

LEPANTO CONSOLIDATED MINING COMPANY, PETITIONER, VS. MORENO DUMAPIS, ELMO TUNDAGUI AND FRANCIS LIAGAO, RESPONDENTS.

G.R. No. 163210. August 13, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the November 7, 2003 Decision[1] and April 15, 2004 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 75860.

The antecedents of the case are as follows:

Lepanto Consolidated Mining Corporation (petitioner), a domestic juridical entity engaged in mining, employed Moreno Dumapis and Elmo Tundagui as lead miners; and Francis Liagao, as load, haul and dump (LHD) machine operator (respondents).[3] All three were assigned at the 850 level, underground, Victoria Area in Lepanto, Mankayan, Benguet. This is a known "highgrade" area where most of the ores mined are considered of high grade content.[4]

In the afternoon of September 15, 2000, at 2:00 p.m., Dwayne Chambers (Chambers), one of its foreign consultants who was then acting as Assistant Resident Manager of the Mine, went underground at the 850 level to conduct a routinary inspection of the workers and the working conditions therein. When he went to the various stopes of the said level, he was surprised to see that nobody was there. However, when he went to the 8k stope, he noticed a group of workers sitting, sorting, and washing ores believed to be "highgrade." Realizing that "highgrading"[5] was being committed, Chambers shouted. Upon hearing his angry voice, the workers scampered in different directions of the stope.[6] Chambers then reported the incident to the security investigation office.[7]

After investigating, Security Investigators Paul Pespes, Jr. and Felimon Ringor (Security Investigators) executed a Joint Affidavit, which reads as follows:

x x x x

At about 3:40 PM of September 15, 2000, while we were at the Lepanto Security Investigation office, we received a report that the LMD Asst. Resident Manager, Mr. Dwayne Chambers saw and surprised several unidentified miners at 8K Stope, 850 level committing Highgrading activities therein;

Consequently, all miners assigned to work therein including their supervisor and SG Ceasarion Damoslog, an element of the Mine Security Patrol posted therein as stationary guard were called to this office for interrogation regarding this effect;

In the course of the investigation, we eventually learned that the highgrading event really transpired somewhere at the roadway of 8K Stope, 850 level at about 2:00 o'clock PM of September 15, 2000. That the involved participants were all miners assigned to work at 7K Stope, 8K Stope, 240 E, Cross Cut South level

drive, all located at 850 mine level. Likewise, the detailed stationary guard assigned thereat and some mine supervisors were also directly involved in this activity;

Security Guard Ceasarion Damoslog honestly confessed his direct participation then claimed that he was allegedly convinced by Mr. Joel Gumatin, one of the miners assigned at Panel No.1-est-North, 8K Stope, 850 level to cooperate with them to commit Highgrading. He revealed his companions to be all the miners assigned at 8K stope, namely, Joel Gumatin, Brent Suyam, Maximo Madao, Elmo Tundagui and Daniel Fegsar. He also included those who were assigned to work at 240 E, XCS, namely: Thomas Garcia (immediate supervisor), John Kitoyan, Moreno Dumapis, and Marolito Cativo. He enumerated also messrs. Benedict Arocod, Samson Damian, and Dionisio Bandoc, 7K Stope, 850 level assigned miners and shiftboss, respectively;

Mr. Pablo Daguio, the shiftboss of 240 E, XCS, 850 level also positively confirmed the Highgrading activity. He added that actually he came upon the group and even dispersed them when he went therein prior to the arrival of Mr. Chambers;

Furthermore, we also learned from the confession of Mr. Maximo Madao that its was messrs. Joel Gumatin and Brent Suyam who took their issued rock drilling machine then drilled holes and blasted the same at the 8K Stope roadway with the assistance of Thomas Garcia, John Kitoyan, Benedict Arocod, Samsom Damian, Daniel Fegsar and Francisco Liagao. That SG Ceasarion Damoslog was present on the area standing and watching the group during the incident;

That we are executing this joint affidavit to establish the foregoing facts and to support any complaint that may be filed against respondents;

IN WITNESS WHEREOF, we have hereunto set our hands and affix our signature this 28[th] day of September 2000, at Lepanto, Mankayan, Benguet.[8](Emphasis supplied)

On October 24, 2000, petitioner issued a resolution finding respondents and their co-accused guilty of the offense of highgrading and dismissing them from their employment.[9]

On November 14, 2000, respondents together with the nine other miners, filed a Complaint for illegal dismissal with the Labor Arbiter (LA), docketed as NLRC Case No. 11-0607-00 against petitioner.[10] On August 21, 2001, the LA dismissed the complaint for lack of merit.

On September 22, 2001, the miners appealed the decision of the LA to the National Labor Relations Commission (NLRC). On August 30, 2002, the NLRC rendered a Decision, declaring the dismissal of herein respondents as illegal, but affirming the dismissal of the nine other complainant miners. The dispositive portion of the NLRC Decision insofar as respondents are concerned, reads:

WHEREFORE, premises considered, the DECISION dated August 21, 2001 is hereby MODIFIED declaring the dismissal of complainants [herein respondents] Moreno Dumapis, Elmo Tundagui and Francis Liagao illegal and ordering respondent to pay them backwages in the total amount of four hundred eighty thousand one hundred eighty two pesos and 63/100 (P480, 182.63) and separation pay in the total amount of four hundred seventeen thousand two hundred thirty pesos and 32/100 (P417,230.32) as computed in the body of the decision.

x x x x

SO ORDERED.[11]

Petitioner filed a motion for reconsideration which was denied for lack of merit by the NLRC in its Resolution dated on November 22, 2002.[12]

Petitioner then filed a petition for certiorari under Rule 65 of the Rules of Court with the CA assailing the

aforementioned decision and resolution of the NLRC. The CA affirmed the decision of the NLRC[13] and denied petitioner's Motion for Reconsideration.

Hence, herein petition on the following grounds:

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERROR IN AFFIRMING THE NATIONAL LABOR RELATIONS COMMISSION'S DECISION DATED AUGUST 30, 2002 WHICH DECLARED AS ILLEGAL THE DISMISSAL FROM SERVICE OF HEREIN RESPONDENTS.[14]

- The Court of Appeal's strict application of the hearsay rule under Section 36, Rule 130 of the Rules of Court to the present case is uncalled for.

- In cases of dismissal for breach of trust and confidence, proof beyond doubt is not required, it being sufficient that the employer has reasonable ground to believe that the employees are responsible for the misconduct which renders them unworthy of the trust and confidence demanded by their position.[15]

The petition is devoid of merit.

In finding the dismissal of respondents illegal, the CA upheld the NLRC in considering the Joint Affidavit of the Security Investigators (Joint Affidavit) as hearsay and therefore inadmissible, to wit:

We subscribed to the conclusion of the NLRC that the Joint Affidavit of Security Investigators Paul D. Pespes, Jr. and Felimon Ringor is hearsay and thus, inadmissible. Their narration of factual events was not based on their personal knowledge but on disclosures made by Chambers and Dagui. Section 36, Rule 130 of the Rules of Court defined the nature of hearsay:

Witness can testify only to those facts which he knows of his personal knowledge, that is, which are derived from his own perception, except as otherwise provided in these rules.[16]

Arguing for the admissibility of the Joint Affidavit, petitioner cites Article 221 of the Labor Code, as amended, which provides:

Article 221. Technical rules not binding and prior resort to amicable settlement. In any proceeding before the Commission or any Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of the Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to the technicalities of law or procedure, all in the interest of due process. x x x (Emphasis supplied)

We agree with the petitioner.

Administrative bodies like the NLRC are not bound by the technical niceties of law and procedure and the rules obtaining in courts of law. Indeed, the Revised Rules of Court and prevailing jurisprudence may be given only stringent application, i.e., by analogy or in a suppletory character and effect.[17]

In a number of cases,[18] this Court has construed Article 221 of the Labor Code as permitting the NLRC or the LA to decide a case on the basis of position papers and other documents submitted without necessarily resorting to technical rules of evidence as observed in the regular courts of justice. Rules of evidence are not strictly observed in proceedings before administrative bodies like the NLRC.[19]

In *Bantolino v. Coca-Coca Bottlers Phils., Inc.*[20] the Court ruled that although the affiants had not been presented to affirm the contents of their affidavits and be cross-examined, their affidavits may be given evidentiary value; the argument that such affidavits were hearsay was not persuasive. Likewise, in *Rase v.*

National Labor Relations Commission,[21] this Court ruled that it was not necessary for the affiants to appear and testify and be cross-examined by counsel for the adverse party. To require otherwise would be to negate the rationale and purpose of the summary nature of the proceedings mandated by the Rules and to make mandatory the application of the technical rules of evidence.

Thus, the CA and the NLRC erred in ruling that the Joint Affidavit is inadmissible for being hearsay. The Joint Affidavit of the Security Investigators is admissible for what it is, an investigation report.

However, the admissibility of evidence should not be confused with its probative value. Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue.[22] Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence.[23] The distinction is clearly laid out in *Skippers United Pacific, Inc. v. National Labor Relations Commission*. [24] In finding that the Report of the Chief Engineer did not constitute substantial evidence to warrant the dismissal of Rosaroso, this Court ruled:

According to petitioner, the foregoing Report established that respondent was dismissed for just cause. The CA, the NLRC and the Labor Arbiter, however, refused to give credence to the Report. They are one in ruling that the Report cannot be given any probative value as it is uncorroborated by other evidence and that it is merely hearsay, having come from a source, the Chief Engineer, who did not have any personal knowledge of the events reported therein.

x x x x

The CA upheld these findings, succinctly stating as follows:

Verily, the report of Chief Engineer Retardo is utterly bereft of probative value. It is not verified by an oath and, therefore, lacks any guarantee of trustworthiness. It is furthermore, and this is crucial, not sourced from the personal knowledge of Chief Engineer Retardo. It is rather based on the perception of "ATTENDING SUPT. ENGINEERS CONSTANTLY OBSERVING ALL PERSONNELS ABILITY AND ATTITUDE WITH REGARDS TO OUR TECHNICAL CAPABILITY AND BEHAVIOURS WITH EMPHASY [sic] ON DISCIPLINE" who "NOTICED 3/E ROSAROSO AS BEING SLACK AND NOT CARING OF HIS JOB AND DUTIES x x x." Accordingly, the report is plain hearsay. It is not backed up by the affidavit of any of the "Supt." Engineers who purportedly had first-hand knowledge of private respondents supposed "lack of discipline," "irresponsibility" and "lack of diligence" which caused him to lose his job. x x x

The Courts finds no reason to reverse the foregoing findings.[25] (Emphasis supplied)

While it is true that administrative or quasi-judicial bodies like the NLRC are not bound by the technical rules of procedure in the adjudication of cases, this procedural rule should not be construed as a license to disregard certain fundamental evidentiary rules. The evidence presented must at least have a modicum of admissibility for it to have probative value.[26] Not only must there be some evidence to support a finding or conclusion, but the evidence must be substantial. Substantial evidence is more than a mere scintilla.[27] It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[28] Thus, even though technical rules of evidence are not strictly complied with before the LA and the NLRC, their decision must be based on evidence that must, at the very least, be substantial.[29]

Pursuant to the aforementioned doctrines, we now look into the probative weight of the Joint Affidavit.

An examination of the Joint Affidavit reveals that the facts alleged therein by the Security Investigators are not of their own personal knowledge. They simply referred to the facts allegedly relayed to them by Chambers, Damoslog, Daguyo, and Madao. Thus, there is a need to individually scrutinize the statements and testimonies of

the four sources of the Joint Affidavit in order to determine the latter's probative weight.

The Joint Affidavit states that, "Mr. Dwayne Chambers saw and surprised several unidentified miners x x x." [30] Chambers simply narrated to the Security Investigators what he saw but did not indicate herein respondents.

Also stated in the Joint Affidavit is the alleged confession of Damoslog wherein he named respondents Tundagui and Dumapis as his companions in the act of highgrading. [31]

Records show that Damoslog submitted two sworn statements. In his first statement, [32] Damoslog claimed that he was unaware of the act of highgrading, and denied any involvement therein. However, in his second statement, [33] Damoslog claimed to have personally witnessed the act of highgrading and named the miners involved to wit:

07. Ques

-

Could you narrate briefly how it transpired then?

Ans

-

On the first hour of this specific dated and shift at about 0800hrs, while we were at the 8K stope, 850 level, Mr. Joel Gumatin approached me that he could not procure some needed amount of money and if possible we will commit highgrading for that effect to settle his problem. That because I pity him, I just answered that if they could manage to do it then they could do it.

08. Ques

-

Who was the companion of Mr. Gumatin when he approached you?

Ans

-

He was alone.

09. Ques

Did Gumatin specifically informed [sic] you his problem?

Ans

I did not asked him honestly but he only insisted that he needed an amount of money badly as I earlier said.

10. Ques

So just after telling his purpose did he started [sic] the highgrading activity?

Ans

No, the highgrading scheme started at past 1300 Hrs.

11. Ques

-

How did it started [sic]?

Ans

-

They started after they all finished their respective drilling assignment. That while I was near the panel 2-West located at the inner portion of 8K Stope, I observed the LHD unit coming from the roadway near the 8K Eating station which was previously parked thereat proceeded to the roadway of panel 1-West then started cleaning and scraping said roadway. That after cleaning he parked it at the inner portion of the roadway. Then after which one among the miner who was not assigned therein and I failed to identify his name shove two shovels on the roadway recently cleaned by the LHD then handed it to us with another man whom I don't know his name but could recognize and identify him if I will meet him again then we washed the same in the inner area of panel 2-West which is adjacent. That after washing and sorting the same, we placed it atop of an spread cartoon [sic] sheet. That while we were busy washing and sorting, Mr. Gumatin also was fixing and spreading the air hose for rockdrilling machine. That few moments thereafter, I heard the running engine of the drilling machine but I can not identify the operator as my line of view was obstructed by the curbed angle of the panel where we are washing the ores. That after which I heard somebody that they are now going to blast the drilled holes but we remained in our place continuing washing the stones. That after the blast Mr. Garcia and one other companion whom I failed to identify due to foggy condition caused by the explosive blasting then handed us the additional newly unearth ores for washing. That while were still busy washing, Gumatin approached us then told us that he will collect what was already washed and sorted and start to process the same. That Gumatin took the items then started to pound the ores atop of an LHD unit parked near the entrance of panel 2-East which was not used during the shift. That after that, I stood up then subsequently proceeded to panel 2-West then observed messrs. Maximo Madao, Benedict Arocod, Brent Suyam, Daniel Fegsar, Thomas Garcia, Mariolito Cativo, John Kitoyana and Samson Damian who acted as the look out at the junction of 240 E, XCS and 8K Stope. The enumerated miners except Damian were in squatting position in scattered adjacent places busy sorting ores. Moments later Shift boss Dionisio Bandoc arrived then went to the place of Gumatin then told us that he will get a portion of the already proceeded ores for the operator to handcarry so that he will not need to come to 8K Stope, 850 level then after taking some of the loot he proceeded out simultaneously uttering that he will check the look out at the outer area of the mainline posted away from the 7K Stope.[34] (Emphasis supplied)

Evidently, Damoslog does not name respondents Dumapis and Tundagui as among the miners involved in the act of highgrading; neither does he mention respondent Liagao.

The Joint Affidavit also states that Dagui positively confirmed the act of highgrading. However, in his sworn statement,[35] Dagui claims that he did not recognize nor did he identify any of the miners, to wit:

11. Ques

-

In your own honest observation, what could be the estimate [sic] number of this group of miners doing highgrading activities?

Ans

-

I don't know but obviously they were several as manifested by their number of cap lamplights. I also speculated that some of them were hidden at the curved inner access of the roadway enroute to the inner area.

12. Ques

-

Did you recognize nor [sic] identify any of them?

Ans

-

Honestly, no.[36] (Emphasis supplied)

Lastly, the Joint Affidavit also points to the confession of Madao wherein he particularly named respondent Liagao as one of the miners involved in the act of highgrading.

Madao submitted two sworn statements. In his first sworn statement[37] dated September 16, 2000, Madao claimed his innocence. He did not incriminate any of the respondents. However, in his second sworn statement[38] dated September 20, 2000, Madao claimed to have knowledge of the act of highgrading and specifically named respondent Liagao as one of the miners involved, to wit:

09. Ques

-

Do I understand that Mr. Suyam has companions and had drilled first the flooring of that roadway before blasting it?

Ans

-

Yes, that is true I saw Suyam and Gumatin transferred [sic] their assigned drilling machine at the said roadway and drilled the area with the company of Garcia, Kitoyan, Arocod, Damian, Fegsar and Liagao.[39] (Emphasis supplied)

Nonetheless, the second sworn statement of Madao is not sufficient to find Liagao guilty of highgrading. In a Joint Affidavit[40] which he executed with respondent Tundagui, Madao made the following declarations:

When I, MAXIMO MADA0 reported for work on September 16, 2000, I am being required to appear at the security investigation office. After quitting time I went to the security office and was surprised to learn that my name is among those listed persons who were seen by Mr. Chambers committing acts of highgrading on September 15, 2000. However, when I quit work on September 20, 2000 I was again called through telephone to appear at the security office. Investigator Felimon Ringor told me that I will give another statement and convinced to tell me all the names of the persons assigned thereat with the promise that I will report for work. With my limited education having not finished grade 1, I was made to give my statement on questions and answers which are self-incriminating and knowingly mentioned names of persons who are innocent. Worst, when I got my copy and the contents were fully explained to me by our legal counsel I was surprised that it was duly notarized when in fact and in truth after I gave my statement I did not appear before Atty. Nina Fe Lazaga-Raffols for swearing. With this circumstances, I hereby RETRACT my statement dated September 20, 2000 for being self incriminatory unassisted by my counsel or union representative and hereby ADAPTS [sic] and RETAINS my sworn statement dated September 16, 2000.[41](Emphasis supplied)

In labor cases, in which technical rules of procedure are not to be strictly applied if the result would be detrimental to the workingman, an affidavit of desistance gains added importance in the absence of any evidence on record explicitly showing that the dismissed employee committed the act which caused the dismissal.[42] Accordingly, the Court cannot turn a blind eye and disregard Madao's recantation, as it serves to cast doubt as to the guilt of respondent Liagao.

Based on the foregoing, the Court is convinced that the Joint Affidavit, being sourced from Chambers, Damoslog, Daguiog and Madao, has no probative value to support evidence to warrant the dismissal of the respondents. Chambers and Daguiog did not identify the miners involved in the act of highgrading. In addition, Damoslog's first and second sworn statements did not implicate respondents, and Madao recanted his statement implicating respondent Liagao. As earlier discussed, the sworn statements and joint affidavits of the sources do not corroborate but actually cast doubt as to the veracity of the statements in the Joint Affidavit.

The second ground is not plausible.

While the Court agrees that the job of the respondents, as miners, although generally described as menial, is nevertheless of such nature as to require a substantial amount of trust and confidence on the part of petitioner,[43] the rule that proof beyond reasonable doubt is not required to terminate an employee on the charge of loss of confidence, and that it is sufficient that there be some basis for such loss of confidence, is not absolute.[44]

The right of an employer to dismiss an employee on the ground that it has lost its trust and confidence in him must not be exercised arbitrarily and without just cause.[45] In order that loss of trust and confidence may be considered as a valid ground for an employee's dismissal, it must be substantial and not arbitrary, and must be founded on clearly established facts sufficient to warrant the employee's separation from work.[46]

In the present case, the Court reiterates that the evidence is not substantial to hold respondents guilty of highgrading so as to warrant the dismissal of respondents.

Moreover, it is a well-settled doctrine that if doubts exist between the evidence presented by the employer and the employee, the scales of justice must be tilted in favor of the latter. It is a time-honored rule that in controversies between a laborer and his master, doubts reasonably arising from the evidence, or in the interpretation of agreements and writing, should be resolved in the former's favor. The policy is to extend the doctrine to a greater number of employees who can avail themselves of the benefits under the law, which is in consonance with the avowed policy of the State to give maximum aid and protection to labor.[47]

Lastly, respondents' prayer in their Comment[48] and Memorandum,[49] that the CA Decision be modified by ordering their reinstatement to their former positions without loss of seniority rights and with payment of full backwages from their alleged dismissal up to date of reinstatement, deserves scant consideration. Respondents are estopped from claiming their right to reinstatement. Records show that respondents along with their co-accused, filed an appeal with the CA docketed as CA-G.R. SP No. 75457 questioning the decision of the NLRC. The said appeal was denied by the CA. The case was then elevated to this Court through a petition for review, entitled *Thomas Garcia v. Court of Appeals*, docketed as G.R. No. 162554. However, the same was denied with finality for having been filed out of time.[50] In effect, it serves to estop the respondents from praying for their reinstatement in the present case. Under the doctrine of conclusiveness of judgment, which is also known as "reclusion of issues" or "collateral estoppel," issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action.[51] Applied to the present case, the "former suit" refers to CA-G.R. SP No. 75457 wherein the CA ordered separation pay instead of reinstatement and G.R. No. 162554 wherein this Court denied the petition for review filed by respondents together with other dismissed workers. The "future case" is the present case in which the petitioner is Lepanto Consolidated Mining Company assailing the validity of the CA Decision declaring the dismissal of respondents to be illegal. Reinstatement was not an issue raised by herein petitioner. Respondents cannot now be allowed to raise the same in the petition filed by petitioner, for that would circumvent the finality of judgment as to separation pay insofar as respondents are concerned.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated November 7, 2003 and its

Resolution dated April 15, 2004 in CA-G.R. SP No. 75860 are AFFIRMED.

Double costs against petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Penned by Justice Buenaventura J. Guerrero with the concurrence of Justices Andres B. Reyes, Jr. and Regalado E. Maambong; rollo, pp. 9-19.

[2] Id. at 20-21.

[3] Id. at 10.

[4] Rollo, p. 27.

[5] Presidential Decree No. 581, Section 1: Any person who shall take gold-bearing ores or rocks from a mining claim or mining camp or shall remove, collect or gather gold-bearing ores or rocks in place or shall extract or remove the gold from such ores or rocks, or shall prepare and treat such ores or rocks to recover or extract the gold contents thereof, without the consent of the operator of the mining claim, shall be guilty of "highgrading" or theft of gold x x x.

[6] Rollo, p.10.

[7] Id. at 27.

[8] Rollo, p. 177.

[9] Id. at 183-185.

[10] Id. at 210-221.

[11] Rollo, p. 67.

[12] Id. at 70.

[13] Id. at 9-19.

[14] Id. at 31.

[15] Rollo, p. 31.

[16] Id. at 52.

[17] Bantolino v. Coca-Cola Bottlers, Phils., G.R. No. 153660, June 10, 2003, 403 SCRA 699, 704.

[18] Robusta Agro Marine Products, Inc. v. Gorobalem, G.R. No. 80500, July 5, 1989, 175 SCRA 93; Sevillana v. I.T. Corp., 408 Phil. 570 (2001).

[19] Bantolino v. Coca-Cola Bottlers, Phils., supra note 17, at 703.

[20] Bantolino v. Coca-Cola Bottlers, Phils., id.

[21] G.R. No. 110637, October 7, 1994, 237 SCRA 523, 534.

[22] PNOC Shipping & Transport Corporation v. Court of Appeals, 358 Phil. 38 (1998).

- [23] PNOC Shipping & Transport Corporation v. Court of Appeals, *supra* note 22, at 59.
- [24] G.R. No. 148893, July 12, 2006, 494 SCRA 661.
- [25] Skippers United Pacific, Inc. v. National Labor Relations Commission, *id.* at 666.
- [26] Uichico v. National Labor Relations Commission, 339 Phil. 242, 251 (1997).
- [27] Labor v. National Labor Relations Commission, G.R. No. 110388, September 14, 1995, 248 SCRA 183, 200.
- [28] Gelmart Industries (Phils.), Inc. v. Leogardo, Jr., G.R. No. 70544, November 5, 1987, 155 SCRA 403.
- [29] Ang Tibay v. Commissioner of Internal Revenue, 69 Phil. 635 (1940).
- [30] Rollo, p. 177 (emphasis supplied).
- [31] *Id.*
- [32] *Id.* at 142-143.
- [33] Rollo, pp. 144-147.
- [34] Rollo, pp. 144-145.
- [35] *Id.* at 140-141.
- [36] *Id.* at 141.
- [37] Rollo, pp. 132-133.
- [38] *Id.* at 134.
- [39] *Id.*
- [40] *Id.* at 136-138.
- [41] *Id.* at 137.
- [42] Oania v. National Labor Relations Commission, G.R. Nos. 97162-64, June 1, 1995, 244 SCRA 668.
- [43] Mina v. National Labor Relations Commission, 316 Phil. 286 (1995).
- [44] Labor v. National Labor Relations Commission, *supra* note 27, at 199.
- [45] *Supra* note 27, *id.*
- [46] See Pilipinas Bank v. National Labor Relations Commission, G.R. No. 101372, November 13, 1992, 215 SCRA 750; China City Restaurant Corp. v. National Labor Relations Commission, G.R. No. 97196, January 22, 1993, 217 SCRA 443; Marcelo v. National Labor Relations Commission, 310 Phil. 891 (1995).
- [47] Nicario v. National Labor Relations Commission, 356 Phil. 936 (1998).
- [48] Rollo, p. 291.
- [49] *Id.* at 391.
- [50] Rollo, pp. 309-340, 341-342, 343, 344-345, 346-347.
- [51] Tan v. Court of Appeals, 415 Phil. 675, 681 (2001).

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