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 SUPREME COURT
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SUPREME COURT OF THE PHILIPPINES
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SPECIAL SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Special Second Division, issued a Resolution dated **11 December 2019** which reads as follows:

¹G.R. No. 246698 - The Redsystems Company, Inc. v. Albert B. Agawin

X-----X

We resolve the Motion for Reconsideration (MR) of this Court's Resolution¹ dated July 17, 2019, which denied the Petition for Review on *Certiorari* filed by The Redsystems Company, Inc. (TRCI) assailing the Decision² dated October 2, 2018 and the Resolution³ dated April 3, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 145173.

In its motion before this Court, TRCI argues that Albert B. Agawin (Agawin) was validly dismissed for cause for willful breach of trust. In support thereof, it maintains that the minutes of the April 3, 2012 administrative hearing, which was offered as proof that Agawin told Erwin Eduarte (Eduarte) not to reset the gasoline pump in order to obtain money, already constitutes substantial evidence of Agawin's wrongdoing - which is the required quantum of evidence to determine the legality of an employee's dismissal from employment. Eduarte's testimony must be given credence in the absence of proof of any improper motive on his part to wrongfully implicate Agawin.

We deny the present motion.

The correctness of the lower court's appreciation of the evidence presented by the parties is a question of fact⁴ which as a general rule cannot be passed upon by this Court in Rule 45 petitions, especially when none of the recognized exceptions⁵ to the said rule exist. At any rate, TRCI's argument regarding the sufficiency of the minutes of the April 3, 2012 administrative hearing to support the legality of Agawin's dismissal was already passed upon by this Court in the Resolution subject of this MR. As we have stated:

TRCI takes exception to the CA's holding that the minutes does not contain Eduarte's signature as proof that he authenticated the contents of the

¹ *Rollo* (Vol. II), pp. 1040-1046.

² Penned by Associate Justice Samuel H. Gaerlan, with Associate Justices Edwin D. Sorongon and Rafael Antonio M. Santos, concurring; *id.* at 1012-1024.

³ *Id.* at 1038-1039.

⁴ See *Pascual v. Burgos*, 776 Phil. 167, 183 (2016).

⁵ The recognized exceptions listed in *Medina v. Asistio, Jr.* (269 Phil. 225, 232 [1990]) are as follows: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record. (Citations omitted)

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same. TRCI alleges that Agawin did not attach the second page of the minutes in his Petition for *Certiorari* where Eduarte's signature was affixed below the statement that he voluntarily went to the hearing and gave his statements. While it appears that the version of the minutes attached by Agawin in his Petition for *Certiorari* before the CA did not include the second page (which was attached by TRCI in its present petition), we find this insufficient to overturn the CA's ruling. *First*, even if we consider the minutes, this does not change the fact that no other evidence was presented by TRCI to prove that Agawin was involved in the fuel loading scheme. Its decision to terminate him was based on Eduarte's statements, which Agawin denied, and the CCTV footages which were shown to Agawin during the April 12, 2012 hearing. As observed by the CA, said CCTV footages were not even presented. *Second*, aside from his statements during the April 3, 2012 hearing, Eduarte's sworn statement or affidavit was also not presented. *Third*, the person who prepared the minutes was not stated in the same nor was he or she also presented.⁶ (Citations omitted)

Considering that TRCI has not forwarded substantial arguments to warrant a reversal of the Resolution under review, the present MR is denied with finality.

However, it appears that in our Resolution under review, a clerical error exists in the quoted *fallo* of the LA Decision as follows:

WHEREFORE, undersigned renders judgment:

1. Declaring that respondents illegally dismissed complainant;
2. Directing respondents to reinstate complainant to his former or equivalent position within ten (10) days from receipt of this Decision and to report compliance with this directive within the same number of days;
3. Directing respondents Coca-Cola and Redsystems to jointly and severally pay complainant partial backwages in the amount of **THREE HUNDRED THOUSAND THREE HUNDRED THIRTEEN SIXTY EIGHT PESOS & 79/100 Only (P313,368.79)**; and
4. Dismissing the other claims for lack of merit.

SO ORDERED.⁷

The Court takes this opportunity to rectify the said clerical error in order to accurately reflect the dispositive portion of the LA Decision as follows:

WHEREFORE, undersigned renders judgment:

1. Declaring that respondents illegally dismissed complainant;
2. Directing respondents to reinstate complainant to his former or equivalent position within ten (10) days from receipt of this Decision and to report compliance with this directive within the same number of days;

⁶ *Rollo* (Vol. II), pp. 1044-1045.

⁷ *Id.* at 1042.

3. Directing respondents Coca-Cola and Redsystems to jointly and severally pay complainant partial backwages in the amount of **THREE HUNDRED THIRTEEN THOUSAND THREE HUNDRED SIXTY EIGHT PESOS & 79/100 Only (₱313,368.79)**; and
4. Dismissing the other claims for lack of merit.

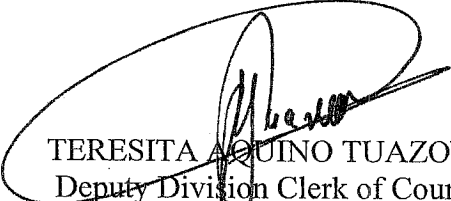
SO ORDERED.⁸

It must be clear, however, that the rectification of the said clerical error is being made to reflect the actual dispositive portion of the LA Decision, and in order to avoid confusion among the parties. By denying the present MR, the Court reiterates its previous ruling to affirm, with modification, the CA ruling which held TRCI solely liable for the amounts as computed by the LA on account of Agawin's illegal dismissal, and exonerated Coca Cola FEMSA Philippines, Inc.

WHEREFORE, the Motion for Reconsideration is **DENIED**. The Resolution dated July 17, 2019 is **AFFIRMED**. No further pleadings will be entertained. Let Entry of Judgment be issued.

SO ORDERED. ¹¹

Very truly yours,


 TERESITA AQUINO TUAZON
 Deputy Division Clerk of Court *Utch, 2/7*
 10 FEB 2020

CKC LAW FIRM (reg)
 Counsel for Petitioner
 Unit 305, Pacific Center Building
 San Miguel Avenue, Ortigas Center
 Pasig City

ALBERT B. AGAWIN (reg)
 Respondent
 Bgy. Buenavista, Magdalena
 4007 Laguna

NATIONAL LABOR RELATIONS
 COMMISSION (reg)
 PPSTA Building, Banawe Street
 cor. Quezon Avenue
 1100 Quezon City
 (NLRC SRAB-IV-07-06060-24-24-L)
 (NLRC LAC No. 07-001909-15)

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 Supreme Court, Manila

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 OFFICE OF THE REPORTER (x)
 Supreme Court, Manila

COURT OF APPEALS (x)
 Ma. Orosa Street
 Ermita, 1000 Manila
 CA-G.R. SP No. 145173

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⁸ *Rollo* (Vol. I), pp. 142-143.