GENUINO ICE COMPANY, INC. PETITIONER, VS. ALFONSO S. MAGPANTAY, RESPONDENT.

G.R. NO. 147790. June 27, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Alfonso Magpantay (respondent) was employed as a machine operator with Genuino Ice Company, Inc. (petitioner) from March 1988 to December 1995. On November 18, 1996, respondent filed against petitioner a complaint for illegal dismissal with prayer for moral and exemplary damages.[1] In his Position Paper, respondent alleged that he was dismissed from service effective immediately by virtue of a memorandum, after which he was not allowed anymore to enter the company premises. Respondent bewailed that his termination from employment was done without due process.[2]

Petitioner countered that he was not illegally dismissed, since the dismissal was based on a valid ground, i.e., he led an illegal strike at petitioner's sister company, Genuino Agro Industrial Development Corporation, which lasted from November 18 to 22, 1995, resulting in big operation losses on the latter's part. Petitioner also maintained that respondent's dismissal was made after he was accorded due process.[3]

Respondent replied, however, that assuming that he led such illegal strike, he could not be liable therefore because it was done in petitioner's sister company which is a separate and distinct entity from petitioner.[4]

Petitioner initially claimed that respondent's acts were tantamount to serious misconduct or willful disobedience, gross and habitual neglect of duties, and breach of trust. Subsequently, petitioner amended its position paper to include insubordination among the grounds for his dismissal, since it came out during respondent's cross-examination, and the matter was reported only after the new personnel manager assumed his position in August 1996.[5]

On August 14, 1998, the Labor Arbiter of the National Labor Relations Commission (NLRC) dismissed the case for lack of merit[6] finding that petitioner had valid cause to dismiss respondent.

Respondent appealed from the Labor Arbiter's Decision. The NLRC, in its Decision dated June 30, 1999, sustained the findings of the Labor Arbiter and denied the appeal for lack of merit.[7]

Respondent filed a motion for reconsideration of the NLRC Decision, which was denied in a Resolution dated August 31, 1999.[8]

On October 29, 1999, entry of judgment was made on the NLRC Resolution dated August 31, 1999.[9]

On February 7, 2000, respondent filed a special civil action for certiorari with the Court of Appeals (CA), docketed as CA-G.R. SP No. 57105. Respondent's counsel stated that it was on December 20, 1999 that he received the NLRC Resolution dated August 31, 1999.[10]

In his petition before the CA, respondent alleged that the Labor Arbiter committed an error in ruling that his

dismissal was for a valid cause; and reiterated his claim that his dismissal was made without due process.[11]

Petitioner filed its Comment, contending that the petition was filed out of time, considering that contrary to respondent's claim that the NLRC Resolution dated August 31, 1999 was received on December 20, 1999, it was actually received on September 15, 1999, as shown in the registry return card. Petitioner also reiterated its arguments that respondent was dismissed for cause and with due process.

On August 3, 2000, the CA[12] rendered the assailed Decision granting the petition and declaring respondent's dismissal as illegal. The dispositive portion of the Decision reads:

> WHEREFORE, the petition is GRANTED. The dismissal of petitioner is hereby declared as illegal. Respondent company is ORDERED to pay to petitioner separation pay and full backwages. Let this case be remanded to the labor arbiter for the computation of the aforesaid awards.
>
> SO ORDERED.[13]

Petitioner filed a motion for reconsideration which the CA denied per its Resolution dated March 16, 2001.[14]

Hence, herein petition for review on certiorari under Rule 45 of the Rules of Court stating the following issues:

> - Whether or not the Court of Appeals erred and committed grave abuse of discretion in giving due course to the respondent's Petition for Certiorari?
>
> - Whether or not the Court a quo erred and committed grave abuse of discretion in declaring that the respondent was illegally dismissed from employment?
>
> - Whether or not the Court a quo erred and committed grave abuse of discretion in ordering the payment of separation pay and full backwages to the respondent?[15]

At the outset, it should be stated that under Rule 45 of the Rules of Court, only questions of law may be raised, the reason being that this Court is not a trier of facts. It is not for this Court to reexamine and reevaluate the evidence on record.[16] However, considering that the CA came up with an opinion different from that of the Labor Arbiter and the NLRC, the Court is now constrained to review the evidence on record.[17]

On the first issue, petitioner argues that the CA should have dismissed respondent's petition for having been filed out of time. According to petitioner, since the registry return receipt shows that the NLRC Resolution dated August 31, 1999 denying respondent's motion for reconsideration was received on September 15, 1999, the petition filed on February 7, 2000 was, therefore, 85 days late.

Respondent, however, counters that the person who received the NLRC Resolution dated August 31, 1999 on September 15, 1999, a certain Mirela G. Ducut of the Computer Services Department, was not a duly-authorized representative of the FEU Legal Aid Bureau, as it is only Ellen Dela Paz, who is authorized to receive all communications addressed to the office.

The CA sustained respondent's contention that since the service was not made to an authorized person, it was not legally effective, and the counting of the period should be reckoned from the date of actual receipt by counsel, which was on December 20, 1999.

The New Rules of Procedure of the NLRC provides the rule for the service of notices and resolutions in NLRC cases, to wit:

> Sec. 4. Service of notices and resolutions. – a) Notices or summons and copies of orders, resolutions or decisions shall be served on the parties to the case personally by the bailiff or the duly authorized public officer within three (3) days from receipt thereof by registered mail; Provided, that where a party is represented by

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> counsel or authorized representative, service shall be made on such counsel or authorized representative; x x x

The presumption is that the decision was delivered to a person in his office, who was duly authorized to receive papers for him, in the absence of proof to the contrary.[18] It is likewise a fundamental rule that unless the contrary is proven, official duty is presumed to have been performed regularly and judicial proceedings regularly conducted, which includes the presumption of regularity of service of summons and other notices.[19] The registry return of the registered mail as having been received is prima facie proof of the facts indicated therein. Thus, it was necessary for respondent to rebut that legal presumption with competent and proper evidence.

In an attempt to disprove that there was proper receipt of the Resolution, respondent's counsel presented an Affidavit executed by Ellen dela Paz, who attested that she is the only person authorized to receive communications for and in behalf of the FEU Legal Aid Bureau; that she never received the NLRC Resolution dated August 31, 1999 on September 15, 1999; and that it was only on December 20, 1999, through respondent, that they learned of said Resolution.[20]

Records show that Ducut is not an employee of the FEU Legal Aid Bureau, but is connected with the Computer Services Department. The FEU Legal Aid Bureau has its own personnel which include Ms. dela Paz who is the one authorized to receive communications in behalf of the office. It has been ruled that a service of a copy of a decision on a person who is neither a clerk nor one in charge of the attorney's office is invalid.[21] This was the Court's ruling in Cañete v. National Labor Relations Commission,[22] to wit:

> We have ruled that where a copy of the decision is served on a person who is neither a clerk nor one in charge of the attorney's office, such service is invalid. In the case at bar, it is undisputed that Nenette Vasquez, the person who received a copy of the labor arbiter's Decision, was neither a clerk of Atty. Chua, respondent's counsel, nor a person in charge of Atty. Chua's office. Hence, her receipt of said Decision on March 15, 1993 cannot be considered as notice to Atty. Chua. Since a copy of the Decision was actually delivered by Vasquez to Atty. Chua's clerk only on March 16, 1993, it was only on this date that the ten-day period for the filing of respondent's appeal commenced to run. Thus, respondent's March 26, 1993 appeal to the NLRC was seasonably filed.[23]

This was recently reiterated in Prudential Bank v. Business Assistance Group, Inc.,[24] where the Court accepted the affidavit executed by Arlan Cayno denying that he was an employee of Gella, Danguilan, Nabaza & Associates law firm authorized to receive legal or judicial processes. Cayno likewise disclaimed knowledge of the whereabouts of the notice. According to the Court, since Mr. Cayno was not an employee of the said law firm authorized to receive notices in its behalf, his alleged receipt of the notice is without any effect in law.

Hence, the CA was correct in ruling that the reckoning period should be the date when respondent's counsel actually received the NLRC Resolution dated August 31, 1999, which was on December 20, 1999.

Petitioner, however, pointed out that a certain Ruby D.G. Sayat received a copy of their Motion for Reconsideration filed by registered mail on August 16, 2000.[25] Respondent contended that at the time Sayat received the motion, she was then detailed at the office and was authorized to receive said pleading, and that it was an isolated and exceptional instance.[26] On this matter, the FEU Acting Postmaster certified that Sayat is a permanent employee of the FEU Legal Aid Bureau.[27] As such, she is authorized to receive communications in behalf of the office and need not possess an express authority to do so.

More importantly, the Court has consistently frowned upon the dismissal of an appeal on purely technical grounds. While the right to appeal is a statutory, not a natural right, it is, nonetheless, an essential part of our judicial system. Courts should proceed with caution so as not to deprive a party of the right to appeal, but rather, ensure amplest opportunity for the proper and just disposition of a cause, free from the constraints of

technicalities.[28]

On the issue of illegal dismissal, both the Labor Arbiter and the NLRC were one in concluding that petitioner had just cause for dismissing respondent, as his act of leading a strike at petitioner's company for four days, his absence from work during such time, and his failure to perform his duties during such absence, make up a cause for habitual neglect of duties, while his failure to comply with petitioner's order for him to transfer to the GMA, Cavite Plant constituted insubordination or willful disobedience. The CA, however, differed with said conclusion and found that respondent's attitude "has not been proved to be visited with any wrongdoing", and that his four-day absence does not appear to be both gross and habitual.

The Court sustains the CA's finding that respondent's four-day absence does not amount to a habitual neglect of duty; however, the Court finds that respondent was validly dismissed on ground of willful disobedience or insubordination.

Under Article 282 of the Labor Code, as amended, an employer may terminate an employment for any of the following 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.[29] The employer has the burden of proving that the dismissal was for a just cause; failure to show this would necessarily mean that the dismissal was unjustified and, therefore, illegal.[30]

Neglect of duty, to be a ground for dismissal, must be both gross and habitual.[31] Gross negligence connotes want of care in the performance of one's duties. Habitual neglect implies repeated failure to perform one's duties for a period of time, depending upon the circumstances. On the other hand, fraud and willful neglect of duties imply bad faith on the part of the employee in failing to perform his job to the detriment of the employer and the latter's business.[32] Thus, the single or isolated act of negligence does not constitute a just cause for the dismissal of the employee.[33]

Thus, the Court agrees with the CA that respondent's four-day absence is not tantamount to a gross and habitual neglect of duty. As aptly stated by the CA, "(W)hile he may be found by the labor courts to be grossly negligent of his duties, he has never been proven to be habitually absent in a span of seven (7) years as GICI's employee. The factual circumstances and evidence do not clearly demonstrate that petitioner's [respondent] absences contributed to the detriment of GICI's operations and caused irreparable damage to the company."[34]

Petitioner, however, insists that during his four-day absence, respondent was leading an illegal strike in its sister company. In the first place, there is no showing that the strike held at the Genuino Agro Industrial Development Corporation is illegal. It is a basic rule in evidence that each party must prove his affirmative allegation. Since the burden of evidence lies with the party who asserts the affirmative allegation, the plaintiff or complainant has to prove his affirmative allegations in the complaint and the defendant or the respondent has to prove the affirmative allegation in his affirmative defenses and counterclaim.[35] Since it was petitioner who alleged that such strike is illegal, petitioner must, therefore, prove it. Except for such bare allegation, there is a dearth of evidence in this case proving the illegality of said strike.

However, as previously stated, the Court finds that respondent was validly dismissed on the ground of insubordination or willful disobedience.

On this point, the CA opined that petitioner included insubordination as a "mere after-thought." It noted that

petitioner seemed to be "irresolute" in stating the cause of respondent's dismissal, as in its Position Paper, it originally relied on respondent's four-day absence or participation in the illegal strike as a cause for dismissal but later on amended its Position Paper to include insubordination.[36] Thus, the CA did not make any factual finding or conclusion in its Decision vis-à-vis petitioner's allegation of respondent's insubordination.

While its perception may be true, it should not have deterred the CA from making any resolution on the matter. For one, respondent was able to argue against petitioner's allegation of insubordination before the Labor Arbiter[37] and the NLRC.[38] For another, it was respondent himself who raised the subject before the CA, wherein he stated in his Petition, inter alia, viz.:

> - Miserably, public respondent [NLRC] justified the validity of his dismissal by holding that the 12 December 1995 Memorandum showed that it was effected with due process. x x x
>
> x x x x
>
> - How could the foregoing memorandum justify petitioner's dismissal for allegedly joining the four (4) days strike when it refers to his alleged refusal to transfer? This memorandum shows glaring violations of his right to substantive and procedural due process and reveal the true circumstances of his dismissal, to wit: 1) petitioner was dismissed because of his failure to abide with the management's decision to transfer him, and not on his alleged participation in the four (4) day strike or his absence on those dates; x x x; 3) while the true cause of his dismissal is his failure to abide with the decision to transfer, private respondent belatedly and self-servingly claimed that he was dismissed because of the alleged strike; 4) the Labor Arbiter's decision that the dismissal is valid is based on speculation in that while it was clear that petitioner was actually dismissed for refusing the transfer, he held that the dismissal is justified because petitioner absented for four (4) days to join the strike elsewhere; x x x [39] (Emphasis supplied)

Further, the proceedings before the Labor Arbiter and the NLRC are non-litigious in nature.[40] As such, the proceedings before it are not bound by the technical niceties of the law and procedure and the rules obtaining in courts of law,[41] as dictated by Article 221 of the Labor Code:

> 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.

This rule applies equally to both the employee and the employer. In the interest of due process, the Labor Code directs labor officials to use all reasonable means to ascertain the facts speedily and objectively, with little regard to technicalities or formalities.[42] What is essential is that every litigant is given reasonable opportunity to appear and defend his right, introduce witnesses and relevant evidence in his favor,[43] which undoubtedly, was done in this case.

Willful disobedience, or insubordination as otherwise branded in this case, as a just cause for dismissal of an employee, necessitates the concurrence of at least two requisites: (1) the employee's assailed conduct must have been willful, that is, characterized by a wrongful and perverse attitude; and (2) the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.[44]

In Coca-Cola Bottlers, Phils. Inc v. Kapisanan ng Malayang Manngagawa sa Coca-Cola-FFW, it was held that an employer enjoys a wide latitude of discretion in the promulgation of policies, rules and regulations on work-related activities of the employees so long as they are exercised in good faith for the advancement of the

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employer's interest and not for the purpose of defeating or circumventing the rights of the employees under special laws or under valid agreements. Company policies and regulations are generally valid and binding on the parties and must be complied with until finally revised or amended, unilaterally or preferably through negotiation, by competent authority. For misconduct or improper behavior to be a just cause for dismissal, the same must be related to the performance of the employee's duties and must show that he has become unfit to continue working for the employer.[45]

In the case at bench, petitioner informed respondent, through a Memorandum dated November 14, 1995, that he was being transferred to its GMA, Cavite operations effective November 20, 1995, to wit:

> We have considered you to fill-up the maintenance position urgently required in our GMA, Cavite business operations. After thorough evaluation of qualified candidates, we find your qualifications most suited to satisfactorily perform the maintenance activities at GMA, Cavite.
>
> x x x x[46]

Due to his refusal to report to the Cavite plant, petitioner reiterated its order transferring respondent in its Memorandum dated November 24, 1995,[47] where respondent was also warned that his failure to report to the Cavite plant will be considered as an absence without leave (AWOL) and insubordination. Respondent was required to comply with the order within 24 hours from receipt, otherwise, disciplinary action will be imposed on respondent. Respondent replied with a request that he remain in the Otis plant since a transfer to the Cavite plant will entail additional expenditure and travel time on his part.[48]

Petitioner again wrote respondent inviting him to appear before the Plant Level Investigation on December 11, 1995 for the latter to be able to clarify his reasons for refusing the transfer.[49]

Finally, petitioner issued its Memorandum dated December 12, 1995 informing respondent of its decision to terminate his services. The Memorandum reads, in part:

> The management panel has discussed and deliberated thoroughly on your case regarding your transfer to GMA Plant in GMA, Cavite which was supposed to be effective on 20 November, 1995 but unfortunately you refused to comply despite our repeated instructions to you to assume your new assignment while your case had been under grievance machinery.
>
> On 09 December, 1995 a letter memorandum was served to you informing you to appear at plant level investigation to be conducted on 11 December, 1995. The management panel in consideration to (sic) your reasons for not transferring to GMA Plant as stated in your reply dated December 07, 1995, offered you to provide monetary allowance to at least compensate for your assumed additional expenses. However, you turned down this action of good faith from the management.
>
> x x x x
>
> Your written explanation and the outcome of the plant level investigation clearly showed your willful or intentional disobedience. It was insubordination in its highest order. In this regard, much to our regret, we have no other recourse but to terminate your services with us for cause and causes cited in the foregoing effective 13 December 1995.
>
> x x x x[50]

The rule is that the transfer of an employee ordinarily lies within the ambit of the employer's prerogatives. The employer exercises the prerogative to transfer an employee for valid reasons and according to the requirement of its business, provided the transfer does not result in demotion in rank or diminution of the employee's salary, benefits and other privileges.[51]

In this case, petitioner's order for respondent to transfer to the GMA, Cavite Plant is a reasonable and lawful order was made known to him and pertains to his duties as a machine operator. There was no demotion involved or diminution of salary, benefits and other privileges, and in fact, petitioner was even willing to provide respondent with monetary allowance to defray whatever additional expenses he may incur with the transfer.

In Allied Banking Corporation v. Court of Appeals,[52] the Court ruled that an employee cannot validly refuse a transfer order on the ground of parental obligations, additional expenses, and the anguish he would suffer if assigned away from his family. Citing Homeowners Savings and Loan Association, Inc. v. National Labor Relations Commission,[53] the Court stated:

> The acceptability of the proposition that transfer made by an employer for an illicit or underhanded purpose – i.e., to defeat an employee's right to self-organization, to rid himself of an undesirable worker, or to penalize an employee for union activities – cannot be upheld is self-evident and cannot be gainsaid. The difficulty lies in the situation where no such illicit, improper or underhanded purpose can be ascribed to the employer, the objection to the transfer being grounded solely upon the personal inconvenience or hardship that will be caused to the employee by reason of the transfer. What then?
>
> This was the very same situation we faced in Phil. Telegraph and Telephone Corp. v. Laplana. In that case, the employee, Alicia Laplana, was a cashier at the Baguio City Branch of PT&T who was directed to transfer to the company's branch office at Laoag City. In refusing the transfer, the employee averred that she had established Baguio City as her permanent residence and that such transfer will involve additional expenses on her part, plus the fact that an assignment to a far place will be a big sacrifice for her as she will be kept away from her family which might adversely affect her efficiency. In ruling for the employer, the Court upheld the transfer from one city to another within the country as valid as long as there is no bad faith on the part of the employer. We held then:"Certainly the Court cannot accept the proposition that when an employee opposes his employer's decision to transfer him to another work place, there being no bad faith or underhanded motives on the part of either party, it is the employee's wishes that should be made to prevail."

Such being the case, respondent cannot adamantly refuse to abide by the order of transfer without exposing himself to the risk of being dismissed. Hence, his dismissal was for just cause in accordance with Article 282 (a) of the Labor Code. Consequently, respondent is not entitled to reinstatement or separation pay and backwages.

Lastly, on the issue of due process, Section 2 (d), Rule 1, Book VI of the Omnibus Rules Implementing the Labor Code provides for the standards of due process, which shall be substantially observed, to wit:

> For termination of employment based on just causes as defined in Article 282 of the Labor Code:
>
> (i) A written notice served on the employee specifying the ground or grounds of termination, and giving said employee reasonable opportunity within which to explain his side.
>
> (ii) A hearing or conference during which the employee concerned, with the assistance of counsel if he so desires is given opportunity to respond to the charge, present his evidence, or rebut the evidence presented against him.
>
> (iii) A written notice of termination served on the employee indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination.

Simply stated, the employer must furnish the employee a written notice containing a statement of the cause for termination and to afford said employee ample opportunity to be heard and defend himself with the assistance of his representative, if he so desires, and the employee must be notified in writing of the decision dismissing him, stating clearly the reasons therefor.[54]

The CA found that petitioner failed to observe the twin requirements of notice and hearing, stating that its

Memorandum dated December 13, 1995 does not squarely meet the standards of due process. The circumstances surrounding respondent's dismissal, however, prove the contrary. The CA failed to take into account that prior to the Memorandum dated December 13, 1995, petitioner sent respondent several memoranda apprising him of the possible implications of his refusal to comply with the order of transfer. Thus, in its Memorandum dated November 24, 1995, petitioner notified respondent that his continued non-compliance with the order of transfer might bring about disciplinary action.[55] Respondent replied to this memorandum, stating the reasons for his refusal, i.e., additional expenses, longer travel time, and union concerns.[56] Petitioner sent another Memorandum on December 9, 1995, asking respondent to appear on December 11, 1995, for further clarification of his reasons for refusing the transfer.[57] Despite the meeting, and since respondent, apparently, stubbornly refused to heed petitioner's order, it was then that the Memorandum dated December 13, 1995 was issued to respondent informing him of the management's decision to terminate his services. Clearly, respondent's right to due process was not violated.

WHEREFORE, the petition is GRANTED. The CA Decision dated August 3, 2000 and Resolution dated March 16, 2001 are SET ASIDE, and the NLRC Decision dated June 30, 1999 is REINSTATED.

No costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Records, p. 2.

[2] Id. at 10-16.

[3] Id. at 17-19.

[4] Id. at 22-24.

[5] Id. at 68-69.

[6] Id. at 79-84.

[7] Id. at 183-189.

[8] Id. at 216-217.

[9] Id. at 225.

[10] CA rollo, p. 3.

[11] Id. at 7-13.

[12] Penned by Associate Justice Oswaldo D. Agcaoili (retired), with Associate Justices Angelina Sandoval-Gutierrez (now a Member of this Court) and Mercedes Gozo-Dadole (retired), concurring.

[13] Penned by Associate Justice Oswaldo D. Agcaoili (retired), with Associate Justices Mercedes Gozo-Dadole (retired) and Josefina Guevarra-Salonga, concurring, CA rollo, at 127.

[14] Id. at 176-180.

[15] Rollo, p. 18.

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[16] Becton Dickinson Phils., Inc. v. National Labor Relations Commission, G.R. Nos. 159969 & 160116, November 15, 2005.

[17] Mendoza v. National Labor Relations Commission, 369 Phil. 1113, 1122 (1999); Caingat v. National Labor Relations Commission, G.R. No. 154308, March 10, 2005, 453 SCRA 142, 149; Equitable PCIBank v. Caguioa, G.R. No. 159170, August 12, 2005, 466 SCRA 686, 693-694.

[18] Flores v. National Labor Relations Commission, 326 Phil. 750, 756 (1996).

[19] Columbus Philippines Bus Corporation v. National Labor Relations Commission, 417 Phil. 81, 96 (2001).

[20] CA rollo, p. 149.

[21] Pangilinan v. General Milling Corporation, G.R. No. 149329, July 12, 2004, 434 SCRA 159, 169.

[22] 320 Phil. 313 (1995).

[23] Id. at 320-321.

[24] G.R. No. 158806, December 16, 2004, 447 SCRA 187, 194.

[25] See CA rollo, p. 136, registry return receipt no. 72200; Postmaster Certification dated October 16, 2000, p. 166.

[26] Rollo, p. 334.

[27] CA rollo, p. 166.

[28] Supra note 24, at 196.

[29] AHS/Philippines, Inc. v. Court of Appeals, 327 Phil. 129, 139 (1996).

[30] Pascua v. National Labor Relations Commission, 351 Phil. 48, 62.

[31] National Sugar Refineries Corporation v. National Labor Relations Commission, 350 Phil. 119, 127 (1998).

[32] JGB & Associates v. National Labor Relations Commission, 324 Phil. 747, 754 (1996); Chua v. National Labor Relations Commission, G.R. No. 146780, March 11, 2005, 453 SCRA 244, 254.

[33] National Bookstore, Inc. v. Court of Appeals, 428 Phil. 235, 246 (2002).

[34] Rollo, pp. 164-165.

[35] Aklan Electric Cooperative, Inc. v. National Labor Relations Commission, 380 Phil. 225, 245 (2000).

[36] Rollo, p. 162.

[37] Records, pp. 78-79.

[38] Id. at 116.

[39] Rollo, pp. 135-136.

[40] Philippine Airlines, Inc. v. Tongson, 459 Phil. 742, 752 (2003).

[41] China Banking Corporation v. Borromeo, G.R. No. 156515, October 19, 2004, 440 SCRA 621, 635; San Miguel Corporation v. Aballa, G.R. No. 149011, June 28, 2005, 461 SCRA 392, 417-418.

[42] Tanjuan v. Philippine Postal Savings Bank, Inc., G.R. No. 155278, September 16, 2003, 411 SCRA 168, 176.

[43] Supra note 40, at 753.

[44] Bascon v. Court of Appeals, G.R. No. 144899, February 5, 2004, 422 SCRA 122, 131.

[45] G.R. No. 148205, February 28, 2005, 452 SCRA 480, 496-497.

[46] Rollo, p. 213.

[47] Id. at 214.

[48] Id. at 215.

[49] Id. at 216.

[50] Id. at 217.

[51] Allied Banking Corporation v. Court of Appeals, G.R. No. 144412, November 18, 2003, 416 SCRA 65, 78.

[52] Id.

[53] 330 Phil. 979, 999-1000 (1996).

[54] Aquinas School v. Magnaye, 344 Phil. 145, 156 (1997).

[55] Rollo, p. 214.

[56] Id. at 214.

[57] Id. at 216.

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