

## ANDRES G. SANCHEZ, ET AL., PETITIONERS, VS. NORTHERN LUZON TRANSPORTATION CO. INC., RESPONDENT.

*G.R. No. L-14817. September 30, 1960*

Ponente: BENGZON, J.

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### BENGZON, J.:

Petition for review of the decision of the Court of Appeals dismissing petitioners' claim for one-month separation pay from their employer Northern Luzon Transportation Co., Inc.

Petitioners filed their claim, and won, in the La Union court of first instance. There is no question that they were in the employ of respondent prior to October 16, 1950. On that day, they lost their jobs allegedly in pursuance of advance notice given by the employer, of probable discontinuance of their work.

Upon appeal by the employer, the Court of Appeals held: as they had been employed without a definite period and were separated from their employment in October 1950 when Art. 302 of the Code of Commerce<sup>1</sup> had already been repealed by the Civil Code, they have no right to the one-month pay mentioned therein.

At any rate, declared that Court, they were sufficiently notified in advance of their dismissal because on August 18, 1950, the employer gave them this notice:

"In view of the fact that our business at that end is continuously declining and consequently does not warrant the continuance of our personnel, the Company may be forced to lay off all of you indefinitely till such time when the business will pick up again and guarantee our operations in that terminal.

This memorandum will serve you as an advance notice of what the Management will do in the near future."

In their petition for review, claimants maintain that the Court of Appeals erred in overruling their monetary demands on the strength of the notice, which was not touched upon in the decision of the court of first instance nor in the brief of the appellant. Having some doubts about the sufficiency of the above notice, we prefer to decide the case on the basis of the repeal of Article 302 of the Code of Commerce. It will be remembered that this Article—included in the rules on agency of the Code of Commerce—was expressly repealed by the New Civil Code (Art. 2270), which took effect on August 30, 1950. So that when these employees were separated from their employment in October 1950, Art. 302 was already repealed. It is true that on June 12, 1954, Republic Act No. 1052, was approved reinstating the employee's-right to one month's notice of the termination of his employment or to one-month pay in lieu of such notice; but the act could not be construed retroactively so as to affect separations that had taken place before its enactment.

In *Gutierrez vs. Bachrach Motor Co., Inc.*, 105 Phil., 9, we held (four members dissenting) that employees without any fixed period of employment had no right to the *mesada* mentioned in Art. 302 of the Code of Commerce, if dismissed after the enactment of the Civil Code and before the approval of Republic Act No. 1052.

The decision under review is, therefore, affirmed, with costs.

Padilla, Bautista Angelo, Labrador, Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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[1] Art. 302.—In cases in which the contract does not have a fixed period, anyone of the parties may terminate it upon giving one month advance notice thereof to the other.

The factor or shop clerk shall have a right, in this case, to the salary corresponding to said one month.

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