

**S.S. VENTURES, INC. AND SUNK SIK LEE, PETITIONERS, VS.
NATIONAL LABOR RELATIONS COMMISSION, MANUEL LUCHAVES,
RICKY TAMAYO, NOBLESA LADAO, NEIL PUNZALAN, RANDY
QUIJANO, SALVADOR ...**

Ponente: GONZALES-SISON, M., J.

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GONZALES-SISON, M., J.:

Pursuant to the policy of social justice, the law bends over backward to accommodate the interests of the working class on the humane justification that those with less privilege in life should have more in law. The judiciary is called to translate this pledge into a living reality.[1]

Before Us is a Petition for Review on Certiorari[2] under Rule 65 of the 1997 Rules of Civil Procedure, seeking to nullify and set aside the Decision[3] and Resolution,[4] both promulgated by the public respondent National Labor Relations Commission (NLRC) in NLRC LAC NO. 01-000084-14, on January 30, 2014 and March 31, 2014, respectively, finding that herein private respondents were illegally dismissed. The dispositive portion of the assailed NLRC decision reads:

“WHEREFORE, the appeal is hereby GRANTED. The Decision appealed from is hereby REVERSED and a NEW ONE ENTERED insofar as the complainants in NLRC RABIII 04-17568-11 finding the complainants illegally dismissed and therefore should be ordered paid their backwages and in lieu of reinstatement, payment of separation pay equivalent to one-half (½) month pay for every year of service as above-discussed.

In addition, they should be paid their wage deficiencies, 13th month pay, service incentive leave pay and holiday pay computed three (3) years backward from date of filing of the complaint; moral and exemplary damages as above discussed and attorney's fees equivalent of 10% of the total monetary awards.

SO ORDERED.”[5]

Petitioner SS Ventures International, Inc. (SS Ventures), is a corporation duly organized and existing in accordance with Philippine laws, with business address at Bataan Economic Zone, Mariveles, Bataan. It is engaged in the business of shoe manufacturing and it caters to both international and local markets. Among its previous clients were the international brands Adidas, Nike, Reebok, Vans and other reputable sports shoe brands.[6]

On varying dates beginning from 1996 to 1999, SS Ventures hired private respondents Manuel Luchavez, Ricky Tamayo, Noblesa Ladao, Neil Punzalan, Randy Quijano, Salvador Lumibao, Crisanto Astudillo, Leon Calimquim, Narciso Balicao, Lorenzo De Ocampo, Charllin Carillo, Anabelle Labrador, Arnel Isip, Carlito Ragel, Jerry Ordañes, Edelmar De Leon, Richard Riconose, Edwin Labutong, Richard Tan, Elma Tambag and Julie Gormate (private respondents), as Operators, Quality Control, Sewers and Trimmers at its shoe manufacturing plant in Bataan.[7] The private respondents were required to work from 6:00 in the morning until 5:00 in the afternoon from Monday to Sunday, receiving salaries ranging from two hundred and ninety-four pesos (P294.00) to three hundred and nineteen pesos (P319.00).[8]

Meanwhile, sometime in November 2009, SS Ventures suddenly told the private respondents to stop working without any valid reason and without due process of law.[9]

Consequently, on April 7, 2011, private respondents filed a Complaint[10] for illegal dismissal, underpayment of salary, overtime pay, holiday pay, premium pay for holiday and rest day, service incentive leave pay, thirteenth month pay, separation pay, damages and attorney's fees against SS Ventures. The private respondents likewise claimed that SS Ventures failed to pay their SSS contributions.[11]

On the other hand, SS Ventures vehemently denied the charge of illegal dismissal. Rather, it claimed that it started downsizing the number of its employees due to the loss of its clients and the reduction in the volume of shoe orders, thereby leading it to suffer from financial difficulties, and placing it on the brink of collapse and possible permanent closure.[12] In fact, due to its dire financial status, SS Ventures implemented reduced work days and placed its employees on rotation.[13] Furthermore, it stopped purchasing raw materials for its shoe products and instead focused on providing labor services to the materials provided by its clients.[14] In May 2010, SS Ventures filed for Temporary Shutdown, Establishment Employment Report and Establishment Termination Report with the Department of Labor and Employment (DOLE).[15]

The Ruling of the Labor Arbiter:

On October 30, 2013, the Labor Arbiter dismissed the Complaint for illegal dismissal, finding that the private respondents were validly terminated by SS Ventures on the the ground of retrenchment and closure of operations.[16] The Labor Arbiter noted that SS Ventures substantially proved that it was suffering from business losses and possible additional losses which prompted it to close or shutdown operations.[17] Moreover, the Labor Arbiter observed that from the time SS Ventures submitted the Report of Temporary Shutdown of Operations, Establishment Employment Report and Establishment Termination Report, which were all dated May 10, 2010, SS Ventures no longer resumed business and completely shut down its operations.[18]

The Ruling of the NLRC:

On appeal, the NLRC reversed the Decision of the Labor Arbiter finding the latter guilty of grave abuse of discretion, as his pronouncement was contrary to the evidence adduced. Furthermore, the NLRC granted the private respondents' motion to litigate as pauper litigants and relaxed the rule on verification, considering that the private respondents have been jobless since 2009 and in order to avert further delays in the case.[19]

Moreover, the NLRC noted that the Labor Arbiter erred in stating that the documents submitted by SS Ventures proving its closure were all dated May 10, 2010, when not a single document bore the same date, and in concluding that SS Ventures ceased operations since May 10, 2010, which fact was belied by the evidence on record.[20] Furthermore, the NLRC rejected SS Ventures' claim of serious business losses, finding that the documents submitted as proof thereof, consisted of "glaring infirmities." [21] Particularly, the NLRC questioned the Audited Financial Statement and Annual Income Tax Return, which were all belatedly filed months and years after the private respondents' dismissal. Moreover, the NLRC faulted SS Ventures for failing to submit other documents such as the Financial Statements for the years prior to the alleged retrenchment that were filed with the Bureau of Internal Revenue (BIR) and Securities and Exchange Commission (SEC).[22]

Accordingly, the NLRC awarded the private respondents their backwages from December 2009 up to the date of the Labor Arbiter's Decision and separation pay in lieu of reinstatement at the rate of one half (½) month for every year of service until the finality of the NLRC decision. It likewise ordered SS Ventures to pay the private respondents' underpayment/wage deficiencies, thirteenth month pay, service incentive leave and holiday pay computed at three years backward from the date of the filing of the complaint.[23] Similarly, the NLRC ordered

the payment of moral and exemplary damages in the amount of P50,000.00 each and attorney's fees of ten (10) percent of the total monetary awards, due to the high-handed manner in which the employees' right to security of tenure was violated.[24]

Aggrieved by the Decision rendered by the NLRC, SS Ventures filed a Motion for Reconsideration[25] on February 21, 2014, which, was denied in the NLRC Resolution promulgated on March 31, 2014.

Undeterred, SS Ventures filed the instant Petition for Certiorari on June 3, 2014, urging for the nullification and setting aside of the assailed Decision and Resolution issued by the NLRC on the following grounds, to wit:

I. "RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ALLOWING THE PRIVATE RESPONDENTS TO PURSUE THEIR APPEAL AS PAUPER LITIGANTS.

II. RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN DISPENSING WITH THE REQUIRED PROPER VERIFICATION BY THE PRIVATE RESPONDENTS OF THEIR APPEAL, WHICH IS REQUIRED FOR ITS PERFECTION.

III. RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN HOLDING THAT PRIVATE RESPONDENTS WERE ILLEGALLY DISMISSED BY THE PETITIONERS.

IV. RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN AWARDING BACKWAGES AND SEPARATION PAY TO COMPLAINANTS."[26]

Upon a meticulous scrutiny of the Records, We find the instant petition bereft of merit.

Initially, SS Ventures assailed the appeal filed by the private respondents before the NLRC on the following procedural grounds, namely, that the complainants are not pauper litigants and the verification was improper.

Significantly, Article 221 of the Labor Code provides that, "in any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling, xxx [and] the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. xxx"[27] In fact, Section 2 of the 2011 Rules of Procedure of the NLRC echoes Article 221 in stating that the "Rules shall be liberally construed to carry out the objectives of the Constitution, the Labor Code of the Philippines and other relevant legislations, and to assist the parties in obtaining just, expeditious and inexpensive resolution and settlement of labor disputes."[28]

It is an oft-repeated rule in labor cases that the application of technical rules of procedure may be relaxed to serve the interest of substantial justice and the controversy must be decided according to justice and equity and the substantial merits of the case.[29] Consequently, procedural niceties may be avoided and the Rules of Court are applied only in a suppletory manner, to relieve a litigant of an injustice not commensurate with the degree of non-compliance with the process required.[30]

Prescinding from the above-mentioned tenets, the technicalities raised by SS Ventures will not be allowed to impede Our duty to dispense with justice, especially considering that what is at issue is the private respondents' livelihood. Indeed, the private respondents have been jobless since 2009 and any further delay in the disposition of their case will thwart justice.

Having done away with the procedural matters, We now proceed to the merits of the case.

The instant controversy brings to fore the labor-management struggle for mutual survival. The private respondents on the one hand, assert that they were illegally dismissed, whereas SS Ventures on the other hand, maintains that the dismissal was due to retrenchment and closure, which are authorized causes provided by law.

Article 283 of the Labor Code provides that,

Art. 283. Closure of establishment and reduction of personnel. The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. xxx In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.[31]

Specifically, retrenchment is the termination of employment initiated by the employer through no fault of and without prejudice to the employees. It is resorted to during periods of business recession, industrial depression, seasonal fluctuations, or during lulls occasioned by lack of orders or shortage of materials. It is a management prerogative resorted to avoid or minimize business losses.[32]

Although retrenchment is a valid management prerogative, the employer is bound to faithfully comply with the substantive and procedural requirements laid down by law and jurisprudence, which have been established to forestall the possible abuse of such prerogative.[33] Accordingly, “to effect a valid retrenchment, the following elements must be present: (i) the retrenchment is reasonably necessary and likely to prevent business losses which, if already incurred, are not merely de minimis, but substantial, serious and real, or only if expected, are reasonably imminent as perceived objectively and in good faith by the employer; (ii) the employer serves written notice both to the employee/s concerned and the DOLE at least one month before the intended date of retrenchment; (iii) the employer pays the retrenched employee separation pay in an amount prescribed by the Code; (iv) the employer exercises its prerogative to retrench in good faith; and (v) the employer uses fair and reasonable criteria in ascertaining who would be retrenched or retained.”[34]

Guided by the foregoing, We find that SS Ventures failed to comply with the requisites to implement a valid retrenchment.

SS Ventures claimed that it suffered from serious business losses, thereby leaving it with no other alternative but to retrench its employees.

We are not persuaded.

Remarkably, although SS Ventures submitted Financial Statements prepared by an independent auditor, covering the years 2010 and 2009,[35] and 2009 and 2008,[36] the same Financial Statements were belatedly prepared on June 30, 2011.[37] No other financial statements prepared during 2009 or in the years prior thereto were submitted as evidence of its dire financial losses. Analogously, in the cases of *Lambert Pawnbrokers, et al. vs. Binamira*[38] and *Anabe vs. Asian Construction, et al.*,[39] the Supreme Court refused to give credence to financial statements belatedly prepared one year after the date of the retrenchment as it was highly improbable for the employer to have known that it was already suffering from losses to justify a valid retrenchment program. Thus, the fact that the reports were not prepared prior to the date of the retrenchment, but rather, two years thereafter, renders SS Ventures' cry of business losses questionable.

Similarly, neither may We give credence to the Annual Income Tax Return[40] filed by SS Ventures.

Interestingly, the Tax Return covering the taxable year 2009 was filed only on September 2, 2011, after a lapse of two long years. Significantly, no explanation was ever proffered by SS Ventures as to why the Tax Return was belatedly filed. Neither did SS Ventures attach the Tax Returns covering the years preceding the dismissal. Thus, the claims of SS Ventures of its alleged hemorrhaging assets were bereft of substantial evidence.

Additionally, in order to impart operational meaning to the constitutional policy of providing full protection to labor, the High Court in a number of cases held that retrenchment must be exercised as a measure of last resort, after less drastic means have been tried, yet proved futile. It is imperative that the employer must also exhaust all other means to avoid further losses without retrenching its employees.[41]

In the instant case, SS Ventures failed to show that it adopted other cost-saving measures prior to or parallel to retrenchment to forestall losses or cut other costs. Rather, the only cost-effective measures which SS Ventures employed were reducing the work days, rotating the attendance of its employees and not providing the raw materials.[42] Clearly, the said methods were insufficient.

Time and again, the Supreme Court had urged companies which are financially distressed, to employ methods such as, lessening the salary of the management, dispensing with bonuses, or other business expenses, improving the manufacturing efficiencies or trimming marketing and advertising costs.[43] Contrary however to the means espoused by the High Court, it would appear that SS Ventures' attempts at reducing its costs were immediately targeted against the employees such as reduced work days and rotation of attendance. SS Ventures can scarcely claim to have retrenched its employees in good faith.

Likewise amiss in the case at bar is the application of the principle that the retrenchment must be implemented in a just and proper manner, by employing a fair and reasonable criteria in selecting the employees to be dismissed.[44]

Thus, assuming arguendo that the retrenchment of the private respondents was justified due to SS Ventures' purported financial difficulties, the retrenchment would nonetheless suffer from the fatal flaw that SS Ventures failed to use any fair and reasonable criteria in ascertaining who among its employees would be retrenched. There is a complete dearth of explanation as to why the private respondents were singled out in their dismissal, or what criterion or standard was used in choosing which employees to retrench. Evidently, the purported retrenchment was arbitrary and illegal. At best, the private respondents were victims of a roulette that randomly and indiscriminately terminated employees.

Pertinently, in the cases of *Ariola, et al. vs. Philex Mining Corporation*,[45] and *Philippine Tuberculosis Society, Inc. vs. NLU*,[46] the Supreme Court invalidated a retrenchment program due to the employer's failure to use a fair and reasonable criteria in retrenching its employees, notwithstanding the financial losses suffered by the former. Undoubtedly, the employer's failure to use a reasonable and fair standard in effecting the retrenchment is a substantive defect that invalidates the employee's dismissal.[47]

Neither did SS Ventures comply with the Notice Requirements. There is no showing that Notice was sent to the private respondents and to the DOLE thirty days prior to the dismissal. All that SS Ventures hark on are the Establishment Termination Report[48] and Establishment Employment Report,[49] which were stamped received by the DOLE on December 2009, and August 2010, respectively. Strangely, the private respondents have already been terminated prior to the alleged submission of the Reports. It seems that the Reports were submitted in an attempt to give the illegal dismissal a semblance of validity. This is in clear violation of the Labor Code, which requires notice at least one month prior to the intended date of termination.[50]

SS Ventures likewise claimed that the termination of the private respondents was due to the closure of its

business. As proof thereof, in its Motion for Reconsideration before the NLRC,[51] SS Ventures submitted the following documents, namely, Notice of Sheriff's Sale,[52] Notice of Garnishment and Writ of Execution,[53] Adverse Decision in a Complaint for Sum of Money filed against it,[54] Statements of Account enumerating its liabilities to the PEZA,[55] and Final Notice of Disconnection.[56] Succinctly, these documents do not in any way prove the closure of SS Ventures or the cessation of its operations. Noteworthily, the documents are a mere enumeration of the arrears and liabilities incurred by SS Ventures. In fact, there were no specific words or phrases in the same documents specifically indicating or even hinting that SS Ventures had indeed closed shop. More importantly, the documents were dated years after the dismissal of the private respondents.

Moreover, the fact of closure is belied by SS Ventures' Reply[57] and Rejoinder,[58] both filed in 2011, wherein it stated that some of its employees are still currently working in the company, thereby implying continuous operations. Clearly, the evidence submitted by SS Ventures is incomplete and insufficient to lead to a conclusion that indeed it had ceased operating. In balancing the interest between labor and capital, the prudent recourse in termination cases is to safeguard the prized security of tenure of employees and to require employers to present the best evidence obtainable.[59]

Thus, We are convinced that the private respondents were indeed illegally dismissed. Accordingly, the private respondents are entitled to an award of backwages and separation pay in lieu of reinstatement. However, the NLRC erred in computing the separation pay at one half ($\frac{1}{2}$) month, which should be one (1) month for every year of service.[60]

Finally, We uphold the monetary awards granted by the NLRC. The general rule in labor cases is that the burden rests on the employer to prove payment rather than on the employee to prove the non-payment of money claims, considering that the pertinent files, payrolls, records, remittances and other similar documents are in the custody and control of the former.[61] SS Ventures failed in this regard. Thus, the private respondents are entitled to their wage deficiencies, thirteenth month pay, service incentive leave pay and holiday pay computed three (3) years backward from date of the filing of their Complaint in April 7, 2011. Further, the award of moral and exemplary damages, as well as attorney's fees are likewise warranted on account of the manner within which the private respondents were dismissed by SS Ventures.

In fine, although retrenchment and closure are valid management prerogatives, the vast expanse of management choices does not grant the employer unbridled prerogative to transgress the well-nigh constitutional protection to labor. After all, employment to the common man is his very life and blood which must be protected against concocted causes to legitimize an otherwise irregular termination of employment.[62] This is especially true in the instant case of the private respondents who were lowly rank-and-file employees. In this regard, no grave abuse of discretion amounting to lack or excess of jurisdiction may be attributed against the NLRC in rendering the assailed Decision and Resolution. Indeed, as correctly ruled by the NLRC, SS Ventures failed to show that the private respondents were dismissed due to authorized causes provided by law.

WHEREFORE, premises considered, the instant Petition is hereby DENIED FOR LACK OF MERIT. Accordingly, the Decision and Resolution of the NLRC in NLRC LAC NO. 01-000084-14, are AFFIRMED with the modification that the separation pay in lieu of reinstatement must be computed at one (1) month pay for every year of service.

SO ORDERED.

Salazar-Fernando, R.A., Chairperson and Cruz, R A., JJ., concur.

[1] Serrano vs. Gallant Maritime Services, Inc. and Marlow Navigation Co., Inc., G.R. No. 167614, March 24, 2009; PAL v. Santos, G.R. No. 77875, February 4, 1993; Philippine Rabbit Bus Lines, Inc. vs. NLRC and Evangelista, G.R. No. 122078, April 21, 1999; Manila Electric Company vs. Hon. Secretary of Labor Quisumbing and Meralco Employees and Workers Association, G.R. No. 127598, August 1, 2000.

[2] Rollo, pp. 3-27

[3] Id., pp. 28-55

[4] Id., pp. 56-64

[5] Id., pp. 54-55

[6] Id., p. 67

[7] Id., p. 35

[8] Id., p. 36

[9] Id., p. 110

[10] Id., pp. 106-107

[11] Id., p. 110

[12] Id., pp. 67-68

[13] Id., p. 68

[14] Id.

[15] Id.

[16] Id., pp. 40; 42

[17] Id., p. 43

[18] Id., p. 40

[19] Id., pp. 43-44

[20] Id., pp. 51-52

[21] Id., p. 46

[22] Id., p. 48

[23] Id., pp. 53-54

[24] Id., p. 54

[25] Id., pp. 188-201

[26] Id., pp. 11-12

[27] Labor Code of the Philippines, Art. 221. Technical rules not binding and prior resort to amicable settlement. In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case

speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. In any proceeding before the Commission or any Labor Arbiter, the parties may be represented by legal counsel but it shall be the duty of the Chairman, any Presiding Commissioner or Commissioner or any Labor Arbiter to exercise complete control of the proceedings at all stages.

Any provision of law to the contrary notwithstanding, the Labor Arbiter shall exert all efforts towards the amicable settlement of a labor dispute within his jurisdiction on or before the first hearing. The same rule shall apply to the Commission in the exercise of its original jurisdiction.

[28] 2011 National Labor Relations Commission Rules of Procedure, Section 2, Construction - These Rules shall be liberally construed to carry out the objectives of the Constitution, the Labor Code of the Philippines and other relevant legislations, and to assist the parties in obtaining just, expeditious and inexpensive resolution and settlement of labor disputes.

[29] *Anib vs. Coca-Cola Bottlers Philippines, Inc. and Feliciano*, G.R. No. 190216, August 16, 2010

[30] *Id.*

[31] Labor Code of the Philippines, Article 283- Closure of establishment and reduction of personnel. - The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

[32] *Manila Polo Club Employees Union (MPCEU) FUR-TUCP vs. Manila Polo Club, Inc.*, G.R. No. 172846, July 24, 2013; *International Management Services vs. Logarta*, G.R. No. 163657, April 18, 2012

[33] *Lambert Pawnbrokers, et al. vs. Binamira*, G.R. No. 170464, July 12, 2010

[34] *Id.*, citing *Anabe v. Asian Construction*, G.R. No. 183233, December 23, 2009.

[35] *Supra* note 2, pp. 155-164

[36] *Id.*, pp. 137-145

[37] *Id.*, pp. 144;163

[38] *Supra* note 33

In this case, the Statement of Income and Expenses for the year 1997-1998 was prepared only on January 12, 1999. Thus, “it is highly improbable that the management already knew on September 14, 1998, the date of [Helen's] retrenchment, that they would be incurring substantial losses.”

[39] G.R. No. 183233, December 23, 2009.

“xxx Asiakonstrukt proffered no explanation behind the belated submission. And the financial statements it submitted covered the period 1998-2000. Further, note that the audited financial statement covering the period

1998-2000 was prepared in April 2001, which begs the question of how the management knew at such date of the company's huge losses to justify petitioner's retrenchment in 1999."

[40] Supra note 2, pp. 146-147

[41] Supra note 33, *Emco Plywood Corporation and Lim vs. Abelgas, et al.*, G.R. No. 148532, April 14, 2004; *Flight Attendants and Stewards Association of the Philippines (FASAP) vs. Philippine Airlines, et al.*, G.R. No. 178083, October 2, 2009

[42] Supra note 2, p. 68

[43] Supra note 41

[44] *Philippine Tuberculosis Society, Inc. vs. National Labor Union and National Labor Relations Commission*, G.R. No. 115414 August 25, 1998

[45] *Ariola, et al. vs. Philex Mining Corporation and Voluntary Arbitrator Advincula*, G.R. No. 147756 August 9, 2005

[46] Supra note 44

[47] Supra note 45

[48] Supra note 2, p. 85

[49] *Id.*, pp. 83-84

[50] Supra note 31

[51] Supra note 2, pp. 188-201

[52] *Id.*, pp. 202-209

[53] *Id.*, pp. 210-212

[54] *Id.*, pp. 213-218

[55] *Id.*, pp. 221-222

[56] *Id.*, p. 223

[57] *Id.*, pp. 133-135. "Since some of the complainants are still employed with the company, xxx" (Emphasis Ours)

[58] *Id.*, pp. 151-154. "xxx in the case of some employees, xxx they cannot also be awarded separation pay since these employees are either actively employed and returned back to the company, xxx" (Emphasis Ours)

[59] *AMA Computer College, Inc. vs. Garcia and Balla*, G.R. No. 166703, April 14, 2008

[60] *Nacar vs. Gallery Frames and Bordey, Jr.*, G.R. No. 189871, August 13, 2013; *Bani Rural Bank, Inc., et al. vs. De Guzman, et al.*, G.R. No.170904, November 13, 2013

[61] *E.G. & I Construction and Galeos vs. Sato, et. al.*, G.R. No. 182070, February 16, 2011; *Loon, et al. vs. Power Master, Inc., et al.*, G.R. No. 189404, December 11, 2013, citing *Pigcaulan v. Security and Credit Investigation, Inc.*, G.R. No. 173648, January 16, 2012

[62] *FF Marine Corporation and Cruz vs. National Labor Relations Commission and Magno*, G.R. No. 152039.

April 8, 2005

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