

RAMATEK PHILIPPINES, INC. AND MORRIS WEINBERG, PETITIONERS, VS. MA. ANELIA DE LOS REYES, RESPONDENT.

G.R. NO. 139526. October 25, 2005

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] of the Resolutions[2] dated 31 March 1999 and 6 July 1999 of the Court of Appeals in CA-G.R. SP No. 52018. The Court of Appeals dismissed the petition for having been filed out of time.

The Facts

In August 1995, RAMATEK PHILIPPINES, INC. ("RAMATEK") hired Ma. Anelia de los Reyes ("Anelia") as RAMATEK's comptroller.

In September 1995, RAMATEK entered into a sub-contracting agreement with Sicar Micro-Electronics Corporation ("Sicar Corporation"). Nestor de los Reyes ("Nestor"), Anelia's husband, was a major stockholder, Treasurer and Chief Operations Officer of Sicar Corporation.

On 5 July 1996, Sicar Corporation and Nestor filed a civil case for damages against Lawrence Esparaz, Percy Jarin, and Edgardo Linsangan ("RAMATEK officials"), in their capacity as Plant Manager, Secretary, and Operations Manager, respectively, of RAMATEK for their unilateral termination of the contract between RAMATEK and Sicar Corporation without authority from RAMATEK.[3] Later, Morris Weinberg ("Weinberg"), the chairman of the Board of Directors of RAMATEK, informed Anelia that she should file a leave of absence while the case between RAMATEK and Sicar Corporation was ongoing. On 31 July 1996, Anelia filed an indefinite leave of absence effective 1 August 1996 until "after the negotiations of the case." [4]

On 5 August 1996, Weinberg sent an electronic mail ("e-mail") to Anelia, requesting for Anelia's voluntary resignation. The e-mail reads:

ANELIA:

IT IS WITH GREAT REGRET THAT I MUST INFORM YOU OF MY REACTION TO THE SICAR AFFAIR. YOUR CONNECTION IN THIS MATTER HAS CAUSED ME TO LOSE MY FAITH AND TRUST IN YOU. IT IS A MAJOR CONFLICT OF INTEREST SITUATION.

I HAVE ASKED RAMATEK'S MANAGING DIRECTOR TO REQUEST FROM YOU A VOLUNTARY RESIGNATION INSTEAD OF IMMEDIATE TERMINATION. AND TO DO THE SAME FOR ANY OTHER EMPLOYEES INVOLVED.

I REGRET HAVING TO TAKE THIS ACTION. IT PAINS ME VERY MUCH.

MORRIS WEINBERG[5]

In a letter dated 9 September 1996, RAMATEK required Anelia to explain within 72 hours some of her allegedly questionable transactions. RAMATEK's President and General Manager Lawrence Esparaz ("Esparaz") signed the letter which reads:

September 9, 1996

Ms. Ma. Anelia Delos Reyes
2484 Aladdin Street,
Pandacan, Manila

Dear Ms. Delos Reyes:

A review of the various records and transactions of your office yielded serious questions that require explanation on the following, to wit:

- 1) The bidding of fourteen (14) pcs. of iron works (table) wherein you awarded the account to Ms. Viola Mocorro who offered a bid of Phil. Pesos 37,700.00 or about Phil. Pesos 2,692.85 per table, as against Mr. Ronnie Yucaran's minimum bid offer of Phil. Pesos 2,105.00 per table;
- 2) Your purchase of five (5) units Olympia Heavy Duty typewriter, Model SG3-N, 15" carriage, Elite Type from Mitec International Corporation, at a cost of Phil. Pesos 14,000.00 per unit, when there was an existing offer from FCR Business Machines Corp. at a much reduced price of Phil. Pesos 11,950.00 per unit;
- 3) The roofing works at the Cordova Condominium Building which you awarded to Ms. Viola Mocorro at a cost of Phil. Pesos 250,000.00 as against a bid/quotation submitted by a certain Wally Bondoc for the same scope of work only at a cost of Phil. Pesos 90,000.00;
- 4) Your cash advances amounting to Phil. Pesos 500,000.00 per SBTC Check No. 285965 dated January 12, 1996, for the purchase of furnitures and fixtures for the BF House, which to date remain unliquidated, despite repeated demand, and/or lapse of considerable length of time;
- 5) Your failure to submit/produce various company documents, paperworks, despite the lapse of sufficient time from its demand;
- 6) Unauthorized deposit of company funds/checks into personal bank accounts.

Please explain in writing, within 72 hours, why no disciplinary action should be imposed against you for violation of Article 282 of the Labor Code of the Philippines which provisions we quote hereunder:

"ART. 282. Termination by employer. An employer may terminate an employment for any of the following just causes:

- (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- (b) Gross and habitual neglect by the employee of his duties;
- (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
- (e) Other causes analogous to the foregoing."

Your strict compliance is hereby enjoined.

Very truly yours,

RAMATEK PHILIPPINES, INC.

(signed)

LAWRENCE ESPARAZ

President/General Manager[6]

Anelia failed to claim the letter which RAMATEK sent to her by registered mail. RAMATEK sent Anelia another letter dated 2 October 1996 inviting Anelia to attend an administrative investigation on her alleged questionable transactions.[7] The investigation was scheduled on 10 October 1996 at RAMATEK's office in Carmona, Cavite. Anelia was absent at the investigation, during which the investigating body[8] concluded that Anelia's transactions were grossly disadvantageous to RAMATEK and constituted sufficient ground for Anelia's termination under Article 282(c) of the Labor Code.[9]

In a letter dated 14 October 1996, RAMATEK terminated Anelia's employment effective 15 October 1996 for committing the alleged anomalies amounting to breach of trust and confidence.[10]

Meanwhile, on 20 September 1996, Anelia filed with the National Labor Relations Commission ("NLRC") a Complaint for illegal suspension, illegal dismissal, illegal withholding of salary, allowances and 13th month pay, and damages.

On 5 August 1997, the Labor Arbiter ruled in favor of Anelia. The Labor Arbiter held that petitioners failed to prove their allegation that Anelia engaged in anomalous transactions grossly disadvantageous to RAMATEK. The Labor Arbiter found the charges against Anelia false and baseless. Further, the Labor Arbiter held that RAMATEK terminated Anelia without due process. The Labor Arbiter stated that the records show that RAMATEK made the decision to dismiss Anelia even before RAMATEK requested Anelia to explain the charges against her. The dispositive portion of the Labor Arbiter's decision reads:

WHEREFORE, judgment is hereby rendered finding complainant to have been illegally dismissed from employment by respondent corporation and concomitantly ordering said respondent company to reinstate her with backwages.

Respondent company is also ordered to pay her salary for July 15 - August 1, 1996, her proportionate 13th month pay for 1996 and attorney's fees equivalent to ten (10%) percent of the financial award.

Other claims are hereby ordered dismissed for lack of merit.

SO ORDERED.[11]

On 15 August 1997, petitioners appealed the Labor Arbiter's decision. On 12 December 1997, the NLRC dismissed the appeal for failure to perfect the same. The NLRC found that the surety bond filed by petitioners was spurious. Petitioners filed a replacement bond and the NLRC reconsidered its decision on petitioners' motion. The NLRC held that there was no showing that petitioners purposely posted a fake surety bond.

In a Resolution dated 31 August 1998, the NLRC upheld the factual findings of the Labor Arbiter. However, the NLRC found that Anelia's reinstatement was no longer feasible due to strained relations and held that Anelia should instead be granted separation pay. Further, in accordance with Article 111[12] of the Labor Code, the NLRC held that the attorney's fees should be based on the awards representing unpaid salary for the period of 15 July to 1 August 1996 and the 13th month pay. The dispositive portion of the NLRC Resolution reads:

WHEREFORE, the instant motion for reconsideration is hereby GRANTED. The appealed Decision is hereby

AFFIRMED with MODIFICATION in that aside from the payment of full backwages reckoned from date of dismissal on August 5, 1996 up to the finality of this Decision (less wages, if any, received by complainant by virtue of reinstatement, actual or payroll, if at all, during the pendency of the appeal), respondents are further ordered to grant complainant separation pay equivalent to one (1) month salary per year of service, reckoned from date of employment on August 1995 up to the finality of this decision.

The attorney's fees awarded should be adjusted and based only on the awards representing the unpaid salary covering the period from July 15 to August 1, 1996 and 13th month pay.

SO ORDERED.[13]

Petitioners received on 27 October 1998 the NLRC Resolution. On 5 November 1998, petitioners filed a motion for reconsideration, which NLRC denied in a Resolution dated 27 November 1998. Petitioners received the NLRC Resolution denying the motion for reconsideration on 25 January 1999. On 26 March 1999, petitioners filed a petition for certiorari with the Court of Appeals.

On 31 March 1999, the Court of Appeals dismissed the petition for having been filed out of time.

Hence, this petition.

The Ruling of the Court of Appeals

The Court of Appeals dismissed the petition based on Section 4, Rule 65 of the 1997 Rules of Civil Procedure, as amended by this Court in an En Banc Resolution dated 21 July 1998. The resolution, which is contained in Circular No. 39-98,[14] took effect on 1 September 1998. The amended provision reads:

SEC. 4. Where and when petition to be filed. - The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.

If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of such denial. No extension of time to file the petition shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (Emphasis supplied)

The Court of Appeals stated that when petitioners filed their motion for reconsideration on 5 November 1998, eight (8) days had elapsed from 27 October 1998 when they received the NLRC Resolution dated 31 August 1998. When the NLRC denied petitioners' motion for reconsideration, which denial petitioners received on 25 January 1999, petitioners had only the remaining fifty-two (52) days or until 18 March 1999 to file the petition for certiorari. Thus, the Court of Appeals held that the petition for certiorari that petitioners filed on 26 March 1999 was clearly filed out of time.

The Issues

Petitioners raise the following issues:

- THE COURT OF APPEALS COMMITTED SERIOUS ERROR WHEN IT DENIED DUE COURSE TO THE PETITION ON THE GROUND THAT THE REGLEMENTARY PERIOD HAD ALREADY LAPSED.

- THE COURT OF APPEALS ERRED IN NOT GIVING DUE COURSE TO THE PETITION DESPITE THE FACT THAT PETITIONERS RAISED SUBSTANTIAL AND NOVEL ISSUES WHICH, IF NOT RESOLVED, WOULD NOT CONFORM TO THE DEMANDS OF SUBSTANTIAL JUSTICE.
- THE COURT OF APPEALS COMMITTED SERIOUS ERROR WHEN IT REFUSED TO RESTRAIN THE NLRC WHICH RESOLVED THE ILLEGAL DISMISSAL CASE WITHOUT RULING FIRST ON PETITIONERS' MOTION FOR INHIBITION.[15]

The Ruling of the Court

We find the petition partly meritorious. Petitioners filed the petition for certiorari with the Court of Appeals within the 60-day period provided in Section 4 of Rule 65, as amended by Circular No. 56-2000.[16] However, to avoid further delay, the Court will resolve the petition on the merits instead of remanding the case to the Court of Appeals.

Retroactive Application of Circular No. 56-2000

The Court of Appeals applied the amendment under Circular No. 39-98 in computing the period for filing a petition for certiorari. However, this Court further amended the reglementary period for filing a petition for certiorari in En Banc Resolution dated 1 August 2000 in A.M. No. 00-2-03-SC. The resolution, which is contained in Circular No. 56-2000, took effect on 1 September 2000. The latest amendment of Section 4 of Rule 65 of the 1997 Rules of Civil Procedure reads:

Sec. 4. When and where petition filed. - The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of the said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in the aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days. (Emphasis supplied)

In a number of cases,[17] this Court applied retroactively Circular No. 56-2000. This Circular reckoned the 60-day period to file a petition for certiorari from the date of receipt of the notice of the denial of the motion for reconsideration or new trial, if one was filed. In these cases, this Court ruled that a petition for certiorari which had been filed past the 60-day period under Section 4 of Rule 65, as amended by Circular No. 39-98, was deemed seasonably filed provided it was filed within the 60-day period counted from the date of receipt of the notice of the denial of the motion for reconsideration.

In *Narzoles v. NLRC*,[18] this Court explained:

The Court has observed that Circular No. 39-98 has generated tremendous confusion resulting in the dismissal of numerous cases for late filing. This may have been because, historically, i.e., even before the 1997 revision to the Rules of Civil Procedure, a party had a fresh period from receipt of the order denying the motion for reconsideration to file a petition for certiorari. Were it not for the amendments brought about by Circular No. 39-98, the cases so dismissed would have been resolved on the merits. Hence, the Court deemed it wise to revert to the old rule allowing a party a fresh 60-day period from notice of the denial of the motion for

reconsideration to file a petition for certiorari. x x x the Court resolved, in A.M. No. 00-2-03-SC, to further amend Section 4, Rule 65 x x x

In view of its purpose, the Resolution further amending Section 4, Rule 65 can only be described as curative in nature, and the principles governing curative statutes are applicable.

Curative statutes are enacted to cure defects in a prior law or to validate legal proceedings which would otherwise be void for want of conformity with certain legal requirements. They are intended to supply defects, abridge superfluities and curb certain evils. They are intended to enable persons to carry into effect that which they have designed or intended, but has failed of expected legal consequence by reason of some statutory disability or irregularity in their own action. They make valid that which, before the enactment of the statute was invalid. Their purpose is to give validity to acts done that would have been invalid under existing laws, as if existing laws have been complied with. Curative statutes, therefore, by their very essence, are retroactive.

In the present case, the petition filed in the Court of Appeals was indeed filed beyond the 60-day period if computed from the time the notice of judgment was received and interrupted only by the filing of the motion for reconsideration. However, if the 60-day period is reckoned from the receipt of the notice denying the motion for reconsideration, as provided under Circular No. 56-2000, then the petition for certiorari was filed on time.

Petitioners received on 25 January 1999 the notice denying their motion for reconsideration of the NLRC Resolution. Under Section 4 of Rule 65, as amended by Circular No. 56-2000, petitioners had 60 days or until 26 March 1999 to file the petition for certiorari with the Court of Appeals. Since petitioners filed their petition for certiorari on 26 March 1999, we hold that they filed their petition seasonably.

Loss of Trust and Confidence

We agree with the findings of the Labor Arbiter and the NLRC that RAMATEK illegally dismissed Anelia. This Court defers to the factual findings of labor officials, who possess the expertise in matters within their jurisdiction, provided substantial evidence support such factual findings.[19] Thus, absent any proof that the factual findings of the Labor Arbiter and the NLRC are capricious or arbitrary, such findings have conclusive effect on this Court and deserve finality.[20]

As found by the Labor Arbiter, Anelia was able to prove that the charges against her were false and baseless. According to the Labor Arbiter:

Despite the gravity of the charges, there is nothing competent in the records to substantiate the same. Even as respondent corporation has the burden to prove just cause, otherwise we are to rule in favor of the employee's right to security of tenure, respondents failed to undertake the burden. On the other hand, complainant explained to the satisfaction of this Office that the charges against her are utterly false and baseless. Her "Complaint/Affidavit" dated January 7, 1997, in relevant part, reads:

"5. Numbers 1 and 3 of the accusations against me, as I have already said, were false. What I have awarded to Ms. Mocerro was the fabrication of ten (10) pieces of steel tables at a cost of P2,050.00 per piece, said tables. Enclosed as Annex "I" is a copy of the Affidavit of Mr. Cesar Mocerro stating the pertinent facts thereof which is contrary to the accusations against me by said respondent Lawrence Esparaz. I have no knowledge of the said fourteen (14) pieces of steel tables. And, I did not know of any bid of certain Ronnie Yucaran as claimed by respondent Lawrence Esparaz. If there was such fourteen (14) pcs. of steel tables, the same were ordered by them. Relative to the Cordova Condominium repair, the bid of Mr. Wally Bondoc was P485,000.00. The bid sheet of Mr. Bondoc, I gave to Ariel Figueroa. I do not know where respondents Lawrence Esparaz and Ariel Figueroa got the bid of P90,000.00 for the repair of the Cordova Condominium;

5.1 Number 2 of the accusation against me was likewise false. There was no existing offer from said FCR Business Machines Corporation at the time or before the said typewriters were bought from Mitec International

Corporation. The purchase thereof was likewise with the approval of respondent Lawrence Esparaz. Enclosed as Annex "J" is the affidavit of Mr. Ignacio Tiu of Mitec Int'l. Corp. pertaining to the acquisition of the said typewriters;

5.2. As regard number[s] 4 and 5, I have no cash advances of P500,000.00 as per SBTC Check No. 285965 dated January 12, 1996. The said amount which I withdrew from the drawee bank were all used in the purchase of the furnitures and fixtures for the BF House. When we purchased those things, Mr. Morris Weinberg and respondent Rosalie [Balutan were] with me at the store. They are the ones who choosed [sic] the items. Enclosed as Annex "K" is the affidavit of Cecille Arcal, daughter of the proprietress of Amie's store and proprietress of the Ohbet's Gen. Merchandise, located at Stall B, Cash and Carry, Cosmopolitan Center, Filmore Street, Makati, Metro Manila. All the corresponding receipts thereof were at the files of Ramatek. I have nothing in my possession documents belonging to Ramatek. All of which are in their possession, including some of my personal things which they ransacked after I was suspended in August 1996 and was not allowed to enter the company premises. Even my phone calls are now barred as per order/instructions of respondent Lawrence Esparaz;

5.3. Anent the Mitsubishi GLXI, the same was acquired by my husband, Nestor V. de los Reyes, who until now is still paying the monthly amortization thereof."

Against complainant's aforesaid allegations exculpating her from the charges, substantiated no less by corroborating testimonies and documents, respondent did not submit any countervailing evidence such that this Office is constrained to adjudge complainant's dismissal as being without just cause.

Respondents having failed to substantiate their charges against complainant with competent and credible evidence, this Office perceives that the primordial inspiration for her dismissal was the filing by her husband of a civil suit against three (3) company officials, a matter which respondents cannot legally use against complainant to deprive her of her tenurial rights. This is because the suit was not filed by the complainant against the company or its officials but by her husband. There is no showing that the filing of the suit was a joint decision by the couple or was instigated by complainant as to charge complainant with disloyalty or a conflict of interests. Moreover, it appears that complainant's husband was merely asserting and exercising his right to seek redress in the courts, a matter which respondents should not begrudge complainant about. Finally, the case was amicably settled by the parties such that there can be no rational justification for respondents to dismiss complainant just because a plaintiff in the civil suit happened to be her husband.[21]

Indeed, RAMATEK started hurling charges against Anelia after her husband, Nestor, filed a case against RAMATEK officials. In fact, Anelia was forced to file an indefinite leave of absence because of the pending case, upon the request of Weinberg, the chairman of RAMATEK's Board of Directors. Also, one month before RAMATEK asked Anelia to explain her alleged anomalous transactions, Weinberg already requested Anelia to tender her resignation because of the civil case filed by Anelia's husband and Sicar Corporation against RAMATEK officials.

In this case, petitioners, which have the burden of establishing the facts as bases for their loss of confidence in Anelia, failed to prove their allegations against Anelia. Petitioners' evidence are insubstantial and inadequate to support a conclusion that Anelia engaged in anomalous transactions.

RAMATEK relied mainly on the audit findings of its external auditor, Jerry Victor Masiclat ("Masiclat"), to bolster its claim that Anelia misappropriated RAMATEK's funds. Thus, in a separate criminal complaint, Esparaz attached Masiclat's audit reports[22] in the Affidavit-Complaint[23] to prove estafa against Anelia. However, in a Joint Resolution dated 14 June 1999,[24] the Assistant Provincial Prosecutor of Calamba, Laguna, recommended that the criminal case of estafa filed by RAMATEK through Esparaz against Anelia be dismissed for lack of probable cause. In the same resolution, the Assistant Provincial Prosecutor recommended the filing of

Informations for Perjury against Esparaz and Masiclat for making untruthful statements in their respective affidavits. Likewise, in a Resolution dated 10 September 1998, the Office of the City Prosecutor of Manila dismissed another case of estafa[25] that RAMATEK filed against Anelia.

Loss of confidence as a ground for dismissal does not require proof beyond reasonable doubt. The law requires only that there be at least some basis to justify it. Thus, there must be some evidence to substantiate the claim and form a legal basis for loss of confidence.[26] The employer cannot exercise arbitrarily and without just cause the right to dismiss an employee for loss of trust and confidence.[27]

Motion for Inhibition

Petitioners allege that the NLRC should have ruled first on their motion for inhibition before resolving the illegal dismissal case. Such failure of the NLRC to rule on the motion for inhibition does not affect the validity of the Resolution of the NLRC in the illegal dismissal case.

The records show that petitioners have the penchant of filing motions for inhibition. Aside from filing a motion for inhibition against the Third Division of the NLRC, petitioners previously filed a motion for inhibition against Labor Arbiter Arthur Almansec.[28]

Petitioners moved for the inhibition of the Third Division of the NLRC because Anelia's husband allegedly visited frequently the office of Commissioner Ireneo Bernardo, a member of the Third Division. According to petitioners, there was no need to establish or prove that these visits by Anelia's husband damaged petitioners' cause because these visits somehow tainted the partiality of the decision-making body.[29]

Petitioners cannot just move to inhibit a division of the NLRC based on mere suspicion. There should be evidence to prove their charge of partiality.[30] This Court cannot tolerate acts of litigants who on obviously frivolous grounds seek to disqualify a judge or in this case, a labor arbiter and a division of the NLRC, under a plea of supposed bias, hostility, prejudice or prejudgment.[31]

WHEREFORE, we SET ASIDE the Resolutions dated 31 March 1999 and 6 July 1999 of the Court of Appeals. We AFFIRM the Resolution of the National Labor Relations Commission dated 31 August 1998.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Fermin A. Martin, Jr., with Associate Justices Romeo J. Callejo, Sr. and Mariano M. Umali concurring.

[3] Rollo, pp. 180-192, 563. The parties to Civil Case No. L-807 subsequently entered into an amicable settlement and on 13 November 1996, the trial court dismissed the case upon joint motion to dismiss by the parties.

[4] Rollo, p. 136.

[5] Ibid., p. 196.

[6] Rollo, pp. 138-139.

[7] Ibid., pp. 140-141.

[8] Composed of RAMATEK's President and General Manager Lawrence Esparaz, VP-Finance Rosalie Balutan,

Treasurer Benjamin Nicolas, and Personnel Manager Dionisio Tabi.

[9] Rollo, pp. 142-143.

[10] Ibid., p. 144. The letter was signed by Esparaz.

[11] Ibid., p. 268.

[12] Article 111 of the Labor Code reads:

Art. 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.

(b) It shall be unlawful for any person to demand or accept, in any judicial or administrative proceedings for the recovery of the wages, attorney's fees, which exceed ten percent of the amount of wages recovered.

[13] Rollo, pp. 97-98.

[14] Bar Matter No. 803-Re: Correction of Clerical Errors in and Adoption of Amendments to the 1997 Rules of Civil Procedure.

[15] Rollo, pp. 11-12.

[16] A.M. No. 00-2-03-SC Re: Amendment to Section 4, Rule 65 of the 1997 Rules of Civil Procedure.

[17] *Lascano v. Universal Steel Smelting Co., Inc.*, G.R. No. 146019, 8 June 2004, 431 SCRA 248; *Ong v. Mazo*, G.R. No. 145542, 4 June 2004, 431 SCRA 56; *Webb v. Secretary of Justice*, G.R. No. 139120, 31 July 2003, 407 SCRA 532; *Republic of the Phils. v. Court of Appeals*, 433 Phil. 106 (2002); *Universal Robina Corporation v. Court of Appeals*, 424 Phil. 366 (2002); *San Luis v. Court of Appeals*, 417 Phil. 598 (2001); *Unity Fishing Development Corp. v. Court of Appeals*, G.R. No. 145415, 2 February 2001, 351 SCRA 140; *Systems Factors Corp. v. NLRC*, 399 Phil. 721 (2000).

[18] 395 Phil. 758 (2000).

[19] *Stamford Marketing Corp. v. Julian*, G.R. No. 145496, 24 February 2004, 423 SCRA 633.

[20] *Filcon Manufacturing Corporation v. Lakas Manggagawa sa Filcon-Lakas Manggagawa Labor Center*, G.R. No. 150166, 26 July 2004, 435 SCRA 209; *Sonza v. ABS-CBN Broadcasting Corporation*, G.R. No. 138051, 10 June 2004, 431 SCRA 583.

[21] Rollo, pp. 264-267.

[22] Ibid., pp. 322-328.

[23] Ibid., pp. 312-313.

[24] Ibid., pp. 992-996.

[25] I.S. No. 98A-03556. Rollo, pp. 986-989. The estafa case was filed by RAMATEK through Esparaz.

[26] *International Pharmaceuticals, Inc. v. NLRC*, 350 Phil. 664 (1998); *Filipinas Manufacturers Bank v. NLRC*, G.R. No. 72805, 28 February 1990, 182 SCRA 848.

[27] *P.J. Lhuillier, Inc. v. National Labor Relations Commission*, G.R. No. 158758, 29 April 2005, 457 SCRA 784; *Prudential Bank and Trust Company v. Reyes*, G.R. No. 141093, 20 February 2001, 352 SCRA 316.

[28] Rollo, pp. 407-410.

[29] Ibid., pp. 1161-1162.

[30] See Beltran, et al. v. Judge Garcia, etc., et al., 148-B Phil. 638 (1971).

[31] See People v. Serrano, G.R. No. 44712, 28 October 1991, 203 SCRA 171.

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