

Case study: sandigan bank

Business



Anita Xavier worked as realty sales agent of the petitioner Sandbags Realty.

She received 5% commission for every sale or if no sale was made, a monthly allowance of IPSP. Subsequently, she was hired as marketing collector of Sandbags Bank by Angel And, president of both companies. On April 20, 1990, Xavier was advised by And not to report for work anymore. When she filed for illegal dismissal the Labor Arbiter ruled in her favor.

Sanding Bank would have paid the respondent the monetary award if only it found the same to be in the correct amount.

Sanding Realty contests the award insofar as it concerns the realty.

ISSUES]I . WON the private respondent was a regular employee of Sanding Realty, entitled to backstage and separation pay. 02. WON the computation of the monetary award was attended with errors HELLOED . Respondent was not a regular employee of the Realty.

The facts negate the existence of an employer-employee relationship between them, the element of control being absent. Sandbags Realty had no control over the conduct of Xavier since its only concern or interest was in the result of her work and not in how it was achieved.

Hence, she cannot be entitled to the right of security of tenure nor backstage and separation pay as a consequence of her separation therefore. 2. There being a fledgling of illegal dismissal of the respondent by the bank, her reinstatement should follow as a matter of course, unless it be shown that the same is no longer possible.

In effect, the petitioner bank is liable to private respondent only for backstage, inclusive of allowance, and other benefits or their monetary equivalent computer from the time her compensation was withheld from her up to the time of her reinstatement, at the rate of her latest monthly salary and allowance.