment relationship; the "last straw that finally broke the camel's back", as respondents put it in their Position Paper.

In addition, such tearing of respondents' time cards confirms petitioner's vindictive nature and oppressive conduct, as well as his reckless disregard for respondents' rights.

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51 *Galang v. Malasugui*, G.R. No. 174173, March 7, 2012, 667 SCRA 622, 634-635.
52 Id. at 635.
53 *Hyatt Taxi Services, Inc. v. Catinoy*, 412 Phil. 295, 306 (2001).
54 *Gilles v. Court of Appeals*, G.R. No. 149273, June 5, 2009, 588 SCRA 298, 316.
55 *Dimagan v. Dacworks United, Incorporated*, G.R. No. 191053, November 28, 2011, 661 SCRA 438, 446.
56 See *Layug v. Sandiganbayan*, 392 Phil. 691, 707 (2000), citing *Beradio v. Court of Appeals*, 191 Phil. 153, 168 (1981).

For a termination of employment on the ground of abandonment to be valid, the employer "must prove, by substantial evidence, the concurrence of [the employee's] failure to report for work for no valid reason and his categorical intention to discontinue employment."[57] In the present case, it appears that there is no intention to abandon employment; respondents' repeated absence were caused by Ang's oppressive treatment and indifference which respondents simply grew tired of and wanted a break from. Indeed, an employee cannot be expected to work efficiently in an atmosphere where the employer's hostility pervades; certainly, it is too stressful and depressing – the threat of immediate termination from work, if not aggression, is a heavy burden carried on the employee's shoulder. Respondents may have stayed away from work to cool off, but not necessarily to abandon their employment. The fact remains that respondents returned to work, but then their time cards had been torn to pieces.

Besides, as correctly held by the CA, the immediate filing of the labor case negates the claim of abandonment. Employees who immediately protest their dismissal, as by filing a labor case, cannot logically be said to have abandoned their employment.[58]

Respondents could not be faulted for failing to submit their respective replies to the petitioner's memoranda. By the time they were notified of the same, the labor Complaints had been filed; not to mention that their cause of action is based on constructive dismissal, which they claim occurred even prior to their receipt of the subject memoranda. With the filing of their labor case, the submission of replies to the petitioner's memoranda became an unnecessary exercise.

Likewise, while respondents did not pray for reinstatement, this is no valid indication that they abandoned their employment. It is, on the other hand, proof of strained relations, such that they would seek separation pay and risk unemployment, rather than fight for their reinstatement and maintain themselves under petitioner's employ.

Finally, interest at the rate of 6% *per annum* must be imposed in accordance with Circular No. 799, Series of 2013 of the *Bangko Sentral ng Pilipinas* which took effect July 1, 2013.

WHEREFORE, premises considered, the Petition is **DENIED**. The August 29, 2008 Decision and the December 4, 2008 Resolution of the Court of Appeals in CA-G.R. SP No. 75545 are **AFFIRMED with MODIFICATION** in that interest at the rate of 6% *per annum* on the total monetary awards from

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57 *Martinez v. B&B Fish Broker*, G.R. No. 179985, September 18, 2009, 600 SCRA 691, 696.

58 *Megaforce Security and Allied Services, Inc. v. Lactao*, G.R. No. 160940, July 21, 2008, 559 SCRA 110, 118.

finality of this Decision until full payment is hereby imposed.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson

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.

MARIA LOURDES P. A. SERENO
Chief Justice