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**FIRST DIVISION**

**[ G.R. NO. 164518. March 30, 2006 ]**

**INDUSTRIAL TIMBER CORPORATION, INDUSTRIAL PLYWOOD GROUP CORPORATION, TOMAS TANGSOC, JR., LORENZO TANGSOC AND TOMAS TAN, PETITIONERS, VS. VIRGILIO ABABON, IGNACIO ABACAJEN, ANGELINA ABAY-ABAY, EDITH ABREA, SAMUEL ABREA, BIENVENIDO ACILO, RODRIGO ACILO, VICTOR ACILO, ARTURO ADVINCULA, GERTRUDES AMPARO, VIRGILIO ANTONIO, MILA ARQUITA, PRUDENCIO ARQUITA, ALBERT ATON, WARLITA AUTIDA, ALICIA AWITAN, LEOPOLDO AYATON, ARTURO BALBOTEN, DANILO BANATE, LOLITA BATAN, RAMIL BUTALON, CARMILITA CAINGLES, VICENTE CAHARIAN, BENEDICTA CAJIPE, FELIPE CALLANO, ALFREDO CARILLO, NILA CARILLO, ALGER CORBETA, GREGORIO DABALOS, TERESITA DABALOS, VENERANDO DALAUTA, RICARDO DANGCULOS, MONTANO DAPROSA, LUISITO DIAZ, FELIZARDO DUMULAO, EDITHA DUMANON, ALFREDO FAELNAR, RAUL FORTUN, MAXIMO GALLA, ANGELES GALUPO, PERFECTO GAMBE, VERGINITA GANGCA, RUPERTO GORGONIO, ROMEO HERRERO, SERGIO HORO-HORO, FRANCISCO IBARRA, ABRAHAM JALE, DANDY LABITAD, ANTONINA LAMBANG, ERNESTO LAUSA, VICTORIA LOOD, NEMESIO LOPE, JR., ESCARLITO MADLOS, MARCOS MAKINANO, REMEGIO MAKINANO, VICENTE MAKINANO, REYNALDO MASUHAY, HELEN MARATAS, ELIZABETH MENDOZA, GUILBERTA MONTEROSO, GILDA NAVALTA, PILAR NAVARRO, SIMPORIANO NUÑEZ, JR., ELISEO ORONGAN, ARMANDO OROPA, ASUNCION OROPA, JOSE EDWIN OROPA, BALDEMAR PAGALAN, BARTOLOME PAGALAN, DAMASO PALOMA, MANALO PLAZA, JEREMIAS PELAEZ, FRANCISCO PICARDAL, HERMINIA PUBLICO, ROMULO QUINTOS, FIDEL QUITA, FELICIANO RANADA, RODOLFO RARU, LEAN CILDRIC RODRIGUEZ, SAMUEL SAROMINES, NATIVIDAD SIGNAR, CHERRIE SON, SAMUEL TAGUPA, VICTOR TAGUPA, BRIGIDA TABANAO, PEDRO TABANAO, ROBERTO TABANAO, MARIA TAN, RONNIE TAN, TOLENTINO TEE, ROGELIO TAMADA, MINDA TUMAOb AND ROBERTO TUTOR, RESPONDENTS.**

**[G.R. NO. 164965]**

**VIRGILIO ABABON, IGNACIO ABACAJEN, ANGELINA ABAY-ABAY, EDITH ABREA, SAMUEL ABREA, BIENVENIDO ACILO, RODRIGO ACILO, VICTOR ACILO, ARTURO ADVINCULA, GERTRUDES AMPARO, MILA ARQUITA, VIRGILIO ANTONIO, PRUDENCIO ARQUITA, ALBERT ATON, WARLITA AUDITA, ALICIA AWITAN, LEOPOLDO AYATON, ARTURO BALBOTEN, DANILO BANATE, LOLITA BATAN, RAMIL BUTALON, CARMELITA CAINGLES, VICENTE CAHARIAN, BENEDICTA CAJIPE, FELIPE CALLANO, ALFREDO CARILLO, NILA CARILLO, ALGIER CORBETA, GREGORIO DABALOS, TERESITA DABALOS, VENERANDO DALAUTA, RICARDO DANGCULOS, MONTANO DAPROSA, LUISITO DIAZ, FELIZARDO DUMULAO, EDITHA DUMANON, ALFREDO FAELNAR, RAUL FORTUN, MAXIMO GALLA,**

**ANGELES GALUPO, PERFECTO GAMBE, VIRGINITA GANGCA, RUPERTO GORGONIO, ROMEO HERRERO, SERGIO HOR-HORO, FRANCISCO IBARRA, ABRAHAM JALE, DANDY LABITAD, ANTONINA LAMBANG, ERNESTO LAUSA, VICTORIA LOOD, NEMESIO LOPE, JR., ESCARLITO MADLOS, MARCOS MAKINANO, REMEGIO MAKINANO, VICENTE MAKINANO, REYNALDO MAHUSAY, HELEN MARATAS, ELIZABETH MENDOZA, GUILBERTA MONTEROSO, GILDA NAVALTA, PILAR NAVARRO, SIMPORIANO NUÑEZ, JR., ELISEO ORONGAN, ARMANDO OROPA, ASUNCION OROPA, JOSE EDWIN OROPA, BALDEMAR PAGALAN, BARTOLOME PAGALAN, DAMASO PALOMA, MANALO PLAZA, JEREMIAS PELAEZ, FRANCISCO PICARDAL, HERMINIA PUBLICO, ROMULO QUINTOS, FIDEL QUITA, FELICIANO RANADA, RODOLFO RARU, LEAN CILDRIC RODRIGUEZ, SAMUEL SAROMINES, NATIVIDAD SIGNAR, CHERRIE SON, SAMUEL TAGUPA, VICTOR TAGUPA, BRIGIDA TABANAO, PEDRO TABANAO, ROBERTO TABANAO, MARIA TAN, RONNIE TAN, TOLENTINO TEE, ROGELIO TAMADA, MINDA TUMAOb, AND ROBERTO TUTOR, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, INDUSTRIAL TIMBER CORPORATION, INDUSTRIAL PLYWOOD GROUP CORPORATION, TOMAS TANGSOC, JR., LORENZO TANGSOC AND TOMAS TAN, RESPONDENTS.**

## **RESOLUTION**

**YNARES-SANTIAGO, J.:**

On January 25, 2006, the Court rendered judgment disposing of the case as follows:

**WHEREFORE**, in view of the foregoing, the October 21, 2002 Decision of the Court of Appeals in CA-G.R. SP No. 51966, which set aside the May 24, 1995 Decision of the NLRC, as well as the July 16, 2004 Resolution denying ITC's motion for reconsideration, are hereby **REVERSED**. The May 24, 1995 Decision of the NLRC reinstating the decision of the Labor Arbiter finding the closure or cessation of ITC's business valid, is **AFFIRMED** with the **MODIFICATIONS** that ITC is ordered to pay separation pay equivalent to one month pay or at least one-half month pay for every year of service, whichever is higher, and P50,000.00 as nominal damages to each employee.

**SO ORDERED.**<sup>[1]</sup>

On March 14, 2006, respondents in G.R. No. 164518 who are also petitioners in G.R. No.

164965 filed a Motion for Reconsideration seeking to set aside the above-stated Decision and reinstate the October 21, 2002 Decision of the Court of Appeals, with the modification that they be awarded full backwages, with the additional award of P50,000.00 as nominal damages for each worker.

They insist that the holding in *International Timber Corporation v. National Labor Relations Commission*<sup>[2]</sup> that the closure of ITC's Butuan Plant was valid should not have been applied in the instant cases which pertain to ITC's Stanply Plant. They further claim that the findings by the Labor Arbiter that there was a shortage of raw materials; that the wood processing plant permit has expired; that the lease contract with IPGC was terminated; and that ITC and IPGC were not business conduits, were all debunked by the NLRC.

The arguments raised have been amply discussed; at any rate, they are inconsequential as to affect the assailed Decision.

On the other hand, petitioners in G.R. No. 164518 who are also respondents in G.R. No. 164965 also filed a Motion for Partial Reconsideration seeking to delete or reduce the nominal damages awarded to each employee, considering that since August 17, 1990 it had ceased operation of its business and that the award involves a huge amount considering that there are 97 workers.<sup>[3]</sup>

While we ruled in this case that the sanction should be stiffer in a dismissal based on authorized cause where the employer failed to comply with the notice requirement than a dismissal based on just cause with the same procedural infirmity, however, in instances where the execution of a decision becomes impossible, unjust, or too burdensome, modification of the decision becomes necessary in order to harmonize the disposition with the prevailing circumstances.

In the determination of the amount of nominal damages which is addressed to the sound discretion of the court, several factors are taken into account: (1) the authorized cause invoked, whether it was a retrenchment or a closure or cessation of operation of the establishment due to serious business losses or financial reverses or otherwise; (2) the number of employees to be awarded; (3) the capacity of the employers to satisfy the awards, taken into account their prevailing financial status as borne by the records; (4) the employer's grant of other termination benefits in favor of the employees; and (5) whether there was a *bona fide* attempt to comply with the notice requirements as opposed to giving no notice at all.

In the case at bar, there was valid authorized cause considering the closure or cessation of ITC's business which was done in good faith and due to circumstances beyond ITC's control. Moreover, ITC had ceased to generate any income since its closure on August 17, 1990. Several months prior to the closure, ITC experienced diminished income due to high production costs, erratic supply of raw materials, depressed prices, and poor market conditions for its wood products. It appears that ITC had given its employees all benefits in accord with the CBA upon their termination.

Thus, considering the circumstances obtaining in the case at bar, we deem it wise and just to reduce the amount of nominal damages to be awarded for each employee to P10,000.00 each instead of P50,000.00 each.

**WHEREFORE**, premises considered, the Motion for Reconsideration of respondents in G.R. No. 164518 who are also petitioners in G.R. No. 164965 is **DENIED**. The Motion for Partial Reconsideration of petitioners in G.R. No. 164518 who are also respondents in G.R. No. 164965 is **GRANTED**. The amount of nominal damages awarded to each employee is reduced from P50,000.00 to P10,000.00.

**SO ORDERED.**

*Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.*

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[1] *Rollo* (G.R No. 164518), p. 279.

[2] 339 Phil. 395 (1997).

[3] *Id.* at 281-283.

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