

CONSOLIDATED PHILIPPINES, INC., PETITIONER-APPELLANT, VS. DARIMICO EMPLOYEES UNION-FUR, RESPONDENT-APPELLEE.

G.R. No. L-26998. June 03, 1977

Ponente: AQUINO, J.

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AQUINO, J.:

Consolidated Philippines, Inc. appealed from the decision of the Court of First Instance of Rizal, Pasay City Branch III dated June 30, 1969, holding that the Christmas bonus, provided for in the collective bargaining agreement, which was executed between the corporation and Darimico Employees Union-FUR, should be spread through the twelve months of the calendar year for the purpose of computing the overtime pay of the regular employees.

Inasmuch as the appeal is based on undisputed facts in an action for declaratory relief, involving the interpretation of articles IX, XI and XVII of the collective bargaining agreement, that appeal raises a question of law (Sec. 2, Rule 42, Rules of Court; *Cunanan vs. Lazatin*, 74 Phil. 719, 724; *Joaquin vs. Navarro*, 93 Phil. 257, 269-270).

The corporation's contention is that the Christmas bonus of thirty days, which is paid sometime before Christmas day, should be included in the computation of the overtime pay only in the month of December because (1) that bonus is paid in December; (2) the payment of wages is required by law and under the collective bargaining agreement to be made at least twice a month, and not on a yearly basis, and (3) if the union's interpretation is followed, a big amount of overtime pay would have to be paid by the employer.

The trial court, upholding the union's contention, ruled that since the worker's regular pay includes the incentive bonus, the Christmas bonus should be regarded as part of the regular salary or wage and should be apportioned and added to the monthly compensation as a basis for computing the overtime pay.

The union did not file any brief. The case was submitted for decision on October 10, 1967.

Pursuant to this Court's resolution of March 31, 1977, appellant corporation filed a manifestation dated May 5, 1977, stating that from 1965 to 1976 the Christmas bonus was spread through the twelve months of the year for the purpose of computing the overtime pay.

Appellant's counsel, Atty. Rodolfo L. Dizon, disclosed in that manifestation that the corporation was dissolved on November 16, 1976. It had ceased to operate and all its employees were given their corresponding separation pay. Appellee union's counsel did not comply with the aforementioned resolution.

It is evident that those supervening facts have rendered the instant appeal moot and academic (*Velasco vs. Rosenberg*, 29 Phil. 212).

WHEREFORE, this case is dismissed. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, and Antonio, JJ., concur.

Concepcion, Jr., J., on leave.

Martin, J., designated to sit in the Second Division.

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