Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

ABBOTT LABORATORIES (PHILIPPINES), INC. and STEPHANE LANGEVIN, Petitioners,	**G.R. No. 229746**
	Present:
- versus -	VELASCO, JR., *J.*, Chairperson, BERSAMIN, LEONEN, MARTIRES,* and GESMUNDO, *JJ.*
MANUEL F. TORRALBA, ROSELLE P. ALMAZAR, and REDEL ULYSSES M. NAVARRO, Respondents.	Promulgated: October 11, 2017

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DECISION

VELASCO, JR., *J.*:

Nature of the Case

For consideration is the Petition for Review on Certiorari under Rule 45 of the Rules of Court, filed by Abbott Laboratories (Philippines), Inc. (Abbott), and Stephane Langevin (Langevin), seeking to nullify the April 26, 2016[1] Decision and the partial reversal of the January 25, 2017 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 136213. The challenged rulings held that petitioners' redundancy program was invalid, and that respondents were illegally dismissed from employment.

The Facts

Respondent Roselle P. Almazar (Almazar) was employed by Abbott as the National Sales Manager of its PediaSure Division, while respondents Redel Ulysses M. Navarro (Navarro) and Manuel F. Torralba (Torralba) were Regional Sales Managers of the same department. The further details of their employment can be summarized as follows:

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* On wellness leave.

[1] *Rollo*, pp. 49-62. Penned by Associate Justice Rodil V. Zalameda and concurred in by Associate Justices Sesinando E. Villon and Pedro B. Corales.

[2] Id. at 64-66.

Employee	Date of Hiring	Monthly Salary
Roselle P. Almazar	June 1, 1992	Php98,938.28
Manuel F. Torralba	July 4, 1988	Php109,645.34
Redel Ulysses M. Navarro	June 1, 1993	Php87,092.78

Sometime in November 2012, Abbott decided to integrate into one sales unit its PediaSure Division and its Medical Nutrition Division, both under the Specialty Nutrition Group. The decision was made after a study, entitled "*Specialty Nutrition Group Sales Force Restructure Philippines*," (Study) revealed that both departments have similar business models and sales execution methods. As a result of the merger, respondents' positions were declared redundant.[3]

On February 18, 2013, Abbott informed both the Department of Labor and Employment (DOLE) and respondents of the latter's termination effective March 22, 2013 due to redundancy. Thereafter, the company offered respondents the District Sales Manager positions, with a lower job rate and with duties and responsibilities different from that of a National or Regional Sales Manager.

Respondents rejected the offer and, on May 10, 2013, signed their respective Deeds of Waiver, Release, and Quitclaim (Deeds)[4] after receiving the following amounts:

a. Torralba – PhP4,111,700.25 as separation pay and PhP549,022.33 as his last pay;
b. Navarro – PhP2,612,783.40 as separation pay and PhP440,070.62 as his last pay; and
c. Almazar – PhP3,116,555.82 as separation pay.

On September 20, 2013, respondents filed a complaint for illegal dismissal on the ground that Abbott allegedly did not observe the criteria of preference of status, efficiency, and seniority in determining who among its redundant employees are to be retained. They also filed a claim for underpayment of separation pay and discrimination because other former employees who were terminated due to redundancy allegedly received 250% of their monthly salaries per year of service as separation pay, while they only received 150% thereof. Likewise included in the complaint was a claim for moral and exemplary damages and attorney's fees.

Abbott maintained that respondents were terminated for authorized cause; that respondents' functions as sales managers were redundant because they were already being performed by the Medical Nutrition Division; that respondents' separation pays were equivalent to one-and-a-half month pay

[3] Id. at 51.
[4] Id. at 168.

for every year of service plus three (3) months gratuity, which is more than what the Labor Code requires; that in addition to their separation pays, respondents were able to acquire their service vehicles at a big discount; and that respondents voluntarily signed the Deeds.

Ruling of the Labor Arbiter

On February 4, 2014, Labor Arbiter Madjayran H. Ajan rendered a Decision[5] holding that respondents were illegally dismissed, and granted the complaint thusly:

> WHEREFORE, premises considered, complainants were illegally terminated and respondent Abbott Laboratories is hereby directed as follows:
>
> 1. To reinstate complainants to their former positions without loss of seniority rights and benefits within ten (10) days from receipt hereof and to full backwages from the time they were dismissed until finality of this decision, which as of this date, [are] computed as follows:
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> Backwages:
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> a. Roselle P. Almazar – ₱990,000.00
> b. Manuel F. Torralba – ₱1,096,453.40
> c. Redel Ulysses M. Navarro – ₱870,927.80
>
> 2. To pay moral damages of ₱500,000.00 and exemplary damages of ₱200,000.00 or a total of ₱800,000.00 (sic) to each complainants (sic);
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> 3. To pay attorney's fees in the amount equivalent to 10% of the total judgment award.
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> Other claims are dismissed for lack of merits (sic).
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> SO ORDERED.[6]

According to the Labor Arbiter, Abbott failed to overcome the burden of proving that the adoption and implementation of the redundancy program was not in violation of law, and that it was not attended by malice or arbitrariness. The Labor Arbiter found wanting the evidence presented to establish that Abbott followed the required preference criteria of status, efficiency, and proficiency in determining who among the employees are going to be retained. There being no job evaluation conducted to gauge how the allegedly redundant employees would fare against the criteria, the Labor Arbiter deemed that respondents were arbitrarily and illegally dismissed. Moreover, the Labor Arbiter ruled that the execution of the Deeds did not bar respondents from contesting the validity of their termination.

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[5] Id. at 80-85.
[6] Id. at 85.

Aggrieved, Abbott appealed the Labor Arbiter's Decision to the National Labor Relations Commission (NLRC). Simultaneously therewith, and in compliance with the Labor Arbiter's order of reinstatement, petitioners furnished respondents with Return to Work Notices[7] directing them to personally appear for work. In the same month, respondents discussed with petitioners the terms of the employment that the former would be returning to. However, respondents rejected the offer of reinstatement on the ground that the proposed positions were not equivalent to the ones they were previously occupying. It also appears that the offer was preconditioned on the respondents' returning the amounts they previously received when they executed the Deeds.

Ruling of the NLRC

On May 20, 2014, the NLRC promulgated its Decision[8] reversing the Labor Arbiter's findings in the following wise:

> **WHEREFORE**, upon the premises, the appealed Decision dated 4 February 2014 of Labor Arbiter Madjayran H. Ajan is **REVERSED** and **SET ASIDE**. In lieu thereof, judgment is hereby rendered **DISMISSING** the Complaint for lack of merit.
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> **SO ORDERED.**[9]

The NLRC was in agreement with the Labor Arbiter that Abbott failed to prove that respondents' positions were superfluous or unnecessary. However, the NLRC nevertheless ruled that the Deeds precluded them from claiming that they were illegally dismissed. It then affirmed its Decision through its June 23, 2014 Resolution[10] denying petitioners' motion for reconsideration therefrom. Thus, respondents elevated the case to the CA on *certiorari*.

Ruling of the CA

On April 26, 2016, the appellate court rendered the assailed Decision reinstating, with modification, the ruling of the Labor Arbiter, *viz*:

> **WHEREFORE**, premises considered, the instant Petition for Certiorari is hereby **GRANTED.** Accordingly, the assailed Decision dated 20 May 2014 and **RESOLUTION** dated 23 June 2014 of the National Labor Relations Commission are hereby **ANNULLED** and **SET ASIDE** and the Decision of the Labor Arbiter dated 04 February 2014 is **REINSTATED**, with the **MODIFICATION** that backwages are to be computed from the time the petitioners were illegally dismissed up to their actual reinstatement.

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[7] Id. at 472-477.
[8] Id. at 68-75.
[9] Id. at 74-75.
[10] Id. at 77-78.

> In consonance with the prevailing jurisprudence, the monetary judgment due to the petitioners shall earn legal interest at the rate of six percent (6%) per annum from finality of the Decision until fully satisfied.
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> **SO ORDERED.**[11]

In justifying its ruling, the CA noted first that the Labor Arbiter and the NLRC are in concurrence that there was no valid redundancy program because Abbott failed to prove one of its requisites - that it used a fair and reasonable criteria in the selection of the employees who will be dismissed. Thus, as the ground for termination of employment was illegal, the Deeds signed by respondents could not also be valid, vitiated as they were by either mistake or fraud. With the annulment of the Deeds, respondents are then entitled to reinstatement, so the CA held.

Petitioners timely moved for reconsideration, assailing the consistent findings that the records are bereft of any evidence to prove that Abbott adopted a fair and reasonable criteria in the implementation of the redundancy program. They argued, on the main, that the criteria to be used in determining who among the employees are to be retained is part of management prerogative, and that they are not constrained to resolve the issue on retention based solely on its employees' status, efficiency, and proficiency.

A second set of Return to Work Notices,[12] dated June 9, 2016, was also furnished by petitioners to respondents, appointing them to positions equivalent to their old ones and allowing them to maintain their ranks in the company and receive the same salaries and benefits that they were previously receiving. In the letter addressed to Torralba, petitioner stated that his "district assignment shall be determined on the basis of a territory deliberation to be conducted by management on July 1, 2016, following the product refresher modules and evaluation that [Torralba] will undergo until June 30, 2016."[13]

The improved offers, however, were also flatly refused by Torralba and Navarro on July 12, 2016, and by Almazar on July 18, 2016.[14] Respondents deemed the offer of reinstatement to be violative of the ruling of the Labor Arbiter, as upheld by the CA.[15] They averred that the District Sales Manager positions are not equivalent to their former ones and, hence, could not be considered as a valid offer of reinstatement. Payroll reinstatement should have then been carried out.

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[11] Id. at 61.
[12] Id. at 530-532.
[13] Id. at 533.
[14] Id. at 65.
[15] Id. at 534.

Petitioner, for its part, advised respondents that they can no longer be reinstated to their original posts since those were already abolished effective March 22, 2013. The company admitted that the Regional Sales Manager positions no longer exist, which is why it offered respondents the posts of District Sales Manager in lieu thereof. Petitioner added that respondents would have realized that they are equivalents had they perused the onboarding plan that it prepared upon their return to work. And anent respondents' claim of payroll reinstatement, petitioner claimed that, although the award of reinstatement is self-executory, the option to exercise actual reinstatement or payroll reinstatement belongs to the employer.[16]

On account of petitioners' earnest efforts to reinstate respondents to their former positions, albeit futile, they filed a Manifestation with Motion[17] on July 27, 2016 praying that respondents' entitlement to backwages be tolled up until the date of respondents' refusal.

Subsequently, on January 25, 2017, the CA resolved the pending incidents thusly:

> **WHEREFORE**, premises considered, private respondents' Motion for Reconsideration is hereby **DENIED**.
>
> As to the Manifestation with Motion filed by private respondents, the same is **GRANTED**. Accordingly, the award of backwages of Torralba and Navarro is computed from 22 March 2013 to 12 July 2016, while the backwages of Almazar is computed from 22 March 2013 to 18 July 2016.
>
> **SO ORDERED.**[18]

Hence, the instant recourse.

The Issues

In arguing for the reversal of the challenged rulings, petitioners assign to the CA the following errors:

I. THE COURT OF APPEALS ERRED IN AFFIRMING THE FINDING OF THE LABOR ARBITER AND THE NLRC THAT THE REDUNDANCY IMPLEMENTED BY PETITIONERS WAS INVALID.

II. THE COURT OF APPEALS ERRED IN REVERSING THE NLRC'S FINDING THAT PRIVATE RESPONDENTS VALIDLY EXECUTED QUITCLAIMS AFTER THEY WERE REDUNDATED.

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[16] Id. at 536-537.
[17] Id. at 1153-1166.
[18] Id. at 65.

III. THE COURT OF APPEALS ERRED IN AFFIRMING THE LABOR ARBITER'S AWARD OF FULL BACKWAGES TO PRIVATE RESPONDENTS.

IV. THE COURT OF APPEALS ERRED IN AFFIRMING THE LABOR ARBITER'S AWARD OF DAMAGES TO PRIVATE RESPONDENTS.[19]

Petitioners argue that the conclusion of the courts *a quo* – that the company allegedly did not utilize a substantive criteria in deciding who among its employees would be retained following its restructuring – is not supported by evidence on record. On the contrary, petitioners point to the Study, which recommended the streamlining of its processes to improve the delivery of its services and to save Php4,000,000.00 per annum. The company also insisted that determining who to redundate and who to retain are within the sphere of management prerogative that the Court cannot encroach on. Lastly, petitioners also maintain that the Deeds executed by respondents are valid, precluding the latter from filing a complaint for illegal dismissal.

Respondents filed their Comment to the petition, reiterating, on the main, the discussions of the Labor Arbiter and the CA.

The Court's Ruling

We deny the petition.

No fair and reasonable criteria was utilized in determining who among the employees are to be redundated

The burden of proving that the dismissal of the employees was for a valid and authorized cause rests on the employer. It is incumbent upon the petitioners to show by substantial evidence that the terminations of the employment of the respondents were validly made. Failure to discharge this duty would mean that the dismissal is illegal.[20]

In the controversy before Us, Abbott attempts to persuade the Court that the respondents' dismissal is justified under its redundancy program. Indeed, redundancy is a recognized authorized cause for validly terminating employment. This much is clear under Art. 298 (formerly Art. 283) of the Labor Code, *viz*:

> **Art. 283. Closure of establishment and reduction of personnel.** The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent

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[19] Id. at 20.

[20] *General Milling Corporation v. Viajar*, G.R. No. 181738, January 30, 2013, 689 SCRA 598, 612.

> losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher.

Redundancy exists where the services of an employee are in excess of what is reasonably demanded by the actual requirement of the enterprise.[21] For a valid implementation of a redundancy program, the employer must comply with the following requisites: (1) written notice served on both the employee and the DOLE at least one month prior to the intended date of termination; (2) payment of separation pay equivalent to at least one month pay or at least one month pay for every year of service, whichever is higher; (3) good faith in abolishing the redundant position; and (4) fair and reasonable criteria in ascertaining what positions are to be declared redundant.[22] The burden is on the employer to prove by substantial evidence the factual and legal basis for the dismissal of its employees on the ground of redundancy.[23] Substantial evidence, in turn, is defined as that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[24]

The Labor Arbiter, NLRC, and the CA are in unison in declaring that petitioner failed to establish compliance with the fourth requirement since Abbott did not gauge the redundant employees against the preference criteria of status, efficiency, and proficiency as required in *Golden Thread Knitting Industries, Inc. v. NLRC* (*Golden Thread*).[25] However, petitioners are correct in pointing out that the list of indices in *Golden Thread* is not exhaustive. Quoting the pertinent portion of the case:

> Furthermore, we have laid down the principle in selecting the employees to be dismissed, a fair and reasonable criteria must be used, **such as <u>but not limited to</u>**: (a) less preferred status (*e.g.*, temporary employee), (b) efficiency, and (c) seniority.[26] (emphasis added)

It was then erroneous for the courts *a quo* to have harped on the three indices as the basis for ruling that petitioner failed to comply with the fourth requirement. An integral portion of management prerogative is the adoption of the criteria against which the employees will be measured for purposes of implementing a redundancy program. Abbott may then resort to using other

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[21] *Caltex (Phils.), Inc. (now Chevron Phils. Inc.) v. NLRC*, 562 Phil. 167, 183 (2007).
[22] *SPI Technologies, Inc. v. Mapua*, G.R. No. 191154, April 7, 2014, 720 SCRA 743, 755-756.
[23] Supra note 21, at 183-184.
[24] *Tenazas v. R Villegas Taxi Transport*, G.R. No. 192998, April 2, 2014, 720 SCRA 467, 480-481.
[25] *Rollo*, p. 56; 364 Phil. 215 (1999), as cited in the CA Decision, p. 8.
[26] Id. at 228.

indicators in determining who will remain with the company upon downsizing its payroll.

In this case, Abbott attempted to justify the terminations based on the 2013 Study recommending the restructuring of the Sales Force of the Specialty Nutrition Group under which the PediaSure and Medical Nutrition Divisions used to belong. Based on the study, the Medical Nutrition Group sells six (6) products and accounts for 63% of the combined sales of the two divisions, whereas PediaSure only markets one (1) product with its sales comprising 37% of the total. Thus, petitioner claims that "*[the Medical Nutrition Group] clearly generates a larger share in the market in the Philippines, both for number of brands and sales, as compared to [the PediaSure Division]. Hence, if the two divisions under [the Specialty Nutrition Group] would be merged into one, it is both logical and reasonable for the structure of [the Medical Nutrition Group] to be retained by Abbott.*"[27]

On this point, We disagree with petitioner.

The data presented in the Study, by itself, does not satisfy the evidentiary requirement to prove that respondents' positions should be redundated. As found by the NLRC and the CA, the graphical presentations in the Study "are mere allegations and conclusions not supported by other evidence" that do not explain in detail why it considered respondents' positions superfluous or unnecessary.[28]

And while there may be basis for integrating the PediaSure Division and Medical Nutrition Division into one unit as demonstrated in the Study, there is no sufficient basis offered for retaining all the employees in one unit while dismissing those from the other. It may be that there are similarities in the functions and responsibilities attached to the positions in both divisions that resulted in superfluity, but determining who will occupy the newly-merged position is a different matter altogether. This required, on the part of the employer, an evaluation of not just the performance of the divisions, but of the individual employees who may be affected by the redundancy program.

Evidence that this job appraisal was actually conducted is severely wanting in the records of this case. Rather, Abbott relied on general averments about logic and reason to justify its choice of division to retain. Absent substantial evidence tending to prove that the employees that would have been affected by the merger of the two departments were measured against specific criteria, the termination of the redundated employees cannot be sustained. On the contrary, such terminations are products of caprice and

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[27] *Rollo*, p. 29.
[28] Id. at 57.

whimsy, and do not constitute a valid exercise of management prerogative beyond the Court's power of review.

Bad faith in implementing the redundancy program and the consequence thereof

To dispel any lingering doubt, we have invariably held in a plethora of cases that the employer's subsequent act of hiring additional employees is inconsistent with the termination on the ground of redundancy.[29] In this light, We find the observation of the Labor Arbiter quite telling:

> What puzzled this office is that respondents claimed that they offered complainants to apply for job openings for the opposition of district sales manager. Such offer only puts cloud to the wisdom and validity of the redundancy program as the essence of redundancy is that the existing manpower exceeds more than what is necessary in their operation, why did they open new jobs for sales manager.[30]

In the notice furnished by Abbott to the DOLE, the company declared that the reason for the redundancy program, affecting four (4) of its employees, is to reduce the company's manpower[31] by eliminating positions that were allegedly superfluous. However, this proffered justification is readily contradicted by the fact that the affected employees were offered newly-created District Sales Manager positions that were entitled to lower pay and benefits. To Our mind, the redundancy program is then a mere subterfuge to circumvent respondents' right to security of tenure. Hence, just as uniformly found by the Labor Arbiter, NLRC, and the CA, the redundancy program cannot be considered lawful.

Consequently, the Deeds signed by the respondents could not therefore be deemed valid, premised as they were on an invalid termination. The case of *Philippine Carpet Manufacturing Corporation v. Tagyamon* (*Philippine Carpet*)[32] is illustrative on this point.

In the said case, the Court listed three specific instances wherein a waiver cannot estop a terminated employee from questioning the validity of his or her dismissal, to wit: (1) the employer used fraud or deceit in obtaining the waivers; (2) the consideration the employer paid is incredible and unreasonable; or (3) the terms of the waiver are contrary to law, public order, public policy, morals, or good customs or prejudicial to a third person with a right recognized by law.[33] Verily, before the Court can even consider the validity of the waiver, the legality of the termination itself should be able

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[29] See *Caltex (Phils.), Inc. (now Chevron Phils. Inc.) v. NLRC*, supra note 21, and *San Miguel Corporation v. Del Rosario*, 513 Phil. 740 (2005).

[30] *Rollo*, p. 84.

[31] Id. at 441.

[32] G.R. No. 191475, December 11, 2013, 712 SCRA 489.

[33] Id at. 506, citing *Quevedo v. Benguet Electric Cooperative, Inc.*, 599 Phil. 438, 451 (2009).

to withstand judicial scrutiny. Should the Court find that either of the carved exceptions is attendant, the dismissed employee cannot be deemed barred from contesting the validity of the termination.

In the extant case, Abbott's bad faith in implementing the redundancy program places it squarely under the first recognized exception. For perspective, Abbott had already decided to sever respondents' employment with the company. Faced with no other option than to sign the Deeds, respondents acceded to the terms of petitioners' proposal. The Deeds, however, could not automatically be taken at face value to preclude respondents from asserting their right to security of tenure, and neither would their acceptance of the benefits thereunder automatically operate as the full satisfaction of their claims. To elucidate:

> **As the ground for termination of employment was illegal, the quitclaims are deemed illegal as the employees' consent had been vitiated by mistake or fraud**. The law looks with disfavor upon quitclaims and releases by employees pressured into signing by unscrupulous employers minded to evade legal responsibilities. The circumstances show that petitioner's misrepresentation led its employees, specifically respondents herein, to believe that the company was suffering losses which necessitated the implementation of the voluntary retirement and retrenchment programs, and eventually the execution of the deeds of release, waiver and quitclaim.[34] (emphasis added)

That the respondents are educated individuals who were occupying supervisory positions is immaterial. The Court has allowed supervisory employees to seek payment of benefits and a manager to sue for illegal dismissal even though, for a consideration, they executed deeds of quitclaims releasing their employers from liability.[35] Such circumstance does not make them any less susceptible to financial offers, faced as they were with the prospect of unemployment. Economic necessity constrained them to accept petitioners' monetary offer and sign the deeds of release, waiver and quitclaim.[36]

Respondents' entitlement to monetary awards

The right of employees to security of tenure, as enshrined under Art. XIII, Sec. 3 of the Constitution, is further guarded by Art. 294 (formerly Art. 279) of the Labor Code, which states:

> **Art. 294. Security of tenure.** In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of

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[34] Id.
[35] Id at. 506-507, citing *Ariola v. Philex Mining Corp.*, 503 Phil. 765, 780 (2005)
[36] Id.

> allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

As can be gleaned, employees who are illegally dismissed are entitled to full backwages, inclusive of allowances and other benefits, computed from the time their actual compensation was withheld from them up to the time of their actual reinstatement. But if reinstatement is no longer possible, the backwages shall be computed from the time of their illegal termination up to the finality of the decision.[37]

Nevertheless, jurisprudence extrapolated from this provision instructs that separation pay may be awarded to an illegally dismissed employee in lieu of reinstatement. Over time, the following reasons have been advanced by the Court for allowing this alternative remedy: that reinstatement can no longer be effected in view of the long passage of time or because of the realities of the situation; or that it would be 'inimical to the employer's interest;' or that reinstatement may no longer be feasible; or, that it will not serve the best interests of the parties involved; or that the company would be prejudiced by the workers' continued employment; or that it will not serve any prudent purpose as when supervening facts have transpired which make execution on that score unjust or inequitable or, to an increasing extent, due to the resultant atmosphere of 'antipathy and antagonism' or 'strained relations' or 'irretrievable estrangement' between the employer and the employee.[38]

Here, the CA tolled the respondents' entitlement to backwages up until the date respondents refused Abbott's offer to return to work in July 2016. To the CA, respondents had effectively foregone their right to be restored to their former posts when they chose to retain the sums they received upon execution of the Deeds, despite the order of reinstatement from the courts.

Regrettably, this Court cannot sustain the CA's finding.

Respondents' rejection of Abbott's offer of reinstatement cannot be treated as a waiver of the right to be so reinstated nor as opting to receive separation pay in lieu thereof, simply because the positions offered to them are different from those they previously occupied. It is, therefore, not the "actual reinstatement" contemplated under the Labor Code. A perusal of the second set of Return to Work Orders addressed to the respondents readily evinces that, although the respondents would be receiving the same compensations as before, they would be performing functions different from their prior posts. This was even admitted by the company when it attempted

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[37] *Session Delights Ice Cream and Fastfoods v. Court of Appeals (Sixth Division)*, G.R. No. 172149, February 8, 2010, 612 SCRA 10, 24-25.

[38] *Emeritus Security and Maintenance Systems, Inc. v. Dailig*, G.R. No. 204761, April 2, 2014, 720 SCRA 572, 579-580.

to justify placing them as District Sales Managers by saying that their erstwhile positions have already been abolished.

Such feeble attempt must necessarily fail. Although the Return to Work Orders state that respondents would be entitled to the same benefits they used to receive, there was no proof that the functions they will be performing are the equivalents of what they used to perform. Petitioners' reply to the respondents' rejection mentioned an onboarding plan that would have established the similarities between the two posts, but no copy of the supposed plan was ever attached to the records of this case. There is then no basis for this Court to rule that the District Sales Manager jobs offered to respondents are so substantially similar to the National and Regional Sales Manager positions they previously occupied, that the rejection of the offer could have tolled the accrual of backwages. Following the general rule, backwages shall be computed from the time of their illegal termination up to actual reinstatement, which have not yet been effected in this case.

It does not escape the Court's attention, however, that the rulings of the tribunals *a quo* are silent as to the treatment of the amount of separation pay respondents already received. Hence, We rule herein that such amounts should be considered as partial satisfaction of the award for backwages, and should consequently be credited therefrom.[39]

Anent the award of moral and exemplary damages to each respondent in the amounts of PhP500,000.00 and PhP200,000.00, respectively, the Court deems such sums to be excessive. A downward modification of the award for moral and exemplary damages to PhP100,000.00 and P50,000.00, respectively, for every respondent is therefore proper. Meanwhile, the award of attorney's fees at ten percent (10%) of the total monetary award and the imposition of the six percent (6%) legal interest computed from finality of judgment are hereby sustained.

WHEREFORE, premises considered, the petition is hereby **DENIED** for lack of merit. The April 26, 2016 Decision and the January 25, 2017 Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 136213 are hereby **AFFIRMED with MODIFICATION** as follows:

1. Petitioners are hereby ordered to reinstate respondents to their former positions without loss of seniority rights and benefits within ten (10) days from receipt hereof and to full backwages from the time they were dismissed until actual reinstatement;

2. To pay moral damages of ₱100,000.00 and exemplary damages of ₱50,000.00 or a total of ₱150,000.00 to each respondent;

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[39] *Emco Plywood Corporation v. Abelgas*, 471 Phil. 460 (2004).

3. To pay attorney's fees in the amount equivalent to ten percent (10%) of the total judgment award; and

4. To pay legal interest at the rate of six percent (6%) per annum of the total monetary award computed from finality of this Decision until full satisfaction thereof.

The case is hereby **REMANDED** to the National Labor Relations Commission for proper computation of the monetary awards, with the instruction that the amounts received by the respondents from petitioner as separation pay are to be deducted before determining the award for attorney's fees and the legal interest due.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

(On wellness leave)
SAMUEL R. MARTIRES
Associate Justice

ALEXANDER G. GESMUNDO
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

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

NOV 10 2017

MARIA LOURDES P. A. SERENO
Chief Justice