



**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

JOSELITO A. ALVA,
Petitioner,

G.R. No. 203328

Present:

CARPIO, J.,
Chairperson,
PERALTA,
PERLAS-BERNABE,*
CAGUIOA, and
REYES, JR., JJ.

- versus -

**HIGH CAPACITY SECURITY
FORCE, INC. and ARMANDO M.
VILLANUEVA,**
Respondents.

Promulgated:

08 NOV 2017

X-----X

DECISION

REYES, JR., J.:

The laborer’s availment of the free legal services offered by the Public Attorney’s Office (PAO) does not prevent the award of attorney’s fees upon the successful conclusion of the litigation.

This treats of the Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeking the reversal of the Decision² dated February 24, 2012 and Resolution³ dated August 30, 2012, rendered by the Court of Appeals (CA) in CA-G.R. SP No. 114442 and CA-G.R. SP No. 114520, which deleted the award of attorney’s fees in favor of petitioner Joselito A. Alva (Alva).

* On official leave.

¹ *Rollo*, pp. 10-21.

² Penned by Associate Justice Priscilla J. Baltazar-Padilla, with Associate Justices Jose C. Reyes, Jr. and Agnes Reyes-Carpio concurring; *id.* at 26-42.

³ *Id.* at 44-46.

Reyes

The Antecedents

On November 1, 2003, Alva was hired as a security guard by respondent High Capacity Security Force, Inc., (High Capacity), a duly organized security agency. Alva was initially detailed as a security guard at the Basa Land Power Plant in Rosario, Cavite, earning a daily wage of Three Hundred Thirty Pesos (Php 330.00).

On April 16, 2004, Alva was promoted as Assistant Security Officer. After sometime, he was again promoted as Security Officer, with a daily salary of Four Hundred Thirty Pesos (Php 430.00).

Meanwhile, on June 5, 2007, Alva was assigned as an Assistant Officer-in-Charge of HRD-PTE, Ltd. Inc. (HRD PTE). While assigned thereat, one of the security guards under his supervision allowed the entry of a garbage collection truck without securing the prior permission and approval of the company's Administrative and Personnel Manager. Bearing the crudgels of such mishap, Alva was suspended for one month beginning October 21, 2007.

During Alva's suspension, HRD-PTE requested for Alva's relief from post. HRD-PTE complained that Alva was found sleeping while on duty and exercised favoritism in the assignment of shifts of security guards.

Thereafter, Alva was placed on floating status. On November 23, 2007, while Alva was still on floating status, High Capacity informed him of the lack of available posts where he could be assigned as Security Officer or Assistant Security Officer. Instead, Alva was given an option to temporarily render duty as an ordinary guard while waiting for an available officer's post.⁴ However, Alva was no longer given any post. Alva begged for an assignment, but his pleas were all unheeded.⁵

This prompted Alva to file a Complaint for Illegal Dismissal, Underpayment of Wages, Non-Payment of 13th Month Pay, Service Incentive Leave, Holiday Premium, ECOLA, Payment for Rest Day, Night Shift Differential Pay, Separation Pay, moral and exemplary damages and attorney's fees against High Capacity and its General Manager, Armando Villanueva.⁶ Alva was assisted by the PAO in the proceedings before the Labor Arbiter (LA).⁷

⁴ Id. at 28.

⁵ Id. at 13.

⁶ Id. at 28.

⁷ Id. at 90; 99.

Meyer

Ruling of the LA

On October 28, 2008, the LA rendered a Decision⁸ finding High Capacity guilty of illegal dismissal. The LA observed that Alva was placed on floating status from October 21, 2007 to April 22, 2008, and was not given any assignment or duty after the lapse of six months. The failure of High Capacity to reinstate Alva after the lapse of his off-detail status on April 22, 2008, rendered it liable for illegal dismissal.⁹

Accordingly, the LA ordered Alva's reinstatement with the payment of backwages, computed six months after he was first placed on floating status up to the promulgation of its decision. Likewise, the LA awarded separation pay in lieu of reinstatement, equivalent to one month salary for every year of service. In addition, the LA awarded attorney's fees equivalent to ten percent (10%) of the total monetary award, finding that Alva was constrained to hire the services of counsel to protect his rights and interests.

Aggrieved, High Capacity filed an appeal before the National Labor Relations Commission (NLRC).¹⁰

Ruling of the NLRC

On December 8, 2009, the NLRC modified the earlier ruling of the Labor Arbiter.¹¹ The NLRC found that Alva was dismissed for just cause, as he was caught sleeping while on duty. However, the NLRC noted that High Capacity failed to observe procedural due process in effecting Alva's dismissal from employment. Accordingly, the NLRC deleted the award of backwages and separation pay, and instead ordered the payment of nominal damages in addition to Alva's monetary claims. The NLRC maintained the award of attorney's fees. The dispositive portion of the NLRC decision reads:

WHEREFORE, premises considered, the Decision is MODIFIED. Respondents are ordered: (1) to pay Complainant the amount of P30,000.00 by way of nominal damages; (2) to pay the Complainant the aggregate amount of P52,890.00 representing his holiday pay, service incentive leave pay and 13th month pay; (3) to pay Complainant an amount equivalent to ten (10%) percent of the judgment award, as and for attorney's fees.

SO ORDERED.¹²

⁸ Rendered by LA Joel S. Lustria; id. at 235-242.

⁹ Id. at 239.

¹⁰ Id. at 243-254.

¹¹ Id. at 68-78.

¹² Id. at 77-78.



Dissatisfied with the ruling of the NLRC, both parties filed their respective Motions for Reconsideration.

In his Motion for Reconsideration,¹³ Alva claimed that the NLRC gravely abused its discretion in modifying the decision of the LA by deleting the awards of backwages and separation pay. Alva maintained that he was entitled to backwages as a recompense for the earnings he lost due to his illegal dismissal.

On the other hand, High Capacity averred that the NLRC's award of nominal damages amounting to Thirty Thousand Pesos (Php 30,000.00), effectively forbid the imposition of any other damages. In this regard, High Capacity argued that the award of Fifty Two Thousand Eight Hundred Ninety Pesos (Php 52,890.00), which represented Alva's holiday pay, service incentive leave pay and 13th month pay, partook the nature of actual damages that may no longer be imposed. In addition, High Capacity prayed for the deletion of attorney's fees, there being no justification for its award. High Capacity stressed that the award of attorney's fees is an exception, rather than the general rule.¹⁴

On March 30, 2010, the NLRC issued a Resolution¹⁵ partially granting High Capacity's Motion for Reconsideration by deleting the award of attorney's fees in favor of Alva. The NLRC found no basis to award attorney's fees considering that Alva's dismissal from employment was justified. As such, the NLRC opined that no bad faith may be imputed against High Capacity.¹⁶

Dissatisfied with the ruling, both parties filed separate Petitions for *Certiorari* before the CA.¹⁷ The two petitions were consolidated. One of the issues raised before the CA was the propriety of the deletion of the award of attorney's fees.¹⁸

Ruling of the CA

On February 24, 2012, the CA rendered the assailed Decision.¹⁹ The CA held that Alva was constructively dismissed, when he was placed on floating status for more than six months. The unreasonable length of time that Alva was not given a new assignment inevitably resulted in his constructive dismissal.²⁰ Additionally, the CA observed that High Capacity

¹³ Id. at 309-315.

¹⁴ Id. at 316-322.

¹⁵ Id. at 80-86.

¹⁶ Id. at 85.

¹⁷ Id. at 47-65.

¹⁸ Id. at 30.

¹⁹ Id. at 26-42.

²⁰ Id. at 36.

Meyer

failed to comply with procedural due process requirements in effecting Alva's dismissal.²¹

Accordingly, the CA ordered the payment of backwages, computed from the time Alva's compensation was withheld up to the finality of the Court's decision. Acceding to Alva's request not to be reinstated, the CA awarded separation pay in lieu of reinstatement.²² Likewise, the CA granted Alva's claims for holiday pay, service incentive leave pay and 13th month pay. However, the CA deleted the award of attorney's fees noting that Alva was represented by the PAO.²³

The dispositive portion of the assailed decision reads:

WHEREFORE, premises considered, the assailed Decision dated December 8, 2009 rendered by the [NLRC] in NLRC LAC No. 12-004020-08 and its Resolution dated March 30, 2010 issued in the same case are hereby VACATED and SET ASIDE and another judgment entered as follows:

1. Declaring the dismissal of Joselito A. Alva to be illegal and consequently, HCSFI and Armando Villanueva are directed to pay Mr. Alva his separation pay, backwages and monetary claims constituting holiday pay, service incentive leave pay and 13th month pay;
2. Dismissing the claim of Joselito A. Alva for attorney's fees; and
3. The [LA] of origin is DIRECTED to compute the following with dispatch:
 1. Joselito A. Alva's backwages from the time his salary was withheld on April 22, 2008, up to the date of finality of this Decision;
 2. Joselito A. Alva's separation pay from the date he was employed on November 1, 2003 up to the date of finality of this Decision; and
 3. Joselito A. Alva's monetary claims comprising of holiday pay, service incentive leave pay and 13th month pay with due consideration to the corresponding changes in the daily salary rate received by him within the period of three years, that is, from 2005 until the year he filed the case for illegal dismissal on April 22, 2008.

The total monetary award shall earn legal interest from the date of the finality of this Decision until fully paid.²⁴

²¹ Id. at 37.

²² Id. at 39-40.

²³ Id. at 40.

²⁴ Id. at 41-42.

Meyer

Both parties filed their respective Motions for Reconsideration,²⁵ which were denied by the CA in its Resolution²⁶ dated August 30, 2012.

The Issue

Undeterred, Alva filed the instant Petition, praying for the modification of the assailed decision, on the following lone ground, to wit:

THE CA GRAVELY ERRED IN DELETING THE AWARD OF ATTORNEY'S FEES.²⁷

Alva asserts that High Capacity should be ordered to pay attorney's fees pursuant to Article 2208 paragraphs (2) and (7) of the Civil Code.²⁸ Alva asserts that he is entitled to attorney's fees as he was compelled to litigate to protect his interest by reason of the unjustified and unlawful termination of his employment.²⁹ The fact that he is represented by the PAO does not militate against his right to receive attorney's fees. Alva points out that Section 6 of Republic Act (R.A.) No. 9406³⁰ actually sanctions the award of attorney's fees in favor of the PAO in successfully litigated cases.³¹

On the other hand, High Capacity counters that the CA was correct in deleting the award of attorney's fees. High Capacity avers that the award of attorney's fees is warranted only in cases where the plaintiff was compelled to litigate or incur expenses to protect his interest due to the act or omission of the defendant. Alva, who was represented by the PAO, did not incur any expenses to protect his interest, as the former merely availed of the latter's free legal services. High Capacity relies on the Court's pronouncement in *Lambo v. NLRC*,³² which disallowed the award of attorney's fees to litigants who were represented by the PAO.³³ Similarly, High Capacity points out that the award of attorney's fees in favor of Alva was bereft of any factual,

²⁵ Id. at 348-350; 351-363.

²⁶ Id. at 44-46.

²⁷ Id. at 18.

²⁸ Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

x x x x

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

x x x x

(7) In actions for the recovery of wages of household helpers, laborers and skilled workers[.]

x x x x

²⁹ *Rollo*, p. 18.

³⁰ AN ACT REORGANIZING AND STRENGTHENING THE PUBLIC ATTORNEY'S OFFICE (PAO), AMENDING FOR THE PURPOSE PERTINENT PROVISIONS OF EXECUTIVE ORDER NO. 292, OTHERWISE KNOWN AS THE "ADMINISTRATIVE CODE OF 1987", AS AMENDED, GRANTING SPECIAL ALLOWANCE TO PAO OFFICIALS AND LAWYERS, AND PROVIDING FUNDS THEREFOR. Approved on March 23, 2017.

³¹ *Rollo*, p. 19.

³² 375 Phil. 855 (1999).

³³ *Rollo*, p. 498.

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legal and equitable justification.³⁴ Finally, High Capacity asserts that the award of attorney's fees under Article 2208 of the Civil Code is discretionary on the courts. This being so, the CA's refusal to award attorney's fees must thus be respected.

Ruling of the Court

The petition is impressed with merit.

It must be noted at the outset that the only issue submitted for the Court's resolution is the propriety of the deletion of the award of attorney's fees. There remains no issue regarding the finding of illegal dismissal, thereby rendering all pronouncements on the matter of illegal dismissal final.

The Concept of Attorney's Fees in Labor Cases

Essentially, there are two commonly accepted concepts of attorney's fees – the ordinary and extraordinary. On the one hand, in its ordinary concept, an attorney's fee is the reasonable compensation paid by the client to his lawyer in exchange for the legal services rendered by the latter. The compensation is paid for the cost and/or results of the legal services, as agreed upon by the parties or as may be assessed by the courts. On the other hand, as an extraordinary concept, an attorney's fee is deemed an indemnity for damages ordered by the court to be paid by the losing party to the winning party. In labor cases, attorney's fees partake of the nature of an extraordinary award granted to the victorious party as an indemnity for damages. As a general rule, it is payable to the client, not to his counsel, unless the former agreed to give the amount to the latter as an addition to, or part of the counsel's compensation.³⁵

Notably, Article 111 of the Labor Code sanctions the award of attorney's fees in cases of the unlawful withholding of wages, wherein the culpable party may be assessed attorney's fees equivalent to ten percent (10%) of the amount of wages recovered.³⁶ The amount of attorney's fees shall not exceed ten percent (10%) of the total monetary award, and the fees may be deducted from the amount due the winning party.³⁷

³⁴ Id.

³⁵ *Kaisahan at Kapatiran ng mga Manggagawa at Kawani sa MWC-East Zone Union, et al. v. Manila Water Co., Inc.*, 676 Phil. 262, 275 (2011), citing *PCL Shipping Philippines, Inc. v. NLRC*, 540 Phil. 65, 84 (2006).

³⁶ Article 111. *Attorney's fees.*

In cases of unlawful withholding of wages, the culpable party may be assessed attorney's fees equivalent to ten percent of the amount of wages recovered.

It shall be unlawful for any person to demand or accept, in any judicial or administrative proceedings for the recovery of wages, attorney's fees which exceed ten percent of the amount of wages recovered.

³⁷ Omnibus Rules to Implement the Labor Code of the Philippines, Book III, Rule VIII, Section 11.



In addition, Article 2208 of the Civil Code allows the award of attorney's fees in the following instances, to wit:

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

- (1) When exemplary damages are awarded;
- (2) **When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;**
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) **In actions for the recovery of wages of household helpers, laborers and skilled workers;**
- (8) **In actions for indemnity under workmen's compensation and employer's liability laws;**
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) **In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.**

In all cases, the attorney's fees and expenses of litigation must be reasonable. (Emphasis Ours)

To recapitulate, both the Labor Code and the Civil Code provide that attorney's fees may be recovered in the following instances, namely, (i) in cases involving the unlawful withholding of wages;³⁸ (ii) where the defendant's act or omission has compelled the plaintiff to litigate with third persons or the plaintiff incurred expenses to protect his interest;³⁹ (iii) in actions for the recovery of wages of household helpers, laborers and skilled workers;⁴⁰ (iv) in actions for indemnity under workmen's compensation and employer's liability laws;⁴¹ and (v) in cases where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.⁴²

³⁸ LABOR CODE OF THE PHILIPPINES, Article 111.

³⁹ CIVIL CODE OF THE PHILIPPINES, Article 2208, Section 2.

⁴⁰ CIVIL CODE OF THE PHILIPPINES, Article 2208, Section 7.

⁴¹ CIVIL CODE OF THE PHILIPPINES, Article 2208, Section 8.

⁴² CIVIL CODE OF THE PHILIPPINES, Article 2208, Section 11.

Meyer

In a *catena* of cases, the Court awarded attorney's fees in favor of illegally dismissed employees who were compelled to file an action for the recovery of their lawful wages, which were withheld by the employer without any valid and legal basis.⁴³ A plain showing that the lawful wages were not paid without justification was sufficient to warrant an award of attorney's fees.⁴⁴

Moreover, "Article 111 is an exception to the declared policy of strict construction in the award of attorney's fees."⁴⁵ In fact, the general rule that attorney's fees may only be awarded upon proof of bad faith takes a different turn when it comes to labor cases. The established rule in labor law is that the withholding of wages need not be coupled with malice or bad faith to warrant the grant of attorney's fees under Article 111 of the Labor Code.⁴⁶ All that is required is that the lawful wages were not paid without justification, thereby compelling the employee to litigate.⁴⁷

Thus, based on the foregoing laws and jurisprudence, it becomes all too apparent that Alva, whose wages and monetary benefits were unlawfully withheld, is indeed entitled to an award of attorney's fees.

The Availment of Free Legal Services Does Not Foreclose an Award of Attorney's Fees

In the case at bar, the CA deleted the award of attorney's fees on the simple pretext that Alva was represented by the PAO.

The CA was mistaken.

Needless to say, in addition to the fact that attorney's fees partake of an indemnity for damages awarded to the employee, there is nothing that prevents Alva and the PAO from entering into an agreement assigning attorney's fees in favor of the latter. It must be noted that in 2007, Congress passed R.A. No. 9406 inserting new sections in Chapter 5, Title III, Book IV of Executive Order No. 292 (E.O. 292), or the Administrative Code of 1987. R.A. No. 9406 sanctions the receipt by the PAO of attorney's fees, and provides that such fees shall constitute a trust fund to be used for the special allowances of their officials and lawyers, *viz.*:

⁴³ *Kaisahan at Kapatiran ng mga Manggagawa at Kawani sa MWC-East Zone Union and Eduardo Borela v. Manila Water Company, Inc.*, supra note 35, at 85.

⁴⁴ Id.

⁴⁵ *Lorenzo T. Tangga-an v. Philippine Transmarine Carriers, Inc. et al.*, 706 Phil. 339, 340 (2013).

⁴⁶ Id.

⁴⁷ Id.

Meyer

SEC. 6. New sections are hereby inserted in Chapter 5, Title III, Book IV of Executive Order No. 292, to read as follows:

x x x x

SEC. 16-D. *Exemption from Fees and Costs of the Suit.* - The clients of the PAO shall [sic] exempt from payment of docket and other fees incidental to instituting an action in court and other quasi-judicial bodies, as an original proceeding or on appeal.

The costs of the suit, attorney's fees and contingent fees imposed upon the adversary of the PAO clients after a successful litigation shall be deposited in the National Treasury as trust fund and shall be disbursed for special allowances of authorized officials and lawyers of the PAO.⁴⁸ (Emphasis Ours)

In fact, the matter of entitlement to attorney's fees by a claimant who was represented by the PAO has already been settled in *Our Haus Realty Development Corporation v. Alexander Parian, et al.*⁴⁹ The Court, speaking through Associate Justice Arturo D. Brion ruled that the employees are entitled to attorney's fees, notwithstanding their avilment of the free legal services offered by the PAO. The Court ruled that the amount of attorney's fees shall be awarded to the PAO as a token recompense to them for their provision of free legal services to litigants who have no means of hiring a private lawyer, to wit:

It is settled that in actions for recovery of wages or where an employee was forced to litigate and, thus, incur expenses to protect his rights and interest, the award of attorney's fees is legally and morally justifiable. Moreover, under the PAO Law or Republic Act No. 9406, the costs of the suit, attorney's fees and contingent fees imposed upon the adversary of the PAO clients after a successful litigation **shall be deposited in the National Treasury as trust fund and shall be disbursed for special allowances of authorized officials and lawyers of the PAO.**

Thus, the respondents are still entitled to attorney's fees. **The attorney's fees awarded to them shall be paid to the PAO. It serves as a token recompense to the PAO for its provision of free legal services to litigants who have no means of hiring a private lawyer.**⁵⁰ (Citations omitted and emphasis Ours)

Thus, Alva's avilment of free legal services from the PAO does not disqualify him from an award of attorney's fees. Simply put, Alva should be awarded attorney's fees notwithstanding the fact that he was represented by the PAO.

⁴⁸ Republic Act No. 9406 (2007).

⁴⁹ 740 Phil. 699 (2014).

⁵⁰ Id. at 720.



***The Respondent's Reliance on the
Case of Lambo v. NLRC is
Misplaced***

In *Lambo*,⁵¹ the Court disallowed the payment of attorney's fees on the ground that therein petitioners were represented by the PAO.

It must be noted that the *Lambo*⁵² case was decided on October 26, 1999, when the law that governed the PAO was still E.O. 292. Nothing in the provisions of E.O. 292 granted the PAO the right to an award of attorney's fees. In contrast, the later law R.A. No. 9406 allows the award of attorney's fees and clearly instructs that such attorney's fees shall constitute a special allowance for the PAO's officers and lawyers.

In fine, the award of attorney's fees is sanctioned in the case at bar, where there was an unlawful and unjustified withholding of wages, and as a result thereof, the employee was compelled to litigate to protect and defend his interests. This award is not prevented by the fact that the employee was represented by the PAO. After all, attorney's fees are awarded as a recompense against the employer who unjustifiably deprived the employee of a source of income he industriously worked for.

WHEREFORE, premises considered, the petition is **GRANTED**. The Decision dated February 24, 2012 of the Court of Appeals in CA-G.R. SP No. 114442 and CA-G.R. SP No. 114520 is **MODIFIED** in order to **INTEGRATE** the award of attorney's fees equivalent to ten percent (10%) of the total monetary award.

SO ORDERED.

Reyes
ANDRES B. REYES, JR.
Associate Justice

⁵¹ Supra note 32.

⁵² Id.

WE CONCUR:



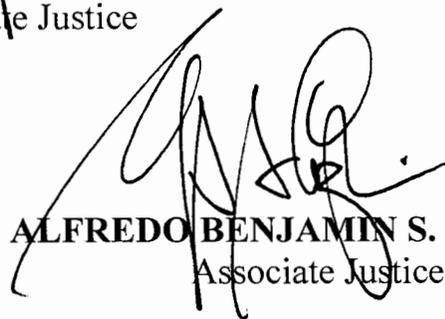
ANTONIO T. CARPIO
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice

(On Official Leave)

ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
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, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above 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