

RONALDO B. CASIMIRO, ELISA M. LAT, JOSE L. LALAP, CELESTIN S, LACHICA, REYNALDO S. MALLILLIN, LEONILA G. ROJO, JULIE H. SEBASTIAN, EDITHA M. SOLOMON, EMILIANO T. TAMBAOAN III, F...

G.R. NO. 162233. March 10, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court, assailing the Decision [1] of the Court of Appeals (CA) in CA-G.R. SP. No. 64536, as well as the Resolution [2] dated February 16, 2004 denying the motion for reconsideration thereof.

Respondent Stern Real Estate & Development Corporation is a corporation duly organized and existing under Philippine laws, engaged in the business of purchasing, selling and operating buildings and other real properties for profit. One such property it owns is the Hotel Rembrandt located at No. 26 Tomas Morato Avenue, corner Scout Bayoran Street, Quezon City, with Grace Kristine Meehan as General Manager, and Eric Singson as its Director. [3] The hotel has been fully operational since 1996.

On May 6, 1999, Meehan issued the following Memorandum [4] announcing a Special Separation Program (SSP) for all interested employees:

- Due to the hotel's dire financial status, the hotel has decided to implement/offer a one-time non-recurring special separation program (SSP) that all employees can avail of for the limited period of 10th May to 24th May 1999 only. Management, however, shall have the sole option to approve/disapprove the application of any employee.

- If the number of employees who apply for the Special Separation Program do not meet the minimum number required by the company, management will be constrained to involuntarily terminate the services of employees due to financial losses. Those employees who would be terminated after this program would only receive the legal benefits mandated by law.

A. Guidelines

1. Covered Employees — This program is open only to all regular employees of the hotel.
— Pioneer employees will be given a special consideration.

2. Separation Pay —The hotel will pay affected employees in accordance with the following benefit schedule per year of service (computed as 12 months) on a pro-rata basis tax exempt.

a. Basic: One-half (1/2) month basic salary for [every] year of service or one (1) month salary, whichever is higher.

b. Additional (1) One year of service or less P1,000.00

(2) Two years of service P3,000.00

(3) Three years of service P6,000.00

(4) Four years of service

P10,000.00

- Other Entitlements

- Vacation Leaves. Employees with earned vacation leaves whose applications for separation are accepted under this program, shall be allowed to go on terminal leave to use up their leave credits. While they are on leave, they shall be entitled to correspondingly share in the Service Charges. For employees whose applications for separation are accepted but whose services are needed up to their last day of employment, their earned leaves shall be commuted/paid in cash.

- Thirteenth (13th) Month Pay. All employees approved to avail of the SSP will be entitled to a pro-rata payment of the 13th month pay (i.e., from 1st January — 31st May 1999)

- The basis of computation of the separation pay is the monthly basic salary as of Wednesday, 26th May.

- The release of the special separation package will be around 2 weeks from the submission of the necessary clearances.

- All applications accepted under this Program shall be effective 31st May 1999.

- An employee who avails of the Special Separation Program is not entitled to any other benefits by reason of his separation. The employee waives the right to any other benefits normally associated with his/her employment at Hotel Rembrandt.

- Employees with physical limitations due to recurring illness or advanced age and who can no longer perform their jobs effectively shall be given priority [u]pon the certification of a physician designated by the hotel, if the concerned employee's physical infirmities/limitations that [sic] may adversely affect the employee's job performance.

- The hotel reserves the sole right and discretion to decide on the case of an employee.

- The number of employees to be separated will depend on:

- The ability of the company to fund this one time, non-recurring special separation program.

- The company's explicit approval of each application on a case-to-case basis.

- This special separation program is a one-time, non-recurring program. It should not set any precedent nor be invoked in the future. [5]

On May 24, 1999, the hotel management accepted 49 applications for its SSP.

On May 28, 1999, management filed an Establishment Termination Report [6] before the Department of Labor and Employment. Said report covered 29 employees whose termination was to take effect on June 28, 1999. "Financial losses" was the main reason cited, and the other being "company reorganization/downsizing." From June 15 to 21, 1999, letters were sent to the employees concerned informing them that they were considered dismissed from employment one month after receipt of such notice. [7]

Petitioners were among the retrenched employees. [8] They later filed a complaint for "illegal dismissal in the guise of retrenchment and underpayment/non-payment of overtime pay, premium compensation for holiday and rest day" with prayer for moral and exemplary damages and attorney's fees before the National Labor Relations Commission (NLRC). The complaint was docketed as NLRC NCR Case No. 00-08-08351-99.

According to the complainants, while the hotel management claimed that they were retrenched due to "serious financial losses," it failed to satisfy the requirements of the Labor Code in terminating their employment: no notice was given to the Department of Labor of such intended retrenchment and no evidence was submitted to prove that the hotel had been suffering financial losses. Moreover, respondents had not only advertised their need for personnel vacated by complainants; [9] they had already started hiring replacements. The complainants were convinced that their retrenchment was only a ploy to ease them out of their respective jobs. [10]

On March 6, 2000, Labor Arbiter Donato G. Quinto, Jr. ruled in favor of the retrenched employees. According to the Labor Arbiter, a thorough examination of the financial statements submitted by respondents would readily show that the expenses in 1998 were bloated as compared to the previous year, clearly made to justify the retrenchment of the complainants. [11] Moreover, the hotel had advertised job vacancies for extra banquet waiters and waitresses, and likewise failed to rebut the charge that the "last in, first out rule" was not observed in dismissing the employees. The Labor Arbiter also declared that while the complainants executed quitclaims and accepted their separation pay, they were not estopped from challenging the validity of their dismissal. The dispositive portion of the decision reads:

WHEREFORE, premises above considered, a decision is hereby issued declaring the retrenchment of the complainants devoid of factual and legal basis, hence respondent firm[,] Grace Kristen [sic] Meehan and Eric Singson is [sic] hereby ordered to reinstate complainants to their former or equivalent position with full backwages minus what have been received by them as separation benefits, reckoned from the date of their actual dismissal [or] retrenchment until reinstated actually or in payroll, plus attorney's fees equivalent to ten (10%) percent of the award. For this purpose, the Examination and Computation Unit of this Arbitration branch is hereby directed to make the necessary computation of the complainants' backwages which computation is hereby adopted and to form an integral part of this decision as Annex "A."

The other claims including damages are hereby dismissed for lack of merit.[12]

In compliance with the Labor Arbiter's directive, the Examination and Computation Unit of the NLRC issued a computation of complainants' entitlement, awarding in their favor a total of P1,988,908.91. [13]

Respondents appealed the decision to the NLRC, arguing that the Labor Arbiter committed grave abuse of discretion in disregarding the audited financial statements, and choosing to believe the erroneous computation of the complainants without even checking the veracity of their allegations. [14] Aside from the audited financial statements for 1997 [15] and 1998, [16] and the Audit Report [17] of Banaria, Banaria and Company, dated April 14, 1999, respondents also attached receipts and vouchers to show that the hotel had really incurred losses.

Complainants, for their part, filed their Comments with Motion to Dismiss Appeal, [18] alleging that respondents did not furnish them with a copy of the Memorandum of Appeal and the Motion to Reduce Supersedeas Bond, which violated their right to due process. They also pointed out that the cash deposit of P50,000.00 made by respondents was a "measly amount," and as such, it was as if no appeal bond was paid and no appeal had been perfected.

In its Decision [19] dated January 15, 2001, the NLRC reversed the ruling of the Labor Arbiter and dismissed the complaints for lack of merit. It held that through the duly-audited financial statements submitted to it, the respondent hotel was able to show that it suffered losses in 1996, 1997 and 1998 amounting to P19,272,539.37, P18,512,683.00 and P13,669,695.00, respectively. The NLRC further ruled that the Labor Arbiter erred in disregarding these statements and giving full credence to complainants' contention that the hotel's expenses were bloated. It pointed out that respondents presented receipts on appeal to show that the repair and maintenance, light and water expenses, and telephone and communication expenses were not fabricated. Citing *The New Valley Times Press v. National Labor Relations Commission*, [20] it averred that evidence presented on appeal may be

considered by it, and pointed out that the complainants did not rebut the evidence despite due notice.

The NLRC further ruled that, contrary to the allegation of the complainants, the first-in-last-out policy was observed by respondents, since evidence of the complainants' efficiency and performance for the past years were presented to show that this criteria was considered. The labor tribunal pointed out that this evidence was not rebutted by the complainants. It further ruled that complainants failed to show that they were forced to sign quitclaims when they received their respective separation pay. Citing *Veloso v. Department of Labor and Employment*, [21] it declared that "dire necessity" is not an acceptable reason to set aside quitclaims otherwise valid.

Aggrieved, the retrenched employees filed before the CA a Petition for Certiorari under Rule 65 of the Revised Rules of Court. On July 20, 2001, the CA issued a Resolution[22] directing petitioners to amend their petition by dropping seven[23] of them who failed to sign the verification and certification of non-forum shopping. On October 19, 2001, petitioners Reantaso, Elisa Lat, Lalap, Lachica, Mallillin, Rojo, Sebastian, Solomon, Tambaoan III, Trozado, and Edwin Lat filed their Amended Petition.[24] Petitioner Cabardo filed her Amended Petition on November 7, 2001. [25]

On July 31, 2003, the CA affirmed the ruling of the NLRC and dismissed the petition for lack of merit. [26] On the issue of the filing of the cash bond, it ruled that respondents' action constituted substantial compliance with the rules. It stated that the Labor Arbiter's decision did not specify the exact amount of the monetary award due the petitioners, prompting respondents to file a P50,000.00 cash bond and motion for the reduction of the supersedeas bond. Once the computation of the monetary award was received on July 14, 2000, they immediately sought the cancellation of the cash bond, and moved that it be substituted with a surety bond equivalent to the monetary award. The CA further ruled that petitioners failed to show that respondents were in bad faith or that they intended to delay payment. It observed that when the Labor Arbiter issued the writ of execution, respondents instructed petitioners to immediately report to the hotel on July 26, 2000. The appellate court also disagreed with petitioners' contention that they were deprived of due process when additional documents were submitted before the NLRC. Under the New Rules of Procedure of the NLRC, the submission of new evidence is not prohibited, not being prejudicial to the other party who could still submit counter-evidence.

Citing *NDC-Guthrie Plantations, Inc. v. National Labor Relations Commission*, [27] the CA declared that respondents were able to comply with all the requirements for a valid retrenchment under Article 283 of the Labor Code.

Aggrieved, petitioners now come to this Court, assailing the ruling of the CA on the following grounds:

5.1. THAT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION EQUIVALENT TO LACK OR IN EXCESS OF JURISDICTION WHEN IT RULED THAT THE APPEAL OF THE RESPONDENTS WITH THE NATIONAL LABOR RELATIONS COMMISSION WAS PERFECTED DESPITE THE FACT THAT THE APPEAL OR SURETY BOND OF P1,988,908.91 WAS POSTED SEVENTY (70) DAYS LATE FROM RECEIPT OF THE DECISION OF THE LABOR ARBITER.

5.2. THAT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION EQUIVALENT TO LACK OR IN EXCESS OF JURISDICTION WHEN IT RULED THAT THE PETITIONERS WERE NOT PREJUDICED WHEN THE NLRC ADMITTED THE APPEAL MEMORANDUM AS WELL AS THE ADDITIONAL EVIDENCE OF THE RESPONDENTS EVEN WITHOUT FURNISHING FIRST THE PETITIONERS COPIES THEREOF MORE SPECIFICALLY THE APPEAL MEMORANDUM.

5.3. THAT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION

EQUIVALENT TO LACK OR IN EXCESS OF JURISDICTION WHEN IT RULED THAT THERE WAS A VALID RETRENCHMENT TO WARRANT THE DISMISSAL OF THE PETITIONERS.

5.4. THAT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION EQUIVALENT TO LACK OR IN EXCESS OF JURISDICTION WHEN IT RULED THAT THE PETITIONERS EXECUTED A VALID QUITCLAIM.

5.5. THAT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION EQUIVALENT TO LACK OR IN EXCESS OF JURISDICTION WHEN IT ADMITTED AND ENTERTAINED THE COMMENT OF THE RESPONDENTS DESPITE ITS ORDER THAT CONSIDERED SAID RESPONDENTS TO HAVE WAIVED THE RIGHT TO FILE THEIR COMMENT AND SAID ORDER WAS NOT RECONSIDERED AND SET ASIDE THUS LEGALLY STILL IN FULL FORCE AND EFFECT. [28]

Petitioners insist that a decision in labor cases involving a monetary award may be perfected only upon the posting of a cash or surety bond, as mandated by Republic Act No. 6715, as well as Section 6, Rule VI of the New Rules of Procedure of the NLRC. They aver that the reason behind the rule is to give the workers an assurance that they will be paid in the event that they win the case. They claim that there was no reason why respondents could not afford to deposit the sum of P1,988,908.01. While the late filing of the supersedeas bond has been relaxed in a number of cases, there is no cogent reason to apply a liberal interpretation in the instant case. The word "only" in the provision, according to petitioners, makes it perfectly clear that the lawmakers intended the posting of a cash or surety bond as the exclusive means by which an employer's appeal may be perfected. They insist that the appeal bond of P50,000.00 is shockingly low and grossly inadequate, as it constitutes only 2.5% of the monetary award.

Petitioners also aver that, contrary to respondents' claim in the appellate court, they (respondents) were furnished a copy of the Labor Arbiter's decision, as well as the computation of the monetary award. In fact, it was respondents who did not provide them a copy of their Memorandum of Appeal, contrary to Rule IV, Section 3 of the New Rules of Procedure of the NLRC. On this score alone, the appeal before the NLRC should have been dismissed. Petitioners aver that they were prevented from filing the appropriate pleadings on account of such intentional act. They insist that additional evidence on appeal cannot be filed on personal whims and caprices, and that "there are rules to be observed in order that the rights of the other party will not be prejudiced and trampled upon." They conclude that petitioners' intentional failure to furnish them a copy of such appeal memorandum deprived them of their right to be heard — ultimately, their right to due process.

On the merits of the case, petitioners stress that respondents were not motivated by honest intentions in effecting their dismissal. They remind the Court that while the law recognizes the employer's right to protect its interest, such right should be exercised in a manner which does not infringe on the employees' constitutional right to security of tenure. They insist that respondents presented "sanitized financial statements" to justify the legality of their retrenchment. They reiterate that they were not furnished copies of said statements, hence, their failure to submit evidence to controvert the same. Under the circumstances, respondents should have presented respondent hotel's income tax returns for the preceding years since audited financial statements are not entirely reliable and can be easily fabricated.

On the appellate court's finding that the quitclaims they executed were valid, petitioners insist that they were forced to do so since their employer was determined to carry out their dismissal. Since most of them were their respective families' sole breadwinners, there was no other recourse but for them to sign such waivers out of dire necessity.

Respondents, for their part, allege that no new matter or issue was raised in the instant petition, a mere rehash of

petitioners' arguments before the appellate court, and that such arguments had already been passed upon by the appellate court.

The issues involved in this case are procedural and substantial in nature. On the procedural aspect, petitioners question the filing of the cash bond, which, according to them, was a measly amount as compared to the award of the Labor Arbiter. They likewise question the fact that the CA considered the evidence submitted by respondents on appeal before the NLRC, and they contend that this is a violation of their right to due process. On the other hand, the main and substantial issue to be resolved by the Court is whether petitioners were validly retrenched, and, corollarily, whether respondents presented adequate proof of financial losses, and whether the quitclaims executed by petitioners are valid and binding.

At the outset, the Court stresses that the substantial issues for resolution are factual in nature, and generally, factual findings of the NLRC are accorded respect. However, there is compelling reason to deviate from this salutary principle where, as in this case, such findings of facts of the NLRC are in conflict with that of the Labor Arbiter. Accordingly, this Court must of necessity review the records to determine which findings should be preferred as more conformable to the evidentiary facts. [28]

A careful perusal of the records show that respondents filed their Memorandum of Appeal on May 17, 2000 before the NLRC, together with the P50,000.00 cash bond. They also filed a Motion for Reduction of Supersedeas Bond. Thereafter, respondents' new counsel filed a Manifestation with Motion to Substitute (Cash Bond with Supersedeas Bond), alleging that a copy of the monetary award had not been attached to the copy of the Labor Arbiter's decision which was furnished them. The NLRC approved the substitution in a Resolution [30] dated December 28, 2000. In light of the fact that in his decision, the Labor Arbiter directed the Examination and Computation Unit of the NLRC to compute the backwages of the retrenched employees, it would not have been possible for respondents to obtain a copy of such computation. As such, the initial filing of the P50,000.00 cash bond was justified under the circumstances.

The second paragraph of Article 223 of the Labor Code states that when a judgment involving monetary award is appealed by the employer, the appeal may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment. This is to assure the workers that if they finally prevail in the case, the monetary award will be given to them upon dismissal of the employer's appeal, and is meant to discourage employers from using the appeal to delay or evade payment of their obligations to the employees. [31] However, as provided for in Section 6, Rule VI of the New Rules of Procedure of the NLRC, such amount of the bond may be reduced in meritorious cases, upon motion of the appellant. The exercise of this authority is not a matter of right on the part of the movant but lies within the sound discretion of the NLRC upon showing of meritorious grounds. [32] Indeed, an unreasonable and excessive amount of bond would be oppressive and unjust, and would have the effect of depriving a party of his right to appeal. [33]

The Court likewise holds that the NLRC did not err in admitting the receipts and other evidence attached to the Memorandum of Appeal of respondents. In *Tanjuan v. Philippine Postal Savings Bank, Inc.*, [34] where this Court was confronted with the similar question, i.e., whether proof of business losses may be admitted on appeal before the NLRC, we declared that the NLRC is not precluded from receiving evidence on appeal because technical rules of procedure are not binding in labor cases, which rule applies to both employer and employee. [35] Moreover, the fact that evidence was not presented before the Labor Arbiter will not justify its outright rejection, particularly since such evidence is absolutely necessary to resolve the issue of whether retrenched employees were validly terminated. [36] No less than 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, [37] while Section 10, Rule VII of

the New Rules of Procedure of the NLRC provides that technical rules are not binding. [38] Indeed, the application of technical rules of procedure may be relaxed in labor cases to serve the demand of substantial justice. [39]

Contrary to petitioners' claim, they were not denied due process. The essence of due process in administrative proceedings is simply an opportunity to explain one's side or an opportunity to present evidence in support of one's defense. [40] In this case, petitioners submitted their respective pleadings to controvert the allegations of respondents.

Article 283 [41] of the Labor Code of the Philippines authorizes retrenchment as one of the valid causes to dismiss employees as a measure to avoid or minimize business losses. [42] Retrenchment is the "termination of employment initiated by the employer through no fault of the employees and without prejudice to the latter, resorted to by management during periods of business recession, industrial depression, or seasonal fluctuations, or during lulls occasioned by lack of orders, shortage of materials, conversion of the plant for a new production program or the introduction of new methods or more efficient machinery, or of automation." [43] Simply put, it is a reduction in manpower, a measure utilized by an employer to minimize losses incurred in the operation of its business. It is a management prerogative consistently recognized and affirmed by this Court. [44] In *Danzas Intercontinental, Inc. v. Daguman*, [45] we enumerated the requirements for a valid retrenchment which the employer must prove by clear and convincing evidence:

x x x (1) that retrenchment is reasonably necessary and likely to prevent business losses which, if already incurred, are not merely de minimis, but substantial, serious, actual and real, or if only expected, are reasonably imminent as perceived objectively and in good faith by the employer; (2) that the employer served written notice both to the employees and to the Department of Labor and Employment at least one month prior to the intended date of retrenchment; (3) that the employer pays the retrenched employees separation pay equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher; (4) that the employer exercises its prerogative to retrench employees in good faith for the advancement of its interest and not to defeat or circumvent the employees' right to security of tenure; and (5) that the employer used fair and reasonable criteria in ascertaining who would be dismissed and who would be retained among the employees, such as status, efficiency, seniority, physical fitness, age, and financial hardship for certain workers. [46]

In this case, respondents presented audited financial statements and receipts to prove that the hotel had been incurring business losses. As found by the appellate court:

In the case at bar, the respondent hotel undertook a Special Separation Program (SSP) which all employees can avail of for the limited period of May 10 to 24, 1999, due to the dire financial status it was experiencing. Forty-nine (49) employees were accepted for this separation program. The private respondents then decided that a retrenchment program was further needed in order to stem the losses. The private respondents then informed the DOLE through an Establishment Termination Report filed on May 28, 1999, that they were retrenching twenty-nine (29) employees effective June 28, 1999, among whom included the herein petitioners. The private respondents likewise informed these twenty-nine (29) employees that their services would be terminated thirty (30) days after the receipt of the written notification. After one month from receipt of the letters of termination, the twenty-nine (29) employees were given their separation pay and the corresponding quitclaims were signed.

x x x x

The private respondents in the instant case presented balance sheets for the years 1997, 1998 and 1999 as audited by independent auditors, which showed that respondent Stern experienced net losses for several years, as follows:

1996 = P19,272,539.77

1997 = P18,512,683.11

1998 = P13,669, 095.80

1999 = P14,626,684.36

Hence, for a period of four (4) years, respondent Stern accumulated losses amounting to around P66,000,000.00, with no sign of abating in the future. The petitioners failed to back up their allegation that the expenses presented in the financial statements were bloated. Nor did the petitioners explain why independent public accountants Clemente Uson & Co. and Banaria, Banaria and Company would knowingly allow false figures to be included in the balance sheets. Consequently, we are more inclined to affirm the finding of the public respondent that the expenses presented by the private respondents were not fabricated. [47]

Contrary to the allegation of petitioners, income tax returns are self-serving documents because they are generally filled up by the taxpayer himself, and are still to be examined by the Bureau of Internal Revenue for their correctness. [48]

The Court notes that petitioners failed to dispute the validity of the financial statements and receipts submitted by respondents, or that any false entries were made therein. They also failed to prove, much less impute, any ill motive on the part of the independent auditors who prepared the financial statements which respondents submitted.

The Court also finds that the quitclaims executed by the individual petitioners in this case are valid and binding. Indeed, quitclaims executed by employees are commonly frowned upon as being contrary to public policy, and where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or where the terms of settlement are unconscionable on their faces, the law will step in to annul the questionable transactions. [49] However, when such quitclaim was made voluntarily and there is no evidence that the employer was guilty of fraud or intimidation in obtaining such waiver, as in this case, the validity of the quitclaim must be upheld. As the Court held in *Magsalin v. National Organization of Working Men*: [50]

x x x While quitclaims executed by employees are commonly frowned upon as being contrary to public policy and are ineffective to bar claims for the full measure of their legal rights, there are, however, legitimate waivers that represent a voluntary and reasonable settlement of laborers' claims which should be so respected by the Court as the law between the parties. Where the person making the waiver has done so voluntarily, with a full understanding thereof, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as being a valid and binding undertaking. "Dire necessity" is not an acceptable ground for annulling the release, when it is not shown that the employee has been forced to execute it (emphasis supplied). [51]

Verily, it is neither the function of the law nor its intent to supplant the prerogative of management in running its business, such as, to compel the latter to operate at a continuing loss simply because it has to maintain its workers in employment. Such an act would be tantamount to the taking of property without due process of law. [52]

CONSIDERING THE FOREGOING, the instant petition is DENIED for lack of merit. The Decision of the Court of Appeals in CA- CA-G.R. SP. No. 64536 is AFFIRMED.

SO ORDERED.

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

[1] Penned by Associate Justice Delilah Vidallon-Magtolis, with Associate Justices Remedios Salazar-Fernando and Edgardo F. Sundiam, concurring; rollo, pp. 44-57.

[2] Rollo, p. 75.

[3] CA rollo, p. 150.

[4] Id. at 163-164.

[5] Id. at 163-164.

[6] Id. at 165-166.

[7] Id. at 168-224.

[8] The following are the names and respective positions of the retrenched employees who filed the complaint for illegal dismissal against the private respondents (CA rollo, pp. 67-68):

Name of Employee	Date employed	Notice of Termination	Effectivity of termination	Basic Salary/Plus Service Charge	TOTAL
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Rodolfo B. Cachuela					
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Food and Beverage					
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Coffee Shop	Oct 19, 1995	June 18, 1999	July 19, 1999	P5,396.87-	
				P3,500	P8,896.87

Aldrin P. Camacho					
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Front Office					
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- Bell Service	Dec 12, 1995	June 19, 1999	July 20, 1999	P5,396.87-	
				P3,500	P8,896.87

[Rodelio] P. Camo					
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Food and Beverage					
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Stewarding	Nov 23, 1995	June 17, 1999	July 18, 1999	P5,396.87-	
				P3,500	P8,896.87

Ronaldo B. [Casimiro]					
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Food and Beverage					
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Kitchen	Oct 2, 1995	June 18, 1999	July 19, 1999	P5,396.87-	
				P3,500	P8,896.87

Manuel S. Fernandez					
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Food and Beverage					
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Kitchen Cook	Oct 3, 1995	July 18, 1999	Aug 19, 1999	P12,000-	
				P3,500	P15,500

Wilma G. Gimpez					
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Food and Beverage -Bar	Mar 18, 1996	June 18, 1999	July 29, 1999	P5,588.57-	
				P3,500	P9,088.57

Lachica Celestin					
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Food and Beverage					
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Coffee Shop	Oct 12, 1995	June 18, 1999	July 19, 1999	P5,588.57-	
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P3,500 P9,088.57

Jose M. Laplap

Food and Beverage

Stewarding Nov 20, 1995 June 18, 1999 July 20, 1999 P5,396.87-

P3,500 P8,896.87

Edwin Lat

House Officer Nov 20, 1995 July [sic] 21, 1999 July 20, 1999 P6,113-

P3,500 P9,613.87

Elisa M. Lat Main

Kitchen/ Cold Section Mar 15, 1996 July 18, 1999 Aug 19, 1999 P5,396.87-

P3,500 P8,896.87

Loida J. Manabat

Food Beverage/Bar July 3, 1996 June 18, 1999 July 19, 1999 P5,250-

P3,500 P8,750.00

Reynaldo S. Mallillin

Food Beverage/

Room Service/

Coffee Shop/

Captain Waiter Dec 5, 1995 June 21, 1999 July 22, 1999 P6,638-

P3,500 P10,138.00

Ruby R. Ortaliz

Food and Beverage

Coffee Shop/Cashier Oct 19, 1995 June 18, 1999 July 19, 1999 P6,113-

P3,500 P9,613.00

Ma. Rosvida Reantaso

Food and Beverage

Café Sashia / Captain

Waitress Oct 12, 1999 June 18, 1999 July 19, 1999 P6,100-

P3,500 P9,600

Leonila G. Rojo

Food and Beverage

Coffee Shop Oct 19, 1995 July 18, 1999 Aug 19, 1999 P5,000-

P3,500 P8,500

Julie H. Sebastian

Finance (Cashier) Oct 25, 1995 June 18, 1999 July 19, 1999 P6,113-

P3,500 P9,613.00

Editha M. Solomon

Kitchen/Pastry Oct 11, 1995 July 18, 1999 July 19, 1999 P5,396.87-

P3,500 P8,896.87

Emiliano T. Tambasan III

Front Office-Bell Service Nov 30, 1995 June 17, 1999 July 18, 1999 P5,400-P3,500 P8,900.00

Fernando G. Trozado
Chief Steward [Food and] Beverage
Stewarding Oct 10, 1995 June 17, 1999 July 18, 1999 P7,865-P3,500 P11,365.00

Ma. Eliza M. Ty
Front Office Mar 3, 1997 June 18, 1999 July 19, 1999 P5,200-P3,500 P8,700

[9] Manila Bulletin Classified Ads, Sunday, July 11, 1999, Column 1, (CA rollo, p. 70).

[10] CA rollo, p. 63.

[11] The Labor Arbiter made a comparison of said expenses, as follows:

a) Transportation and Traveling Expenses

From PHP 22,770.10 for 1997 to PHP 210,801.53 for 1998 or an increase of PHP 188,031.43 for 1998.

b) Telephone and Communication Expenses

From PHP 362,783.57 to PHP 2,710,625.89 for 1998 or an increase of PHP 2,347,842.32 for 1998.

c) Light and Water

From PHP 3,006,439.68 for 1997 to PHP 8,397,707.14 for 1998 or an increase of PHP 5,391,267.46 for 1998

d) Supplies

From PHP 261,396.00 for 1997 to PHP 2,632,198.88 for 1998 or an increase of PHP 2,270,802.88 for 1998.

e) Repairs and Maintenance

From PHP 18,663.80 for 1997 to PHP 1,506,293.04 or 1998 or an increase of 1,787,634.24 for 1998 (CA rollo, pp. 77-78).

[12] CA rollo, pp. 80-81.

[13] Rollo, pp. 107-108.

[14] CA rollo, p. 87.

[15] Id. at 96-99.

[16] Id. at 100-103.

[17] Id. at 104-110.

[18] Id. at 122-126.

[19] Id. at 28-36.

[20] G.R. No. 100482, July 15, 1992, 211 SCRA 509.

[21] G.R. No. 87297, August 5, 1991, 200 SCRA 201, 205.

[22] CA rollo, p. 226.

[23] In their Compliance with Manifestation dated June 11, 2001, the petitioners reported that seven out of the 21

petitioners had already left for abroad without signing the petition. (CA rollo, pp. 146-149).

[24] CA rollo, pp. 245-266.

[25] Id. at 395-411.

[26] Rollo, pp. 44-57.

[27] 414 Phil. 714 (2001).

[28] Rollo, pp. 13-14.

[28] *Samson v. National Labor Relations Commission*, 386 Phil. 669, 681 (2000).

[30] CA rollo, pp. 137-139.

[31] *Coral Point Development Corporation v. NLRC*, 383 Phil. 456, 463-464, citing *Garais v. NLRC*, 256 SCRA 560, 566-567 (1996) and *Unicane Workers Union-CLUP v. NLRC*, 261 SCRA 573, 584 (1996).

[32] *Ong v. Court of Appeals*, G.R. No. 152494, September 22, 2004, 438 SCRA 668, 675, citing *Mers Shoes Manufacturing, Inc. v. NLRC*, 350 Phil. 294, 305 (1998).

[33] *Nueva Ecija I Electric Cooperative, Inc. v. NLRC*, 380 Phil. 44, 56 (2000).

[34] G.R. No. 155278, September 16, 2003, 411 SCRA 168.

[35] *Supra*, at 175-176 (citations omitted).

[36] *Supra*, at 177.

[37] labor code, article 221, as amended.

[38] Section 10. TECHNICAL RULES NOT BINDING. The rules of procedure and evidence prevailing in courts of law and equity shall not be controlling and the Commission shall use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process.

[39] *Mayon Hotel & Restaurant v. Adana*, G.R. No. 157634, May 16, 2005, 458 SCRA 609, 628, citing *Havtor Management Phils., Inc. v. NLRC*, 372 SCRA 271 (2001).

[40] See *Silverio, Sr. v. Court of Appeals*, G.R. No. 109979, March 11, 1999, 304 SCRA 541, 562, where the Court enumerated a panoply of cases with a similar holding.

[41] Art. 283. Closure of establishment and reduction of personnel.— The employer may also terminate the employment of any employee due to the installation of labor saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered as one (1) whole year.

[42] EMCO Plywood Corporation v. Abelgas, G.R. No. 148532, April 14, 2004, 427 SCRA 496, 507.

[43] Sebuguero v. National Labor Relations Commission, G.R. No. 115394, September 27, 1995, 248 SCRA 532, 542.

[44] Trendline Employees Association-Southern Philippines Federation of Labor v. NLRC, 338 Phil. 681, 688 (1997).

[45] G.R. No. 154368, April 15, 2005, 456 SCRA 382.

[46] Supra, at 392-393.

[47] Rollo, pp. 54-55.

[48] Favila v. NLRC, 367 Phil. 584, 595 (1999), citing San Carlos Milling Co., Inc. v. Commissioner of Internal Revenue, 228 SCRA 135 (1986).

[49] Mindoro Lumber and Hardware v. Bacay, G.R. No. 158753, June 8, 2005, 459 SCRA 714, 722, citing Bogo-Medellin Sugarcane Planters Association, Inc. v. NLRC, 296 SCRA 108 (1998).

[50] 451 Phil. 254 (2003).

[51] Supra, at 263-264.

[52] Danzas Intercontinental, Inc. v. Daguman, G.R. No. 154368, April 15, 2005, 456 SCRA 382, 392, citing Industrial Timber Corporation v. NLRC, 339 Phil. 395 (1997).

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