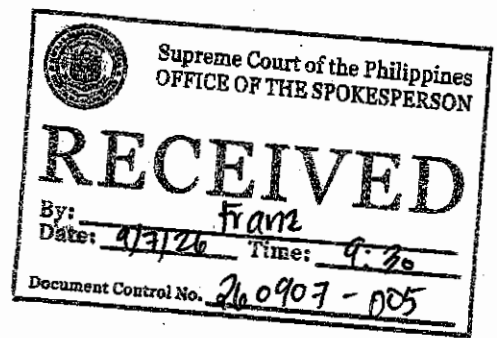




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ABC-RMO SECURITY &
INVESTIGATION AGENCY,
INC., and JAIME J. JUADINES,*
Petitioners,

G.R. No. E-00411

Present:

GESMUNDO, C.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

- versus -

COURT OF APPEALS (THIRD
DIVISION) and LOUIEJIE G.
BAUTISTA,**

Promulgated:

AUG 12 2026

Respondents.

X -----X

DECISION

HERNANDO, J.:

This resolves the Petition for *Certiorari*¹ filed by petitioners ABC-RMO Security and Investigation Agency, Inc. (ARSIA) and Jaime C. Juadines (Juadines) to assail the Decision² of the Court of Appeals (CA), which declared respondent Louiejie G. Bautista (Bautista) constructively dismissed from employment and entitled to backwages, separation pay, moral damages, exemplary damages, and attorney's fees.³

* Also referred to as "Juandines" in some parts of the *rollo*.

** Also referred to as "Louejie" in some parts of the *rollo*.

¹ Petition for *Certiorari*, pp. 1-11.

² CA Decision, Annex A, pp. 1-18. The April 14, 2025 Decision in CA-G.R. SP No. 176572 was penned by Associate Justice Jaime Fortunato A. Caringai and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Ruben Reynaldo G. Roxas of the Third Division, Court of Appeals, Manila.

³ *Id.* at 16-17.

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The Antecedents

The present dispute stems from consolidated cases for constructive dismissal, non-payment and underpayment of salary, service incentive leave pay, night shift differential pay, rest day pay, 13th month pay, moral and exemplary damages, and attorney's fees filed by Bautista, Angie A. Guiritan (Guiritan), Red L. Morillos (Morillos), and Christopher B. Balmadres (Balmadres) (collectively, Bautista et al.) against ARSIA and Juadines. Prior to the filing of the complaint, Bautista et al. worked as security guards for ARSIA,⁴ a business entity engaged in providing security services to its clients, while Juadines is ARSIA's General Manager.⁵

For his part, Bautista alleged that he was hired by ARSIA as a security guard on October 4, 2017 and was previously assigned to the old Seedling Bank Foundation in Quezon City. After January 31, 2021, Bautista et al. no longer rendered service to ARSIA. On February 1, 2021, ARSIA informed Bautista that it failed to secure a bid for another contract at the place where Bautista was originally assigned. When Bautista et al. inquired with ARSIA regarding the status of their employment, Juadines told them to resign since ARSIA no longer had any available work for them.⁶

Bautista et al. decided to wait for a few months for a new assignment from ARSIA, but ARSIA no longer contacted them or gave them updates on the status of their employment.⁷ On March 1, 2021, Guiritan lodged a Request for Assistance under the Single-Entry Approach (SEnA) with the National Labor Relations Commission (NLRC).⁸

Subsequently, on July 8, 2021, Guiritan, Morillos, and Balmadres filed a case for constructive illegal dismissal, full backwages, and non-payment of other money claims against ARSIA and Juadines. Bautista followed on July 12, 2021 by filing a case for non-payment of service incentive leave pay and 13th month pay, underpayment of wages, overtime pay, holiday pay, holiday pay premium, rest day premium, ECOLA, nightshift differentials, illegal deductions, cash bond, and moral and exemplary damages. These cases were later consolidated.⁹ While Bautista's original complaint did not allege constructive dismissal as one of his causes of action, he also filed an amended complaint including the same.¹⁰

⁴ CA rollo, p. 302.

⁵ *Id.* at 32.

⁶ CA Decision, Annex A, p. 2; CA rollo, p. 33.

⁷ CA Decision, Annex A, p. 2.

⁸ CA rollo, p. 33.

⁹ *Id.*

¹⁰ CA Decision, Annex A, p. 12.

In their joint Position Paper, Bautista et al. averred that they were constructively dismissed from service after they were placed on floating status for more than six months. They thus asked that they be paid full backwages and separation pay in lieu of reinstatement due to strained relations.¹¹

For their part, ARSIA and Juadines averred that Bautista was reassigned on March 30, 2021 to High Street South Corporate Plaza Towers. However, Bautista did not show up at his assignment and was thus absent without leave (AWOL) since March 31, 2021. ARSIA tried contacting Bautista multiple times, to no avail. A Delinquency Report dated April 5, 2021 was issued to Bautista requiring him to explain within five days from notice, but he did not respond. An investigative committee was then organized, and two Notices to Report dated April 6, 2021 and April 21, 2021 were sent to Bautista through registered mail. Finally, he was recommended for termination due to AWOL.¹² ARSIA and Juadines maintained that Bautista et al. were not illegally dismissed, but were dismissed based on just cause for abandonment of work.¹³

Ruling of the Labor Arbiter (LA)

In a Decision¹⁴ dated March 25, 2022, the LA dismissed Bautista et al.'s complaint for constructive dismissal for lack of merit but ordered the payment of service incentive leave, 13th month pay, and attorney's fees:

WHEREFORE, premises considered, the complaint of constructive dismissal filed by **Angie A. Guiritan, Red L. Morillos, Christopher B. Balmadres and Louejie G. Bautista against [petitioner] ABC-RMO Security and Investigation Agency, Inc.** is **DISMISSED** for lack of merit.

However, [petitioner] ABC-RMO Security and Investigation Agency, Inc. is **DIRECTED and ORDERED** to pay Complainants in the grand total amount of **[PHP 110, 421.03]** consisting of:

Angie A. Guiritan:

- a) SILP in the amount of **[PHP 5,370.00]** for the year[s] 2021 and 2022;
- b) 13th month pay in the amount of **[PHP 27,924.00]** for the year[s] 2021 and 2022;
[and]
- c) Attorney's Fees equivalent to 10% of the monetary award in the amount of **[PHP 3,329.40]**.

¹¹ CA rollo, pp. 34-35.

¹² CA Decision, Annex A, pp. 2-3; CA rollo, pp. 306-307.

¹³ CA rollo, p. 308.

¹⁴ *Id.* at 301-312. The March 25, 2022 Decision in NLRC-NCR Case Nos. 07-00380-21 and 07-00286-21 was penned by Labor Arbiter Maki T. Datu-Ramos II of the National Labor Relations Commission, Quezon City.

Red L. Morillos:

- a) SILP in the amount of [PHP 6,003.21] for the year[s] 2020, 2021, 2022;
- b) 13th month pay in the amount of [PHP 17,292.71] for the year[s] 2019 and 2022; [and]
- c) Attorney's fees equivalent to 10% of the monetary award in the amount of [PHP 2,325.00].

Christopher B. Balmadres:

- a) SILP in the amount of [PHP 3,318.21] for the year[s] 2021 and 2022;
- b) 13th month pay in the amount of [PHP 17,254.71] for the year[s] 2021 and 2022; [and]
- c) Attorney's Fees equivalent to 10% of the monetary award in the amount of [PHP 2,057.29].

Louejie G. Bautista:

- a) SILP in the amount of [PHP 6,003.21] for the year[s] 2020, 2021, and 2022;
- b) 13th month pay in the amount of [PHP 17,254.71] for the year[s] 2020, 2021 and 2022; [and]
- c) Attorney's Fees equivalent to 10% of the monetary award in the amount of [PHP 2,325.79].

All other claims are DISMISSED for lack of merit.

SO ORDERED.¹⁵ (Emphasis in the original)

The LA noted the absence of substantial evidence to establish that Bautista and the others were constructively dismissed.¹⁶ Moreover, the LA gave credence to the evidence presented by ARSIA and concluded that Bautista et al. abandoned their duties and stopped reporting for work.¹⁷ However, they noted that Bautista et al. are entitled to payment of service incentive leave, 13th month pay, and attorney's fees.¹⁸

Bautista et al. appealed to the NLRC and argued that the LA erred in denying their claims for constructive dismissal and illegal deductions.¹⁹

*Ruling of the National Labor
Relations Commission*

In its Decision²⁰ dated August 31, 2022, the NLRC found that all complainants except for Bautista were constructively dismissed. The dispositive portion reads:

¹⁵ *Id.* at 311-312.

¹⁶ *Id.* at 309.

¹⁷ *Id.* at 309-310.

¹⁸ *Id.* at 310-312.

¹⁹ *Id.* at 31-32.

²⁰ *Id.* at 31-48. The August 31, 2022 Decision in NLRC LAC No. 05-001761-22 was penned by Presiding Commissioner Joseph Gerald E. Mabilog and concurred in by Commissioners Agnes Alexis A. Lucero-De Grano and Donna Caluag Ramos of the Sixth Division, National Labor Relations Commission, Quezon City.

WHEREFORE, premises considered, Complainants' appeal is hereby **GRANTED**. The Decision of Labor Arbiter Maki T. Datu-Ramos II dated [March 25, 2022] is **AFFIRMED with MODIFICATIONS**.

Complainants Angie A. Guiritan, Red L. Morillos and Christopher B. Balmadres [are] hereby declared constructively dismissed from service. *However, Louejie G. Bautista's claim for illegal dismissal is denied for procedural infirmity.* [Petitioner] ABC-RMO Security and Investigation Agency Inc. is hereby ordered to pay Complainants the following:

1. Angie A. Guiritan the amount of [PHP 257,387.21] as full backwages; and [PHP 74,100.00] as separation pay;
2. Red L. Morillos the amount of [PHP 257,387.21] as full backwages; [PHP 74,100.00] as separation pay; and [PHP 11,825.00] for the illegal deductions made in his wages;
3. Christopher B. Balmadres the amount of [PHP 257,387.21] as full backwages; [PHP 59,280.00] as separation pay; and [PHP 8,100.00] for the illegal deductions made in his wages;
4. Louiejie G. Bautista the amount of [PHP 10,800.00] for the illegal deductions made in his wages.

The rest of the assailed Decision **STANDS**.

SO ORDERED.²¹ (Emphasis supplied)

Preliminarily, the NLRC denied Bautista's claim for illegal dismissal because he did not raise illegal dismissal as one of his causes of action in his complaint prior to the filing of his position paper. In denying his claim, the NLRC cited Section 12(c), Rule V of the 2011 NLRC Rules of Procedure, which states that position papers should only cover claims and causes of action stated in the complaint or amended complaint, and Section 11 thereof which states that a complainant must include all causes of actions at any time before the filing of the position paper.²²

As to Guiritan, Morillos, and Balmadres, the NLRC observed that they were illegally dismissed because ARSIA failed to prove with certainty that it reassigned them after the expiration of their service contract with the local government of Quezon City, as ARSIA failed to submit any evidence that they furnished or otherwise timely transmitted the corresponding office orders and notices of reassignment to Guiritan, Morillos, and Balmadres. The NLRC observed that the deluge of notices and processes given to Guiritan et al. arrived

²¹ *Id.* at 46-47.

²² *Id.* at 38.



only after ARSIA received Guiritan's SEnA request.²³ The NLRC did not give credence to ARSIA and Juadines's claim that Guiritan, Morillos, and Balmadres abandoned their work since they were not given new assignments to begin with, and ruled that the filing of a complaint for illegal dismissal are inconsistent with claims of abandonment.²⁴

Bautista moved for partial reconsideration, but the motion was denied in a Resolution²⁵ dated September 30, 2022, compelling him to file a petition for *certiorari* with the CA.²⁶ In his petition, Bautista contended that the NLRC committed grave abuse of discretion when it denied his claim for illegal dismissal for failure to include it in his complaint despite the fact that he was able to allege and prove such cause of action in his position paper, and for failing to rule on his claim for separation pay, backwages, moral and exemplary damages, and attorney's fees.²⁷

Ruling of the Court of Appeals

In its assailed Decision²⁸ dated April 14, 2025, the CA granted the petition for *certiorari* and ruled that Bautista was constructively dismissed by ARSIA. The dispositive portion reads:

WHEREFORE, the petition for *certiorari* is **GRANTED**. The Decision dated August 31, 2022, and the Resolution dated September 30, 2022 of the [NLRC] Sixth Division in NLRC LAC No. 05-001761-22, is hereby **MODIFIED** in that [Bautista] is hereby **DECLARED** constructively dismissed from employment.

[Petitioner] ABC-RMO Security & Investigation Agency, Inc. is **ORDERED** to PAY [Bautista] the following:

1. Full backwages computed from the time of illegal dismissal up to the finality of this Decision;
2. Separation pay equivalent to one-month salary for every year of service, a fraction of at least [six] months being considered as one [sic] whole year;
3. Moral damages in the amount of PHP 25,000.00;
4. Exemplary damages in the amount of PHP 25,000.00; [and]
5. Attorney's fees equivalent to [10%] of the total monetary award[.]

The total amount shall earn legal interest at [6%] per annum from the finality of this Decision until fully paid. The case is **REMANDED** to the [LA] for the computation of the monetary award with reasonable dispatch.

²³ *Id.* at 39–42.

²⁴ *Id.* at 42–43.

²⁵ *Id.* at 50–52. The September 30, 2022 Resolution in NLRC LAC No. 05-001761-22 was penned by Presiding Commissioner Joseph Gerald E. Mabilog and concurred in by Commissioners Agnes Alexis A. Lucero-De Grano and Donna Caluag Ramos of the Sixth Division, National Labor Relations Commission, Quezon City.

²⁶ CA Decision, Annex A, pp. 5–7.

²⁷ *Id.* at 7–8.

²⁸ *Id.* at 1–18.

IT IS SO ORDERED.²⁹ (Emphasis in the original)

The CA ruled that the NLRC committed grave abuse of discretion for excluding Bautista in the resolution of the issue of the complainants' illegal dismissal, despite Bautista and his co-complainants sufficiently alleging the circumstances surrounding their constructive dismissal in the position paper, and despite Bautista filing an amended complaint that included illegal dismissal as a cause of action. The CA further observed that the NLRC's findings as to the lack of notices or belated transmittal of notices to Guiritan, Morillos, and Balmadres also apply to Bautista. Since Bautista's floating status lasted for more than six months, the CA ruled that he was considered constructively dismissed.³⁰

Hence, this Petition. Petitioners assert that there is no basis to rule that respondent was constructively dismissed, for the following reasons: (a) Office Order No. 21-245 was not a mere general return-to-work order, as it contained sufficient information on respondent's new work details; (b) the CA failed to account for the fact that the notices to respondent were sent in March and April 2021, during the Covid-19 quarantine, which would explain the differences in the dates of notices and the date these were mailed; (c) despite the quarantine, they sent notices to respondent for his assignment, as indicated in Security Officer Judith A. Montilla's Sworn Statement, and notified respondent of his new post by texting respondent's mobile number, as indicated in the verified report dated April 3, 2021; (d) respondent would not have been terminated had he only accepted the calls or responded to the text messages of respondents last March and April 2021; (e) Bautista did not allege illegal dismissal in his pleadings; (e) considering there is no bad faith on the part of petitioners, there is no basis for the award of damages and attorney's fees.³¹

In his Comment,³² respondent Bautista contends that the Petition should be dismissed outright for petitioners' failure to attach therein a copy of the Petition for *Certiorari* and Joint Memorandum filed before the CA which are material portions of the record; that a Rule 65 petition is not the appropriate remedy absent allegation and proof of grave abuse of discretion against the appellate court; and considering petitioners' failure to file a motion for reconsideration with the CA before filing a Rule 65 petition. Respondent Bautista also asserts that the CA did not err in holding that he was constructively dismissed from work, as he sufficiently alleged the circumstances surrounding his illegal dismissal from work in his pleadings, and nothing on

²⁹ *Id.* at 16-17.

³⁰ *Id.* at 9-15.

³¹ Petition for *Certiorari*, pp. 5-9.

³² Comment (on the Petition for *Certiorari* dated July 18, 2025), pp. 1-15.

record in their Petition would support that Office Order No. 21-245 and the other notices were received by respondent.³³

The Issues

The Court is called to resolve the following issues:

1. Whether the Petition should be dismissed outright on procedural grounds; and
2. Whether the CA erred in ruling that respondent Bautista was constructively dismissed.

Our Ruling

The Petition is dismissed.

*Petition may be dismissed outright
for being the wrong remedy*

At the outset, the present Petition may be dismissed outright for being the wrong remedy. It is settled that the proper remedy of a party aggrieved by a judgment, final order, or resolution of the CA is to file with the Court a verified petition for review on *certiorari* under Rule 45 within 15 days from notice of the judgment, final order, or resolution appealed from.³⁴ Accordingly, a petition for *certiorari* under Rule 65 is not a proper remedy to assail the decisions of the CA when an appeal under Rule 45 is available in the ordinary course of law. It bears emphasis that a Rule 65 petition cannot be made a substitute for an appeal where the latter remedy is available but was lost through fault or negligence.³⁵

It is true that this rule has been previously relaxed in exceptional situations and the Court issued a writ of *certiorari* in the interest of substantial justice. However, it is incumbent for the petitioners to establish that the usual mode of appeal would be inadequate and to rule otherwise would cause a miscarriage of justice.³⁶ In this case, petitioners failed to allege, much less demonstrate, that any exceptional circumstances exist in the current case that would warrant relaxation of the rules.

³³ *Id.*

³⁴ *Cornworld Breeding Systems Corp. v. Court of Appeals*, 928 Phil. 589, 596–597 (2022) [Per J. Hernando, First Division].

³⁵ *Square Meter Trading Construction v. Court of Appeals*, 894 Phil. 698, 710 (2021) [Per J. Carandang, First Division].

³⁶ *De Castro v. Court of Appeals*, 796 Phil. 681, 696–697 (2016) [Per J. Mendoza, Second Division].

The Court has also previously treated a petition for *certiorari* as a petition for review, in the spirit of liberality and in the interest of substantial justice.³⁷ However, even if the instant petition were to be treated as a Rule 45 petition, it would be dismissed for being filed out of time. The reglementary period to file a Rule 45 petition is within 15 days from notice of the judgment, final order, or resolution appealed from.³⁸ In the same vein, a motion for extension of time to file a Rule 45 petition must be filed within the same period.³⁹

Petitioners received the assailed CA Decision on May 19, 2025, which meant they had 15 days from such date or until June 3, 2025 to file their Rule 45 Petition or motion for extension of time to file the same. However, the motion for extension of time was filed only on July 17, 2025, which is already beyond the reglementary period. On this score, the failure to file a petition for review on *certiorari*, or a motion for extension to file it, within the period prescribed results in a party's loss of right to appeal. The failure to file one's appeal within the reglementary period is fatal to a party's cause, thereby precluding the appellate court from acquiring jurisdiction over the case.⁴⁰

In fine, even without tackling the other procedural defects alleged by respondent, the present Petition should be dismissed outright in view of petitioners' recourse to the wrong remedy and late filing. Moreover, even assuming *arguendo* that the Court relaxes the procedural rules in petitioners' favor, the petition would still be denied for lack of merit. Petitioners utterly failed to prove that the appellate court gravely abused its discretion when it issued its assailed Decision.

The CA properly took cognizance of illegal dismissal as one of respondent's causes of action, since the facts surrounding the illegal dismissal were adequately alleged in his position paper before the LA

The CA did not err in taking cognizance of the issue of illegal dismissal raised by respondent Bautista notwithstanding his initial failure to raise illegal dismissal as one of his causes of action in his original complaint. At the outset, respondent Bautista filed an amended complaint that included illegal dismissal,

³⁷ *Cornworld Breeding Systems Corp. v. Court of Appeals*, 928 Phil. 589, 596 (2022) [Per J. Hernando, First Division].

³⁸ *Id.* at. 596–597.

³⁹ *Department of Agrarian Reform Multi-Purpose Cooperative v. Diaz*, 832 Phil. 95, 106 (2018) [Per J. Leonen, Third Division].

⁴⁰ *Id.*

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which the LA took cognizance of. Moreover, even if respondent Bautista did not file the amended complaint, the Court has previously held that the complainant's failure to raise a cause of action in the complaint before the NLRC does not foreclose the complainant from raising additional causes of action in his or her position paper, viz.:

[I]nitiatory complaints filed before the NLRC are just blank forms wherein the employee-complainant simply inputs his/her details, the respondent's details, and ticks off a checklist of causes of action which are applicable to him/her. It is only upon the filing of position papers that the complainant is able to expound on the employer's acts or omissions which constitute his/her causes of action against the latter. Given the foregoing, it is only reasonable to infer that notwithstanding the aforementioned provision, *the complaint cannot be the sole basis in determining the complainant's causes of action given that it is in the position paper that the ultimate facts are presented and established by the submission of all relevant documents and affidavits to support the same and prove their respective causes of action. Otherwise stated, the filing of the position paper, and not the mere complaint, is the operative act that should foreclose the raising of matters constitutive of the employee-complainant's cause of action.* The Court believes that it is for this reason why sub-paragraph (d) of Section 12, Rule V of the 2011 NLRC Rules allows the replies to discuss matters not only covered by the complaint or amended complaint, but also those covered by the position papers. Furthermore, this interpretation is in accord with the settled norm that "[in] labor cases, rules of procedure should not be applied in a very rigid and technical sense," and that "labor officials should use all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, in the interest of due process."⁴¹ (Emphasis supplied, citations omitted)

The record demonstrates that Bautista et al.'s position paper sufficiently alleged the circumstances surrounding their illegal dismissal, specifically ARSIA's act of placing them on floating status for more than six months without being reassigned to another post. Petitioners themselves even countered respondent's charge of illegal dismissal in their position paper, by alleging that Bautista et al. were validly dismissed due to being absent without leave and for their refusal to respond to the notices sent to them. All told, nothing precludes the courts *a quo* and the Court from resolving the issue on illegal dismissal as to respondent Bautista.

Respondent Bautista was constructively dismissed since he was placed in floating status for more than six months without any new assignment

⁴¹ *Burnea v. Security Trading Corp.*, 900 Phil. 194, 201–202 (2021) [Per J. Perlas-Bernabe, Second Division].

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Constructive dismissal is a form of illegal dismissal.⁴² It has been characterized as a dismissal in disguise, as it is not readily indicated by any similar act of the employer that would openly and expressly show its desire and intent to terminate the employment relationship.⁴³ In constructive dismissal cases concerning security guards, jurisprudence instructs that placing security guards on floating status is a valid exercise of management prerogative, provided their placement on off-detail should not exceed six months. Otherwise, the security guard is deemed constructively dismissed.⁴⁴

It is thus incumbent upon the employer to give a new assignment to the employee and deploy him to a specific client before the lapse of six months; a general return-to-work order or a mere recall to the employer's office does not suffice.⁴⁵ Moreover, the new assignment must be made to a specific client. Without such specificity, the notice is deemed a general return-to-work order and is insufficient.⁴⁶

In this case, when respondent Bautista filed his complaint on July 12, 2021, he was already in floating status for more than six months from his last assignment, which had already ended on February 1, 2026, and had yet to receive adequate notice of his reassignment. While petitioners assert that he was informed of his reassignment to High Street South Corporate Plaza Towers through the mailing of Office Order No. 21-245, it bears emphasis that petitioners failed to submit proof of respondent Bautista's receipt of this order. Moreover, even assuming *arguendo* that respondent Bautista received Office Order No. 21-245, the same may not be considered an adequate notice as it is a mere general return-to-work order. While Office Order No. 21-245 states that respondent Bautista is reassigned to a specific tower, it does not specify the particular client to whom respondent will report to:

SG Louiejie G. Bautista, having [been] appointed/employed as Security Guard in this Agency is hereby reassigned at High Street South Corporate Plaza Towers, BGC, Taguig City, effective March 31, 2021.⁴⁷ (Emphasis in the original)

Petitioners further cite the Delinquency Report⁴⁸ dated April 5, 2021, and Notices to Report⁴⁹ dated April 6, 2021 and April 21, 2021 they purportedly sent to respondent Bautista to claim that the latter was duly notified of his assignment and he simply abandoned his job. However, as worded, the

⁴² *Lagamayo v. Cullinan Group, Inc.*, 914 Phil. 492, 505 (2021) [Per J. Lopez, J., First Division].

⁴³ *Torreda v. Investment and Capital Corporation of the Philippines*, 839 Phil. 1087, 1098 (2018) [Per J. Gesmundo, Third Division].

⁴⁴ *Hamid v. Gervasio Security and Investigation Agency, Inc.*, 926 Phil. 602, 608 (2022) [Per J. Gaerlan, Third Division].

⁴⁵ *Id.* at 609–610. (Citation omitted)

⁴⁶ *Sagarino v. Toplis Solution, Inc.*, G.R. No. 267379, October 15, 2025 [Per J. Singh, Third Division] at 17. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁴⁷ *CA rollo*, p. 254.

⁴⁸ *Id.* at 257.

⁴⁹ *Id.* at 258–259.

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Delinquency Report and Notices to Report merely directed respondent Bautista to report to the office to explain why no disciplinary action should be taken against him for failure to appear at his assignment and for being AWOL. These notices are evidently not the required notice of a new assignment required by law, as they are not meant to notify respondent Bautista of his assignment, but to already subject him to disciplinary proceedings for failure to report to work.

In any event, there is no proof that the Delinquency Report was received by respondent Bautista. Regarding the Notices to Report dated April 6, 2021 and April 21, 2021, the Court echoes the CA's observations on how the failure to transmit or the belated transmittal of the notices, coupled with the inadequacy of the notices themselves, demonstrate that respondent Bautista was constructively dismissed alongside Guiritan, Morillos, and Balmadres:

In this regard, this Court finds that the ruling of the NLRC on the constructive dismissal of [Guiritan], [Morillos], and [Balmadres] should likewise be made applicable to [respondent], considering that he had been in a similar situation with his co-complainants. In the Assailed Decision, the NLRC found no evidence to prove that the complainants received any of the office orders and notices purportedly issued to them. There was nothing to show that they were furnished a copy of the office orders defining their respective new assignments. Neither was there proof of dispatch and of receipt, whether personal or by mail.

....

The NLRC further observed that the Notices to Report addressed to the complainants were sent to them long after its issuance . . . It would thus appear, according to the NLRC, that the notices were mailed only to show a semblance of legitimacy to the notices and not to genuinely require the complainants to return to work. Again, the same is true in [respondent]'s case. The first Notice to Report dated [April 6, 2021] was sent via registered mail only on [May 5, 2021]; while the second Notice to Report dated April 23, 2021 was mailed only on May 26, 2021. [ARSIA]'s failure to furnish [respondent] copies of Office Order No. 21-245 and Delinquency Report, coupled with belated mailing of the Notices to Report, effectively rendered it impossible, unreasonable, or unlikely for [respondent] to report back to [ARSIA].

Another notable instance that the NLRC pointed out was the fact that the Notices were issued and sent only after [Guiritan] requested assistance from the NLRC through the [SeNA]. After the expiration of [ARSIA's] service contract with the Quezon City government, there was no evidence that [ARSIA] communicated with the complainants their respective new assignments. It was only after March 24, 2021, the date when the Agency received [Guiritan]'s SEnA request, that a deluge of notices and processes were served to the complainants. The NLRC found it suspicious that the Agency suddenly had new assignments for the complainants after they raised their concerns through the SeNA.⁵⁰

⁵⁰ CA Decision, Annex A, pp. 14–15. CA rollo, pp. 420–421.

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Petitioners seek to justify the belated transmittal of the notices to respondent Bautista by citing the Covid-19 quarantine. However, beyond this general allegation, petitioners did not even attempt to submit evidence or establish the specifics on how the Covid19 quarantine at the time prevented them from promptly mailing the notices. In any event, petitioners themselves admit that there are other modes to promptly inform respondent Bautista of his new assignment, such as text messages which were purportedly sent to respondent Bautista's mobile number. Unfortunately, petitioners again failed to substantiate their claim that they sent text messages to respondent Bautista on his assignment.

In their Petition, petitioners maintain that they not only sent notices to respondent Bautista for his assignment as indicated in Security Officer Judith A. Montilla's Sworn Statement, but also notified respondent Bautista by texting his mobile number, as indicated in the verified report dated April 3, 2021. They even assert that this Sworn Statement and verified report was attached to the Petition as annexes. However, a review of the records shows that none of these documents were attached as annexes to the Petition filed with the Court. The Court stresses that mere allegation is not evidence; a party alleging a critical fact must support his allegation with substantial evidence, i.e., such relevant evidence as a reasonable mind will accept as adequate to support a conclusion.⁵¹

Under this factual backdrop, petitioners' claim that respondent Bautista abandoned his job lacks merit. Abandonment is a form of neglect of duty that constitutes a just cause for the employer to dismiss the employee. For abandonment of work to exist, it is essential for the employer to demonstrate that: (1) the employee failed to report for work or must have been absent without valid or justifiable reason; and (2) the employee clearly intended to sever the employer-employee relationship manifested by some overt acts.⁵²

Case law is clear that a charge of abandonment is wholly inconsistent with the immediate filing of a complaint for illegal dismissal. The filing thereof is proof enough of one's desire to return to work, thus negating any suggestion of abandonment. Employees who take steps to protest their dismissal cannot logically be said to have abandoned their work. Further, abandonment is a matter of intention and cannot lightly be presumed from certain equivocal acts.⁵³

In this case, respondent's act of filing the complaint immediately after the lapse of six months after he was placed in floating status, and his insistence that

⁵¹ *Tan Brothers Corp. of Basilan City v. Escudero*, 713 Phil. 392, 402 (2013) [Per J. Perez, Second Division].

⁵² *Cornworld Breeding Systems Corp. v. Court of Appeals*, 928 Phil. 589, 599 (2022) [Per J. Hernando, First Division].

⁵³ *Hamid v. Gervasio Security and Investigation Agency, Inc.*, 926 Phil. 602, 611 (2022) [Per J. Gaerlan, Third Division].

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he was constructively dismissed, negate petitioners' claim that he abandoned his job. Moreover, the CA adeptly observed that respondent could not be deemed to have abandoned his job for not reporting to his latest assignment or failing to respond to the notices from ARSIA, as in the first place, ARSIA failed to establish that respondent Bautista received these notices indicating his new work assignment.

In fine, beyond bare allegations, ARSIA miserably failed to establish that respondent was duly informed of his new work assignment before the six months lapsed and that he was dismissed for just cause for abandoning his work. Hence, respondent is deemed constructively dismissed.

Respondent Bautista is entitled to separation pay, backwages, and moral and exemplary damages. However, he is not entitled to attorney's fees

An illegally dismissed employee is ordinarily entitled to the following:

- (a) reinstatement without loss of seniority rights and other privileges, or in lieu thereof, separation pay equivalent to [one] month pay for every year of service, with a fraction of at least [six] months considered as [one] whole year, from the time of the employee's illegal dismissal up to the finality of the judgment; and
- (b) full backwages, inclusive of allowances and other benefits or their monetary equivalent, computed from the time compensation was not paid to the time of his actual reinstatement.⁵⁴

While reinstatement is a normal consequence of illegal dismissal, separation pay equivalent to one month for every year of service should be awarded as an alternative when reinstatement is no longer viable as an option. The payment of separation pay is in addition to the payment of backwages.⁵⁵ Reinstatement is no longer feasible when, among other grounds, the employer-employee relationship has already been strained or when a considerable time has lapsed between the dismissal and the resolution of the case.⁵⁶ Considering the lapse of five years since respondent Bautista's filing of his complaint and his prayer for separation pay in view of strained relations with ARSIA, the award of separation pay in lieu of reinstatement is proper.

⁵⁴ *Bartolome v. Toyota Quezon Avenue, Inc.*, 952 Phil. 539, 556–557 (2024) [Per J. Lazaro-Javier, Second Division].

⁵⁵ *Id.* at 557.

⁵⁶ *Sagarino v. Toplis Solution, Inc.*, G.R. No. 267379, October 15, 2025 [Per J. Singh, Third Division] at 19–20. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

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The Court affirms the award of moral and exemplary damages. Moral damages are recoverable when the dismissal of an employee is attended by bad faith or fraud or constitutes an act oppressive to labor or is done in a manner contrary to good morals, good customs, or public policy. Exemplary damages, on the other hand, are recoverable when the dismissal was done in a wanton, oppressive, or malevolent manner. Bad faith, under the law, does not simply connote bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of a wrong, or a breach of a known duty through some motive or interest or ill will that partakes of the nature of fraud.⁵⁷

As observed by the CA, the circumstances surrounding the constructive dismissal of respondent is attended by bad faith, and ARSIA's actions are oppressive to labor. ARSIA clearly tried to mask the constructive dismissal of respondent Bautista as a dismissal for just cause by accusing respondent of abandoning his post, and then justifying the same through the Office Order, Delinquency Report, and Notices to Report that were later revealed to be not sent to respondent Bautista at all, or were only belatedly sent to respondent Bautista as an afterthought after a request for SeNA was lodged by respondent Bautista's co-complainant Guiritan.

However, the award of attorney's fees is deleted for lack of legal basis. Article 2208(2) of the Civil Code is often erroneously cited to justify an award of attorney's fees, viz.:

Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

....

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect [their] interest;

....

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

....

To curb the erroneous application of these provisions in awarding attorney's fees, the Court in *Pacific Ocean Manning, Inc. v. Bobiles*⁵⁸ clarified that an award of attorney's fees under Article 2208(2) of the Civil Code is not justified simply because the plaintiff is compelled to litigate or incur expense to protect their interest. The litigation or incurrence of expense must be in relation to third persons. A contrary rule would make entitlement to attorney's fees the

⁵⁷ *Bartolome v. Toyota Quezon Avenue, Inc.*, 952 Phil. 539, 558 (2024) [Per J. Lazaro-Javier, Second Division].

⁵⁸ 959 Phil. 878 (2024) [Per J. Rosario, First Division].

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general rule instead of the exception, and would negate the policy against placing a premium on the right to litigate.⁵⁹ In this case, there is no basis to award attorney's fees under Article 2208 (2) of the Civil Code since the filing of the petition did not compel respondent Bautista to litigate with third persons.

Moreover, in line with prevailing jurisprudence, interest at the rate of 6% per annum from the date of the finality of this Decision until full payment should be imposed on the total monetary award.⁶⁰

Finally, the CA correctly absolved Juadines from liability. Jurisprudence teaches that corporate officers are solidarily liable with the corporation for the termination of employment of employees only if such is done with malice or in bad faith.⁶¹ Thus, while Juadines is ARSIA's General Manager, he may not be held personally liable for the monetary awards to respondent Bautista absent any showing that he acted with malice towards the latter.

ACCORDINGLY, the Petition for *Certiorari* filed by petitioners ABC-RMO Security & Investigation Agency, Inc. and Jaime J. Juadines is **DISMISSED**. The Decision dated April 14, 2025 Decision in CA-G.R. SP No. 176572 is **AFFIRMED with MODIFICATION**.

ABC-RMO Security & Investigation, Inc. is ordered to pay Louiejie G. Bautista the following:

- (a) Full backwages, inclusive of allowances and other benefits or their monetary equivalent, computed from the date when Bautista was constructively dismissed until finality of this Decision;
- (b) Separation pay equivalent to one month pay for every year of service, with a fraction of at least six months considered as one whole year;
- (c) Moral damages in the amount of PHP 25,000.00; and
- (d) Exemplary damages in the amount of PHP 25,000.00.

ABC-RMO Security & Investigation, Inc. is also liable for legal interest at 6% per annum of the foregoing monetary awards, computed from the date of the finality of this Decision until full satisfaction.

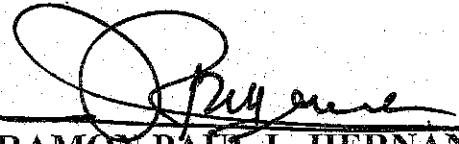
The case is **REMANDED** to the arbitration branch *a quo* for a detailed computation of the amounts due to Bautista, which must be paid without delay, and for the execution of this Decision.

⁵⁹ *Id.* at 894.

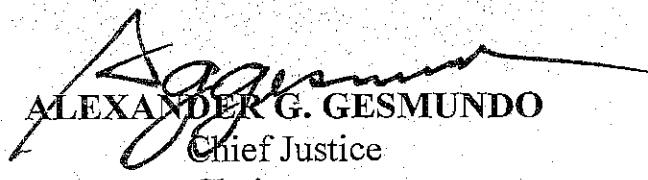
⁶⁰ *See Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*, 929 Phil. 754, 765-767 (2022) [Per J. Leonen, *En Banc*].

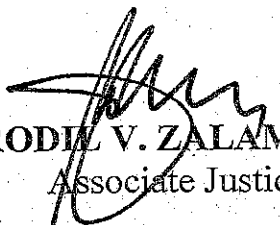
⁶¹ *Bartolome v. Toyota Quészon Avenue, Inc.*, 952 Phil. 539, 559 (2024) [Per J. Lazaro-Javier, Second Division].

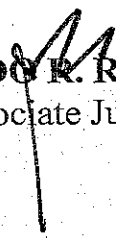
SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice
Working Chairperson

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

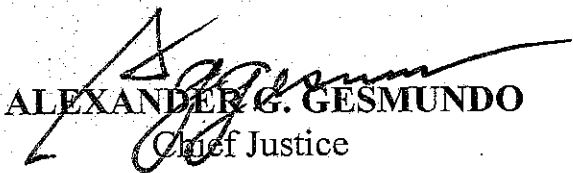

RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.


ALEXANDER G. GESMUNDO
Chief Justice