

BRISTOL MYERS SQUIBB, (PHILS.), INC. PETITIONER, VS. ROGELIO T. VILORIA, RESPONDENT.

G.R. No. 148156. September 27, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review on certiorari under Rule 45 of the Revised Rules of Court of the Resolution[1] dated January 16, 2001 of the Court of Appeals in CA-G.R SP No. 55445, directing the National Labor Relations Commission (NLRC) to give due course to the respondent's belated appeal of the decision of the Labor Arbiter in favor of the petitioner herein.

The facts as culled from the records of the case are as follows:

Respondent Rogelio T. Viloria was accepted by Mead Johnson Phils., Inc. as a medical representative-trainee. After successfully completing his training, he was employed on January 2, 1985 as a Territory Manager of the company's Pharma Sales Group, Marketing Division. He became a regular employee of the company on April 1, 1985.

After the merger of Mead Johnson International, Bristol-Myers Company and E.R. Squibb & Sons Corporation, Bristol Myers Squibb, Inc., became the surviving company, and the respondent became the Territory Manager of its Oncology Business Unit.

Sometime in 1997, the petitioner noticed a drastic change in the respondent's work attitude and a sudden deterioration in the latter's work performance.

On November 10, 1997, Dr. Linda Luz G. Amante, the Manager of the Oncology Business Unit, issued a Memorandum requiring him to submit a written explanation within forty-eight (48) hours of the following:

- Failure to see Dr. Tommy Reyes on 13 October '97 after you committed to see him on the said day.
- Failure to answer paging of the same doctor for two days (13-14 October) to order Vepesid. As a result, doctor got in touch with me for his needs.
- Failure to answer paging from the office on 13-15 October '97. You finally answered on 15 October at 11 am after allegedly receiving a message form (sic) the office.
- Failure to accompany Dr. de los Reyes to the Mimosa Meeting of the Taxol Investigators on 18 October '97 as committed.
- Failure to meet Dr. de los Reyes on the lobby of the Holiday Inn Hotel, Clarkfield, on 18 October '97, 7:00 p.m. as committed to the doctor. As a result, doctor was 1 hour and 30 minutes late for the meeting despite arriving early.
- Failure to arrive on time for the Taxol Investigators' Meeting at Clarkfield on 18 October '97. (Arrived 2 hours late)

- Discrepancy between your Medichack report regarding calls made to Dr. Maria Warren on 26 August and 11 September '97 and the doctor's claim (that you have not done those particular visits).
- Failure to visit Dr. Carlos Dy weekly as required. Doctor further claims that you only see him when called upon.
- You committed a business class ticket for Dr. Dy to attend the recent ESMO in Hamburg, Germany for which we gave a USD2,000 financial assistance. As a result, doctor feels shortchanged because of the earlier commitment.
- Failure to answer paging of same doctor on 29-30 October '97 to order Nestor Uy's Taxol needs. As a result, doctor got in touch with me.
- Failure to submit to date, the right affidavit regarding loss of the company pager issued to you despite numerous reminders.
- Failure to submit your Medichack cards for August and October '97.
- Failure to give Dra. Gostibolo an update regarding our BMS sponsorship to the APCCC. As a result, Dr. Gostibolo called to inform me that ypou (sic) have not been getting in touch so she does not know whether the sponsorship will materialize or not.[2]

In his written explanation,[3] the respondent stated, inter alia, that he did not attend his scheduled meeting with Dr. Tommy Reyes because they would only talk about the latter's golf game. He claimed that he failed to call back the office because his pager could only receive thirty percent (30%) of sent messages, and, as such, the other incoming messages could not be accommodated. The respondent explained that he did not visit Dr. Carlos Dy because the latter disliked the face of his saleswoman. He denied promising to give a business class ticket to Dr. Dy for the trip to Hamburg, and asserted that it was, in fact, the latter who requested the money equivalent thereof. The respondent also claimed that he had already submitted an affidavit regarding the loss of the pager, as well as his Medichack reports on November 3, 1997. He averred that he was not able to get in touch with Dra. Gostibolo since the doctor had been on leave for the past two (2) weeks.

On November 18, 1997, the respondent filed an application[4] for a leave of absence for the period of November 21, 1997 to December 31, 1997 which the petitioner disapproved. Nonetheless, the respondent absented himself from work. The petitioner was impelled to assign one of its employees to take over the duties of the respondent.[5]

On December 2, 1997, Dr. Amante issued a memorandum to the respondent directing him to explain within forty-eight (48) hours why he had absented himself despite the disapproval of his application for leave of absence. The respondent failed to comply. On December 5, 1997, Dr. Amante issued a Memorandum[6] setting a conference for 2:00 p.m. of December 16, 1997, to enable the respondent to examine the evidence against him.

Instead of attending the conference, the respondent tendered his resignation letter on December 23, 1997, which by its tenor was to take effect on January 15, 1998. The respondent stated that he resigned for personal reasons.[7] The petitioner decided to terminate his employment.

On December 24, 1997, the petitioner notified the respondent that his employment was being terminated for violation of the company's Code of Ethics, giving false information in his Medichack reports, violating the company's rule on falsification, tampering and fraudulent statements, as well as submitting false statements related to the performance of his duties.[8]

The respondent thereafter filed a complaint for illegal dismissal against the petitioner on June 11, 1998, praying

for reinstatement, backwages from the date of his dismissal, moral damages and his “team share” (stock option).[9] The case was docketed as NLRC-NCR Case No. 00-06-04799-98.

On April 26, 1999, the Labor Arbiter rendered a Decision[10] dismissing the complaint for lack of merit.

The respondent, through his counsel, received a copy of the decision on May 26, 1999, and thus had a period of ten (10) calendar days counted therefrom, or until June 5, 1999, to file his appeal. However, instead of doing so, the respondent filed a motion for extension of time to file “Notice of Memorandum” on June 8, 1999.[11] He stated therein that he received on May 26, 1999, a copy of the decision of the Labor Arbiter. Thereafter, on June 9, 1999, he filed his memorandum of appeal with the NLRC.[12] The petitioner moved to dismiss the appeal on the ground that the memorandum of appeal was filed beyond the period therefor. The respondent opposed the motion, contending that per the certification of the Quezon City Central Post Office, he received a copy of the decision of the Labor Arbiter on June 4, 1999.[13]

On July 30, 1999, the NLRC issued a Resolution[14] dismissing the appeal for the respondent’s failure to perfect his appeal within the reglementary period. He, thereafter, filed a motion for reconsideration contending that his appeal was filed only four (4) days beyond the period therefor;[15] hence, the Rules of Procedure of the NLRC should be construed in his favor.

On September 16, 1999, the NLRC issued a Resolution[16] denying his motion for lack of merit.

The respondent filed a petition[17] for certiorari and prohibition with the CA for the nullification of the decision of the Labor Arbiter and the resolution of the NLRC dismissing his appeal of the Labor Arbiter’s decision. The CA rendered a Decision[18] dismissing the petition for lack of merit on September 29, 2000, ruling that the respondent failed to perfect his appeal of the decision of the Labor Arbiter within the reglementary period therefor.

The respondent filed a motion for reconsideration[19] of the decision, alleging that the appeal was filed only two (2) days late because June 5, 1999 was a Saturday. However, he submitted no meritorious explanation for the delay, but posited that the merits of the case was sufficient reason for the NLRC to relax the rules.[20]

On January 16, 2001, the CA issued a Resolution granting the motion for reconsideration of the respondent. Citing Article 221 of the Labor Code, the appellate court declared that technicalities of law and procedure should be relaxed. The CA also cited the ruling of this Court in *Visayan v. NLRC*. [21]

The petitioner filed a motion for the reconsideration[22] which the CA denied in a Resolution[23] dated May 10, 2001.

The petitioner now comes before this Court via a petition for review on certiorari, asserting that –

THE HONORABLE COURT GRAVELY ABUSED ITS DISCRETION IN SETTING ASIDE ITS EARLIER DECISION DATED SEPTEMBER 29, 2000 AND ORDERING THE PUBLIC RESPONDENT NLRC TO GIVE DUE COURSE TO PETITIONER’S APPEAL.[24]

The Petition In The
Court of Appeals Does
Not State The Prima
Facie Basis For The
Issuance Of A Writ
Of Certiorari.

Section 6, Rule 65 of the Rules of Court, as amended, provides that if a petition (for certiorari or prohibition) is

sufficient in form and substance to justify such process, the Court shall issue an order requiring the respondent to comment on the petition within ten (10) days from receipt of a copy thereof. For a petition for certiorari or prohibition to be sufficient in substance, it must set out and demonstrate, plainly and distinctly, all the facts essential to establish a right to a writ,[25] or at least a prima facie basis for the issuance of the writ.[26] The petition must allege facts showing that any existing remedy is not speedy or adequate.[27] It must contain the following allegations: (a) that the writ is directed against a tribunal, board or officer exercising judicial or quasi-judicial functions; (b) that such tribunal, board or officer has acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack of or in excess of jurisdiction; and (c) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.[28] The respondent acts without jurisdiction if he does not have the legal power to determine the case; there is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps its authority as determined by law. There is grave abuse of discretion where the respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of his judgment as to be equivalent to lack of jurisdiction.[29] A remedy is plain, speedy and adequate if it will promptly retrieve the petitioner from the injurious effects of that judgment and the acts of the tribunal or inferior court.[30]

Nonetheless, the settled rule is that a writ of certiorari may be granted in cases where, despite availability of appeal after trial, there is at least a prima facie showing on the face of the petition and its annexes that (a) the trial court issued the order with grave abuse of discretion amounting to lack of or in excess of jurisdiction; (b) appeal would not prove to be a speedy and adequate remedy;[31] (c) where the order is a patent nullity; (d) the decision in the present case will arrest future litigations; and (e) for certain considerations such as public welfare and public policy.[32]

In this case, the respondent failed to allege even a prima facie basis for the issuance of the writs of certiorari and prohibition for the nullification of the decision of the Labor Arbiter. The respondent made no allegations in his petition in the appellate court which would justify the requisites for the issuance of a writ of certiorari and/or prohibition. There is no allegation that the Labor Arbiter abused his discretion in rendering his decision, and that the respondent had no appeal or any plain, speedy and adequate remedy in the ordinary course of law. In fact, the petitioner therein appealed the decision of the Labor Arbiter to the NLRC. If the respondent wanted to enjoin the decision of the Labor Arbiter while his petition for the nullification of the assailed resolution of the NLRC dismissing his appeal was still unresolved, his remedy was to pray for the issuance of a temporary restraining order or a writ of preliminary prohibitory injunction against the petitioner therein, not to nullify the said decision via a petition for certiorari and prohibition.

The NLRC Did Not Commit
Any Grave Abuse of Its
Discretion Correctible By A
Cert Writ In Dismissing the
Respondent's Appeal

Rule VI, Section 1 of the Rules of Procedure of the NLRC provides for the period within which to appeal the decisions, resolutions or orders of the Labor Arbiter, thus:

SECTION 1. PERIOD OF APPEAL. Decisions, resolutions or orders of the Labor Arbiter shall be final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, resolutions or orders of the Labor Arbiter and in case of a decision of the Regional Director within five (5) calendar days from receipt of such decision, resolutions, or orders. If the 10th or 5th day, as the case may be, falls on a Saturday, Sunday or a holiday, the last day to perfect the appeal shall be the next

working day.

Rule VI, Section 4 of the said Rules enumerates the requisites for the perfection of appeal from the decision of the Labor Arbiter –

SECTION 4. REQUISITES FOR PERFECTION OF APPEAL. a) The Appeal shall be filed within the reglementary period as provided in Section 1 of this Rule; shall be verified by appellant himself in accordance with Section 4, Rule 7 of the Rules of Court, with proof of payment of the required appeal fee and the posting of a cash or surety bond as provided in Section 6 of this Rule; shall be accompanied by a memorandum of appeal in three (3) legibly typewritten copies which shall state the grounds relied upon and the arguments in support thereof; the relief prayed for; and a statement of the date when the appellant received the appealed decision, resolution or order and a certificate of non-forum shopping with proof of service on the other party of such appeal. A mere notice of appeal without complying with the other requisites aforesaid shall not stop the running of the period for perfecting an appeal.

Section 7 of the same Rule provides that no motion or request for extension of period within which to perfect an appeal shall be allowed.

In this case, the respondent received his copy of the decision of the Labor Arbiter on May 26, 1999.[33] He had until June 5, 1999 within which to perfect his appeal in the NLRC. Since June 5, 1999 was a Saturday, the respondent had until June 7, 1999, within which to perfect his appeal. Instead of perfecting his appeal on or before the said date, the respondent filed on June 8, 1999, a motion for extension to file a memorandum of appeal. Aside from such motion having been filed beyond the period to perfect the appeal, the respondent's motion was a prohibited pleading.[34] Moreover, the respondent filed his memorandum of appeal only on June 9, 1999 after the period of appeal had lapsed on June 7, 1999.

Moreover, the respondent did not submit proof of payment of the required appeal fee within the period for appeal. There is, likewise, no showing that the respondent submitted the requisite certificate of non-forum shopping. Worse, the respondent failed to submit any valid explanation for his failure to perfect his appeal within the period therefor and why he resorted to filing a prohibited pleading for the purpose of preserving his statutory right to appeal the decision of the Labor Arbiter. While it is true that, in a number of cases, this Court has relaxed the application of the period to appeal, it has done so only where there are special meritorious circumstances and issues, and when there has been substantial compliance with the law and the Rules of Procedure of the NLRC.[35] Indeed, this Court has allowed appeals from the decision of the Labor Arbiter to the NLRC even if filed beyond the reglementary period in the interest of justice.[36] The rule may be relaxed where a careful scrutiny of the facts and circumstances of the case warrants liberality in the application of pertinent rules of procedure. However, the appellant must establish a concrete, cogent, and valid reason for his failure to comply with the mandatory requirement under the Labor Code and the Rules of Procedure of the NLRC.[37] Ordinarily, a decision not appealed within the period therefor becomes final and executory and can no longer be modified or reversed by the NLRC.

In resolving whether or not to relax the rules for appeal, this Court made an encompassing review of the records of the CA, including the respondent's four-page memorandum of appeal vis-à-vis the decision of the Labor Arbiter. We find no facts and circumstances which would warrant a liberality in the application of the rules. Indeed, aside from his appeal having been filed out of time, the respondent herein resorted to filing a prohibited pleading in the NLRC.

We agree with the petitioner's contention that the respondent's memorandum of appeal is but an abbreviated rehash of his position paper and other pleadings filed with the Labor Arbiter, which had already been resolved by the latter in accord with the applicable law and the evidence on record. In his memorandum, the respondent

defined the issues and set forth his arguments in support of his appeal as follows:

- Whether or not Labor Arbiter Honorable Manuel P. Asuncion erred in declaring that complainant was illegally dismissed;

- Whether or not Honorable Manuel P. Asuncion erred in denying complainant's claim for Team Share Stock Option;

...

ON THE FIRST ISSUE:

Labor Arbiter Honorable Manuel P. Asuncion, in his decision, declared that his office has found sufficient basis for respondent to loss (sic) its trust and confidence in complainant, which validates its dismissal of complainant. In support of such declaration, said Honorable Labor Arbiter stated that complainant failed to function effectively, and efficiently as Territory Manager, assigned at the Oncology Business Unit sometime in October 1997. Complainant has not attended to the needs of company's customers, and has left his official duties unattended. In an attempt to show a semblance of efficient performance, falsified Medichack Reports to make it appear that he had performed his duty of visiting company's customers regularly, when in truth he has not done so.

With due respect to Honorable Labor Arbiter Manuel P. Asuncion, this representation most respectfully submits that he erred in declaring that complainant's termination on December 24, 1997 was valid, and in accordance with due process. During the entire period of complainant's employment with respondent, he was efficient in the performance of his duties and obligations as such employee, and in recognition of such efficiency, complainant was cited in several Memorandum, plaque, letter of appreciation and special calling card, copies of which are hereto attached as Annex[es] "A," "B," "C," "D," "E," "F," "G," "H," "I," "J," "K" and "L," respectively, and made integral parts hereof. Aside from such evidences of efficient performance of duties, complainant's sales print out (SAL-230-P) for the month of August 1997, clearly and undoubtedly shows that extraordinary sale made by him, ...

Respondent miserably failed to prove that complainant was guilty of acts, inimical to the interest of respondent. There was no hearing conducted wherein complainant was found guilty, and as such, there was no due process of law accorded to complainant prior to his termination from employment.

The findings of Honorable Labor Arbiter Manuel P. Asuncion, that complainant in an attempt to show a semblance of efficient performance, falsified Medichack reports to make it appear that he had performed his duties of visiting company's customers regularly. Such declaration is unfounded, baseless and fabricated. The truth of the matter is that the signature appearing at the bottom of Annex "10-A" of respondent's Position Paper, is not the signature of complainant, and as such, it is a forgery.

ON THE SECOND ISSUE:

Honorable Labor Arbiter Manuel P. Asuncion, likewise erred in denying complainant's claim for Team Share Stock Option, and in support of such denial, complainant has no option to enjoy, having been terminated on December 24, 1997, and as such, he was no longer an employee on or after the third anniversary of the grant date on or before February 1, 1998.

Again, with due respect to Honorable Labor Arbiter Manuel P. Asuncion, this representation humbly and respectfully submits that complainant is entitled to all benefits due him, because his dismissal was illegal. Moreover, the grant date was on February 1, 1995, and not January 1998, as evidenced by Bristol Myers Squibb Team Share Pharmaceutical Group issued in the name of complainant, ...[38]

The Labor Arbiter resolved the issues raised by the respondent in this wise:

After a careful consideration of the evidences of both parties as well as their arguments, this Office has found sufficient basis for respondent Bristol-Myers Squibb (Phil.), Inc., to lose its trust and confidence in complainant, which validates its dismissal of the latter on said ground. It has been observed that as a Territory Manager of the company's Marketing Division, the complainant was tasked to manage a given sales territory for optimum sales results by monitoring prescription drugs and trade calls and maintaining good customer relations. Necessarily, utmost diligence in the performance of his duties and responsibilities is thus expected and as the complainant occupies a highly sensitive position that carries the corresponding highest degree of trust and responsibility on his part.

Unfortunately, complainant failed to function effectively and efficiently as a Territory Manager assigned at the Oncology Business Unit sometime in October 1997. It has been shown that he would not attend to the needs of the company's customers and has left his official duties unattended such as his failure to acknowledge and respond to the order calls of the customers and his failure to regularly visit them. On occasions, the complainant's whereabouts were unknown and he could not be relied upon to act on urgent orders of customers. There is sufficient evidence to show that the complainant, in an attempt to show a semblance of efficient performance, falsified Medichex reports to make it appear that he had performed his duty of visiting company customers regularly, when in truth he has not done so. In particular, the complainant made it appear that he visited Dr. Maria Warren as early as January 1997 contrary to the representations of the latter. As managerial employee, complainant failed to live up to the high standard of responsibility expected of his position. These gave the respondent sufficient reason to lose its trust and confidence in complainant.

Complainant[']s woes, however, do not end here.

It has also been established that complainant incurred unauthorized and unexcused absences. The company's Code of Discipline for Territory Managers on absences is explicit and clear. Company policy prohibits "absence from work for three (3) or more consecutive working days without proper written notification by letter or telegram or without DM's or superior's prior approval even when vacation/sick leaves are due him/her."

In the case of the complainant, he was absent from work for more than three (3) consecutive days. In fact, his disapproved application for leave was for a period of twenty-five (25) days. However, despite disapproval by his superior, the complainant remained unyielding and continued on leave. It may not be amiss to point out that complainant's reason for filing a leave of absence for the period of 21 November to 31 December 1997 was to accompany his mother and visit his family in the United States. However, as early as 16 December 1997, he was already able to attend the investigation hearing conducted by the respondent company. Indeed, there is no doubt that such conduct of the complainant tends to mislead the company to the detriment of his assigned tasks.

In his position paper, complaint (sic) miserably failed to rebut the documentary evidences (Annexes "4" to "12") adduced by respondent company to substantiate the charges against him for gross and habitual neglect of duties, willful breach of the trust reposed in him and serious violation of the company's rules and regulations which prompted respondent to terminate his services. His dismissal from employment is, therefore, justified simply because gross and habitual neglect of duties and fraud or willful breach of trust and confidence are valid grounds to terminate an employee (*Associated Bank vs. NLRC*, G.R. 86023, June 19, 1989; *Cando vs. NLRC*, 189 SCRA 666; *Manuel vs. N.C. Construction Supply*, 282 SCRA 326).

An employer cannot be compelled to continue with the employment of workers guilty of acts of misfeasance or malfeasance, and whose continuance in the service of the employer is clearly inimical to the former's interest. The law, in protecting the rights of workers, authorizes neither oppression nor self-destruction of the employer (*Bondoc vs. NLRC*, 276 SCRA 288).

There is no denying that complainant Rogelio T. Vilorio was a regular employee of the respondent Bristol Myers Squibb having been employed by the latter from 26 November 1984 until 24 December 1997 with the

latest position of Territory Manager. As such regular employee, he is entitled to security of tenure and cannot be terminated from the service except for a just cause or for an authorized cause and after observance of procedural due process (Art. 279 in relation to Art. 277 (b) of the Labor Code, as amended).

The law is clear that before termination of employment can be legally effected the employer must serve two (2) written notices. The first notice informs the employee of the particular act/s or omission/s for which his dismissal is being sought and giving him an opportunity to present his defense, and the second notice informs the employee of the employer's decision to terminate/or retain him in service.

In the instant case, respondent complied with these procedural requirements. Prior to complainant's termination on 24 December 1997, he was directed by the company to submit two (2) written explanations, first, for his repeated violation of the company's Code of Discipline on performance of duties and second, for his absences without leave. The complainant, in compliance with the company's first directive, had explained in writing his failure to effectively perform his duties. However, immediately thereafter, he filed his application for leave, which the company disapproved. And when asked to submit the required explanation he chose not to give his side. This nevertheless did not prevent the company from issuing another Memorandum dated 5 December 1997 directing complainant to attend a meeting on 16 December 1997 and explain his side.

After deliberating and evaluating Vilorio's explanation, the respondent company found the same inadequate and deficient in substance. Hence, in a letter dated 24 December 1997 the company informed complainant of its decision to terminate his employment.

On the basis of the documentary evidence submitted, it has been established that respondent has substantially complied with the twin requirements of procedural due process. As a matter of fact, the company's decision to terminate complainant's employment was arrived at only after receipt of complainant's explanation.

Regarding the complainant's claim for Team Share Stock Option, the same must be denied. An employee could exercise his Team Share Stock Option on or after the third anniversary of the grant date if he is still employed by the company or he is on approved leave of absence or has been laid off for less than or equal to one year pursuant to the respondent's Stock Option Guide. The alleged grant date of complainant's Team Share Stock Option is on 1 February 1995 and his right to exercise the option grant vests on or after the third anniversary of the grant date which is on or after 1 February 1998. Having been terminated on 24 December 1997, the complainant has no option to enjoy.[39]

In fine, all the facts and circumstances, including the nature of the issues raised by the respondent, the decision of the Labor Arbiter, and the respondent's resort to a prohibited pleading in conjuncto, do not justify the relaxation of the period for appeal in this case.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The assailed Resolution of the Court of Appeals dated January 16, 2001 is SET ASIDE. The resolutions of the NLRC are REINSTATED. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Tinga, JJ., concur.
Chico-Nazario, J., on leave.

[1] Penned by Associate Justice Oswaldo D. Agcaoili, with Associate Justices Fermin A. Martin, Jr. and Wenceslao I. Aguir, Jr., concurring.

[2] CA Rollo, pp. 54-55.

[3] Id. at 56-60.

- [4] Id. at 61.
- [5] Id. at 62.
- [6] Id. at 63.
- [7] Id. at 65.
- [8] Id. at 66-67.
- [9] Id. at 23.
- [10] Penned by Labor Arbiter Manuel P. Asuncion; Rollo, pp. 42-52.
- [11] CA Rollo, p. 138.
- [12] Id. at 139.
- [13] Id. at 180.
- [14] Rollo, p. 78.
- [15] Id. at 80-81.
- [16] Id. at 86.
- [17] CA Rollo, p. 2.
- [18] Id. at 291.
- [19] Id. at 301.
- [20] Id. at 304.

[21] 196 SCRA 410 (1991).

- [22] CA Rollo, p. 321.
- [23] Rollo, p. 39.
- [24] Id. at 18.
- [25] Heung v. Frista, 559 S.2d 434.
- [26] Rhea County v. White, 43 S.2d 375 (1931).
- [27] Alabama Power Co. v. City of Fort Wayne, 187 S.W.2d 632 (1939).
- [28] Sanchez v. Court of Appeals, 279 SCRA 647 (1997).
- [29] Condo Suite Club Travel, Inc. v. NLRC, 323 SCRA 679 (2000).
- [30] Pioneer Insurance & Surety Corporation v. Hontanosas, 78 SCRA 447 (1977).
- [31] Emergency Loan Pawnshop, Inc. v. CA, 353 SCRA 89 (2001).
- [32] Casil v. CA, 285 SCRA 264 (1998).
- [33] CA Rollo, p. 5.

[34] *Lamzon v. NLRC*, 307 SCRA 665 (1999).

[35] *Nueva Ecija I Electric Cooperative, Inc. v. NLRC*, 323 SCRA 86 (2000).

[36] *City Fair Corporation v. NLRC*, 243 SCRA 572 (1995).

[37] *Luna v. NLRC*, 270 SCRA 227 (1997).

[38] CA Rollo, pp. 139-142.

[39] *Id.* at 15-20.

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