Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NATIONAL UNION OF WORKERS IN HOTEL RESTAURANT AND ALLIED INDUSTRIES (NUWHRAIN-APL-IUF), PHILIPPINE PLAZA CHAPTER, Petitioner,	**G.R. No. 177524**
	Present:
- versus -	CARPIO, *J., Chairperson,* BRION, DEL CASTILLO, PEREZ, and PERLAS-BERNABE, *JJ.*
PHILIPPINE PLAZA HOLDINGS, INC., Respondent.	Promulgated: JUL 23 2014

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DECISION

BRION, *J.*:

We resolve the petition for review on *certiorari*,[1] challenging the January 31, 2007 decision[2] and the April 20, 2007 resolution[3] of the Court of Appeals *(CA)* in CA-G.R. SP No. 93698.

This CA decision reversed the July 4, 2005 decision[4] of the National Labor Relations Commission *(NLRC)* in NLRC NCR CA No. 031977-02 (NLRC NCR-30-05-02011-01) that in turn, reversed and set aside the April 30, 2002 decision[5] of the Labor Arbiter *(LA)*.

The LA dismissed the complaint for non-payment of service charges filed by petitioner National Union of Workers in Hotel Restaurant and Allied Industries (NUWHRAIN-APL-IUF), Philippine Plaza Chapter *(Union)*.

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1 *Rollo*, pp. 14-89.

2 Penned by Associate Justice Vicente Q. Roxas and concurred in by Associate Justices Josefina Guevarra-Salonga and Ramon R. Garcia, id. at 91-106.

3 Id. at 108.

4 Penned by Commissioner Angelita A. Gacutan, id. at 525-538.

5 Penned by Labor Arbiter Renaldo O. Hernandez, id. at 728-749.

The Factual Antecedents

The Union is the collective bargaining agent of the rank-and-file employees of respondent Philippine Plaza Holdings, Inc. *(PPHI).*

On November 24, 1998, the PPHI and the Union executed the "Third Rank-and-File Collective Bargaining Agreement as Amended"[6] *(CBA)*. The CBA provided, among others, for the collection, by the PPHI, of a ten percent (10%) service charge on the sale of food, beverage, transportation, laundry and rooms. The pertinent CBA provisions read:

> SECTION 68. COLLECTION. The HOTEL shall continue to collect ten percent (10%) service charge on the sale of food, beverage, transportation, laundry and rooms **except on negotiated contracts and special rates**. [Emphasis supplied]
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> SECTION 69. DISTRIBUTION. The service charge to be distributed shall consist of the following:
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> | Effective | Food & Beverage | Room, Transportation & valet |
> |---|---|---|
> | 1998 | 95% | 100% |
> | 1997 | 95% | 100% |
>
> The distributable amount will be shared equally by all HOTEL employees, including managerial employees but excluding expatriates, with three shares to be given to PPHI Staff and three shares to the UNION (one for the national and two for the local funds) that may be utilized by them for purposes for which the UNION may decide.

These provisions merely reiterated similar provisions found in the PPHI-Union's earlier collective bargaining agreement executed on August 29, 1995.[7]

On February 25, 1999, the Union's Service Charge Committee informed the Union President, through an audit report *(1st audit report)*,[8] of uncollected service charges for the last quarter of 1998 amounting to □2,952,467.61. Specifically, the audit report referred to the service charges from the following items: (1) "**Journal Vouchers**;" (2) "**Banquet Other Revenue**;" and (3) "**Staff and Promo**." The Union presented this audit report to the PPHI's management during the February 26, 1999 Labor Management Cooperation Meeting *(LMCM).*[9] The PPHI's management responded that the Hotel Financial Controller would need to verify the audit report.

Through a letter dated **June 9, 1999**,[10] the PPHI admitted liability for □80,063.88 out of the □2,952,467.61 that the Union claimed as uncollected

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6 Id. at 896-898.
7 Id. at 898.
8 Id. at 565.
9 Id. at 566-567.
10 Id. at 568-570.

service charges. The PPHI denied the rest of the Union's claims because: (1) they were exempted from the service charge being revenues from "special promotions" (revenue from the Westin Gold Card sales) or "negotiated contracts" (alleged revenue from the Maxi-Media contract); (2) the revenues did not belong to the PPHI but to third-party suppliers; and (3) no revenue was realized from these transactions as they were actually expenses incurred for the benefit of executives or by way of good-will to clients and government officials.

During the July 12, 1999 LMCM,[11] the Union maintained its position on uncollected service charges so that a deadlock on the issue ensued. The parties agreed to refer the matter to a third party for the solution. They considered two options – voluntary arbitration or court action – and promised to get back to each other on their chosen option.

In its formal reply (to the PPHI's June 9, 1999 letter) dated July 21, 1999 *(2nd audit report)*,[12] the Union modified its claims. It claimed uncollected service charges from: (1) "**Journal Vouchers - Westin Gold Revenue and Maxi-Media**" (F&B and Rooms Barter); (2) "**Banquet and Other Revenue**;" and (3) "**Staff and Promo**."

On August 10, 2000, the Union's Service Charge Committee made another service charge audit report for the years 1997, 1998 and 1999 *(3rd audit report)*.[13] This 3rd audit report reflected total uncollected service charges of □5,566,007.62 from the following entries: (1) "**Journal Vouchers**;" (2) "**Guaranteed No Show**;" (3) "**Promotions**;" and (4) "**F & B Revenue**." The Union President presented the 3rd audit report to the PPHI on August 29, 2000.

When the parties failed to reach an agreement, the Union, on **May 3, 2001**, filed before the LA (Regional Arbitration Branch of the NLRC) a complaint[14] for **non-payment of specified service charges**. The Union additionally charged the PPHI with unfair labor practice *(ULP)* under Article 248 of the Labor Code, *i.e.,* for violation of their collective bargaining agreement.

In its decision[15] dated April 30, 2002, the LA dismissed the Union's complaint for lack of merit. The LA declared that the Union failed to show, by law, contract and practice, its entitlement to the payment of service charges from the entries specified in its audit reports *(specified entries/transactions)*.

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11 Id. at 549-552.
12 Id. at 575-576.
13 Id. at 790.
14 Id. at 553-554.
15 *Supra* note 5.

The LA pointed out that Section 68 of the CBA explicitly requires, as a precondition for the distribution of service charges in favor of the covered employees, the collection of the 10% service charge on the "sale of food, beverage, transportation, laundry and rooms;" at the same time, the provision exempts from its coverage "negotiated contracts" and "special rates" that the LA deemed as non-revenue generating transactions involving "food, beverage, transportation, laundry and rooms." The Union failed to prove that the PPHI collected 10% service charges on the specified entries/transactions that could have triggered the PPHI's obligation under this provision.

Particularly, the LA pointed out that, *first,* the only evidence on record that could have formed the basis of the Union's claim for service charges was the PPHI's admission that, as a matter of policy, it has been charging, collecting and distributing to the covered employees 10% service charge on the fifty percent (50%) of the total selling price of the "Maxi-Media F & B" and on the "Average House" rate of the "Maxi-Media Rooms." And it did so, notwithstanding the fact that the "Maxi-Media F & B and Rooms Barter" is a "negotiated contract" and/or "special rate" that Section 68 explicitly excludes from the service charge coverage.

Second, while the PPHI derived revenues from the sale of the Westin Gold Cards (Westin Gold Revenue), the PPHI did not and could not have collected a 10% service charge as these transactions could not be considered as sale of food, beverage, transportation, laundry and rooms that Section 68 contemplates.

Third, the "Staff and Business Promotion and Banquet" entry refers to the expenses incurred by the PPHI's Marketing Department and Department Heads and Hotel executives either as part of their perks or the PPHI's marketing tool/public relations. These are special rates that are essentially non-revenue generating items.

Fourth, the "Backdrop" entry refers to services undertaken by third parties payment for which were made of course to them; hence, this entry/transaction could not likewise be considered as sale of services by PPHI for which collection of the 10% service charge was warranted.

Lastly, the LA equally brushed aside the Union's claim of ULP declaring that the PPHI was well within its legal and contractual right to refuse payment of service charges for entries from which it did not collect any service charge pursuant to the provision of their CBA.

The NLRC's ruling

In its decision[16] of July 4, 2005, the NLRC reversed the LA's decision and considered the specified entries/transactions as "service chargeable." As

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16 *Supra* note 4.

the PPHI failed to prove that it paid or remitted the required service charges, the NLRC held the PPHI liable to pay the Union □5,566,007.62 representing the claimed uncollected service charges for the years 1997, 1998 and 1999 per the 3rd audit report.

The PHHI went to the CA on a petition for *certiorari*[17] after the NLRC denied its motion for reconsideration.[18]

The CA's ruling

The CA granted the PPHI's petition in its January 31, 2007 decision.[19] It affirmed the LA's decision but ordered the PPHI to pay the Union the amount of □80,063.88 as service charges that it found was due under the circumstances. The CA declared that no service charges were due from the specified entries/transactions; either these constituted "negotiated contracts" and "special rates" that Section 68 of the CBA explicitly excludes from the coverage of service charges, or they were cited bases that the Union failed to sufficiently prove.

The CA pointed out that: *one,* the "Westin Gold Card Revenues" entry involved the sale, not of food, beverage, transportation, laundry and rooms, but of a "contractual right" to be charged a lesser rate for the products and services that the Hotel and the stores within it provide. At any rate, the PPHI charges, collects and distributes to the covered employees the CBA-agreed service charges whenever any Westin Gold Card member purchases food, beverage, etc. *Two,* the "Maxi-Media F & B and Rooms and Barter" entry did not involve any sale transaction that Section 68 contemplates. The CA pointed out that the arrangement[20] between the PPHI and Maxi-Media International, Inc. was not one of sale but an innominate contract of *facio ut des, i.e.,* in exchange for the professional entertainment services provided by Maxi-Media, the Hotel agreed to give the former □2,800,000.00 worth of products and services. The CA added that this agreement falls under "negotiated contracts" that Section 68 explicitly exempts. *Three,* the sale of "Gift Certificates" does not involve the CBA-contemplated "sale of food, beverage, etc." *Four,* the Union failed to show the source of its computations for its "Guaranteed No Show" and "F & B Revenue" claims. *Five,* the "Business Promotions" entry likewise did not involve any sale; these were part of the PPHI's business expenses in the form of either signing benefits for the PPHI's executives or as marketing tool used by the PPHI's marketing personnel to generate goodwill. And *six*, the Union's claims for service charges that the PPHI allegedly collected prior to May 3, 1998 or three years before the Union filed its complaint on May 3, 2001 had already prescribed per Article 291 of the Labor Code.

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17 Id. at 473-519.
18 *Rollo,* pp. 879-895.
19 *Supra* note 2.
20 Memorandum of Agreement dated June 17, 1998, *rollo,* pp. 616-624.

The Union filed the present petition after the CA denied its motion for reconsideration[21] in the CA's April 20, 2007 resolution.[22]

The Petition

The Union argues that the CA clearly misapprehended and misappreciated, with grave abuse of discretion, the facts and evidence on record. It maintains that the specified entries/transactions are revenue based transactions which, per Section 68 and 69 of the CBA, clearly called for the collection and distribution of a 10% service charge in favor of the covered employees.

Particularly, the Union argues that: (1) the "Westin Gold Cards" serve not only as a discount card but also as a "pre-paid" card that provide its purchasing members complimentary amenities for which the Hotel employees rendered services and should, therefore, had been subjected to the 10% service charge; (2) the PPHI failed to prove that it had paid and distributed to the covered employees the service charge due on the actual discounted sales of food, beverage, etc., generated by the "Westin Gold Cards;" (3) the Hotel employees likewise rendered services whenever the Maxi-Media International, Inc. consumed or availed part of the □2,800,000.00 worth of goods and services pursuant to its agreement with the PPHI; (4) the "Maxi-Media" discounts should be charged to the PPHI as part of its expenses and not the Union's share in the service charges; (5) the PPHI has a separate budget for promotions, hence the "Business Promotions" entry should likewise had been subjected to the 10% service charge; (6) the sale of "Gift Certificates," recorded in the PPHI's "Journal Vouchers" as "other revenue/income," constituted a revenue transaction for which service charges were due; (7) the PPHI admitted that service charges from "Guaranteed No Show" were due; and (8) it properly identified through reference numbers the uncollected service charges from "Food and Beverage Revenue." The Union contends that in refusing to collect and remit the CBA-mandated service charges that the PPHI insists were non-revenue transactions falling under "Negotiated Contracts" and/or "Special Rates," the PPHI, in effect, contravened the employees' rights to service charges under the law and the CBA.

The Union also contends that the term "Negotiated Contracts" should be applied to "airline contracts" only that they (the Union and the PPHI) intended when they executed the CBA. It points out that at the time the CBA was executed, the PPHI had an existing agreement with Northwest Airlines to which the term "Negotiated Contracts" clearly referred to.

Further, the Union argues that its claim for unpaid services charges for the year 1997 and part of 1998 had not yet prescribed. Applying Article

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21 *Rollo*, pp. 109-171.

22 *Supra* note 3.

1155 of the Civil Code in relation to Article 291 of the Labor Code, the Union points out that the running of the prescriptive period for the filing of its claim was interrupted when it presented to the PPHI its 1st audit report during the February 26, 1999 LMCM and when the PPHI admitted the service charges due to the Union in the PPHI's June 9, 1999 letter.

The Union additionally argues that the PPHI failed to conform to the generally accepted accounting standards when it reclassified the revenue items as expense items.

Finally, the Union contends that the PPHI's refusal, despite repeated demands, to distribute the unremitted service charges and recognize its right to service charges on the specified entries; the PPHI's deliberate failure to disclose its financial transactions and audit reports; and the PPHI's reclassification of the revenues into expense items constitute gross violation of the CBA that amounts to what the law considers as ULP.

The Case for the Respondent

The PPHI primarily counters, in its comment,[23] that the Union's call for the Court to thoroughly re-examine the records violates the Rule 45 proscription against questions of facts. The PPHI points out that Rule 45 of the Rules of Court under which the petition is filed requires that only questions of law be raised. In addition, the factual findings of the LA that had been affirmed by the CA deserve not only respect but even finality.

On the petition's merits, the PPHI argues that the specified entries/transactions for which the Union claims service charges: (1) were not revenue generating transactions; (2) that did not involve a sale of food, beverage, rooms, transportation or laundry; and/or (3) were in the nature of negotiated contracts and special rates that Section 68 of the CBA specifically excepts from the collection of service charges. Correlatively, Article 96 of the Labor Code requires the *collection* of service charges as a condition precedent to its distribution or payment. Thus, as no service charges were collected on the specified entries/transactions that the CBA expressly excepts, the Union's claim for unpaid service charges clearly had no basis.

To be precise, the PPHI points out that, *first,* the sale *per se* of the "Westin Gold Cards" did not involve a sale of food, beverage, etc. that Section 68 of the CBA contemplates. The discounted sales of food, beverage, etc. to Westin Gold Card holders, on the other hand, had already been subjected to service charges inclusive of the discount, *i.e.,* computed on the gross sales of food, beverage, etc. to the card holders, and which service charges it had already distributed to the covered employees. *Second,* its agreement with Maxi-Media involved an exchange or barter transaction, *i.e.,* its food and Hotel services in exchange for Maxi-Media's entertainment

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23 *Rollo,* pp. 995-1080.

services that did not generate income. This agreement likewise falls under "Negotiated Contracts" that Section 68 clearly excepts. And, in any case, it had already collected, and distributed to the covered employees, the service charges on the food, beverage, etc. that Maxi-Media consumed based on the monthly average rate of the rooms and on the 50% rate of the price of the consumed food and beverage. *Third,* the Union failed to prove its claims for uncollected service charges from "Guaranteed No Show" and "Business Promotions." *Fourth,* the "Food and Beverage other Revenue" entry refers to the PPHI's transactions with external service providers the payment for whose services could not be considered as the PPHI's revenue. *Fifth,* the sale *per se* of the "Gift Certificates" also did not involve the Section 68-contemplated sale of food, beverage, etc. and the Union failed to prove that the presented Gift Certificates had actually been consumed, *i.e.,* used within the Hotel premises for food, beverage, etc. And *sixth,* it had never been its practice to collect service charges on the specified entries/transactions that could have otherwise resulted in what the Union considers as "partial abolition of service charges" when it refused to collect service charges from them.

The PPHI also disputes what it considers as the Union's strained interpretation of the CBA exception of "Negotiated Contracts" as applicable to airline contracts only. It points out that the clear wordings of Section 68 of the CBA plainly show the intent to except, in a general and broad sense, "Negotiated Contracts" and "Special Rates" as to include the "Westin Gold Cards" and "Maxi-Media" barter agreement. The PPHI additionally argues that the CBA's exception of "Negotiated Contracts" and "Special Rates" from the collection of service charges does not violate Article 96 of the Labor Code. It points out that Article 96 merely provides for the minimum percentage distribution, between it (the PPHI) as the employer and the Hotel's covered employees, of the collected service charges which their CBA more than satisfied. It also points out that Article 96 does not prohibit the exception of certain transactions from the coverage and/or collection of service charges that it (as the employer) and the Union (in behalf of the covered Hotel employees) had voluntarily and mutually agreed on in their CBA. And in fact, the Union's refusal to recognize these clear and express exceptions constituted a violation of their agreement.

Further, the PPHI maintains that the Union's claim for the alleged uncollected service charges for the year 1997 and the early months of 1998 had already prescribed per Article 291 of the Labor Code.

Finally, the PPHI points out that the issue in this case is not whether service charges had been paid. Rather, the clear issue is whether or not service charges should have been collected (and distributed to the covered employees) for the specified entries/transactions that the LA and the CA correctly addressed and which the NLRC clearly missed as it rendered a decision without any factual or legal basis.

The Court's Ruling

We find the petition unmeritorious.

Preliminary considerations: jurisdictional limitations of the Court's Rule 45 review of the CA's Rule 65 decision in labor cases; the Montoya ruling and factual-issue-bar-rule

In a petition for review on *certiorari* under Rule 45 of the Rules of Court, we review the legal errors that the CA may have committed in the assailed decision, in contrast with the review for jurisdictional errors that we undertake in an original *certiorari* action. In reviewing the legal correctness of the CA decision in a labor case taken under Rule 65 of the Rules of Court, we examine the CA decision in the context that it determined the presence or the absence of grave abuse of discretion in the NLRC decision before it and not on the basis of whether the NLRC decision, on the merits of the case, was correct. In other words, we proceed from the premise that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. Within this limited scope of our Rule 45 review, the question that we ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?[24]

In addition, the Court's jurisdiction in a Rule 45 petition for review on *certiorari* is limited to resolving only questions of law. A question of law arises when the doubt or controversy exists as to what law pertains to a particular set of facts; and a question of fact arises when the doubt or controversy pertains to the truth or falsity of the alleged facts.[25]

The present petition essentially raises the question – whether the Union may collect from the PPHI, under the terms of the CBA, its share of the service charges. This is a clear question of law that falls well within the Court's power in a Rule 45 petition.

Resolution of this question of law, however, is inextricably linked with the largely factual issue of whether the specified entries/transactions fall within the generally covered sale of food, beverage, transportation, etc. from which service charges are due or within the CBA excepted "Negotiated Contracts" and "Special Rates." It also unavoidably requires resolution of another factual issue, *i.e.,* whether the Union's claim for service charges collected for the year 1997 and the early months of 1998 had already prescribed. As questions of fact, they are proscribed by our Rule 45 jurisdiction; we generally cannot address these factual issues except to the extent necessary to determine *whether the CA correctly found the NLRC in*

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[24] *Montoya v. Transmed Manila Corporation,* G.R. No. 183329, August 27, 2009, 597 SCRA 334, 342-343.

[25] See *Baguio Central University v. Gallente,* G.R. No. 188267, December 2, 2013.

grave abuse of discretion in granting the Union's claim for service charges from the specified entries/transactions.

The jurisdictional limitations of our Rule 45 review of the CA's Rule 65 decision in labor cases constrain us to deny the present petition for clear lack of legal error in the CA's decision. Our consideration of the facts taken within this limited scope of our factual review power, convinces us that grave abuse of discretion attended the NLRC's decision. At what point and to what extent the NLRC gravely abused its discretion is the matter we shall discuss below.

The NLRC's patently erroneous appreciation of the real issue in the present controversy, along with the facts and the evidence, amounted to grave abuse of discretion

In granting the Union's claim, the NLRC simply declared that the PPHI "has not shown any proof that it paid or remitted what is due to the Union and its members" and concluded that the specified entries/transactions were "service chargeable." This NLRC conclusion plainly failed to appreciate that it involved only the alleged uncollected service charges from the specified entries/transactions. The NLRC likewise, in the course of its ruling, did not point to any evidence supporting its conclusion.

In deciding as it did, the NLRC patently proceeded from the wrong premise, *i.e.,* that the PPHI did not at all distribute to the Hotel's covered employees their share in the collected service charges. It likewise erroneously assumed that all the specified entries/transactions were subject to service charges and that the PPHI collected service charges from them as its ruling was patently silent on this point. The NLRC also erroneously assumed that each and every transaction that the PPHI entered into was subject to a service charge.

What the NLRC clearly and conveniently overlooked was the underlying issue of whether service charges are due from the specified entries/transactions, *i.e.,* whether the specified entries/transactions are covered by the CBA's general-rule provisions on the collection of service charges or whether they are excepted because they fall within the excepted "Negotiated Contracts" and "Special Rates" or simply did not involve a "sale of food, beverage, etc." from which service charges are due. This understanding of this case's real issue is an indispensable requisite in the proper resolution of the controversy and a task that the NLRC, as a tribunal exercising quasi-judicial power, must perform with circumspection and utmost diligence. The patent failure led to its manifestly flawed conclusions

that were belied by the underlying facts. By so doing, the NLRC acted outside the clear contemplation of the law.[26]

Accordingly, we affirm the CA's decision to be legally correct as it correctly reversed the NLRC decision for grave abuse of discretion.

Nature of a CBA; rules in the interpretation of CBA provisions

A collective bargaining agreement, as used in Article 252 (now Article 262)[27] of the Labor Code, is a contract executed at the request of either the employer or the employees' exclusive bargaining representative with respect to wages, hours of work and all other terms and conditions of employment, including proposals for adjusting any grievances or questions under such agreement.[28] Jurisprudence settles that a CBA is the law between the contracting parties who are obliged under the law to comply with its provisions.[29]

As a contract and the governing law between the parties, the general rules of statutory construction apply in the interpretation of its provisions. Thus, if the terms of the CBA are plain, clear and leave no doubt on the intention of the contracting parties, the literal meaning of its stipulations, as they appear on the face of the contract, shall prevail.[30] Only when the words used are ambiguous and doubtful or leading to several interpretations of the parties' agreement that a resort to interpretation and construction is called for.[31]

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[26] *Gonzales v. Solid Cement Corporation,* G.R. No. 198423, October 23, 2012, 684 SCRA 344. See also *Aldovino, Jr. v. Commission on Elections,* G.R. No. 184836, December 23, 2009, 609 SCRA 234; and *Pecson v. Commission on Elections,* G.R. No. 182865, December 24, 2008, 575 SCRA 634.

[27] As directed by Republic Act No. 10151, entitled "An Act Allowing the Employment of Night Workers, thereby Repealing Articles 130 and 131 of Presidential Decree Number Four Hundred Forty-Two, as Amended, Otherwise known as The Labor Code of the Philippines," approved on June 21, 2011, the Labor Code articles beginning with Article 130 are renumbered.

Article 252 (256) of the Labor Code reads:

> Art. 252. *MEANING OF THE DUTY TO BARGAIN COLLECTIVELY*
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> The duty to bargain collectively means the performance of a mutual obligation to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an agreement with respect to wages, hours of work and all other terms and conditions of employment including proposals for adjusting any grievances or questions arising under such agreement and executing a contract incorporating such agreements if requested by either party but such duty does not compel any party to agree to a proposal or to make any concession.

[28] *Davao Integrated Port Stevedoring Services v. Abarquez,* G.R. No. 102132, March 19, 1993, 220 SCRA 197, 204.

[29] *Goya, Inc. v. Goya, Inc. Employees Union-FFW,* G.R. No. 170054, January 21, 2013, 689 SCRA 1, 15-16, citing *TSPIC Corporation v. TSPIC Employees Union (FFW),* G.R. No. 163419, February 13, 2008, 545 SCRA 215, 225.

[30] *PNCC Skyway Traffic Management and Security Division Workers Organization (PSTMSDWO) v. PNCC Skyway Corporation,* G.R. No.171231, February 17, 2010, 613 SCRA 28, 45; *Goya, Inc. v. Goya, Inc. Employees Union-FFW, supra,* note 29, at 16.

[31] *United Kimberly-Clark Employees Union-Philippine Transport General Workers' Organization (UKCEU-PTGWO) v. Kimberly-Clark Philippines, Inc.,* G.R. No. 162957, March 6, 2006, 519 Phil. 176, 191; *Honda Philippines, Inc. v. Samahan ng Malayang Manggagawa sa Honda,* G.R. No. 145561, June 15, 2005, 499 Phil. 174, 180.

No service charges were due from the specified entries/transactions; they either fall within the CBA-excepted "Negotiated Contracts" and "Special Rates" or did not involve "a sale of food, beverage, etc."

The Union anchors its claim for services charges on Sections 68 and 69 of the CBA, in relation with Article 96 of the Labor Code. Section 68 states that the sale of food, beverage, transportation, laundry and rooms are subject to service charge at the rate of ten percent (10%). Excepted from the coverage of the 10% service charge are the so-called "negotiated contracts" and "special rates."

Following the wordings of Section 68 of the CBA, three requisites must be present for the provisions on service charges to operate: (1) the transaction from which service charge is sought to be collected is a **sale**; (2) the sale transaction covers **food, beverage, transportation, laundry and rooms**; and (3) the sale **does not result from negotiated contracts and/or at special rates**.

In plain terms, all transactions involving a "sale of food, beverage, transportation, laundry and rooms" are generally covered. Excepted from the coverage are, *first,* non-sale transactions or transactions that do not involve any sale even though they involve "food, beverage, etc." *Second,* transactions that involve a sale but do not involve "food, beverage, etc." And *third,* transactions involving "negotiated contracts" and "special rates" *i.e.,* a "sale of food, beverage, etc." resulting from "negotiated contracts" or at "special rates;" non-sale transactions involving "food, beverage, etc." resulting from "negotiated contracts" and/or "special rates;" and sale transactions, but not involving "food, beverage, etc.," resulting from "negotiated contracts" and "special rates."

Notably, the CBA does not specifically define the terms "negotiated contracts" and "special rates." Nonetheless, the CBA likewise does not explicitly limit the use of these terms to specified transactions. With particular reference to "negotiated contracts," the CBA does not confine its application to "airline contracts" as argued by the Union. Thus, as correctly declared by the CA, the term "negotiated contracts" should be read as applying to all types of negotiated contracts and not to "airlines contracts" only. This is in line with the basic rule of construction that when the terms are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall prevail. A constricted interpretation of this term, *i.e.,* as applicable to "airlines contracts" only, must be positively shown either by the wordings of the CBA or by sufficient evidence of the parties' intention to limit its application. The Union completely failed to provide support for its constricted reading of the term "negotiated contracts," either from the wordings of the CBA or from the evidence.

In reversing the NLRC's ruling and denying the Union's claim, the CA found the specified entries/transactions as either falling under the excepted negotiated contracts and/or special rates or not involving a sale of food, beverage, etc. Specifically, it considered the entries "Westin Gold Cards Revenue" and "Maxi Media Barter" to be negotiated contracts or contracts under special rates, and the entries "Business Promotions" and "Gift Certificates" as contracts that did not involve a sale of food, beverage, etc. The CA also found no factual and evidentiary basis to support the Union's claim for service charges on the entries "Guaranteed No show" and "F & B Revenue."

Our consideration of the records taken under our limited factual review power convinces us that these specified entries/transactions are indeed not subject to a 10% service charge. We thus see no reason to disturb the CA's findings on these points.

The PPHI did not violate Article 96 of the Labor Code when they refused the Union's claim for service charges on the specified entries/transactions

Article 96 of the Labor Code provides for the minimum percentage distribution between the employer and the employees of the collected service charges, and its integration in the covered employees' wages in the event the employer terminates its policy of providing for its collection. It pertinently reads:

> Art. 96. Service Charges.
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> x x x In case the service charge is abolished, the share of the covered employees shall be considered integrated in their wages.

This last paragraph of Article 96 of the Labor Code presumes the practice of collecting service charges and the employer's termination of this practice. When this happens, Article 96 requires the employer to incorporate the amount that the employees had been receiving as share of the collected service charges into their wages. In cases where no service charges had previously been collected (as where the employer never had any policy providing for collection of service charges or had never imposed the collection of service charges on certain specified transactions), Article 96 will not operate.

In this case, the CA found that the PPHI had not in fact been collecting services charges on the specified entries/transactions that we pointed out as either falling under "negotiated contracts" and/or "special rates" or did not involve a "sale of food, beverage, etc." Accordingly, Article 96 of the Labor Code finds no application in this case; the PPHI did not abolish or terminate the implementation of any company policy

providing for the collection of service charges on specified entries/transactions that could have otherwise rendered it liable to pay an amount representing the covered employees' share in the alleged abolished service charges.

The Union's claim for service charges for the year 1997 and the early months of 1998 could not have yet prescribed at the time it filed its complaint on May 3, 2001; Article 1155 of the Civil Code applies suppletorily to Article 291 of the Labor Code

Article 291 (now Article 305)[32] of the Labor Code states that "all money claims arising from employer-employee relations x x x shall be filed **within three (3) years from the time the cause of action accrued**; otherwise, they shall forever be barred." [Emphasis supplied]

Like other causes of action, the prescriptive period for money claims under Article 291 of the Labor Code is subject to interruption. And, in the absence of an equivalent Labor Code provision for determining whether Article 291's three-year prescriptive period may be interrupted, Article 1155 of the Civil Code[33] may be applied. Thus, the period of prescription of money claims under Article 291 is interrupted by: (1) the filing of an action; (2) a written extrajudicial demand by the creditor; and (3) a written acknowledgment of the debt by the debtor.

In the present petition, the facts indisputably showed that as early as 1998, the Union demanded, *via* the 1st audit report, from the PPHI the payment and/or distribution of the alleged uncollected service charges for the year 1997. From thereon, the parties went through negotiations (LCMC) to settle and reconcile on their respective positions and claims.

Under these facts – the Union's written extrajudicial demand through its 1st audit report and the successive negotiation meetings between the Union and the PPHI – the running of the three-year prescriptive period under Article 291 of the Labor Code could have effectively been interrupted. Consequently, the Union's claims for the alleged uncollected service charges for the year 1997 could not have yet prescribed at the time it filed its complaint on May 3, 2001.

This non-barring effect of prescription, notwithstanding (*i.e.,* that the running of the three-year prescriptive period had effectively been interrupted

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[32] As directed by Republic Act No. 10151, entitled "An Act Allowing the Employment of Night Workers, thereby Repealing Articles 130 and 131 of Presidential Decree Number Four Hundred Forty-Two, as Amended, Otherwise known as The Labor Code of the Philippines," approved on June 21, 2011, the Labor Code articles beginning with Article 130 are renumbered.

[33] Article 1155 of the Civil Code reads:

> ART. 1155. The prescription of actions is interrupted when they are filed before the Court, when there is a written extrajudicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor.

– by the Union's written extrajudicial demand on the PPHI), the CA, as it affirmed the LA, still correctly denied the Union's claims for the alleged uncollected and/or undistributed service charges on the specified entries/transactions for the year 1997 and the early part of 1998. As the CA found and discussed in its decision, and with which we agree as amply supported by factual and legal bases, the nature of these specified entries/transactions as either excepted from the collection of service charges or not constituting a "sale of food, beverage, etc.," and the Union's failure to support its claims by sufficient evidence warranted, without doubt, the denial of the Union's action.

In sum, we find the CA's denial of the Union's claim for service charges from the specified entries/transactions legally correct and to be well supported by the facts and the law. The CA correctly reversed for grave abuse of discretion the NLRC's decision.

WHEREFORE, in light of these considerations, we hereby DENY the petition. We AFFIRM the decision dated January 31, 2007 and resolution dated April 20, 2007 of the Court of Appeals in CA-G.R. Sp No. 93698.

SO ORDERED.

ARTURO D. BRION
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
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