

**DEL MONTE PHILIPPINES, INC. AND WARFREDO C. BALANDRA,
PETITIONERS, VS. MARIANO SALDIVAR, NENA TIMBAL, VIRGINIO
VICERA, ALFREDO AMONCIO AND NAZARIO S. COLASTE,
RESPONDENTS.**

G.R. NO. 158620. October 11, 2006

Ponente: TINGA, J.

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TINGA, J.:

The main issue for resolution herein is whether there was sufficient cause for the dismissal of a rank-and-file employee effectuated through the enforcement of a closed-shop provision in the Collective Bargaining Agreement (CBA) between the employer and the union.

The operative facts are uncomplicated.

The Associated Labor Union (ALU) is the exclusive bargaining agent of plantation workers of petitioner Del Monte Philippines, Inc. (Del Monte) in Bukidnon. Respondent Nena Timbal (Timbal), as a rank-and-file employee of Del Monte plantation in Bukidnon, is also a member of ALU. Del Monte and ALU entered into a Collective Bargaining Agreement (CBA) with an effective term of five (5) years from 1 September 1988 to 31 August 1993.[1]

Timbal, along with four other employees (collectively, co-employees), were charged by ALU for disloyalty to the union, particularly for encouraging defections to a rival union, the National Federation of Labor (NFL). The charge was contained in a Complaint dated 25 March 1993, which specifically alleged, in relation to Timbal: "That on July 13, 1991 and the period prior or after thereto, said Nena Timbal personally recruited other bonafide members of the ALU to attend NFL seminars and has actually attended these seminars together with the other ALU members." [2] The matter was referred to a body within the ALU organization, ominously named "Disloyalty Board."

The charge against Timbal was supported by an affidavit executed on 23 March 1993 by Gemma Artajo (Artajo), also an employee of Del Monte. Artajo alleged that she was personally informed by Timbal on 13 July 1991 that a seminar was to be conducted by the NFL on the following day. When Artajo demurred from attending, Timbal assured her that she would be given honorarium in the amount of P500.00 if she were to attend the NFL meeting and bring new recruits. Artajo admitted having attended the NFL meeting together with her own recruits, including Paz Piquero (Piquero). Artajo stated that after the meeting she was given P500.00 by Timbal.[3]

Timbal filed an Answer before the Disloyalty Board, denying the allegations in the complaint and the averments in Artajo's Affidavit. She further alleged that her husband, Modesto Timbal, had filed a complaint against Artajo for collection of a sum of money on 17 March 1993, or just six (6) days before Artajo executed her affidavit. She noted that the allegations against her were purportedly committed nearly two (2) years earlier, and that Artajo's act was motivated by hate and revenge owing to the filing of the aforementioned civil action.[4]

Nevertheless, the ALU Disloyalty Board concluded that Timbal was guilty of acts or conduct inimical to the interests of ALU, through a Resolution dated 7 May 1993.[5] It found that the acts imputed to Timbal were partisan activities, prohibited since the "freedom period" had not yet commenced as of that time. Thus, the Disloyalty Board recommended the expulsion of Timbal from membership in ALU, and likewise her dismissal from Del Monte in accordance with the Union Security Clause in the existing CBA between ALU and Del Monte. The Disloyalty Board also reached the same conclusions as to the co-employees, expressed in separate resolutions also recommending their expulsion from ALU.[6]

On 21 May 1993, the Regional Vice President of ALU adopted the recommendations of the Disloyalty Board and expelled Timbal[7] and her co-employees from ALU.[8] The ALU National President affirmed the expulsion.[9] On 17 June 1993, Del Monte terminated Timbal and her co-employees effective 19 June 1993, noting that the termination was "upon demand of [ALU] pursuant to Sections 4 and 5 of Article III of the current Collective Bargaining Agreement." [10]

Timbal and her co-employees filed separate complaints against Del Monte and/or its Personnel Manager Warfredo C. Balandra and ALU with the Regional Arbitration Branch (RAB) of the National Labor Relations Commission (NLRC) for illegal dismissal, unfair labor practice and damages.[11] The complaints were consolidated and heard before Labor Arbiter Irving Pedilla. The Labor Arbiter affirmed that all five (5) were illegally dismissed and ordered Del Monte to reinstate complainants, including Timbal, to their former positions and to pay their full backwages and other allowances, though the other claims and charges were dismissed for want of basis.[12]

Only Del Monte interposed an appeal with the NLRC.[13] The NLRC reversed the Labor Arbiter and ruled that all the complainants were validly dismissed.[14] On review, the Court of Appeals ruled that only Timbal was illegally dismissed.[15] At the same time, the appellate court found that Del Monte had failed to observe procedural due process in dismissing the co-employees, and thus ordered the company to pay P30,000.00 to each of the co-employees as penalties. The co-employees sought to file a Petition for Review[16] with this Court assailing the ruling of the Court of Appeals affirming their dismissal, but the petition was denied because it was not timely filed.[17]

On the other hand, Del Monte, through the instant petition, assails the Court of Appeals decision insofar as it ruled that Timbal was illegally dismissed. Notably, Del Monte does not assail in this petition the award of P30,000.00 to each of the co-employees, and the ruling of the Court of Appeals in that regard should now be considered final.

The reason offered by the Court of Appeals in exculpating Timbal revolves around the problematic relationship between her and Artajo, the complaining witness against her. As explained by the appellate court:

However, the NLRC should have considered in a different light the situation of petitioner Nena Timbal. Timbal asserted before the NLRC, and reiterates in this petition, that the statements of Gemma Artajo, ALU's sole witness against her, should not be given weight because Artajo had an ax[e] to grind at the time when she made the adverse statements against her. Respondents never disputed the claim of Timbal that in the two (2) collection suits initiated by Timbal and her husband, Artajo testified for the defendant in the first case and she was even the defendant in the second case which was won by Timbal. We find it hard to believe that Timbal would so willingly render herself vulnerable to expulsion from the Union by revealing to an estranged colleague her desire to shift loyalty. The strained relationship between Timbal and Artajo renders doubtful the charge against the former that she attempted to recruit Artajo to join a rival union. Inasmuch as the respondents failed to justify the termination of Timbal's employment, We hold that her reinstatement to her former position in accordance with the September 27, 1996 decision of the Labor Arbiter is appropriate.[18]

The Labor Arbiter, in his favorable ruling to the dismissed employees, had noted that "complainant Timbal['s] x x

x accuser has an axe to grind against her for an unpaid debt so that her testimony cannot be given credit." [19] The NLRC, in reversing the Labor Arbiter, did not see it fit to mention the circumstances of the apparent feud between Timbal and Artajo, except in the course of narrating Timbal's allegations.

However, in the present petition, Del Monte utilizes a new line of argument in justifying Timbal's dismissal. While it does not refute the contemporaneous ill-will between Timbal and Artajo, it nonetheless alleges that there was a second witness, Paz Piquero, who testified against Timbal before the Disloyalty Board. [20] Piquero had allegedly corroborated Artajo's allegations and positively identified Timbal as among those present during the seminar of the NFL conducted on 14 July 1992 and as having given her transportation money after the seminar was finished. Del Monte asserts that Piquero was a disinterested witness against Timbal. [21]

Del Monte also submits two (2) other grounds for review. It argues that the decision of the Labor Arbiter, which awarded Timbal full backwages and other allowances, was inconsistent with jurisprudence which held that an employer who acted in good faith in dismissing employees on the basis of a closed-shop provision is not liable to pay full backwages. [22] Finally, Del Monte asserts that it had, from the incipience of these proceedings consistently prayed that in the event that it were found with finality that the dismissal of Timbal and the others is illegal, ALU should be made liable to Del Monte pursuant to the CBA. The Court of Appeals is faulted for failing to rule upon such claim.

For her part, Timbal observes that Piquero's name was mentioned for the first time in Del Monte's Motion for Partial Reconsideration of the decision of the Court of Appeals. [23] She claims that both Piquero and Artajo were not in good terms with her after she had won a civil suit for the collection of a sum of money against their immediate superior, one Virgie Condeza. [24]

The legality of Timbal's dismissal is obviously the key issue in this case. We are particularly called upon to determine whether at this late stage, the Court may still give credence to the purported testimony of Piquero and justify Timbal's dismissal based on such testimony.

It bears elaboration that Timbal's dismissal is not predicated on any of the just or authorized causes for dismissal under Book Six, Title I of the Labor Code, [25] but on the union security clause in the CBA between Del Monte and ALU. Stipulations in the CBA authorizing the dismissal of employees are of equal import as the statutory provisions on dismissal under the Labor Code, since "[a] CBA is the law between the company and the union and compliance therewith is mandated by the express policy to give protection to labor." [26] The CBA, which covers all regular hourly paid employees at the pineapple plantation in Bukidnon, [27] stipulates that all present and subsequent employees shall be required to become a member of ALU as a condition of continued employment. Sections 4 and 5, Article II of the CBA further state:

ARTICLE II

Section 4. Loss of membership in the UNION shall not be a ground for dismissal by the Company except where loss of membership is due to:

- Voluntary resignation from [ALU] earlier than the expiry date of this [CBA];
- Non-payment of duly approved and ratified union dues and fees; and
- Disloyalty to [ALU] in accordance with its Constitution and By-Laws as duly registered with the Department of Labor and Employment.

Section 5. Upon request of [ALU], [Del Monte] shall dismiss from its service in accordance with law, any member of the bargaining unit who loses his membership in [ALU] pursuant to the provisions of the preceding

section. [ALU] assumes full responsibility for any such termination and hereby agrees to hold [Del Monte] free from any liability by judgment of a competent authority for claims arising out of dismissals made upon demand of [ALU], and [the] latter shall reimburse the former of such sums as it shall have paid therefor. Such reimbursement shall be deducted from union dues and agency fees until duly paid.[28]

The CBA obviously adopts a closed-shop policy which mandates, as a condition of employment, membership in the exclusive bargaining agent. A "closed-shop" may be defined as an enterprise in which, by agreement between the employer and his employees or their representatives, no person may be employed in any or certain agreed departments of the enterprise unless he or she is, becomes, and, for the duration of the agreement, remains a member in good standing of a union entirely comprised of or of which the employees in interest are a part.[29] A CBA provision for a closed-shop is a valid form of union security and it is not a restriction on the right or freedom of association guaranteed by the Constitution.[30]

Timbal's expulsion from ALU was premised on the ground of disloyalty to the union, which under Section 4(3), Article II of the CBA, also stands as a ground for her dismissal from Del Monte. Indeed, Section 5, Article II of the CBA enjoins Del Monte to dismiss from employment those employees expelled from ALU for disloyalty, albeit with the qualification "in accordance with law."

Article 279 of the Labor Code ordains that "in cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by [Title I, Book Six of the Labor Code]." Admittedly, the enforcement of a closed-shop or union security provision in the CBA as a ground for termination finds no extension within any of the provisions under Title I, Book Six of the Labor Code. Yet jurisprudence has consistently recognized, thus: "It is State policy to promote unionism to enable workers to negotiate with management on an even playing field and with more persuasiveness than if they were to individually and separately bargain with the employer. For this reason, the law has allowed stipulations for 'union shop' and 'closed shop' as means of encouraging workers to join and support the union of their choice in the protection of their rights and interests vis-à-vis the employer."[31]

It might be suggested that since Timbal was expelled from ALU on the ground of disloyalty, Del Monte had no choice but to implement the CBA provisions and cause her dismissal. Similarly, it might be posited that any tribunal reviewing such dismissal is precluded from looking beyond the provisions of the CBA in ascertaining whether such dismissal was valid. Yet deciding the problem from such a closed perspective would virtually guarantee unmitigated discretion on the part of the union in terminating the employment status of an individual employee. What the Constitution does recognize is that all workers, whether union members or not, are "entitled to security of tenure." [32] The guarantee of security of tenure itself is implemented through legislation, which lays down the proper standards in determining whether such right was violated.[33]

Agabon v. NLRC[34] did qualify that constitutional due process or security of tenure did not shield from dismissal an employee found guilty of a just cause for termination even if the employer failed to render the statutory notice and hearing requirement. At the same time, it should be understood that in the matter of determining whether cause exists for termination, whether under Book Six, Title I of the Labor Code or under a valid CBA, substantive due process must be observed as a means of ensuring that security of tenure is not infringed.

Agabon observed that due process under the Labor Code comprised of two aspects: "substantive, i.e., the valid and authorized causes of employment termination under the Labor Code; and procedural, i.e., the manner of dismissal." [35] No serious dispute arose in Agabon over the observance of substantive due process in that case, or with the conclusion that the petitioners therein were guilty of abandonment of work, one of the just causes for

dismissal under the Labor Code. The controversy in *Agabon* centered on whether the failure to observe procedural due process, through the non-observance of the two-notice rule, should lead to the invalidation of the dismissals. The Court ruled, over the dissents of some Justices, that the failure by the employer to observe procedural due process did not invalidate the dismissals for just cause of the petitioners therein. However, *Agabon* did not do away with the requirement of substantive due process, which is essentially the existence of just cause provided by law for a valid dismissal. Thus, *Agabon* cannot be invoked to validate a dismissal wherein substantive due process, or the proper determination of just cause, was not observed.

Even if the dismissal of an employee is conditioned not on the grounds for termination under the Labor Code, but pursuant to the provisions of a CBA, it still is necessary to observe substantive due process in order to validate the dismissal. As applied to the Labor Code, adherence to substantive due process is a requisite for a valid determination that just or authorized causes existed to justify the dismissal.^[36] As applied to the dismissals grounded on violations of the CBA, observance of substantial due process is indispensable in establishing the presence of the cause or causes for dismissal as provided for in the CBA.

Substantive due process, as it applies to all forms of dismissals, encompasses the proper presentation and appreciation of evidence to establish that cause under law exists for the dismissal of an employee. This holds true even if the dismissal is predicated on particular causes for dismissal established not by the Labor Code, but by the CBA. Further, in order that any CBA-mandated dismissal may receive the warrant of the courts and labor tribunals, the causes for dismissal as provided for in the CBA must satisfy to the evidentiary threshold of the NLRC and the courts.

It is necessary to emphasize these principles since the immutable truth under our constitutional and labor laws is that no employee can be dismissed without cause. *Agabon* may have tempered the procedural due process requirements if just cause for dismissal existed, but in no way did it eliminate the existence of a legally prescribed cause as a requisite for any dismissal. The fact that a CBA may provide for additional grounds for dismissal other than those established under the Labor Code does not detract from the necessity to duly establish the existence of such grounds before the dismissal may be validated. And even if the employer or, in this case, the collective bargaining agent, is satisfied that cause has been established to warrant the dismissal, such satisfaction will be of no consequence if, upon legal challenge, they are unable to establish before the NLRC or the courts the presence of such causes.

In the matter at bar, the Labor Arbiter—the proximate trier of facts—and the Court of Appeals both duly appreciated that the testimony of Artajo against Timbal could not be given credence, especially in proving Timbal's disloyalty to ALU. This is due to the prior animosity between the two engendered by the pending civil complaint filed by Timbal's husband against Artajo. Considering that the civil complaint was filed just six (6) days prior to the execution of Artajo's affidavit against Timbal, it would be plainly injudicious to presume that Artajo possessed an unbiased state of mind as she executed that affidavit. Such circumstance was considered by the Labor Arbiter, and especially the Court of Appeals, as they rendered a favorable ruling to Timbal. The NLRC may have decided against Artajo, but in doing so, it failed to provide any basis as to why Artajo's testimony should be believed, instead of disbelieved. No credible disputation was offered by the NLRC to the claim that Artajo was biased against Timbal; hence, we should adjudge the findings of the Labor Arbiter and the Court of Appeals as more cogent on that point.

Before this Court, Del Monte does not even present any serious argument that Artajo's testimony against Timbal was free from prejudice. Instead, it posits that Piquero's alleged testimony against Timbal before the Disloyalty Board should be given credence, and that taken with Artajo's testimony, should sufficiently establish the ground of disloyalty for which Timbal should be dismissed.

The Court sees the danger to jurisprudence and the rights of workers in acceding to Del Monte's position. The dismissal for cause of employees must be justified by substantial evidence, as appreciated by an impartial trier of facts. None of the trier of facts below—the Labor Arbiter, the NLRC and the Court of Appeals—saw fit to accord credence to Piquero's testimony, even assuming that such testimony was properly contained in the record. Even the NLRC decision, which was adverse to Timbal, made no reference at all to Piquero's alleged testimony.

Del Monte is able to point to only one instance wherein Piquero's name and testimony appears on the record. It appears that among the several attachments to the position paper submitted by the ALU before the NLRC-RAB was a copy of the raw stenographic notes transcribed, apparently on 17 April 1993, during a hearing before the Disloyalty Board. The transcription is not wholly legible, but there appears to be references therein to the name "Paz Piquero," and her apparent testimony before the Disloyalty Board. We are unable to reproduce with accuracy, based on the handwritten stenographic notes, the contents of this seeming testimony of Piquero, although Del Monte claims before this Court that Piquero had corroborated Artajo's claims during such testimony, "positively identified [Timbal's] presence in the NFL seminar on 14 July 1992," and "confirmed that Timbal gave Artajo P500.00 for recruiting participants in the NFL seminar." [37]

There are evident problems on our part, at this late stage, in appreciating these raw stenographic notes adverting to the purported testimony of Piquero, especially as a means of definitively concluding that Timbal was guilty of disloyalty. Certainly, these notes cannot be appreciated as entries in the official record, which are presumed prima facie evidence of the facts therein stated, [38] as such records can only be made by a public officer of the Philippines or by a person in the performance of a duty specially enjoined by law. These transcripts were not taken during a hearing conducted by any public office in the Philippines, but they were committed in the course of an internal disciplinary mechanism devised by a privately organized labor union. Unless the authenticity of these notes is duly proven before, and appreciated by the triers of fact, we cannot accord them any presumptive or conclusive value.

Moreover, despite the fact that the apparent record of Piquero's testimony was appended to ALU's position paper, the position paper itself does not make any reference to such testimony, or even to Piquero's name for that matter. The position paper observes that "[t]his testimony of [Artajo] was directly corroborated by her actual attendance on July 14, 1992 at the agreed [venue]," but no mention is made that such testimony was also "directly corroborated" by Piquero. Then again, it was only Artajo, and not Piquero, who executed an affidavit recounting the allegations against Timbal.

Indeed, we are inclined to agree with Timbal's observation in her Comment on the present petition that from the time the complaint was filed with the NLRC-RAB, Piquero's name and testimony were invoked for the first time only in Del Monte's motion for reconsideration before the Court of Appeals. Other than the handwritten reference made in the raw stenographic notes attached to ALU's position paper before the NLRC-RAB, Piquero's name or testimony was not mentioned either by ALU or Del Monte before any of the pleadings filed before the NLRC-RAB, the NLRC, and even with those submitted to the Court of Appeals prior to that court's decision.

In order for the Court to be able to appreciate Piquero's testimony as basis for finding Timbal guilty of disloyalty, it is necessary that the fact of such testimony must have been duly established before the NLRC-RAB, the NLRC, or at the very least, even before the Court of Appeals. It is only after the fact of such testimony has been established that the triers of fact can come to any conclusion as to the veracity of the allegations in the testimony.

It should be mentioned that the Disloyalty Board, in its Resolution finding Timbal guilty of disloyalty, did mention that Artajo's testimony "was corroborated by Paz Piquero who positively identified and testified that Nena Timbal was engaged in recruitment of ALU members at [Del Monte] to attend NFL seminars." [39]

The Disloyalty Board may have appreciated Piquero's testimony in its own finding that Timbal was guilty, yet the said board cannot be considered as a wholly neutral or dispassionate tribunal since it was constituted by the very organization that stood as the offended party in the disloyalty charge. Without impugning the integrity of ALU and the mechanisms it has employed for the internal discipline of its members, we nonetheless hold that in order that the dismissal of an employee may be validated by this Court, it is necessary that the grounds for dismissal are justified by substantial evidence as duly appreciated by an impartial trier of facts.[40] The existence of Piquero's testimony was appreciated only by the Disloyalty Board, but not by any of the impartial tribunals which heard Timbal's case. The appreciation of such testimony by the Disloyalty Board without any similar affirmation or concurrence by the NLRC-RAB, the NLRC, or the Court of Appeals, cannot satisfy the substantive due process requirement as a means of upholding Timbal's dismissal.

All told, we see no error on the part of the Court of Appeals when it held that Timbal was illegally dismissed.

We now turn to the second issue raised, whether the Labor Arbiter correctly awarded full backwages to Timbal.

Del Monte cites a jurisprudential rule that an employer who acted in good faith in dismissing employees on the basis of a closed-shop provision may not be penalized even if the dismissal were illegal. Such a doctrine is admittedly supported by the early case of *National Labor Union v. Zip Venetian Blind*[41] and the later decision in 1989 of *Soriano v. Atienza*,[42] wherein the Court affirmed the disallowance of backwages or "financial assistance" in dismissals under the aforementioned circumstance.

However, the Court now recognizes that this doctrine is inconsistent with Article 279 of the Labor Code, as amended by Republic Act No. 6715, which took effect just five (5) days after Soriano was promulgated. It is now provided in the Labor Code that "[a]n employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement." Thus, where reinstatement is adjudged, the award of backwages and other benefits continues beyond the date of the labor arbiter's decision ordering reinstatement and extends up to the time said order of reinstatement is actually carried out.[43]

Rep. Act No. 6715 effectively mitigated previous jurisprudence which had limited the extent to which illegally dismissed employees could claim for backwages. We explained in *Ferrer v. NLRC*: [44]

With the passage of Republic Act No. 6715 which took effect on March 21, 1989, Article 279 of the Labor Code was amended to read as follows: Security of Tenure. — In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

and as implemented by Section 3, Rule 8 of the 1990 New Rules of Procedure of the National Labor Relations Commission, it would seem that the Mercury Drug Rule (*Mercury Drug Co., Inc. vs. Court of Industrial Relations*, 56 SCRA 694 [1974]) which limited the award of back wages of illegally dismissed workers to three (3) years "without deduction or qualification" to obviate the need for further proceedings in the course of execution, is no longer applicable.

A legally dismissed employee may now be paid his back wages, allowances, and other benefits for the entire period he was out of work subject to the rule enunciated before the Mercury Drug Rule, which is that the employer may, however, deduct any amount which the employee may have earned during the period of his illegal

termination (*East Asiatic Company, Ltd. vs. Court of Industrial Relations*, 40 SCRA 521 [1971]). Computation of full back wages and presentation of proof as to income earned elsewhere by the illegally dismissed employee after his termination and before actual reinstatement should be ventilated in the execution proceedings before the Labor Arbiter concordant with Section 3, Rule 8 of the 1990 New Rules of Procedure of the National Labor Relations Commission.

Inasmuch as we have ascertained in the text of this discourse that the OFC whimsically dismissed petitioners without proper hearing and has thus opened OFC to a charge of unfair labor practice, it ineluctably follows that petitioners can receive their back wages computed from the moment their compensation was withheld after their dismissal in 1989 up to the date of actual reinstatement. In such a scenario, the award of back wages can extend beyond the 3-year period fixed by the Mercury Drug Rule depending, of course, on when the employer will reinstate the employees.

It may appear that Article 279 of the Labor Code, as amended by Republic Act No. 6715, has made the employer bear a heavier burden than that pronounced in the Mercury Drug Rule, but perhaps Republic Act No. 6715 was enacted precisely for the employer to realize that the employee must be immediately restored to his former position, and to impress the idea that immediate reinstatement is tantamount to a cost-saving measure in terms of overhead expense plus incremental productivity to the company which lies in the hands of the employer.[45]

The Labor Arbiter's ruling, which entitled Timbal to claim full backwages and other allowances, "without qualifications and diminutions, computed from the time [she was] illegally dismis[s]ed up to the time [she] will be actually reinstated," conforms to Article 279 of the Labor Code. Hence, the Court of Appeals was correct in affirming the Labor Arbiter insofar as Timbal was concerned.

Finally, we address the claim that the Court of Appeals erred when it did not rule on Del Monte's claim for reimbursement against ALU. We do observe that Section 5 of the CBA stipulated that "[ALU] assumes full responsibility of any such termination [of any member of the bargaining unit who loses his membership in ALU] and hereby agrees to hold [Del Monte] free from any liability by judgment of a competent authority for claims arising out of dismissals made upon demand of [ALU], and latter shall reimburse the former of such sums as it shall have paid therefore." [46]

This stipulation does present a cause of action in Del Monte's favor should it be held financially liable for the dismissal of an employee by reason of expulsion from ALU. Nothing in this decision should preclude the operation of this provision in the CBA. At the same time, we are unable to agree with Del Monte that the Court of Appeals, or this Court, can implement this provision of the CBA and accordingly directly condemn ALU to answer for the financial remuneration due Timbal.

Before the Labor Arbiter, Del Monte had presented its cross-claim against ALU for reimbursement should it be made liable for illegal dismissal or unfair labor practice, pursuant to the CBA. The Labor Arbiter had actually passed upon this claim for reimbursement, stating that "[as] for the cross-claims of respondent DMPI and Tabusuares against the respondent ALU-TUCP, this Branch cannot validly entertain the same in the absence of employer-employee relationship between the former and the latter." [47] We have examined Article 217 of the Labor Code, [48] which sets forth the original jurisdiction of the Labor Arbiters. Article 217(c) states:

Cases arising from the interpretation or implementation of collective bargaining agreements and those arising from the interpretation or enforcement of company personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements. [Emphasis supplied.]

In contrast, Article 261 of the Labor Code indubitably vests on the Voluntary Arbitrator or panel of Voluntary

Arbitrators the "original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of the Collective Bargaining Agreement." [49] Among those areas of conflict traditionally within the jurisdiction of Voluntary Arbitrators are contract-interpretation and contract-implementation, [50] the questions precisely involved in Del Monte's claim seeking enforcement of the CBA provision mandating restitution by ALU should the company be held financially liable for dismissals pursuant to the union security clause.

In reconciling the grants of jurisdiction vested under Articles 261 and 217 of the Labor Code, the Court has pronounced that "the original and exclusive jurisdiction of the Labor Arbiter under Article 217(c) for money claims is limited only to those arising from statutes or contracts other than a Collective Bargaining Agreement. The Voluntary Arbitrator or Panel of Voluntary Arbitrators will have original and exclusive jurisdiction over money claims 'arising from the interpretation or implementation of the Collective Bargaining Agreement and, those arising from the interpretation or enforcement of company personnel policies', under Article 261." [51]

Our conclusion that the Labor Arbiter in the instant case could not properly pass judgment on the cross-claim is further strengthened by the fact that Del Monte and ALU expressly recognized the jurisdiction of Voluntary Arbitrators in the CBA. Section 2, Article XXXI of the CBA provides:

Section 2. In the event a dispute arises concerning the application of, or interpretation of this Agreement which cannot be settled pursuant to the [grievance procedure set forth in the] preceding Section, the dispute shall be submitted to an arbitrator agreed to by [Del Monte] and [ALU].

Should the parties fail to agree on the arbitrator, the same shall be drawn by lottery from a list of arbitrators furnished by the Bureau of Labor Relations of the Department of Labor and Employment.

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Thus, as the law indubitably precludes the Labor Arbiter from enforcing money claims arising from the implementation of the CBA, the CBA herein complementarily recognizes that it is the Voluntary Arbitrators which have jurisdiction to hear the claim. The Labor Arbiter correctly refused to exercise jurisdiction over Del Monte's cross-claim, and the Court of Appeals would have no basis had it acted differently. At the same time, even as we affirm the award of backwages against Del Monte, our ruling should not operate to prejudice in any way whatever causes of action Del Monte may have against ALU, in accordance with the CBA.

WHEREFORE, the instant petition is DENIED. The assailed Decision of the Court of Appeals dated 26 August 2002 is AFFIRMED. Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Rollo, p. 137.

[2] Id. at 163.

[3] Id. at 173.

[4] Id. at 167-168.

[5] Id. at 203-206.

[6] Id. at 207-215, 252-255, 257-260.

[7] See rollo, p. 216.

[8] Id. at 217-218, 256, 261.

[9] Id. at 140-141, 266-267, 271-272.

[10] See id. at 142-144. See also id. at 73.

[11] Rollo, p. 73. "The complaints of Mariano Saldivar and Nazario Colaste were respectively docketed as RAB 10-07-00433-93 and RAB 10-09-00473-93 while those of Nena Timbal, Virginio Vicera and Alfredo Amoncio were docketed as RAB 10-07-00442-93."

[12] Id. at 364.

[13] Id. at 369-382.

[14] Id. at 403-423. Decision authored by Acting Presiding Commissioner Oscar N. Abella, concurred in by Commissioner Leon G. Gonzaga, Jr.

[15] In a Decision dated 26 August 2002, penned by then Court of Appeals Associate Justice (now Supreme Court Associate Justice) Cancio C. Garcia, concurred in by Associate Justices Marina L. Buzon and Eliezer R. de los Reyes. See rollo, pp. 12-23.

[16] Docketed as G.R. No. 158394.

[17] In a Resolution dated 1 September 2003. See rollo (G.R. No. 158394), pp. 674-676-401.

[18] Rollo, p. 21.

[19] Id. at 358.

[20] See rollo, p. 51.

[21] Id. at 52.

[22] Particularly citing *Confederated Sons of Labor v. Anakan Lumber Co., et al.*, 107 Phil. 915 (1960); *National Labor Union v. Zip Venetian Blind*, 112 Phil. 407 (1961) and *Soriano v. Atienza*, G.R. No. 68619, 16 March 1989, 171 SCRA 284. See rollo, pp. 55-58.

[23] Rollo, p. 683.

[24] Id.

[25] See LABOR CODE, Arts. 282-284.

[26] *Ferrer v. NLRC*, G.R. No. 100898, 5 July 1993, 224 SCRA 410, 418.

[27] See rollo, p. 97.

[28] Id. at 99-100.

[29] ROTHENBERG ON LABOR RELATIONS, p. 48; cited in *Confederated Sons of Labor v. Anakan Lumber Co., et al.*, 107 Phil. 915, 918 (1960).

[30] *Ferrer v. NLRC*, supra note 26 at 418, citing *Lirag Textile Mills, Inc. v. Blanco*, 109 SCRA 87 (1981).

[31] *Rivera v. Hon. Espiritu*, 425 Phil. 169, 184 (2002), citing *Liberty Flour Mills Employees v. Liberty Flour Mills, Inc.*, G.R. Nos. 58768-70, 180 SCRA 668, 679-680 (1989).

[32]See CONSTITUTION, Art. XIII, Sec. 3.

[33] See *Agabon v. NLRC*, G.R. No. 158693, 17 November 2004, 442 SCRA 573, 689-690, J. Tinga, Separate Opinion citing *Phil. Aeolus Automotive United Corp. v. NLRC*, 387 Phil. 250 (2000); *Gonzales v. National Labor Relations Commission*, 372 Phil. 39 (1999); *Jardine Davies v. National Labor Relations Commission*, 370 Phil 310 (1999); *Pearl S. Buck Foundation v. National Labor Relations Commission*, G.R. No. 80728, February 21, 1990, 182 SCRA 446; *Bagong Bayan Corporation, Realty Investors & Developers v. National Labor Relations Commission*, G.R. No. 61272, September 29, 1989, 178 SCRA 107; *Labajo v. Alejandro, et al.*, No. L-80383, September 26, 1988, 165 SCRA 747; *D.M. Consunji, Inc. v. Pucan, et al.*, No. L-71413, March 21, 1988, 159 SCRA 107; *Santos v. National Labor Relations Commission*, L-76271, September 21, 1987, 154 SCRA 166; *People's Bank & Trust Co. v. People's Bank & Trust Co. Employees Union*, 161 Phil 15 (1976); *Philippine Movie Pictures Association v. Premiere Productions*, 92 Phil. 843 (1953).

[34] *Id.*

[35] *Agabon v. NLRC*, *supra* note 33 at 612.

[36]"Substantive due process mandates that an employee can only be dismissed based on just or authorized causes." *Maneja v. NLRC*, 353 Phil. 45, 66 (1998).

[37] *Rollo*, p. 51.

[38]See RULES OF CIVIL PROCEDURE, Rule 130, Sec. 44.

[39] *Rollo*, p. 204.

[40] There is no dispute that the requirement of an impartial tribunal is integral to substantive and administrative due process. "On the imperative of ensuring due process in administrative proceedings, *Ang Tibay* laid down the guidelines for administrative tribunals to observe. However, what *Ang Tibay* failed to explicitly state was, prescinding from the general principles governing due process, the requirement of an impartial tribunal which, needless to say, dictates that one called upon to resolve a dispute may not sit as judge and jury simultaneously, neither may he review his decision on appeal." *GSIS v. Court of Appeals*, 357 Phil. 511, 533 (1998).

[41]*Supra* note 22.

[42]*Id.*

[43]See *Pheschem Industrial Corp. v. Moldez*, G.R. No. 161158, 9 May 2005 citing *Rasonable v. NLRC*, 253 SCRA 815 (1996).

[44] *Supra* note 26 at 423. Incidentally, a case wherein the employees ordered reinstated were dismissed after having been expelled from their union.

[45] *Supra* note 26 at 423-424.

[46] *Rollo*, p. 100.

[47]*Id.* at 363.

[48] Which reads in full: "Art. 217. Jurisdiction of Labor Arbiters and the Commission — (a) Except as otherwise provided under this code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

(1)

Unfair labor practice cases;

(2)

Termination disputes;

(3)

If accompanied with a claim of reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment;

(4)

Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relation;

(5)

Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts; and

(6)

Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims arising from employer-employee relations, including those persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00), regardless of whether or not accompanied with a claim for reinstatement.

(b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters.

(c) Cases arising from the interpretation or implementation of collective bargaining agreements and those arising from the interpretation or enforcement of company personnel policies shall be disposed by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements."

[49]See LABOR CODE, Art. 261. See also *Sanyo Phil. Workers Union v. Canizares*, G.R. No. 101619, 8 July 1992.

[50] See *Vivero v. Court of Appeals*, 398 Phil. 158, 170 (2000).

[51] *San Jose v. NLRC*, 355 Phil. 759, 772 (1998).

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