Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

DREAMLAND HOTEL RESORT and WESTLEY J. PRENTICE, President, Petitioners,	**G.R. No. 191455**
	Present:
	SERENO, *C.J.*, *Chairperson*,
	LEONARDO-DE CASTRO,
	BERSAMIN,
- versus -	VILLARAMA, JR., and
	REYES, *JJ.*
	Promulgated:
STEPHEN B. JOHNSON, Respondent.	MAR 12 2014

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DECISION

REYES, *J.*:

Before the Court is a Petition for Review on *Certiorari*[1] assailing the December 14, 2009[2] and February 11, 2010[3] Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 111693 which dismissed outright the petition for *certiorari* on technical grounds.

Dreamland Hotel Resort (Dreamland) and its President, Westley J. Prentice (Prentice) (petitioners) alleged the following facts in the instant petition:

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1 *Rollo*, pp. 3-25.

2 Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Andres B. Reyes, Jr. (now CA Presiding Justice) and Vicente S. E. Veloso, concurring; id. at 28-29.

3 Id. at 31-32.

> 9. Dreamland is a corporation duly registered with the Securities and Exchange Commission on January 15, 2003 to exist for a period of fifty [50] years with registration number SEC A 1998-6436. Prentice is its current President and Chief Executive Officer. It is engaged in the hotel, restaurant and allied businesses. Dreamland is presently undertaking operations of its business at National Highway, Sto. Tomas, Matain Subic, Zambales, 2209.
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> 10. Respondent **Stephen B. Johnson** is an Australian citizen who came to the Philippines as a businessman/investor without the authority to be employed as the employee/officer of any business as he was not able to secure his Alien Employment Permit ["AEP" for brevity], which fact was duly supported by the Certification dated March 14, 2008 of the Department of Labor and Employment ["DOLE" for brevity] Regional Director, Regional Office No. III, San Fernando City, Pampanga, x x x.
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> 11. As a fellow Australian citizen, Johnson was able to convince Prentice to accept his offer to invest in Dreamland and at the same time provide his services as Operations Manager of Dreamland with a promise that he will secure an AEP and Tax Identification Number ["TIN" for brevity] prior to his assumption of work.
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> 12. Sometime on June 21, 2007, Prentice and Johnson entered into an Employment Agreement, which stipulates among others, that the [sic] Johnson shall serve as Operations Manager of Dreamland from August 1, 2007 and shall serve as such for a period of three (3) years.
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> 13. Before entering into the said agreement[,] Prentice required the submission of the AEP and TIN from Johnson. Johnson promised that the same shall be supplied within one (1) month from the signing of the contract because the application for the TIN and AEP were still under process. Thus[,] it was agreed that the efficacy of the said agreement shall begin after one (1) month or on August 1, 2007. x x x.
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> 14. On or about October 8, 2007, Prentice asked on several occasions the production of the AEP and TIN from Johnson. Johnson gave excuses and promised that he is already in possession of the requirements. Believing the word of Johnson, Dreamland commenced a dry run of its operations.
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> 15. Johnson worked as a hotel and resort Operations Manager only at that time. He worked for only about three (3) weeks until he suddenly abandoned his work and subsequently resigned as Operations Manager starting November 3, 2007. He never reported back to work despite several attempts of Prentice to clarify his issues. x x x.[4]

On the other hand, respondent Stephen B. Johnson (Johnson) averred that:

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[4] Id. at 5-6.

4. There is also no truth to the allegation that it was [Johnson] who "offered" and "convinced" petitioner Prentice to "invest" in and provide his services to petitioner Dreamland Hotel Resort x x x. The truth of the matter is that it was petitioners who actively advertised for a resort manager for Dreamland Hotel. x x x

5. It was in response to these advertisements that private respondent Johnson contacted petitioners to inquire on the terms for employment offered. It was Prentice who offered employment and convinced Johnson to give out a loan, purportedly so the resort can be completed and operational by August 2007. Believing the representations of petitioner Prentice, private respondent Johnson accepted the employment as Resort Manager and loaned money to petitioners [consisting of] his retirement pay in the amount of One Hundred Thousand US Dollars (USD 100,000.00) to finish construction of the resort. x x x.

6. From the start of August 2007, as stipulated in the Employment Agreement, respondent Johnson already reported for work. It was then that he found out to his dismay that the resort was far from finished. However, he was instructed to supervise construction and speak with potential guests. He also undertook the overall preparation of the guestrooms and staff for the opening of the hotel, even performing menial tasks (i.e. inspected for cracked tiles, ensured proper grout installation, proper lighting and air-conditioning unit installation, measured windows for curtain width and showers for shower curtain rods, unloaded and installed mattresses, beddings, furniture and appliances and even ironed and hung guest room curtains).

x x x x

8. As [Johnson] remained unpaid since August 2007 and he has loaned all his money to petitioners, he asked for his salary after the resort was opened in October 2007 but the same was not given to him by petitioners. [Johnson] became very alarmed with the situation as it appears that there was no intention to pay him his salary, which he now depended on for his living as he has been left penniless. He was also denied the benefits promised him as part of his compensation such as service vehicles, meals and insurance.

9. [Johnson] was also not given the authority due to him as resort manager. Prentice countermanded his orders to the staff at every opportunity. Worse, he would even be berated and embarrassed in front of the staff. Prentice would go into drunken tiffs, even with customers and [Johnson] was powerless to prohibit Prentice. It soon became clear to him that he was only used for the money he loaned and there was no real intention to have him as resort manager of Dreamland Hotel.

10. Thus, on November 3, 2007, after another embarrassment was handed out by petitioner Prentice in front of the staff, which highlighted his lack of real authority in the hotel and the disdain for him by petitioners, respondent Johnson was forced to submit his resignation, x x x. In deference to the Employment Agreement signed, [Johnson] stated that he was willing to continue work for the three month period stipulated therein.

> 11. However, in an SMS or text message sent by Prentice to [Johnson] on the same day at around 8:20 pm, he was informed that *"… I consider* [*yo*]*ur resignation as immediate"*. Despite demand, petitioners refused to pay [Johnson] the salaries and benefits due him.[5]

On January 31, 2008, Johnson filed a Complaint for illegal dismissal and non-payment of salaries, among others, against the petitioners.

On May 23, 2008, the Labor Arbiter (LA) rendered a Decision[6] dismissing Johnson's complaint for lack of merit with the finding that he voluntarily resigned from his employment and was not illegally dismissed. We quote:

> There [is] substantial evidence on record that [Johnson] indeed resigned voluntarily from his position by his mere act of tendering his resignation and immediately abandoned his work as Operations Manager from the time that he filed said resignation letter on November 3, 2007 and never returned to his work up to the filing of this case. Evidence on record also show that [Johnson] only served as Operations Manager for a period of three (3) weeks after which he tendered his voluntary resignation and left his job. This fact was not denied or questioned by him. His claim that there was breach of employment contract committed by the respondents and that he was not refunded his alleged investment with the respondent Dreamland Hotel and Resort were not properly supported with substantial evidence and besides these issues are not within the ambit of jurisdiction of this Commission.
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> There being competent, concrete and substantial evidence to confirm the voluntary resignation of [Johnson] from his employment, there was no illegal dismissal committed against him and for him to be entitled to reinstatement to his former position and backwages.
>
> x x x x
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> **WHEREFORE, premises considered, let this case be as it is hereby ordered DISMISSED for lack of merit.**
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> **All the money claims of the complainant are likewise ordered dismissed for lack of legal basis.**
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> **SO ORDERED**.[7]

Dissatisfied, Johnson appealed to the National Labor Relations Commission (NLRC). The NLRC rendered its Decision[8] on April 30, 2009, the dispositive portion of which reads:

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5 Id. at 210-212.
6 Id. at 98-106.
7 Id. at 104-106.
8 Id. at 144-154.

> **WHEREFORE**, the decision appeared from is hereby **REVERSED**. Respondent Wes[t]ley Prentice and/or Dreamland Resort & Hotel, Inc[.] are hereby ordered to pay [Johnson] the following:
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> 1. Backwages computed at [₱]60,000.00 monthly from November 3, 2007 up to the finality of this decision;
> 2. Separation pay equivalent to one month's salary, or [₱]60,000.00;
> 3. Unpaid salaries from August 1, 2007 to November 1, 2007 amounting to a total of [₱]172,800.00.
>
> **SO ORDERED.**[9]

The NLRC also noted the following:

> Insofar as the charge of abandonment against [Johnson] is concerned, it is significant that the contention that [Johnson] received a total of [₱]172,000.00 from the [petitioners] since July 2007 is not supported by the evidence x x x submitted by the [petitioners]. Except for a promissory note x x x for [₱]2,200.00, the pieces of evidence in question do not bear [Johnson's] signature, and do not therefore constitute proof of actual receipt by him of the amounts stated therein. Thus, based on the evidence and on the admission by [Johnson] that he received the amount of [₱]5,000.00 from the [petitioners], it appears that [Johnson] received a total of only [₱]7,200.00 from the [petitioners]. Since based on the Employment Agreement, his employment commenced on August 1, 2007, it follows that as of November 3, 2007, when he tendered his resignation, the [petitioners] had failed to pay him a total of [₱]172,800.00 representing his unpaid salaries for three months ([₱]60,000.00 x 3 mos. = [₱]180,000.00 – [₱]7,200 = [₱]172,800.00). Even the most reasonable employee would consider quitting his job after working for three months and receiving only an insignificant fraction of his salaries. There was, therefore, not an abandonment of employment nor a resignation in the real sense, but a constructive dismissal, which is defined as an involuntary resignation resorted to when continued employment is rendered impossible, unreasonable or unlikely x x x. Consequently, [Johnson] is entitled to reinstatement with full backwages. However, due to the strained relation between the parties, which renders his reinstatement inadvisable, separation pay may be awarded in lieu of reinstatement.[10]

Consequently, the petitioners elevated the NLRC decision to the CA by way of Petition for *Certiorari* with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction under Rule 47.

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9 Id. at 153.

10 Id. at 151-152.

In the assailed Resolution[11] dated December 14, 2009, the CA dismissed the petition for lack of proof of authority and affidavit of service of filing as required by Section 13 of the 1997 Rules of Procedure. The subsequent motion for reconsideration filed by the petitioners was likewise denied by the CA in a Resolution[12] dated February 11, 2010.

Undaunted, the petitioners filed before this Court the present Petition for Review on *Certiorari*, raising the following issues, *viz*:

> A.
>
> THE HONORABLE [CA] COMMITTED A REVERSIBLE ERROR IN PROMULGATING ITS FIRST RESOLUTION (DECEMBER 14, 2009) WHICH OUTRIGHTLY DISMISSED PETITIONERS' PETITION FOR *CERTIORARI.*
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> B.
>
> THE HONORABLE [CA] COMMITTED A REVERSIBLE ERROR IN PROMULGATING ITS SECOND RESOLUTION (FEBRUARY 11, 2010) WHICH DENIED FOR LACK OF MERIT PETITIONERS' MOTION FOR RECONSIDERATION.
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> C.
>
> THE HONORABLE [CA] COMMITTED A REVERSIBLE ERROR IN NOT GIVING DUE CONSIDERATION TO THE MERITS OF THE PETITIONERS' PETITION AND IN NOT GRANTING THEIR PRAYER FOR TEMPORARY RESTRAINING ORDER[.][13]

The petition is partially granted.

At its inception, the Court takes note of the Resolutions dated December 14, 2009 and February 11, 2010 of the CA dismissing the Petition for *Certiorari* due to the following infirmities:

> 1. The affiant has no proof of authority to file the petition in behalf of petitioner Dreamland.

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11 Id. at 28-29.
12 Id. at 31-32.
13 Id. at 10.

2. The petition has no appended affidavit of service to show proof of service of filing as required by Sec. 13 of the 1997 Rules of Civil Procedure.[14]

To justify their stance that the CA should have considered the merits of the case, instead of dismissing merely on procedural grounds, the petitioners cited numerous cases wherein the Court has decided to waive the strict application of the Rules in the interest of substantial justice.[15] While "[u]tter disregard of [the rules of procedure] cannot justly be rationalized by harking on the policy of liberal construction,"[16] the Court recognizes badges of inequity present in the case at bar, which would be seemingly branded with approval should the Court turn a blind eye and dismiss this petition on procedural grounds alone.

"While it is desirable that the Rules of Court be faithfully observed, courts should not be so strict about procedural lapses that do not really impair the proper administration of justice. If the rules are intended to ensure the proper and orderly conduct of litigation, it is because of the higher objective they seek which are the attainment of justice and the protection of substantive rights of the parties. Thus, the relaxation of procedural rules, or saving a particular case from the operation of technicalities when substantial justice requires it, as in the instant case, should no longer be subject to cavil."[17]

Time and again, this Court has emphasized that procedural rules should be treated with utmost respect and due regard, since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. "From time to time, however, we have recognized exceptions to the Rules but *only for the most compelling reasons* where stubborn obedience to the Rules would defeat rather than serve the ends of justice."[18] "It is true that procedural rules may be waived or dispensed with in the interest of substantial justice."[19]

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14 Id. at 28.

15 *Barnes v. Hon. Quijano Padilla*, 500 Phil. 303 (2005); *R.P. Dinglasan Construction, Inc. v. Atienza*, G.R. No. 156104, June 29, 2004, 433 SCRA 263; *Vda. de Dela Rosa v. CA*, 345 Phil. 678 (1997); *A-One Feeds, Inc. v. Court of Appeals*, 188 Phil. 577 (1980); *Gregorio v. Court of Appeals*, 164 Phil. 129 (1976).

16 *Lapid v. Judge Laurea*, 439 Phil. 887, 897 (2002).

17 *Vette Industrial Sales Co., Inc. v. Cheng*, 539 Phil. 37, 48 (2006); *Nazareno v. Court of Appeals*, 428 Phil. 32, 42-43 (2002).

18 *Osmeña v. Commission on Audit*, G.R. No. 188818, May 31, 2011, 649 SCRA 654, 660.

19 *Calipay v. National Labor Relations Commission*, G.R. No. 166411, August 3, 2010, 626 SCRA 409, 417, citing *Tiger Construction and Development Corporation v. Abay*, G.R. No. 164141, February 26, 2010, 613 SCRA 721, 731 and *Iligan Cement Corporation v. ILIASCOR Employees and Workers Union-Southern Philippines Federation of Labor (IEWU-SPFL)*, G.R. No. 158956, April 24, 2009, 586 SCRA 449, 461.

Brushing aside technicalities, in the utmost interest of substantial justice and taking into consideration the varying and conflicting factual deliberations by the LA and the NLRC, the Court shall now delve into the merits of the case.

The petitioners contend that the employment of Johnson as operations manager commenced only on October 8, 2007 and not on August 1, 2007. However, the employment contract categorically stated that the "term of employment shall commence on [August 1, 2007]." Furthermore, the factual allegations of Johnson that he actually worked from August 1, 2007 were neither sufficiently rebutted nor denied by the petitioners. As Johnson has specifically set forth in his reply before the LA:

> Although the resort did not open until approximately 8th October 2007, [Johnson's] employment began, as per Employment Agreement, on 1st August 2007. During the interim period[, Johnson] was frequently instructed by [Prentice] to supervise the construction staff and speak with potential future guests who visited the site out of curiosity. Other duties carried out by [Johnson] prior to [the] opening included the overall preparation of the guest rooms for eventual occupation ensuring cracked tiles were replaced, ensuring grout was properly installed between tiles, ensuring all lighting and air conditioning [were] functioning, measuring windows for curtain width, measuring showers for shower curtain rods and installing shower curtains. Other duties included the unloading, carrying and installation of mattresses, bedding[s], TV's, refrigerators and other furnishings and ironing curtains x x x.[20]

Notably, it was only in their Motion for Reconsideration[21] of the NLRC decision where the petitioners belatedly disagreed that Johnson performed the abovementioned tasks and argued that had Johnson done the tasks he enumerated, those were tasks foreign and alien to his position as operations manager and [were done] without their knowledge and consent.[22] Nevertheless, Prentice did not deny that he ordered Johnson to speak with potential guests of the hotel. In fact, the petitioners admitted and submitted documents[23] which showed that Johnson has already taken his residence in the hotel as early as July 2007—a part of Johnson's remuneration as the hotel operations manager. In presenting such documents, the petitioners would want to impress upon the Court that their act of accommodating Johnson was merely due to his being a fellow Australian national.

As it could not be determined with absolute certainty whether or not Johnson rendered the services he mentioned during the material time, doubt must be construed in his favor for the reason that "the consistent rule is that if doubt exists between the evidence presented by the employer and that by

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20 *Rollo*, pp. 68-69.
21 Id. at 156-165.
22 Id. at 160.
23 Id. at 137-143.

the employee, the scales of justice must be tilted in favor of the latter."[24] What is clear upon the records is that Johnson had already taken his place in the hotel since July 2007.

For the petitioners' failure to disprove that Johnson started working on August 1, 2007, as stated on the employment contract, payment of his salaries on said date, even prior to the opening of the hotel is warranted.

The petitioners also maintain that they have paid the amount of ₱7,200.00 to Johnson for his three weeks of service from October 8, 2007 until November 3, 2007, the date of Johnson's resignation,[25] which Johnson did not controvert. Even so, the amount the petitioners paid to Johnson as his three-week salary is significantly deficient as Johnson's monthly salary as stipulated in their contract is ₱60,000.00[26]. Thus, the amount which Johnson should have been paid is ₱45,000.00 and not ₱7,200.00. In light of this deficiency, there is more reason to believe that the petitioners withheld the salary of Johnson without a valid reason. If they indeed believed that Johnson deserves to be paid only for three-week worth of service as operations manager, then they should still have paid him the amount due for three weeks of work rendered.

Another argument posited by the petitioners is that the employment contract executed by the parties is inefficacious because the employment contract is subject to the presentation of Johnson of his Alien Employment Permit (AEP) and Tax Identification Number (TIN).

Again, this statement is wanting of merit.

Johnson has adduced proof that as a permanent resident, he is exempted from the requirement of securing an AEP as expressed under Department Order No. 75-06, Series of 2006 of the Department of Labor and Employment (DOLE), which we quote:

> Rule I- Coverage and Exemption
>
> x x x x
>
> 2. Exemption. The following categories of foreign nationals are exempt from securing an employment permit:
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> x x x x
>
> 2.7 Resident foreign nationals

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24 *SHS Perforated Materials, Inc. v. Diaz*, G.R. No. 185814, October 13, 2010, 633 SCRA 258, 275.
25 *Rollo*, p. 21.
26 Id. at 36.

Furthermore, Johnson submitted a Certification[27] from DOLE Regional Office III, stating that he is exempted from securing an AEP as a holder of Permanent Resident Visa. Consequently, the condition imposed upon Johnson's employment, if there is any, is in truth without effect to its validity.

Anent the requirement of securing a TIN to make the contract of employment efficacious, records show that Johnson secured his TIN only on December 2007[28] after his resignation as operations manager. Nevertheless, this does not negate the fact that the contract of employment had already become effective even prior to such date.

In addition to the foregoing, there is no stipulation in the employment contract itself that the same shall only be effective upon the submission of AEP and TIN. The petitioners did not present any proof to support this agreement prior to the execution of the employment contract. In the case of *Ortañez v. CA*[29], the Court held:

> Spoken words could be notoriously unreliable unlike a written contract which speaks of a uniform language. Thus, under the general rule in Section 9 of Rule 130 of the Rules of Court, when the terms of an agreement were reduced to writing, as in this case, it is deemed to contain all the terms agreed upon and no evidence of such terms can be admitted other than the contents thereof. x x x.[30] (Citations omitted)

As regards the NLRC findings that Johnson was constructively dismissed and did not abandon his work, the Court is in consonance with this conclusion with the following basis:

> Even the most reasonable employee would consider quitting his job after working for three months and receiving only an insignificant fraction of his salaries. There was, therefore, not an abandonment of employment nor a resignation in the real sense, but a constructive dismissal, which is defined as an involuntary resignation resorted to when continued employment is rendered impossible, unreasonable or unlikely x x x.[31]

The petitioners aver that considering that Johnson tendered his resignation and abandoned his work, it is his burden to prove that his resignation was not voluntary on his part.[32]

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27 Issued by Regional Director Nathaniel V. Lacambra, dated March 31, 2008, id. at 76.
28 Id. at 83.
29 334 Phil. 514 (1997).
30 Id. at 518.
31 *Rollo*, p. 152.
32 Id. at 17.

With this, the Court brings to mind its earlier ruling in the case of *SHS Perforated Materials, Inc. v. Diaz*[33] where it held 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 employment. It 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."[34]

It is impossible, unreasonable or unlikely that any employee, such as Johnson would continue working for an employer who does not pay him his salaries. Applying the Court's pronouncement in *Duldulao v. CA*[35], the Court construes that the act of the petitioners in not paying Johnson his salaries for three months has become unbearable on the latter's part that he had no choice but to cede his employment with them. The Court quotes the pertinent sections of Johnson's resignation letter which reflects the real reason why he was resigning as operations manager of the hotel:

> I hereby tender my resignation to you, Mr[.] Wes Prentice, Dreamland Resort, Subic, Zambales, Philippines.
>
> Since joining Dreamland Resort & Hotel over three months ago I have put my heart and soul into the business. I have donated many hours of my personal time. I have frequently worked seven days a week and twelve to thirteen hours a day. **I am now literally penniless, due totally to the fact that I have lent you and your resort/hotel well over $200,000AU (approx 8million pesos) and <u>your non-payment of wages to me from 1st August 2007 as per Employment Agreement</u>. x x x.**[36] (Emphasis and underscoring ours)

The above preceding statement only goes to show that while it was Johnson who tendered his resignation, it was due to the petitioners' acts that he was constrained to resign. The petitioners cannot expect Johnson to tolerate working for them without any compensation.

Since Johnson was constructively dismissed, he was illegally dismissed. As to the reliefs granted to an employee who is illegally dismissed, *Golden Ace Builders v. Talde*[37] referring to *Macasero v. Southern Industrial Gases Philippines*[38] is instructive:

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33 G.R. No. 185814, October 13, 2010, 633 SCRA 258.
34 Id. at 276, citing *Duldulao v. Court of Appeals*, 546 Phil. 22, 30 (2007).
35 546 Phil. 22 (2007).
36 *Rollo*, p. 39.
37 G.R. No. 187200, May 5, 2010, 620 SCRA 283.
38 G.R. No. 178524, January 30, 2009, 577 SCRA 500.

> **Thus, an illegally dismissed employee is entitled to two reliefs: backwages and reinstatement.** The two reliefs provided are separate and distinct. In instances where reinstatement is no longer feasible because of strained relations between the employee and the employer, separation pay is granted. In effect, an illegally dismissed employee is entitled to either reinstatement, if viable, or separation pay if reinstatement is no longer viable, and backwages.
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> **The normal consequences of respondents' illegal dismissal, then, are reinstatement without loss of seniority rights, and payment of backwages computed from the time compensation was withheld up to the date of actual reinstatement. Where reinstatement is no longer viable as an option, separation pay equivalent to one (1) month salary for every year of service should be awarded as an alternative. The payment of separation pay is in addition to payment of backwages.**[39] (Emphasis and underscoring supplied)

The case of *Golden Ace* further provides:

> **"The accepted doctrine is that separation pay may avail *in lieu* of reinstatement if reinstatement is no longer practical or in the best interest of the parties**. Separation pay in lieu of reinstatement may likewise be awarded if the employee decides not to be reinstated." x x x
>
> Under the *doctrine of strained relations*, the payment of separation pay is considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable. On one hand, such payment liberates the employee from what could be a highly oppressive work environment. On the other hand, it releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker it could no longer trust.[40]

In the present case, the NLRC found that due to the strained relations between the parties, separation pay is to be awarded to Johnson in lieu of his reinstatement.

The NLRC held that Johnson is entitled to backwages from November 3, 2007 up to the finality of the decision; separation pay equivalent to one month salary; and unpaid salaries from August 1, 2007 to November 1, 2007 amounting to a total of ₱172,800.00.[41]

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39 Supra note 37, citing *Macasero v. Southern Industrial Gases Philippines*, id. at 507.

40 Id. at 289-290, citing *Velasco v. NLRC*, 525 Phil. 749, 761 (2006) and *Coca-Cola Bottlers Phils. Inc. v. Daniel*, 499 Phil. 491, 511 (2005).

41 *Rollo*, p. 153.

While the Court agrees with the NLRC that the award of *separation pay* and *unpaid salaries* is warranted, the Court does not lose sight of the fact that the employment contract states that Johnson's employment is for a term of *three years*.

Accordingly, the *award of backwages should be computed from November 3, 2007 to August 1, 2010* – which is three years from August 1, 2007. Furthermore, *separation pay* is computed from the commencement of employment up to the time of termination, including the *imputed service* for which the employee is entitled to backwages.[42] As one-month salary is awarded as separation pay for every year of service, including imputed service, Johnson should be paid separation pay equivalent to his three-month salary for the three-year contract.

WHEREFORE, the Resolutions dated December 14, 2009 and February 11, 2010 of the Court of Appeals in CA-G.R. SP No. 111693 are hereby **SET ASIDE**. The Decision of the NLRC dated April 30, 2009 in NLRC LAC No. 07-002711-08 is **REINSTATED** and **AFFIRMED** with **MODIFICATIONS** in the computation of backwages and separation pay. Dreamland Hotel Resort and Westley Prentice are **ORDERED to PAY** Stephen Johnson backwages of ₱60,000.00 per month which should be computed from November 3, 2007 to August 1, 2010 less the ₱7,200.00 already paid to him. Likewise, separation pay of ₱180.000.00, representing Stephen Johnson's three-year contract should be awarded.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

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[42] *Aliling v. Feliciano*, G.R. No. 185829, April 25, 2012, 671 SCRA 186, 215; *Sarona v. National Labor Relations Commission*, G.R. No. 185280, January 18, 2012, 663 SCRA 394, 421.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice