

****Title:****

Union of Filipro Employees (UFE) v. Benigno Vivar, Jr., National Labor Relations Commission, and Nestle Philippines, Inc.

****Facts:****

1. On November 8, 1985, Filipro, Inc. (now Nestle Philippines, Inc.) filed a petition for declaratory relief with the National Labor Relations Commission (NLRC) to determine their rights and obligations regarding holiday pay for its monthly-paid employees in light of the Supreme Court's decision in Chartered Bank Employees Association v. Ople.
2. Filipro and the Union of Filipino Employees (UFE) agreed to voluntary arbitration and appointed Benigno Vivar, Jr. as arbitrator.
3. On January 2, 1980, Arbitrator Vivar ordered Filipro to pay its monthly-paid employees holiday pay pursuant to Article 94 of the Labor Code.
4. Filipro filed a motion for clarification seeking:
 - a. Limitation of the award to three years
 - b. Exclusion of sales personnel from the holiday pay award
 - c. Deduction from the holiday pay award for overtime, night differential, vacation, and sick leave overpayment due to the use of a 251 divisor.
5. UFE opposed, insisting the award should date from the Labor Code's effectivity, their sales personnel are entitled to holiday pay, and the 251 divisor should remain.
6. On January 14, 1986, Arbitrator Vivar ruled:
 - a. Holiday pay effective from November 1, 1974
 - b. Sales personnel classified as field personnel, thus excluded from holiday pay
 - c. Divisor changed from 251 to 261, and ordered reimbursement for overpayment.
7. Both Filipro and UFE filed motions for partial reconsideration.
8. The NLRC remanded the case to the arbitrator, stating it had no jurisdiction to review voluntary arbitration decisions.
9. Arbitrator Vivar refused further jurisdiction as he had resigned, leading the UFE to petition the Supreme Court.

****Issues:****

1. Whether Nestle's sales personnel are entitled to holiday pay.
2. Whether the divisor should change from 251 to 261 days consequent to the holiday pay award, and whether previous use of the 251 divisor resulted in overpayment requiring reimbursement.

****Court's Decision:****

1. **Holiday Pay for Sales Personnel:**

- The Supreme Court upheld that Nestle's sales personnel are field personnel and therefore not entitled to holiday pay under Article 82 of the Labor Code. The definition includes non-agricultural employees who perform duties away from their employer's premises and whose actual hours cannot be determined with reasonable certainty.
- The Court found that sales personnel's work hours (8:00 a.m. to 4:00/4:30 p.m.) cannot be reasonably ascertained throughout the day, lacking constant supervision.

2. **Change of Divisor from 251 to 261 Days:**

- The Court rejected the change of the divisor from 251 to 261 days. They stressed that prior use of a 251 divisor indicated that holiday pay was not included in the employees' salary. Adjusting the divisor to 261 would thus lower the daily rate contrary to the non-diminution of benefits principle.
- It held that unless the daily rate reflected the inclusion of holiday pay by being based on a different total annual salary, the divisor must remain 251.
- Respondent's claim of overpayment based on solutio indebiti was negated, invoking Article 4 of the Labor Code which mandates resolving doubts favoring labor.

3. **Effectivity of Holiday Payment:**

- The Supreme Court modified the ruling on the effective date for holiday pay, moving it from the arbitrator's determined date of November 1, 1974, to October 23, 1984, the date of promulgation of the IBAA case. Before this date, Nestle's non-payment of holiday pay was compliant with then-presumed-valid rules and instructions.

Doctrine:

- **Field Personnel Exclusion:** Field personnel are those whose actual hours of work in the field cannot be determined with reasonable certainty and whose performance is not supervised by the employer (Article 82, Labor Code of the Philippines; Implementing Rules, Rule IV, Book III).
- **Non-Diminution of Benefits:** Benefits once given to employees cannot be reduced or taken back without just cause (Article 100, Labor Code of the Philippines).

Class Notes:

- **Field Personnel Criteria:** Must regularly perform duties away from employer's place and have indeterminable work hours.
- **Divisor Principle:** Divisors used in daily rate calculation influence the determination of whether holiday pay is included; constant divisor if salary structure remains unchanged.

****History:****

This case addresses transitional understandings between legislative acts and judicial interpretations impacting worker benefits, reflecting the broader labor regulation environment of the Philippines in the 1980s and the evolving interpretations of labor protections.