

REYNALDO H. REBUSA, BERNARDO BAÑOC, VIRGILIO S. MANTALABA, JR., ANTONIO W. DAHIS JR., EDUARDO TRIBUNALO, DELBERT LOPEZ, CESARIO TRIBUNALO, BIENVENIDO E. LEGARDE, LORETO B. MOÑEZ...

Ponente: PEREZ, J.

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PEREZ, J.:

These two consolidated petitions for certiorari under Rule 65 of the Rules of Civil Procedure have common roots but assail different orders of public respondent National Labor Relations Commission – Eight Division.

ANTECEDENTS

On 26 October 2010, petitioners filed separate complaints docketed as NLRC Case No. SRAB-12-10-00300010 and NLRC Case No. SRAB-12-10-00399-10 for illegal dismissal and non-payment of standard benefits, with ancillary prayers for reinstatement, full back wages, payment of overtime pay, service incentive leave, damages and attorney’s fees.

After requisite proceedings, Labor Arbiter Beverly Selim-Musni (LA Musni) rendered a consolidated Decision dated 15 April 2011[1] dismissing the complaints for illegal dismissal, but directed the respondents to “reinstate the complainants within one (1) month from receipt of this Decision and complainants to report for work within the same period” and awarded nominal damages, holiday pay, service incentive leave, 13[th] month pay and attorney’s fees.

In CA-G.R. SP No. 05073, petitioners assail the 15 November 2011 Decision[2] of the National Labor Relations Commission (NLRC), which reversed the 15 April 2011 Decision[3] of LA Musni, and dismissed the complaints of illegal dismissal for lack of merit and the 27 June 2012 Resolution[4] denying petitioners’ motion for reconsideration.

In the meantime, on the theory that the order of reinstatement by LA Musni is immediately final and executory even pending an appeal, the petitioners filed a motion for execution pending appeal. Acting on this motion, Labor Arbiter Jocelyn A. Vasallo (LA Vasallo) issued a Decision dated 16 July 2012[5] directing private respondents to reinstate complainants (herein petitioners) to their former position or its equivalent upon receipt of her order.

In CA-G.R. SP No. 05421, petitioners assail the 31 October 2012 Decision[6] of the NLRC which granted private respondents’ application for TRO and WPI, and nullified the 16 July 2012 Decision of LA Vasallo,[7] and the 28 December 2012 Resolution[8] denying petitioners’ motion for reconsideration.

The Facts

Petitioners, numbering about ninety-four (94) headed by Reynaldo Rebusa (Rebusa), worked with respondent corporations as members of the crew on board fishing vessels owned by these companies. Eight (8) of them, namely: Joseph Bajao, Danny Basanez, Romil C. Tolorio, Jimmi Samson, Isias Delalamon, Eleonido Salomon,

Rene Butil and Elizer Ternate were dropped as complainants after they either withdrew their complaints or resigned from employment.[9]

Petitioners are employed as head knitters, knitters, divers, boat captains, assistant boat captains, deckhands, oilers, electrical oilers/electricians, maintenance, skiff men, mechanics, carpenters, shop clerks, painters, stock keepers, ice harvesters, sandblast painters, wrench men, boat engineers and welders in private respondents' fishing business with some having served for almost one (1) year while others even up to eighteen (18) months. They alleged that that they were not paid holiday pay, or provided with vacation or sick leave benefits, which they could have used whenever their fishing vessels are docked in the Philippines for repairs or in case of accidents or injury while on board. When ill, they were merely repatriated for medical treatment, at their own expense and with no salary. Worse, when an employee dies in the high seas, his family did not receive any death compensation.[10]

Petitioners also claimed that they did not enjoy any rest day. For as long as they are at sea and there was fish to catch, they fished night and day without rest, unmindful whether the seas were calm or rough, and undaunted by waves five-stories high. Yet, despite the difficult working conditions, petitioners continued to work faithfully during all these time because their jobs provided sustenance to their families.[11]

On separate times in February 2007, May and June 2010, petitioners claimed that they were barred by company guards from entering their work premises in Tambler, General Santos City, and that eventually, they met with Grace Damalerio-Guevarra, respondents' HR manager, and Jerry C. Damalerio, operations manager who informed them that their employment had been terminated. Petitioners waited for months for private respondents to recall them to work, but they waited in vain.[12]

Thus, petitioners filed their complaints.[13]

In their defense, private respondents deny terminating the employment of petitioners. Instead, they admit that they advised petitioners to "stay home" after they suspended their fishing business in good faith by reason of a fishing ban.

Private respondents averred that they placed petitioners on floating status on 30 May 2010 and June 2010 to await new deployment when their fishing business can resume. They explained that during its convention on December 8-12 2008 in Busan, Republic of Korea, the Western and Central Pacific Fisheries Commission (WCPFC) composed of several nations, including the Philippines, passed Conservation and Management Measure 2008-01 imposing a two (2) year fishing ban in the Pacific Ocean effective 01 January 2010, specifically prohibiting the use of the fish aggregating device (FAD), or what is locally known as "payao". As a signatory member of the WCPFC, the Philippines subsequently passed Fisheries Administrative Order No. 236, Series of 2010, imposing a three-month ban every year on the use of "payao" in the country's exclusive economic zones (EEZ) starting July-September 2010.[14]

Respondent companies are dependent on the use of "payaos", and respondents had no choice but to temporarily stop their fishing operations. During the general assembly for its employees held on 15 May 2010, respondents directed the three hundred forty five (345) employees including petitioners to "stay home" effective 26 May 2010 while they search for alternative fishing grounds in the territorial waters of Papua-New Guinea and the Solomon Islands.[15]

After securing a fishing license from the government of Solomon Islands to fish in their waters, private respondents started recalling their employees including petitioners from 24 August 2010 until 04 October 2010. Despite the written notices of return to work served on them thrice, petitioners refused to return to work. Even

during the mandatory conference before the Labor Arbiter, petitioners declined to return to work, contending that the recall order was a mere afterthought of private respondents, and would be inconsistent with their complaints for illegal dismissal. Petitioners then amended their prayer for reinstatement to payment of separation pay.[16]

Private respondents also denied petitioners' claims for 13th month pay and service incentive leave pay as these have already been fully satisfied, and likewise denied petitioners' claim for overtime pay.

On 15 April 2011, LA Musni rendered the Decision[17] dismissing petitioners' complaints for illegal dismissal, but ordered reinstatement and awarded benefits. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Dismissing the complaints for illegal dismissal in the instant consolidated cases;

2. Ordering respondents Damalerio Fishing Enterprises, Damalerio Fishing Corporation and Tuna Venture Corporation, through their responsible corporate officers to jointly and solidarily pay the complainants, except the managerial employees Ginges Maningo, Heracleo Rodriguez, Virgilio Canonigo, Norberto Macaraya, Jr., Yolly Dusal, Gil R. Carreon, Renato Culta, Rolando Rodrigo, Sr., Arturo Mula, Julito Gallardo, Romeo Digamo, Nelson Ballos, Martin Landia only with respect to the holiday pay and service incentive leave pay awarded, the following:

a. Nominal Damages at Fifty Thousand (P50,000.00) each 85 x
50,000.....P4,250,000.00

b. Holiday Pay 601,742.86

c. Service Incentive Leave Pay.....374,677.74

Grand Total.....P5,226,420.60

3. Ordering the respondents Damalerio Fishing Enterprises, Damalerio Fishing Corporation and Tuna Venture Corporation, through their responsible corporate officers to reinstate the complainants within one (1) month from receipt of this Decision, and complainants to report for work within the same period, except those complainants who no longer desired to report for work;

4. Ordering the respondents Damalerio Fishing Enterprises, Damalerio Fishing Corporation and Tuna Venture Corporation, through their responsible corporate officers, to release and pay the complainants their 13[th] month pay for December, 2010 in such amounts indicated in the pay slips marked as Annex "333" to Annex "402" of respondents' joint position paper;

5. Ordering the respondents Damalerio Fishing Enterprises, Damalerio Fishing Corporation and Tuna Venture Corporation, through their responsible corporate officers to jointly and solidarily pay the complainants attorney's fees equivalent to 10% of the total award;

6. Ordering the dismissal of the complaints of JOSEPH BAJAO, DANNY BASANEZ, ROMIL TOLORIO, JIMMY SAMSON, ISIAS DELALAMON, ELEONIDO SALOMON, RENE BUTIL and ELIZER TERNATE as discussed above.

All other claims are dismissed for lack of merit.

Acting on petitioners' appeal, the NLRC reversed LA Musni's Decision and dismissed the consolidated cases for lack of merit in a Decision[18] dated 15 November 2011. The dispositive portion of which reads:

WHEREFORE, foregoing premises considered, the appeal is GRANTED and the appealed decision REVERSED and SET ASIDE. Accordingly, a new judgment is rendered DISMISSING the above-entitled cases for lack of merit.

Private respondents' motion for reconsideration was denied by the public respondent in a Resolution[19] dated 27 June 2012.

In the meantime, LA Vasallo granted petitioners' Motion For Execution Pending Appeal in her Decision dated 16 July 2012[20], ruled that an order of reinstatement is immediately executory whether or not there is a finding of illegal dismissal, and ordered the immediate reinstatement of the petitioners.

Private respondents sought and were granted by the NLRC in its Decision dated 14 August 2012 an order temporarily restraining petitioners' reinstatement, and in a Decision dated 31 October 2012, the NLRC nullified and set aside LA Vasallo's Decision.[21]

Aggrieved, petitioners raise before Us the following assignment of errors:

In CA-G.R. SP No. 05073:

THE MAJORITY OF PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT REVERSED THE DECISION OF THE LABOR ARBITER DISMISSING PETITIONERS' COMPLAINT FOR LACK OF MERIT;

THE MAJORITY OF PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT MAINTAINED THAT PETITIONERS WERE NOT ILLEGALLY DISMISSED;

THE MAJORITY OF PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT DENIED THE MOTION FOR RECONSIDERATION FOR LACK OF MERIT FOR BEING FILED OUT OF TIME.

In CA-G.R. SP No. 05421-MIN:

THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT ISSUED A WRIT OF PERMANENT INJUNCTION ENJOINING THE LABOR ARBITER FROM ENFORCING THE ORDER OF REINSTATEMENT PENDING APPEAL;

THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT INSISTED THAT COMPLAINANTS-PETITIONERS WERE NOT DISMISSED BUT MERELY TEMPORARILY LAID-OFF FROM THEIR JOBS EVEN IN THE FACE OF MOUNTING EVIDENCE TO THE CONTRARY; AND

THE PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT RULED THAT REINSTATEMENT PENDING APPEAL DOES NOT APPLY TO THE PETITIONERS BECAUSE THEY WERE NOT DISMISSED EVEN IN THE FACE OF MOUNTING EVIDENCE TO THE CONTRARY.

The Court's Ruling

The principal issues in these consolidated petitions, being intertwined, will be resolved together. Obviously, the pivotal issue before Us is whether petitioners were illegally dismissed from employment or merely laid-off due to a bona fide suspension of respondent corporations' fishing operations, and whether petitioners have a right of reinstatement to their former positions.

As to the relevant factual matters in these cases, We defer to the findings of the labor arbiter and the NLRC as these matters are within the ambit of their jurisdiction and competence. It is a settled rule that findings of facts of quasi-judicial agencies like the NLRC are accorded by this Court not only with respect but even finality if they

are supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. These are, on the main, factual findings over which the Labor Arbiter and the NLRC are most equipped to determine having acquired expertise in the specific matters entrusted to their jurisdiction.[22] Judicial review of labor cases therefor does not go beyond the evaluation of the sufficiency of the evidence upon which the labor officials' findings rest.[23]

Petitioners were temporarily laid-off from their jobs under Article 286 of the Labor Code

This Court sustains the finding of fact of both respondent NLRC and LA Musni that petitioners were not dismissed but were merely temporarily laid-off from their jobs by respondent corporations on account of the fishing ban on the use of the "payao".

In this case, there is substantial evidence that the fishing operations of respondent corporations were interdicted by the Conservation and Management Measure 2008-01 of the Western and Central Pacific Fisheries Commission (WCPFC),[24] imposing a two- year fishing ban on the high seas of the Pacific Ocean, and the specific prohibition on the use of fish aggregating device (FAD) locally known as "payao".[25] Domestic fishing regulations primarily Fisheries Administrative Order No. 236,[26] Series of 2010 also imposed a recurring three-month ban every year on the use of "payao" in the country's exclusive economic zones (EEZ).[27]

Petitioners did not rebut that the former's fishing operations are highly dependent on the use of "payao". "Payaos" are floating devices deployed by fishing vessels to attract fish and make more efficient the task of finding and catching sea life. The indiscriminate use of the "payao" however, resulted in increasing catch of juvenile and non-target species, with drastic consequences for fisheries and ecosystems alike. Thus, the ban on the use of "payao" is justified by the need to protect and conserve fish which are breeding or which needs time to mature.[28]

These lawful limitations behind the suspension of private respondents' fishing operations to abide with measures to ensure long-term conservation and sustainable use of fish stocks can hardly be deemed bad faith. As a necessary consequence, it was inevitable for respondent corporations to have their employees "stay home" as they could not provide them with compensable work.

A lay-off is a management tool to cut losses, improve its businesses or operations or even to gain temporary respite from an unfavorable economic environment. It is the temporary cessation of employment resorted to by the employer, through no fault of nor with prejudice to the employees, during periods of business recession, industrial depression, seasonal fluctuations, or during lulls occasioned by lack of orders, shortage of materials, conversion of the plant for a new production program, or the introduction of new methods or more efficient machinery, or of automation. Simply put, the suspension of business is dictated by survival or growth.[29]

As a rule, labor laws frown on judicial or quasi-judicial interference with an employer's judgment in the conduct of his business. Even as the law is solicitous of the welfare of employees, it also protects the right of an employer to exercise what are clearly management prerogatives.[30] In *San Miguel Brewery Sales Force Unit v. Ople*,[31] the Supreme Court held that so long as company prerogatives are exercised in good faith for the advancement of employers' interest and not for the purpose of defeating or circumventing the rights of the employees under special laws or under valid agreements, courts will neither interfere nor substitute their judgment to that of the employer.

On the other hand, the protection of employees who are temporarily laid-off is guaranteed by safeguards in the law, which the Supreme Court stressed in *Sebuguero v. NLRC*[32]:

...Article 286 may be applied but only by analogy to set a specific period that employees may remain

temporarily laid-off or in floating status. Six months is the period set by law that the operation of a business or undertaking may be suspended thereby suspending the employment of the employees concerned. The temporary lay-off wherein the employees likewise cease to work should also not last longer than six months. After six months, the employees should either be recalled to work or permanently retrenched following the requirements of the law, and that failing to comply with this would be tantamount to dismissing the employees and the employer would thus be liable for such dismissal.

Article 286 of the Labor Code thus provides that not only must the suspension of the business be done in good faith and for good reasons, but the lay-off cannot last for a period exceeding six months. During that period, there is no termination of the employment of the employees. Only when the suspension exceeds six months will the employment of the employees be deemed terminated so as to entitle them to the benefits the law assures them in such case. When the operation of the business is resumed within six months, it shall be the duty of the employer to reinstate his employees to their former positions without loss of seniority rights; if the latter indicates their desire to resume work within one month from such resumption of operations, it is the obligation of the employer to take them back.[33]

In the present case, the lay-off of petitioners did not exceed six (6) month reckoned from the time petitioners were told in a General Assembly called on 26 May 2010 to stay home.[34] The evidence shows that as early as 24 August 2010, private respondents began issuing return to work orders to its employees including petitioners. This offer of reinstatement was reiterated during the mandatory conferences held on 5 October 2010, 19 October 2010 and 14 December 2010.[35] As already discussed petitioners had one month from the notice to return to manifest their desire to resume their employment as provided in Article 286 of the Labor Code.

Petitioners insist that the notice to return to work was a mere afterthought after they filed their complaints for illegal dismissal. LA Musni disposed of this claim on the basis of available evidence:

Of significance is the claim of complainants that the “return to work” orders of respondents were mere afterthought. Records show that respondents mailed the first order to report for work for Romeo Digamo on September 9, 2010, for Nelson Ballos on September 14, 2010, for Marcelino H. Tavera on September 14, 2010, for Gaudencio Asentista on September 9, 2010, for Carlito Camallere on August 24, 2010, the second notice on September 1, 2010, and the final notice on September 13, 2010, for Paulito Aris on September 9, 2010, for Julito Gallardo on August 24, 2010, the second notice on September 1, 2010, and the final notice on September 13, 2010, for Vionito Corompido on September 9, 2010, for Ronelio Magan on September 1, 2010, the second notice on September 8, 2010, for Romeo Gabian on September 9, 2010, for Dexter Danao on September 9, 2010, for Pedro Rosana on September 14, 2010, for Segundino Baja on September 9, 2010, for Yolly Busal on September 14, 2010, among others.

Yet the three (3) registry return receipts on record show that respondents Damalerio Fishing Corporation, Celebes Tuna Fishing Corporation and Damalerio Fishing Enterprises received the summons for Case No. 12-08-00300-10 on September 15, 2010, or after they had mailed the notices to the afore-named complainants to report for work. This fact thereby overcomes complainants’ charge of the subject notices being mere afterthought.[36]

It must be stressed that the burden of proving illegal dismissal had shifted to petitioners after private respondents categorically denied dismissing the petitioners since they were merely placed on temporary floating status in good faith for a period not exceeding six month before they were advised to return to work. The one who alleges a fact has the burden of proving it and the proof should be clear, positive and convincing.[37]

In *MZR Industries v. Colambot*,[38] it was emphasized that before the employer bears the burden of proving that the dismissal from employment is legal, the employee must first establish by substantial evidence the fact of such dismissal. Proof of dismissal is a priori to any question as to the legality or illegality thereof.

Thus, it is also our conclusion as did the respondent NLRC and LA Musni that the claim of illegal dismissal cannot be sustained.

We are also persuaded that the events after petitioners' lay-off leads to the reasonable conclusion that petitioners had waived their right to return to their jobs when they chose not to abide by the notices for them to return to work and instead persisted in the prosecution of their complaint for illegal dismissal. The one-month period under Article 286 for laid-off employees to resume employment after the employer sets aside the suspension of business recognizes that the window of re-employment cannot remain open indefinitely, particularly in a business that is restarting and which needs to deploy necessary manpower immediately. This Court finds that petitioners unqualifiedly intended to sever their employment with respondent corporations not only by refusing to return to work, but also by the amendment of their complaint where they chose the payment of separation pay instead of reinstatement. We even note that at the mandatory mediation conferences, petitioners insisted to be paid their separation pay despite private respondents' offer to reinstate them.[39]

In this light, We find that the respondent NLRC did not act in excess of or without jurisdiction, or with grave abuse of discretion amounting to loss or excess of jurisdiction, in nullifying the 16 July 2012 Decision of LA Vasallo directing the immediate reinstatement of petitioners.

However, in the light of the circumstances underlying this dispute where both parties have acted on the basis of their honest assessment of their respective circumstances and thus without bad faith, and as a measure of social justice, we find that payment of separation pay in lieu of reinstatement would be a just and fair relief.

Petitioners are entitled to holiday pay, service incentive leave pay, and thirteenth month pay for the year 2010; Nominal damages and attorney's fees, without basis

The NLRC in its Decision dated 15 November 2011 deleted the LA Musni's award of holiday pay, service incentive leave (SIL) pay, and thirteenth (13th) month pay for the year 2010, finding that these claims were not alleged either in their complaint or position paper. A perusal of the records would readily show that the claims for holiday pay and SIL pay,⁴⁰ albeit the latter is pleaded in the form of a claim for vacation and sick leave benefits,[41] were sufficiently alleged by petitioners in their position paper and LA Musni found factual basis for the award of these benefits. We thus reinstate LA Musni's award of holiday pay and SIL pay, deferring to her computations as she is better equipped to perform this task.[42]

Petitioners' claim for 13[th] month pay though was not stated as one among their causes of action whether in the complaint or position paper. Such failure, however, should not deprive petitioners of their 13[th] month pay[43] for the year 2010, to which they are entitled by law.

As employers, respondent corporations bear the burden of proving that they have paid the aforementioned benefits to petitioners. It is a settled rule that the burden of proving payment of these monetary claims rests on the employer to prove payment, rather than on the employees to prove non-payment.[44] Because respondent corporations failed to provide evidence that these claims have been settled, petitioners should be paid their holiday pay, SIL pay and 13[th] month pay for the year 2010.

Anent the award of nominal damages, We find the same without factual and legal basis in view of Our finding that there was no violation of petitioners' right to statutory due process, there being no dismissal but merely a temporary lay-off of the employees. The Supreme Court has consistently pronounced that nominal damages maybe awarded only in cases of dismissals without affording the employee due process of law.[45]

In the same vein, the absence of a valid cause of action against private respondents negates the award of attorney's fees. There is no basis justifying an award of attorney's fees in this case since there is neither illegal

dismissal to speak of nor unlawful withholding of wages under Article 111 of the Labor Code.[46]

WHEREFORE, the petition in CA-G.R. SP No. 05073 is PARTLY GRANTED.

The petition in CA-G.R. SP No. 05421 is DENIED.

Accordingly, the 15 November 2011 Decision and 27 June 2012 Resolution of the respondent National Labor Relations Commission are SUSTAINED with the following MODIFICATIONS:

Respondents Damalerio Fishing Enterprises, Damalerio Fishing Corporation and Tuna Venture Corporation are DIRECTED to pay petitioners separation pay equivalent to ½ month salary for every year of service, a service of at least 6 months being equivalent to a full year, in lieu of reinstatement.

Petitioners are also ENTITLED to payment of holiday pay, service incentive leave pay, and 13[th] month pay, as stated in the 15 April 2011 Decision of Labor Arbiter Beverly Selim-Musni, but the award of nominal damages is deleted.

The case is REMANDED to the Labor Arbiter for further proceedings consistent with these dispositions.

SO ORDERED.

Camello, J.,Ch., and Inting, JJ., concur.

[1] Rollo, CA-G.R. SP No. 05073, pp. 32-53.

[2] Id. at 23-31.

[3] Supra note 1.

[4] Rollo, CA-G.R. SP No. 05073, pp. 55-58.

[5] Rollo, CA-G.R. SP No. 05421, p.31.

[6] Id. at24-29.

[7] Id. at 31-33.

[8] Id. at 36-38.

[9] Rollo, CA-G.R. SP No. 05073, p. 24.

[10] Id. at 33-34.

[11] Rollo, CA-G.R. SP No. 05073, pp. 33-34.

[12] Id. at 34.

[13] Id. at 34.

[14] Id. at 24-25.

[15] Rollo, CA-G.R. SP No. 05073, p. 25.

[16] Id. at 25.

[17] Supra note 1.

- [18] Supra note 2.
- [19] Rollo, CA-G.R. SP NO. 05073, pp. 55-58.
- [20] Rollo, CA-G.R. SP No. 05421, pp. 31-33.
- [21] Ibid, pp. 24-29.
- [22] NEECO II v. NLRC, G.R. NO. 157603, 23 June 2005.
- [23] G & M (Phil.) Inc. v. Rivera, G.R. No. 141802, 29 January 2007.
- [24] Rollo, C.A. G.R. SP No. 05073, pp. 349-356.
- [25] Conservation and Management Measure 2008-01, paragraph 17.
- [26] Rollo, C.A. G.R. SP No. 05073, pp. 360-362.
- [27] Id. at 360.
- [28] Conservation and Management Measure 2008-01, paragraphs 25 and 26. Forum on Fish Aggregating Devices. General Santos City, Philippines. 3 September 2014;
- [29] Dela Cruz v. NLRC, G.R. No. 119536, 17 February 1997.
- [30] Bontia v NLRC, G.R. No. 114988, 18 March 1996.
- [31] G.R. No. L-53515, 8 February 1989.
- [32] G.R. No. 115394, 27 September 1995.
- [33] Lagonoy Bus Corp. v. CA, G.R. No. 165598, 14 August 2007.
- [34] Rollo, C.A. G.R. SP No. 05073, pp. 363-381.
- [35] Id. at 391-400.
- [36] Rollo, C.A. G.R. SP No. 05073, pp. 40-41.
- [37] Basay v. Consolacion, G.R. No. 175532, 19 April 2010.
- [38] G.R. No. 179001, 28 August 2013.
- [39] Rollo, C.A. G.R. SP No. 05073, pp. 395-396.
- [40] ART. 94. Right to Holiday Pay. – (a) Every worker shall be paid his regular daily wage during regular holidays, except in retail and service establishments regularly employing less than ten (10) workers; xx
- ART. 95. Right to Service Incentive Leave. – (a) Every employee who has rendered at least one year of service shall be entitled to a yearly service incentive of five days with pay. xxx
- [41] ART. 95 xxx (b) This provision shall not apply to those who are already enjoying the benefitherein provided, those enjoying vacation leave with pay of at least five days xxx.
- [42] Rollo, C.A. G.R. SP No. 05073, pp. 47-49.
- [43] P.D. No. 851.
- [44] Pigcaulan v. Security and Credit Investigation, Inc., G.R. No. 173648, 16 January 2012.

[45] Jaka Food Processing Corporation v. Pacot, G.R. No. 151378, 28 March 2005; Agabon v. NLRC, G.R. No. 158693, 17 November 2004.

[46] Article 111. Attorney's Fees. (a) In cases of unlawful withholding of wages the culpable party may be assessed attorney's fees equivalent to ten percent of the amount of wages recovered. Xxx

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