

**LINTON COMMERCIAL CO., INC. AND DESIREE ONG, PETITIONERS,
VS. ALEX A. HELLERA, FRANCISCO RACASA, DANTE ESCARLAN,
DONATO SASA, RODOLFO OLINAR, DANIEL CUSTODIO, ARTURO
POLLO, ROBE...**

G.R. No. 163147. October 10, 2007

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TINGA, J.:

This is a petition for review under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Decision[1] of the Court of Appeals promulgated on 12 December 2003 as well as its Resolution[2] promulgated on 2 April 2004 denying petitioners' motion for reconsideration.

This case originated from a labor complaint filed before the National Labor Relations Commission (NLRC) in which herein respondents contended that petitioner Linton Commercial Company, Inc. (Linton) had committed illegal reduction of work when it imposed a reduction of work hours thereby affecting its employees.

Linton is a domestic corporation engaged in the business of importation, wholesale, retail and fabrication of steel and its by-products.[3] Petitioner Desiree Ong is Linton's vice president.[4] On 17 December 1997, Linton issued a memorandum[5] addressed to its employees informing them of the company's decision to suspend its operations from 18 December 1997 to 5 January 1998 due to the currency crisis that affected its business operations. Linton submitted an establishment termination report[6] to the Department of Labor and Employment (DOLE) regarding the temporary closure of the establishment covering the said period. The company's operation was to resume on 6 January 1998.

On 7 January 1997,[7] Linton issued another memorandum[8] informing them that effective 12 January 1998, it would implement a new compressed workweek of three (3) days on a rotation basis. In other words, each worker would be working on a rotation basis for three working days only instead for six days a week. On the same day, Linton submitted an establishment termination report[9] concerning the rotation of its workers. Linton proceeded with the implementation of the new policy without waiting for its approval by DOLE.

Aggrieved, sixty-eight (68) workers (workers) filed a Complaint for illegal reduction of workdays with the Arbitration Branch of the NLRC on 17 July 1998.

On the other hand, the workers pointed out that Linton implemented the reduction of work hours without observing Article 283 of the Labor Code, which required submission of notice thereof to DOLE one month prior to the implementation of reduction of personnel, since Linton filed only the establishment termination report enacting the compressed workweek on the very date of its implementation.[10]

Petitioners, on the other hand, contended that the devaluation of the peso created a negative impact in international trade and affected their business because a majority of their raw materials were imported. They claimed that their business suffered a net loss of P3,569,706.57 primarily due to currency devaluation and the slump in the market. Consequently, Linton decided to reduce the working days of its employees to three (3) days

on a rotation basis as a cost-cutting measure. Further, petitioners alleged that the compressed workweek was actually implemented on 12 January 1998 and not on 7 January 1998, and that Article 283 was not applicable to the instant case.[11]

Pending decision of the Labor Arbiter, twenty-one (21) of the workers signed individual release and quitclaim documents stating that they had voluntarily tendered their resignation as employees of Linton and that they had been fully paid of all monetary compensation due them.[12]

On 28 January 2000, the Labor Arbiter rendered a Decision[13] finding petitioners guilty of illegal reduction of work hours and directing them to pay each of the workers their three (3) days/week's worth of work compensation from 12 January 1998 to 13 July 1998.

Petitioners appealed to the National Labor Relations Commission (NLRC). In a Resolution[14] promulgated on 29 June 2001, the NLRC reversed the decision of the Labor Arbiter. The NLRC held that an employer has the prerogative to control all aspects of employment in its business organization, including the supervision of workers, work regulation, lay-off of workers, dismissal and recall of workers. The NLRC took judicial notice of the Asian currency crisis in 1997 and 1998 thus finding Linton's decision to implement a compressed workweek as a valid exercise of management prerogative. Moreover, the NLRC ruled that Article 283 of the Labor Code, which requires an employer to submit a written notice to DOLE one (1) month prior to the closure or reduction of personnel, is not applicable to the instant case because no closure was undertaken and no reduction of employees was implemented by Linton. Lastly, the NLRC took note that there were twenty-one (21) complainants-workers[15] who had already resigned and executed individual waivers and quitclaims. Consequently, the NLRC considered them as dropped from the list of complainants. The workers' motion for reconsideration was denied in a Resolution[16] dated 24 September 2001.

The workers then filed before the Court of Appeals[17] a petition for certiorari under Rule 65 of the Rules of Civil Procedure assailing the decision[18] of the NLRC and its resolution[19] that denied their Motion for Reconsideration. In the petition, the workers claimed that the NLRC erred in finding that the one (1) month notice requirement under Article 283 of the Labor Code did not apply to the instant case; that Linton did not exceed the limits of its business prerogatives; and that Linton was able to establish a factual basis on record to justify the reduction of work days.

In its Comment,[20] Linton highlighted the fact that the caption, the body as well as the verification of the petition submitted by complainants-workers indicated solely "Alex Hellera, et al." as petitioners. Linton argued that the petition was defective and did not necessarily include the other workers in the proceedings before the NLRC. Linton also mentioned that 21 out of the 68 complainants-workers executed individual resignation letters and individual waivers and quitclaims.[21] With these waivers and quitclaims, Linton raised in issue whether the petition still included the signatories of said documents. Moreover, Linton pointed out that the caption of the petition did not include the NLRC as party respondent, which made for another jurisdictional defect. The rest of its arguments were merely a reiteration of its arguments before the NLRC.

In reversing the NLRC, the Court of Appeals, in its Decision[22] dated 12 December 2003 ruled that the failure to indicate all the names of petitioners in the caption of the petition was not violative of the Rules of Court because the records of the case showed that there were sixty-eight (68) original complainants who filed the complaint before the Arbitration Branch of the NLRC. The appellate court likewise considered the quitclaims and release documents as "ready documents" which did not change the fact that the 21 workers were impelled to sign the same. The appellate court gave no credence to the said quitclaims, considering the economic disadvantage that would be suffered by the employees. The appellate court also noted that the records did not show that the 21

workers desisted from pursuing the petition and that the waivers and quitclaims would not bar the 21 complainants from continuing the action.[23]

On the failure to include the NLRC as party respondent, the appellate court treated the NLRC as a nominal party which ought to be joined as party to the petition simply because the technical rules require its presence on record. The inclusion of the NLRC in the body of the petition was deemed by the appellate court as substantial compliance with the rules.

On the main issues, the Court of Appeals ruled that the employees were constructively dismissed because the short period of time between the submission of the establishment termination report informing DOLE of its intention to observe a compressed workweek and the actual implementation thereof was a manifestation of Linton's intention to eventually retrench the employees. It found that Linton had failed to observe the substantive and procedural requirements of a valid dismissal or retrenchment to avoid or minimize business losses since it had failed to present adequate, credible and persuasive evidence that it was indeed suffering, or would imminently suffer, from drastic business losses. Linton's financial statements for 1997-1998 showed no indication of financial losses, and the alleged loss of P3,645,422.00 in 1997 was considered insubstantial considering its total asset of P1,065,948,601.00. Hence, the appellate court considered Linton's losses as de minimis.[24]

Lastly, the appellate court found Linton to have failed to adopt a more sensible means of cutting the costs of its operations in less drastic measures not grossly unfavorable to labor. Hence, Linton failed to establish enough factual basis to justify the necessity of a reduced workweek.[25]

Petitioners filed a motion for reconsideration[26] which the appellate court denied through a Resolution[27] dated 2 April 2004.

In filing the instant petition for review, petitioners allege that the Court of Appeals erred when it considered the petition as having been filed by all sixty (68) workers, in disregard of the fact that only "Alex Hellera, et al." was indicated as petitioner in the caption, body and verification of the petition and twenty-one (21) of the workers executed waivers and quitclaims. Petitioners further argue that the Court of Appeals erred in annulling the release and quitclaim documents signed by 21 employees because no such relief was prayed for in the petition. The validity of the release and quitclaim was also not raised as an issue before the labor arbiter nor the NLRC. Neither was it raised in the very petition filed before the Court of Appeals. Petitioners conclude that the Court of Appeals, therefore, had invalidated the waivers and quitclaims *motu proprio*.

Petitioners also allege that the Court of Appeals erred when it held that the reduction of workdays is equivalent to constructive dismissal. They posit that there was no reduction of salary but instead only a reduction of working days from six to three days per week. Petitioners add that the reduction of workdays, while not expressly covered by any of the provisions of the Labor Code, is analogous to the situation contemplated in Article 286[28] of the Labor Code because the company implemented the reduction of workdays to address its financial losses. Lastly, they note that since there was no retrenchment, the one-month notice requirement under Article 283 of the Labor Code is not applicable.

First, we resolve the procedural issues of the case. Rule 7, Section 1 of the Rules of Court states that the names of the parties shall be indicated in the title of the original complaint or petition. However, the rules itself endorses its liberal construction if it promotes the objective of securing a just, speedy and inexpensive disposition of the action or proceeding.[29] Pleadings shall be construed liberally so as to render substantial justice to the parties and to determine speedily and inexpensively the actual merits of the controversy with the least regard to technicalities.[30]

In *Vlason Enterprises Corporation v. Court of Appeals*[31] the Court pronounced that, while the general rule requires the inclusion of the names of all the parties in the title of a complaint, the non-inclusion of one or some of them is not fatal to the cause of action of a plaintiff, provided there is a statement in the body of the petition indicating that a defendant was made a party to such action. If in *Vlason* the Court found that the absence of defendant's name in the caption would not cause the dismissal of the action, more so in this case where only the names of some of petitioners were not reflected. This is consistent with the general rule that mere failure to include the name of a party in the title of a complaint is not fatal by itself.[32]

Petitioners likewise challenge the absence of the names of the other workers in the body and verification of the petition. The workers' petition shows that the petition stipulated as parties-petitioners "Alex A. Hellera, et al." as employees of Linton, meaning that there were more than one petitioner who were all workers of Linton. The petition also attached the resolution[33] of the NLRC where the names of the workers clearly appear. As documents attached to a complaint form part thereof,[34] the petition, therefore has sufficiently indicated that the rest of the workers were parties to the petition.

With respect to the absence of the workers' signatures in the verification, the verification requirement is deemed substantially complied with when some of the parties who undoubtedly have sufficient knowledge and belief to swear to the truth of the allegations in the petition had signed the same. Such verification is deemed a sufficient assurance that the matters alleged in the petition have been made in good faith or are true and correct, and not merely speculative.[35] The verification in the instant petition states that Hellera, the affiant, is the president of the union of "which complainants are all members and officers." [36] As the matter at hand is a labor dispute between Linton and its employees, the union president undoubtedly has sufficient knowledge to swear to the truth of the allegations in the petition. Hellera's verification sufficiently meets the purpose of the requirements set by the rules.

Moreover, the Court has ruled that the absence of a verification is not jurisdictional, but only a formal defect.[37] Indeed, the Court has ruled in the past that a pleading required by the Rules of Court to be verified may be given due course even without a verification if the circumstances warrant the suspension of the rules in the interest of justice.[38]

We turn to the propriety of the Court of Appeals' ruling on the invalidity of the waivers and quitclaims executed by the 21 workers. It must be remembered that the petition filed before the Court of Appeals was a petition for certiorari under Rule 65 in which, as a rule, only jurisdictional questions may be raised, including matters of grave abuse of discretion which are equivalent to lack of jurisdiction.[39] The issue on the validity or invalidity of the waivers and quitclaims was not raised as an issue in the petition. Neither was it raised in the NLRC. There is no point of reference from which one can determine whether or not the NLRC committed grave abuse of discretion in its finding on the validity and binding effect of the waivers and quitclaims since this matter was never raised in issue in the first place.

In addition, petitioners never had the opportunity to support or reinforce the validity of the waivers and quitclaims because the authenticity and binding effect thereof were never challenged. In the interest of fair play, justice and due process, the documents should not have been unilaterally evaluated by the Court of Appeals. Thus, the corresponding modification of its Decision should be ordained.

After resolving the technical aspects of this case, we now proceed to the merits thereof. The main issue in this labor dispute is whether or not there was an illegal reduction of work when Linton implemented a compressed workweek by reducing from six to three the number of working days with the employees working on a rotation basis.

In *Philippine Graphic Arts, Inc. v. NLRC*,^[40] the Court upheld for the validity of the reduction of working hours, taking into consideration the following: the arrangement was temporary, it was a more humane solution instead of a retrenchment of personnel, there was notice and consultations with the workers and supervisors, a consensus were reached on how to deal with deteriorating economic conditions and it was sufficiently proven that the company was suffering from losses.

The Bureau of Working Conditions of the DOLE, moreover, released a bulletin^[41] providing for in determining when an employer can validly reduce the regular number of working days. The said bulletin states that a reduction of the number of regular working days is valid where the arrangement is resorted to by the employer to prevent serious losses due to causes beyond his control, such as when there is a substantial slump in the demand for his goods or services or when there is lack of raw materials.

Although the bulletin stands more as a set of directory guidelines than a binding set of implementing rules, it has one main consideration, consistent with the ruling in *Philippine Graphic Arts Inc.*, in determining the validity of reduction of working hours--that the company was suffering from losses.

Petitioners attempt to justify their action by alleging that the company was suffering from financial losses owing to the Asian currency crisis. Was petitioners' claim of financial losses supported by evidence?

The lower courts did not give credence to the income statement submitted by Linton because the same was not audited by an independent auditor.^[42] The NLRC, on the other hand, took judicial notice of the Asian currency crisis which resulted in the devaluation of the peso and a slump in market demand.^[43] The Court of Appeals for its part held that Linton failed to present adequate, credible and persuasive evidence to show that it was in dire straits and indeed suffering, or would imminently suffer, from drastic business losses. It did not find the reduction of work hours justifiable, considering that the alleged loss of P3,645,422.00 in 1997 is insubstantial compared to Linton's total asset of P1,065,948,601.76.^[44]

A close examination of petitioners' financial reports for 1997-1998 shows that, while the company suffered a loss of P3,645,422.00 in 1997, it retained a considerable amount of earnings^[45] and operating income.^[46] Clearly then, while Linton suffered from losses for that year, there remained enough earnings to sufficiently sustain its operations. In business, sustained operations in the black is the ideal but being in the red is a cruel reality. However, a year of financial losses would not warrant the immolation of the welfare of the employees, which in this case was done through a reduced workweek that resulted in an unsettling diminution of the periodic pay for a protracted period. Permitting reduction of work and pay at the slightest indication of losses would be contrary to the State's policy to afford protection to labor and provide full employment.^[47]

Certainly, management has the prerogative to come up with measures to ensure profitability or loss minimization. However, such privilege is not absolute. Management prerogative must be exercised in good faith and with due regard to the rights of labor.^[48]

As previously stated, financial losses must be shown before a company can validly opt to reduce the work hours of its employees. However, to date, no definite guidelines have yet been set to determine whether the alleged losses are sufficient to justify the reduction of work hours. If the standards set in determining the justifiability of financial losses under Article 283 (i.e., retrenchment) or Article 286 (i.e., suspension of work) of the Labor Code were to be considered, petitioners would end up failing to meet the standards. On the one hand, Article 286 applies only when there is a bona fide suspension of the employer's operation of a business or undertaking for a period not exceeding six (6) months.^[49] Records show that Linton continued its business operations during the effectivity of the compressed workweek, which spanned more than the maximum period. On the other hand, for retrenchment to be justified, any claim of actual or potential business losses must satisfy the following standards:

(1) the losses incurred are substantial and not de minimis; (2) the losses are actual or reasonably imminent; (3) the retrenchment is reasonably necessary and is likely to be effective in preventing the expected losses; and (4) the alleged losses, if already incurred, or the expected imminent losses sought to be forestalled, are proven by sufficient and convincing evidence.[50] Linton failed to comply with these standards.

All taken into account, the compressed workweek arrangement was unjustified and illegal. Thus, petitioners committed illegal reduction of work hours.

In assessing the monetary award in favor of respondents, the Court has taken the following factors into account:

(1) The compressed workweek arrangement was lifted after six (6) months, or on 13 July 1998.[51] Thus, Linton resumed its regular operations and discontinued the emergency measure;

(2) The claims of the workers, as reflected in their pleadings, were narrowed to petitioners' illegal reduction of their work hours and the non-payment of their compensation for three (3) days a week from 12 January 1998 to 13 July 1998. They did not assert any other claims;

(3) As found by the NLRC, 21 of the workers are no longer entitled to any monetary award since they had already executed their respective waivers and quitclaims. We give weight to the finding and exclude the 21 workers as recipients of the award to be granted in this case. Consequently, only the following workers are entitled to the award, with the amounts respectively due them stated opposite their names:

1. Alex A. Hellera

-

P16,368.30

2. Francisco Racasa

-

16,458.00

3. Dante Escarlan

-

15,912.00

4. Donato Sasa

-

15,580.50

5. Rodolfo Olinar

-

15,912.00

6. Daniel Custodio

-

15,912.00

7. Arturo Pollo

-

16,660.80

8. B. Pilapil

-

16,075.80

9. Donato Bonete

-

15,600.00

10. Isagani Yap

-

15,678.00

11. Cesar Ragonon

-

16,068.00

12. Benedicto Bagan

-

15,775.50

13. Rexte Solanoy

-

15,678.00

14. Felipe Cagoco, Jr.

-

15,990.00

15. Jose Narce

-

16,348.80

16. Quirino C. Ada

-

15,990.00

17. Salfaram Elmer

-

16,302.00

18. Romeo Balais

-

16,302.00

19. Claudio S. Morales

-

15,947.10

20. Elpidio E. Vergabinia

-

15,561.00

21. Conrado Cagoco

-

15,990.00

22. Roy Boragoy

-

15,892.50

23. Reynaldo Santos

-

16,200.60

24. Lino Valencia

-

15,678.00

25. Roy Durano

-

15,678.00

26. Leo Valencia

-

15,678.00

27. Jayoma A.

-

15,561.00

28. Ramon Olinar III

-

15,678.00

29. Saturnino C. Ebaya

-

15,919.80

30. Nicanor L. de Castro

-

16,614.00

31. Eduardo Gonzales

-

15,678.00

32. Isagani Gonzales

-

16,469.70

33. Thomas Andrab, Jr.

-

15,912.00

34. Miniato Durano

-

16,660.80

35. Ernesto Vallente

-

15,997.80

36. Nestor M. Bonete

-

15,705.30

37. Jose Salonoy

-

16,458.00

38. Alberto Lagman

-

16,660.80

39. Rolando Torres

-

15,678.00

40. Rolindo Cualquiera

-

16,068.00

41. Armando Lima

-

16,426.80

42. Alfredo Selapio

-

16,060.20

43. Martin V. Villacampa

-

15,939.30

44. Carlito Pable

-

16,263.00

45. Dante Escarlan

-

15,912.00

46. M. Durano

-

16,614.00

47. Ramon Roso

-

16,302.00[52]

(4) The Labor Arbiter's decision in favor of respondents was reversed by the NLRC. Considering that there is no

provision for appeal from the decision of the NLRC,[53] petitioners should not be deemed at fault in not paying the award as ordered by the Labor Arbiter. Petitioners' liability only gained a measure of certainty only when the Court of Appeals reversed the NLRC decision. In the interest of justice, the 6% legal interest on the award should commence only from the date of promulgation of the Court of Appeals' Decision on 12 December 2003.

WHEREFORE, the Petition is GRANTED IN PART. The decision of the Court of Appeals reinstating the decision of the Labor Arbiter is AFFIRMED with MODIFICATION to the effect that the 21 workers who executed waivers and quitclaims are no longer entitled to back payments. Petitioners are ORDERED TO PAY respondents, except the aforementioned 21 workers, the monetary award as computed,[54] pursuant to the decision of the Labor Arbiter[55] with interest at the rate of 6% per annum from 12 December 2003, the date of promulgation of the Court of Appeals' decision, until the finality of this decision, and thereafter at the rate of 12% per annum until full payment.

SO ORDERED.

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

[1] Rollo, pp. 68-77. Penned by Court of Appeals Justice Romeo A. Brawner and concurred in by Justices Rebecca De Guia-Salvador and Jose C. Reyes, Jr.

[2] Id. at 79.

[3] Id. at 13.

[4] CA Records, p. 34.

[5] Rollo, p. 80.

[6] Id. at 81.

[7] Id. at 14. Petition.

[8] Id. at 82.

[9] Id. at 83.

[10] Id. at 172-173.

[11] Id. at 173-174.

[12] Id. at 72. CA Decision.

[13] Id. at 102-108.

[14] Id. at 171-179.

[15] Id. at 215-216. Namely: Noel R. Acedilla, Joel F. Ada, Ernesto S. Alcantara, Nomer R. Altarejos, Manuel P. Banzon, Roberto P. Blando, Wenifredo P. Blando, Nelio M. Cantiga, Nonito I. Dula, Dante D. Dumape, Felix D. Dumape, Jr., Juanito S. Guillermo, Eduardo C. Gultia, Rodolfo D. Lim, Elezar P. Mellejor, Danilo B. Noble, Robert S. Opelina, Leoncio O. Racasa, Loretta R. Rafol, Fernando R. Rebucas and Mercedes Toldo (widow of Rolando Toldo who died on 8 May 2000).

[16] Id. at 180-181.

[17] Rollo, pp. 182-206. Petition for Review on Certiorari.

[18] CA rollo, pp. 33-42.

[19] Id. at 65-66.

[20] Id. at 212-226.

[21] CA rollo, pp. 112-151.

[22] Supra note 1.

[23] Id. at 72.

[24] Id. at 73-76.

[25] Id. at 76.

[26] Id. at 227-245.

[27] Id. at 79.

[28] Art. 286. When employment not deemed terminated.-The bona fide suspension of the operation of a business or undertaking for a period not exceeding six (6) months, or the fulfillment by the employee of a military service or civic duty shall not terminate employment. In all such cases, the employer shall reinstate the employee to his former position without loss of seniority rights if he indicates his desire to resume his work not later than one (1) month from the resumption of operations of his employer from his relief from the military or civic duty.

[29] RULES OF COURT, Rule 1, Sec. 5.

[30] Vlasen Enterprises Corporation, v. CA, 369 Phil. 269, 304 (1999) citing Contech Construction Technology & Development Corp. v. Court of Appeals, 211 SCRA 692, 695-697, 23 July 1992.

[31] 369 Phil. 269 (1999).

[32] Supra note 30.

[33] CA Rollo, pp. 33-42.

[34] Philippine Bank of Communications v. Court of Appeals, G.R. No. 92067, 22 March 1991, 195 SCRA 567, 573, reiterating Asia Banking Corporation v. Walter E. Olsen & Co. 48 Phil 529.

[35] Ateneo de Naga University et al. v. Manalo, G.R. No. 160455, 9 May 2005, 458 SCRA 325, citing Torres v. Specialized Packaging Development Corporation, G.R. No. 149634, 6 July 2004, 434 SCRA 455.

[36] Rollo, p. 210.

[37] PASUDECO v. NLRC, 339 Phil. 120, 127 (1997).

[38] Precision Electronics Corporation v. NLRC, G.R. No. 86657, 23 October 1989, 178 SCRA 667, 670.

[39] Sps. Ampeloquio, Sr. et al. v. CA, 389 Phil. 13 (2000).

[40] G.R. No. L-80737, 29 September 1988, 166 SCRA 118.

[41] Explanatory Bulletin on the Effect of Reduction of Workdays on Wages/Living Allowances, signed by Director Augusto G. Sanchez, dated 23 July 1985.

[42] Rollo, p. 107.

[43] Id. at 176.

[44] Id. at 76. See also id. at 127 and 132.

[45] Id. at 128. Retained earnings (beginning) for 1997: P31,119,565.66; for 1998: P27,264,431.29.

[46] Id. Net operating income for 1997: P10, 618,827.29; for 1998: P6,501,823.17.

[47] LABOR CODE, Art. 3.

[48] Unicorn Safety Glass, Inc. et al. v. Basarte, G.R. No. 154689, 25 November 2004, 444 SCRA 287, 296.

[49] Phil. Industrial Security Agency Corp. v. Dapiton, 377 Phil. 951, 962 (1999).

[50] Tanjuan v. Phil. Postal Savings Bank, Inc., 457 Phil. 993, 1009 (2003), reiterating Bogo-Medellin Sugarcane Planters Association, Inc. v. NLRC, 357 Phil. 110, 120, 25 September 1998.

[51] CA rollo, p. 36.

[52] CA rollo, pp. 79-81. Computed by the Research and Information Unit of the NLRC, dated 24 February 2000. Names of the 21 workers executing the waivers and quitclaims are excluded.

[53] The special civil action of certiorari being the proper vehicle for judicial review of decisions of the NLRC: See St. Martin Funeral Home v. NLRC, 356 Phil. 811 (1998).

[54] Supra note 51. Made by the Research and Information Unit of the NLRC, dated 24 February 2000.

[55] Supra note 13. Dated 28 January 2000.

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