



SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**DOMINGA P. CABUG-OS, doing business under the name, Kem's Store,** G.R. No. 228719

Petitioner,

Present:

LEONEN, *J., Chairperson,*  
LAZARO-JAVIER,  
LOPEZ, M.\*,  
LOPEZ, J., and  
KHO, JR., *JJ.*

-versus-

**TERESITA JORTA ESPINA,**  
Respondent.

Promulgated:  
**AUG 08 2022**

X-----X

**DECISION**

**LEONEN, J.:**

Employees of barangay micro businesses and enterprises are entitled to all the protections the labor laws may provide. However, considering the minuscule profit-earning capacity of these businesses and their exemptions from the payment of minimum wage, labor tribunals must compute judgment awards in an equitable manner. Backwages and separation pay should be commensurate to the actual salaries received.

This Court resolves a Petition for Review on Certiorari<sup>1</sup> filed by Dominga P. Cabug-os (Cabug-os) assailing the Decision<sup>2</sup> and Resolution<sup>3</sup> of

\* On official leave.

<sup>1</sup> *Rollo*, pp. 25-43.

<sup>2</sup> Id. at 8-15. The July 28, 2016 Decision in CA-G.R. SP No. 139331 was penned by Associate Justice Jose C. Reyes, Jr. (now a retired Member of this Court) and concurred in by Associate Justices Stephen C. Cruz and Ramon Paul L. Hernando (now a Member of this Court) of the Fifth Division, Court of Appeals, Manila.

<sup>3</sup> Id. at 17. The December 9, 2016 Resolution in CA-G.R. SP No. 139331 was penned by Associate Justice Jose C. Reyes, Jr. (now a retired Member of this Court) and concurred in by Associate Justices Stephen

the Court of Appeals, which, in turn, affirmed the findings of the National Labor Relations Commission that Teresita Jorta Espina (Espina), the “*tindera*” of a sarisari store, was illegally dismissed and was entitled to the award of backwages, salary differentials, 13<sup>th</sup> month pay, separation pay, and attorney’s fees amounting to ₱678,804.69.

Cabug-os does business under Kem’s Sarisari Store at No. 3-F VM Townhouse, Nueve de Febrero Street, Barangay New Pleasant Hills, Mandaluyong City.<sup>4</sup>

Espina started working as a *tindera* at the store on April 10, 2010, with a salary of ₱2,500.00 a month. It was increased to ₱3,000.00 a month in 2011 and to ₱3,500.00 a month in 2012. She tended the store from 5:00 a.m. to 12:00 midnight on Monday to Sunday.<sup>5</sup>

Sometime in November 2012, Cabug-os advised Espina to take a leave of absence and just wait for Cabug-os to call for her to resume work. Espina called in December 2012 and January 2013 to inquire when she could return to work but alleged that Cabug-os did not answer her calls.<sup>6</sup>

In February 2013, Espina went to the store and found that there was already a new *tindera*. She alleged that she was also told that her services were no longer needed. Hence, Espina filed a complaint for illegal dismissal, underpayment of salary, and non-payment of benefits with the labor arbiter.<sup>7</sup>

Cabug-os argued before the labor arbiter that Espina was not dismissed but was asked to wait until the construction of the stockroom was finished. She also alleged that since she only employs two people as *tindera*, Espina was not entitled to her money claims because her business was exempt from the payment of minimum wage.<sup>8</sup>

The labor arbiter found that Espina was illegally dismissed and was awarded ₱10,000.00 as separation pay. All other money claims were dismissed.<sup>9</sup>

Espina appealed the labor arbiter’s failure to award her backwages and money claims.<sup>10</sup>

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C. Cruz and Ramon Paul L. Hernando (now a Member of this Court) of the Fifth Division, Court of Appeals, Manila.

<sup>4</sup> Id. at 8.

<sup>5</sup> Id. at 9.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id. at 9.

<sup>10</sup> Id.

In its October 15, 2014 Decision,<sup>11</sup> the National Labor Relations Commission ruled that Espina was entitled to both backwages and reinstatement. She was also awarded salary differentials, 13<sup>th</sup> month pay, and attorney's fees. Since reinstatement was no longer feasible, Espina was awarded separation pay.<sup>12</sup> The dispositive portion read:

WHEREFORE, complainant's appeal is PARTLY GRANTED by ordering respondent to pay the following:

1. Backwages from the time she was illegally dismissed up to the finality of this Decision;
2. The correct separation pay reckoned one year after she was hired up to the finality of this Decision;
3. Salary differentials;
4. 13<sup>th</sup> month pay;
5. Attorney's fees equivalent to five percent (5%) of the total monetary award.

The Labor Arbiter's Decision denying the claim for moral and exemplary damages is SUSTAINED.

The Commission's Computation Unit is directed to compute the award that the complainant is entitled to as of the date of this Decision.

SO ORDERED.<sup>13</sup>

The total judgment award was ₱678,804.69, computed as follows:

Backwages	=P298,539.15
Separation Pay	=P 62,100.00
Salary Differential	=P256,524.45
13 <sup>th</sup> Month Pay	=P 29,317.06
	<u>P646,480.66</u>
Attorney's Fees (5% of the monetary award)	=P 32,324.03
<b>TOTAL AWARD</b>	<b>=P678,804.69.<sup>14</sup></b>

Cabug-os moved for reconsideration but was denied. Hence, she filed a Petition for Certiorari before the Court of Appeals,<sup>15</sup> arguing for the first

<sup>11</sup> The Decision of the NLRC is not attached to the Petition.

<sup>12</sup> *Rollo*, p. 9.

<sup>13</sup> *Id.* at 9-10.

<sup>14</sup> *Id.* at 10.

<sup>15</sup> *Id.*

time that Espina's notice of partial appeal to the National Labor Relations Commission was defective since it lacked the proper verification. She also asserted that Espina was not entitled to her money claims since her business was exempt from the payment of minimum wage.<sup>16</sup>

In its July 28, 2016 Decision,<sup>17</sup> the Court of Appeals denied the Petition. According to the Court of Appeals, technical rules of procedure were not binding on proceedings before the National Labor Relations Commission.<sup>18</sup>

The Court of Appeals also found that exemptions to the payment of minimum wage are not automatic and must have the approval of the Regional Tripartite Wages and Productivity Board. Since Cabug-os has not shown any evidence that she applied and was granted the exemption, Espina was entitled to her money claims.<sup>19</sup>

The Court of Appeals further found that Cabug-os cannot use her Barangay Micro Business Establishment Certificate of Authority to justify Espina's below minimum wage salary since the Certificate was only issued on June 24, 2013, or before Espina's dismissal on November 18, 2012.<sup>20</sup>

Cabug-os filed a Motion for Reconsideration, but it was denied in a Resolution<sup>21</sup> dated December 9, 2016.

Hence, Cabug-os filed this Petition.<sup>22</sup>

Petitioner argues that respondent's appeal before the National Labor Relations Commission was never perfected since it lacked the proper verification.<sup>23</sup> She insists that respondent was not a regular employee or even a *tindera* but was a *kasambahay* or domestic helper of a sarisari store since respondent's actual tasks were cleaning, wiping, and sweeping.<sup>24</sup> She contends that the monetary award of ₱678,804.69 is harsh, despotic, and confiscatory, considering that based on her Mayor's Permit for 2010, 2011, and 2012, it is six times the inventory value of her sarisari store and will most likely bankrupt her.<sup>25</sup>

Respondent counters that the Petition was dismissible at the outset for failure to attach material pleadings, considering the only attachment submitted

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<sup>16</sup> Id. at 10–11.

<sup>17</sup> Id. at 8–15.

<sup>18</sup> Id. at 11–12.

<sup>19</sup> Id. at 14.

<sup>20</sup> Id.

<sup>21</sup> Id. at 17.

<sup>22</sup> Id. at 25–43.

<sup>23</sup> Id. at 30–36.

<sup>24</sup> Id. at 36–38.

<sup>25</sup> Id. at 38–40.

was the Court of Appeals' Decision and Resolution.<sup>26</sup> She argues that her appeal before the National Labor Relations Commission was partly verified since it was signed in the presence of the notary public, who had also been her counsel at the time.<sup>27</sup>

Respondent asserts that she was a regular employee of petitioner, not a *kasambahay*, since she attended to petitioner's business rather than the comfort and convenience of petitioner's household.<sup>28</sup> She points out that petitioner consistently stated in her pleadings before the lower tribunals that she was a "*tindera*" of petitioner's sarisari store or a "saleslady" of her store who once had a quarrel with one of the customers.<sup>29</sup>

Respondent argues that her work of attending to customers was necessary and desirable in petitioner's business and that she had worked for more than one year, making her a regular employee entitled to the corresponding benefits.<sup>30</sup> She further contends that the judgment award was fair considering that the value stated in her Mayor's Permit was merely a tax base and there is no evidence to show the current valuation of her business.<sup>31</sup>

In rebuttal, petitioner claims that all relevant pleadings have already been forwarded to this Court by the Court of Appeals, by virtue of A.M. No. 11-9-4-SC, or the Efficient Use of Paper Rule.<sup>32</sup> She further stands her ground that the appeal before the National Labor Relations Commission was improperly verified,<sup>33</sup> that respondent was a *kasambahay* and not a *tindera*,<sup>34</sup> and that the amount of the judgment award would result in her loss of livelihood.<sup>35</sup>

For this Court's resolution are the following issues:

First, whether or not respondent Teresita Jorta Espina was a regular employee of petitioner Dominga P. Cabug-os; and

Second whether or not the monetary award to respondent Teresita Jorta Espina is harsh, despotic, and confiscatory.

Before delving into these, we must first resolve the preliminary issue of whether or not respondent's appeal before the National Labor Relations

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<sup>26</sup> Id. at 62-65.

<sup>27</sup> Id. at 68-69.

<sup>28</sup> Id. at 72.

<sup>29</sup> Id. at 73.

<sup>30</sup> Id. at 75.

<sup>31</sup> Id. at 77.

<sup>32</sup> Id. at 85.

<sup>33</sup> Id. at 86-87.

<sup>34</sup> Id. at 87-88.

<sup>35</sup> Id. at 88.

Commission was perfected despite the lack of proper verification.

## I

As pointed out by the Court of Appeals, petitioner failed to mention respondent's lack of proper verification before the National Labor Relations Commission. She also failed to mention it on her Motion for Reconsideration Based on Patent Errors and Supplemental Pleading Based on Newly Discovered Evidence to Motion for Reconsideration before the Commission or in her Petition for Certiorari before the Court of Appeals. Petitioner brought this issue for the first time only in her Memorandum before the Court of Appeals.<sup>36</sup>

In any case, the lack of proper verification in respondent's Notice of Partial Appeal to the National Labor Relations Commission does not constitute a fatal defect. Under Rule VII, Section 10(1) of the 2011 NLRC Rules of Procedure, technical rules of procedure are not binding on the Commission:

SECTION 10. *Technical Rules Not Binding.* – The rules of procedure and evidence prevailing in courts of law and equity shall not be controlling and the Commission shall use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process.

In any proceeding before the Commission, the parties may be represented by legal counsel but it shall be the duty of the Chairman, any Presiding Commissioner or Commissioner to exercise complete control of the proceedings at all stages.

On the other hand, a petition for review may be dismissed, as a general rule, if the essential pleadings and portions of the records are not attached to the Petition.<sup>37</sup> *Air Philippines v. Zamora*,<sup>38</sup> however, has already laid down the principles that govern this rule:

First, not all pleadings and parts of case records are required to be attached to the petition. Only those which are relevant and pertinent must accompany it. The test of relevancy is whether the document in question will support the material allegations in the petition, whether said document will make out a prima facie case of grave abuse of discretion as to convince the court to give due course to the petition.

Second, even if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned

<sup>36</sup> Id. at 11–12.

<sup>37</sup> RULES OF COURT, Rule 45, secs. 4 and 5.

<sup>38</sup> 529 Phil. 718 (2006) [Per J. Austria-Martinez, First Division].

judgment, it will suffice that only a certified true copy of the judgment is attached.

Third, a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required, or that it will serve the higher interest of justice that the case be decided on the merits.<sup>39</sup> (Citations omitted)

Under Rule 45, Section 4(d)<sup>40</sup> of the Rules of Court, a petitioner must attach “a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition.” The phrase “such other material portions of the record” does not specify the exact documents that must be attached; it only specifies that these documents “would support the petition.”

It was in petitioner’s best interest to attach all relevant pleadings and documents that could be relevant to her cause. If she believes that the Court of Appeals’ Decision and Resolution are sufficient to prove her allegations, then this Court will only consider what is stated in these documents. While her failure to attach other documents will not cause the outright dismissal of her Petition, she is considered to have waived her chance to provide further substantiation of her allegations.

## II

The issue of whether respondent was a *kasambahay* rather than a *tindera* is a factual issue that has already been addressed by the Labor Arbiter, the National Labor Relations Commission, and the Court of Appeals. Petitioner’s evidence before the Court of Appeals clearly states that respondent was a *tindera*. In Marilyn Alfaro’s Affidavit, she attested that petitioner employed two *tinderas*.<sup>41</sup> A neighbor, Jerian de la Cruz, stated that petitioner’s *tinderas* were “Ms. Teresita Espina at Marilyn P. Alfaro.”<sup>42</sup>

<sup>39</sup> Id. at 728.

<sup>40</sup> RULES OF COURT, Rule 45, sec. 4 provides:

SECTION 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42.

<sup>41</sup> *Rollo*, p. 13.

<sup>42</sup> Id. at 14.

There is no argument between the parties as to the existence of an employer-employee relationship between them. Petitioner initially argued before the Labor Arbiter that she did not dismiss the respondent but only told her that her employment would resume after the construction of her warehouse. In her Petition before this Court, however, petitioner appears to have abandoned this argument and proceeded instead to point out not that respondent did not deserve the monetary award but that the monetary award of ₱678,804.69 computed based on the minimum wage is “cruel, confiscatory, and extremely harsh.”<sup>43</sup> This, effectively, is petitioner’s admission that she indeed dismissed respondent without any valid cause.

In *Dee-Jay’s Inn and Café v. Rañeses*,<sup>44</sup> this Court discussed an alleged illegal dismissal in a micro business with informal working hours and minimal employees. While this Court found no illegal dismissal, the employee in that case was still entitled to separation pay. Thus, if there is a factual finding that there was illegal dismissal, backwages, separation pay, and other monetary awards would be justified.

Here, considering the Labor Arbiter, the National Labor Relations Commission, and Court of Appeals’ unanimous finding that respondent had been illegally dismissed, respondent was entitled to backwages and separation pay. The total judgment award, however, will need to be re-examined.

### III

A sarisari store is defined as an establishment “engaged in the sale of commodities, supplies, and articles that are ordinarily needed in a common household conducted on a small scale and in retail quantities only.”<sup>45</sup> They are “family-owned micro-groceries. . . routinely located within walking distance of each other, adjoining (or in) private homes near areas of heavy foot traffic.”<sup>46</sup> The proliferation of these stores and its small-scale retail system not only serves to provide convenient grocery items to the neighborhood but also caters to those who may not be able to afford the regular retail prices in large chain groceries.

As sarisari stores are family businesses, it almost never hires non-family members as employees as a cost-effective measure. Due to the familial

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<sup>43</sup> Id. at 38.

<sup>44</sup> 796 Phil. 574 (2016) [Per J. Leonardo-De Castro, First Division].

<sup>45</sup> Simeon G. Silverio, Jr., *The Neighborhood Sari-Sari Store*, THE PHIL POOR I-TWO MONOGRAPHS (No. 14), pp. 60–132, Institute of Philippine Culture, available at <[https://pssc.org.ph/wp-content/pssc-archives/Institute%20of%20Philippine%20Culture/Papers/The%20Phil%20PoorTwo%20Monographs%20\(No.%2014\)/The%20Neighborhood%20Sari-Sari%20Store.pdf](https://pssc.org.ph/wp-content/pssc-archives/Institute%20of%20Philippine%20Culture/Papers/The%20Phil%20PoorTwo%20Monographs%20(No.%2014)/The%20Neighborhood%20Sari-Sari%20Store.pdf)> (last accessed on August 4, 2022).

<sup>46</sup> Ty Matejowsky, *Convenience Store Pinoy: Sari-Sari, 7-Eleven, and Retail Localization in Contemporary Philippines*, PHILIPPINE QUARTERLY OF CULTURE AND SOCIETY, Vol. 35, No. 4 (2007), pp. 247–277 available at <<http://www.jstor.org/stable/29792624>> (last accessed on August 4, 2022).



relationship, these family members often work for little to no salary.<sup>47</sup> There are no fixed working hours, as store hours are often determined by the clientele, who may request to purchase items at random hours, like buying eggs early in the morning, or beer late at night.<sup>48</sup> The parameters of profit earning are blurred as the household's needs are sometimes culled from the store inventory, often with no record keeping.<sup>49</sup> The pricing of goods is flexible, and profitability depends on the storeowner's relationship with the customer. A close relationship with the owner can command a lower price for the goods. Even a storeowner's mood on that particular day can change the prices and the profits that can be earned.<sup>50</sup>

Due to its informal nature, sarisari stores, though income earning, were often loosely regulated. Government agencies, such as the Bureau of Internal Revenue, "tend to be lax in their dealings with sarisari stores making possible inaccurate payment of taxes and other dues. . . [which] seems to arise out of the view that a sarisari store is only a small family enterprise whose existence must be tolerated."<sup>51</sup> Republic Act No. 1180,<sup>52</sup> enacted in 1954, merely mandates that small retail enterprises, such as sarisari stores, are owned by Filipino citizens.<sup>53</sup> The Retail Trade Liberalization Act of 2000,<sup>54</sup> while opening the retail market to foreign participation, merely reiterates the prohibition of foreign-owned sarisari stores.<sup>55</sup> None of these laws, however, strictly mandate registration before a sarisari store's operation.

The latest and current attempt to regulate these retail establishments is the Barangay Micro Business Enterprises Act of 2002,<sup>56</sup> which seeks to integrate "those in the informal sector with the mainstream economy, through the rationalization of bureaucratic restrictions, the active granting of incentives and benefits[,] to generate much-needed employment and alleviate poverty."<sup>57</sup> Under the law, a barangay micro business enterprise is "any business entity or enterprise engaged in the production, processing or

<sup>47</sup> Ty Matejowsky, *Convenience Store Pinoy: Sari-Sari, 7-Eleven, and Retail Localization in Contemporary Philippines*, PHILIPPINE QUARTERLY OF CULTURE AND SOCIETY, Vol. 35, No. 4 (2007), pp. 247–277 available at <<http://www.jstor.org/stable/29792624>> (last accessed on August 4, 2022).

<sup>48</sup> Ty Matejowsky, *Convenience Store Pinoy: Sari-Sari, 7-Eleven, and Retail Localization in Contemporary Philippines*, PHILIPPINE QUARTERLY OF CULTURE AND SOCIETY, Vol. 35, No. 4 (2007), pp. 247–277 available at <<http://www.jstor.org/stable/29792624>> (last accessed on August 4, 2022).

<sup>49</sup> Simeon G. Silverio, Jr., *The Neighborhood Sari-Sari Store*, THE PHIL POOR I - TWO MONOGRAPHS (No. 14), pp. 60–132, Institute of Philippine Culture, <[https://pssc.org.ph/wp-content/pssc-archives/Institute%20of%20Philippine%20Culture/Papers/The%20Phil%20PoorTwo%20Monographs%20\(No.%2014\)/The%20Neighborhood%20Sari-Sari%20Store.pdf](https://pssc.org.ph/wp-content/pssc-archives/Institute%20of%20Philippine%20Culture/Papers/The%20Phil%20PoorTwo%20Monographs%20(No.%2014)/The%20Neighborhood%20Sari-Sari%20Store.pdf)> (last accessed on August 4, 2022).

<sup>50</sup> Simeon G. Silverio, Jr., *The Neighborhood Sari-Sari Store*, THE PHIL POOR I - TWO MONOGRAPHS (No. 14), pp. 60–132, Institute of Philippine Culture, <[https://pssc.org.ph/wp-content/pssc-archives/Institute%20of%20Philippine%20Culture/Papers/The%20Phil%20PoorTwo%20Monographs%20\(No.%2014\)/The%20Neighborhood%20Sari-Sari%20Store.pdf](https://pssc.org.ph/wp-content/pssc-archives/Institute%20of%20Philippine%20Culture/Papers/The%20Phil%20PoorTwo%20Monographs%20(No.%2014)/The%20Neighborhood%20Sari-Sari%20Store.pdf)> (last accessed on August 4, 2022).

<sup>51</sup> Simeon G. Silverio, Jr., *The Neighborhood Sari-Sari Store*, THE PHIL POOR I - TWO MONOGRAPHS (No. 14), pp. 60–132, Institute of Philippine Culture, <[https://pssc.org.ph/wp-content/pssc-archives/Institute%20of%20Philippine%20Culture/Papers/The%20Phil%20PoorTwo%20Monographs%20\(No.%2014\)/The%20Neighborhood%20Sari-Sari%20Store.pdf](https://pssc.org.ph/wp-content/pssc-archives/Institute%20of%20Philippine%20Culture/Papers/The%20Phil%20PoorTwo%20Monographs%20(No.%2014)/The%20Neighborhood%20Sari-Sari%20Store.pdf)> (last accessed on August 4, 2022).

<sup>52</sup> An Act to Regulate the Retail Business.

<sup>53</sup> Republic Act No. 1180 (1954), sec.1.

<sup>54</sup> Republic Act No. 8762 (2000).

<sup>55</sup> Republic Act No. 8762 (2000), sec.10.

<sup>56</sup> Republic Act No. 9178 (2002).

<sup>57</sup> Republic Act No. 9178 (2002), sec.2.

manufacturing of products or commodities, including agro-processing, trading and services, whose total assets including those arising from loans but exclusive of the land on which the particular business entity's office, plant, and equipment are situated, shall not be more than ₱3,000,000.00."<sup>58</sup>

Among the benefits granted by law to registered barangay micro business enterprises is the exemption from the payment of taxes and the coverage of the Minimum Wage Law:

SECTION 7. *Exemption from Taxes and Fees* – All BMBEs shall be exempt from tax for income arising from the operations of the enterprise.

The LGUs are encouraged either to reduce the amount of local taxes, fees and charges imposed or to exempt BMBEs from local taxes, fees and charges.

SECTION 8. *Exemption from the Coverage of the Minimum Wage Law* – The BMBEs shall be exempt from the coverage of the Minimum Wage Law: Provided, That all employees covered under this Act shall be entitled to the same benefits given to any regular employee such as social security and healthcare benefits.<sup>59</sup>

Considering a sarisari store's ubiquity and the State's recognition of the informality of its operations, it is baffling why the National Labor Relations Commission and the Court of Appeals would treat petitioner's sarisari store as it would any large-scale commercial enterprise. To award labor claims on this presumption would be unfair, unreasonable, and unconscionable.

This is not to say that employees of sarisari stores do not deserve fair treatment under our labor laws. Here, it is clear that respondent was illegally dismissed, and petitioner should be made liable for that illegality. The protection of labor, however, must be balanced with the protection of establishments whose clientele mainly consists of the working class and the urban poor. When awarding labor claims, the tribunal must also consider the type of establishment employing the laborer.

Here, petitioner registered for a Certificate of Authority as a barangay micro business enterprise only on June 24, 2013, or months after the filing of the illegal dismissal case,<sup>60</sup> presumably to take advantage of the privileges of the law.

The National Labor Relations Commission, however, computed respondent's backwages, salary differentials, 13<sup>th</sup> month pay, and separation

<sup>58</sup> Republic Act No. 9178 (2002), sec.3(a).

<sup>59</sup> Republic Act No. 9178 (2002).

<sup>60</sup> *Rollo*, p. 14.

pay from November 18, 2012 to December 19, 2014, based on the prevailing minimum wage. As a result, respondent was awarded a total of ₱678,804.69; an amount petitioner claims is six times the inventory value of her sarisari store.<sup>61</sup>

Considering that petitioner's store is a barangay micro business enterprise, as confirmed by her registration on June 24, 2013, and considering further the discussion on the informality of a sarisari store operation, petitioner is exempt from the payment of minimum wage. Thus, the judgment award should be recomputed as a matter of equity.

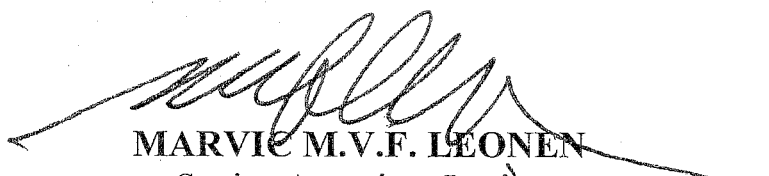
Respondent's money claims from November 11, 2012, should be at the rate of her last salary, or ₱3,500.00. Separation pay should be at the rate of one month salary for every year of service.<sup>62</sup> Salary differentials and attorney's fees should also be deleted.

Workers in the informal sector are no less deserving of protection than those in the formal sector. However, labor tribunals must always find a way to balance the rights and interests of even those that are often overlooked and underserved. It cannot expect a *tindahan* with minuscule profits to apply the same labor conditions as a multi-national corporation. The State's protection should not come at the expense of impoverishing those who rely on minuscule profits to get by.

**ACCORDINGLY**, the Petition is **PARTLY GRANTED**. The Court of Appeals' July 28, 2016 Decision and December 9, 2016 Resolution in CA-G.R. SP No. 139331 finding that respondent Teresita Jorta Espina was illegally dismissed are **SUSTAINED**. Petitioner Dominga P. Cabug-os is **ORDERED** to pay respondent her salaries from November 18, 2012 to December 19, 2014 at the rate of ₱3,500.00 per month, and separation pay of one (1) month salary for every year of service. All other money awards are **DELETED**.

This case is hereby **REMANDED** to the National Labor Relations Commission for the proper computation of the judgment award.


**SO ORDERED.**

  
MARVIC M.V.F. LEONEN  
Senior Associate Justice

<sup>61</sup> Id. at 38-40.

<sup>62</sup> *Dee-Jay's Inn and Café v. Rañeses*, 796 Phil. 574 (2016) [Per J. Leonardo-De Castro, First Division].

WE CONCUR:

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

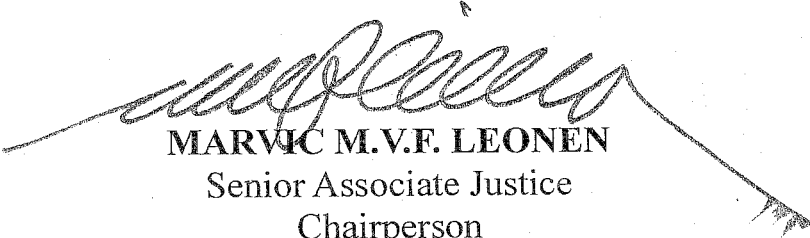
On official leave  
**MARIO V. LOPEZ**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

  
**ANTONIO T. KHO, JR.**  
Associate Justice

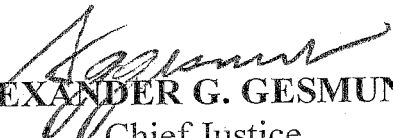
**ATTESTATION**

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.

  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice