

PHILIPPINE AIRLINES, INC., PETITIONER, VS. ISAGANI DAWAL, LORNA CONCEPCION, AND BONIFACIO SINOBAGO RESPONDENTS.

G.R. No. 173921. February 24, 2016

Ponente: LEONEN, J.

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LEONEN, J.:

The employer has the burden of proving that the dismissal of its employees is with a valid and authorized cause. The employer's failure to discharge this burden makes the dismissal illegal.

This resolves consolidated Petitions for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure. The Petition[1] docketed as G.R. No. 173921 was filed by Philippine Airlines, Inc. (PAL), while the Petition[2] docketed as G.R. No. 173952 was filed by Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago (Dawal, et al.). Both Petitions are offshoots of the Court of Appeals Sixth Division's Decision in CA-G.R. SP No. 73030.[3]

In its July 21, 2004 Decision,[4] the Court of Appeals reinstated with modifications the Labor Arbiter's Decision dated September 7, 2001, and annulled and set aside the February 28, 2002 Decision[5] and June 20, 2002 Resolution[6] of the National Labor Relations Commission.[7]

The Court of Appeals found that Dawal, et al. were illegally dismissed.[8] It ordered PAL to reinstate Dawal, et al.[9] to the equivalent of their former positions[10] with full backwages.[11] If there were no equivalent positions for Dawal, et al. to fill in, PAL was ordered to pay their full backwages[12] on top of the separation pay already given.[13]

In addition, the Court of Appeals directed PAL to pay attorney's fees equivalent to 10% of the total monetary award.[14]

However, unlike the Labor Arbiter, the Court of Appeals found that PAL was not guilty of unfair labor practice and reduced the award for moral and exemplary damages.[15] The dispositive portion of the Decision reads as follows:

WHEREFORE, the instant petition is GRANTED. The assailed decision and resolution of the National Labor Relations Commission in NLRC NCR CN 30-12-14858-00 NLRC NCR CN 30-02-00842-01 CA No. 030195-01 are ANNULLED and SET ASIDE. The 07 September 2001 decision of Labor Arbiter Francisco A. Robles is hereby ordered REINSTATED, but insofar as the petitioners Isagani Dawal, Lorna Concepcion and Bonifacio Sinobago are considered, WITH MODIFICATIONS, to read:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of herein complainants and against the respondents:

(1)

Ordering the respondents to reinstate immediately the herein complaints [sic] Isagani Dawal, Lorna Concepcion and Bonifacio Sinobago to positions equivalent to their former positions without loss of seniority rights and other benefits upon receipt of this Decision;

(2)

Ordering the respondents to pay herein complaints [sic] Isagani Dawal, Lorna Concepcion and Bonifacio Sinobago their full backwages, based on their last salary received, other privileges and benefits or their monetary equivalent, computed from the date of their dismissal on September 1, 2000 until their reinstatement; based on the last salary received by the said employees. As of July 31, 2001, complainants' backwages are in the amounts stated and specified below:

a.

ISAGANI DAWAL -

P17,170.00 x 12 mos. from Sept. 1, 2000 up to July 31, 2001 = P206,040.00

b.

LORNA CONCEPCION -

P22,540.00 x 12 mos. from Sept. 1, 2000 up to July 31, 2001 = P270,480.00

c.

BONIFACIO SINOBAGO -

P21,675.00 x 12 mos. from Sept. 1, 2000 up to July 31, 2001-P260,100.00

It should be stated and understood that the backwages of the complainants shall be subject to further computation up to the reinstatement of the said employees.

(3)

In the event that there are no equivalent positions to which the aforementioned complainants may be reinstated, the respondents are ordered to pay, in addition to the separation pay already paid to complainants Isagani Dawal, Lorna Concepcion and Bonifacio Sinobago, their full backwages, based on their last salary received, other privileges and benefits or their monetary equivalent, computed from their dismissal on 01 September 2000 until their supposed actual reinstatement;

(4)

Ordering the respondents to pay the said complainants P50,000.00 each as moral damages and P10,000.00 each as exemplary damages; and

(5)

Ordering the respondents to pay the said complainants attorney's fees equivalent to ten percent (10%) of their respective total monetary award.

All other claims are hereby dismissed."

SO ORDERED.[16]

In its July 28, 2006 Resolution,[17] the Court of Appeals Special Former Sixth Division denied PAL's Motion for Reconsideration and Dawal, et al.'s Motion for Partial Reconsideration.[18]

On September 25, 2006, this court issued a temporary restraining order enjoining Dawal, et al. or their representatives from implementing the Court of Appeals' July 21, 2004 Decision.[19]

PAL filed its Memorandum[20] on April 23, 2008, while Dawal, et al. filed their Memorandum[21] on May 5,

2008.

I

On September 1, 2000, PAL severed the employment of Isagani Dawal (Dawal), Lorna Concepcion (Concepcion), and Bonifacio Sinobago (Sinobago).[22] Dawal served as Chief Storekeeper, Concepcion as Master Avionics Mechanic A, and Sinobago as Aircraft Master "A" Mechanic.[23] Until their dismissal from work, they were regular rank-and-file employees of PAL and "bona fide members"[24] of the Philippine Airlines Employees' Association (PALEA).[25]

When PAL was privatized in 1993, the new owners acquired PAL's alleged aging[26] fleet and overly manned workforce.[27] PAL sought to expand its business through a five-year re-fleeting program.[28] It began implementing the re-fleeting program in July 1993.[29] In 1997, the Asian Financial Crisis devalued the peso against the dollar. PAL claims that this strained its financial resources. It counts its losses to P750 million in December 1997 alone.[30]

In addition, the Airline Pilots Association of the Philippines[31] staged a three-week strike on June 5, 1998.[32] PAL claims that this caused the "further deterioration of [the company's] financial condition[.]"[33] PAL implemented a massive retrenchment program on June 15, 1998.[34]

On June 19, 1998, PAL filed for corporate rehabilitation before the Securities and Exchange Commission.[35]

A year after, on February 18, 1999, PAL President and Chief Operating Officer Avelino L. Zapanta[36] allegedly wrote to PALEA, informing the latter of the "new management's plan to sell"[37] the Maintenance and Engineering Department.[38]

On June 7, 1999, the Securities and Exchange Commission approved[39] PAL's Amended and Restated Rehabilitation Plan (Rehabilitation Plan).[40] The Rehabilitation Plan stated that PAL's "non-core activities . . . have the potential to be sold off."[41] These included the Catering and the Maintenance and Engineering Departments.[42]

On June 15, 1999, PAL allegedly met with PALEA, during which PAL President and Chief Operating Officer Avelino L. Zapanta promised that "all employees [would] be taken cared [sic] of."[43] He also agreed to ensure that there would be no economic dislocation and diminution of benefits for the employees.[44] He added that "job security [was] well[-]protected [and] that there [would] be a process of consultation between labor and management in the divestment of non-core business groups."[45]

On February 2000,[46] PALEA held a general election for its new officers.[47] Headed by PALEA President Jose T. Peñas III, the newly proclaimed officers included Dawal as Secretary.[48] However, the result of the election was contested.[49] On March 24, 2000, the new union leadership informed PAL of the election result and requested a courtesy call visit.[50] However, PAL refused to meet with them in light of pending election protests.[51]

Meanwhile, Lufthansa Technik Philippines, Inc. (Lufthansa) expressed its desire to purchase PAL's Maintenance and Engineering Department.[52] The Securities and Exchange Commission approved the sale to Lufthansa on March 24, 2000.[53]

Under Article XXIV, Section 4 of the 1995-2000 PAL-PALEA Collective Bargaining Agreement[54] and the Memorandum of Agreement[55] dated November 2, 1996, "[i]n case PAL deems it necessary to reorganize its corporate structure for the viability of its operations by forming joint ventures and spin-offs, PAL shall do so only after proper consultation with PALEA within 45 days before implementation of said reorganization[.]"[56]

No consultation meeting was held within 45 days prior to September 1, 2000.[57] When PAL turned down the courtesy call visit of the newly elected PALEA officers, the latter refused to commence the consultation meeting "until PAL management respects"[58] their alleged election.[59]

To make up for this, PAL issued primers to "address questions regarding the spin-off." [60] The primers stated that the spin-off aimed to reduce PAL's costs, improve its performance and efficiency, and pre-pay its creditors, among others.[61] PAL also allegedly conducted ugnayan sessions with its employees to inform them of the spin-off.[62]

According to Dawal, et al., PAL announced the planned spin-off informally and belatedly, reaching them sometime in April 2000.[63] PALEA members signed and executed Resolution No. 01-1, Series of 2000, rejecting the spin-off.[64]

Under the spin-off program, the following PAL employees were to be "retrench[ed]" [65] from work: those from the Maintenance and Engineering Department, and those from Logistics and Purchasing, Financial Services, and Information Services Departments doing purely maintenance and engineering-related tasks, whose work would be absorbed by Lufthansa.[66]

After signing a Release, Waiver, and Quitclaim,[67] Dawal, Concepcion, Sinobago, and other affected employees were given generous separation packages[68] less their outstanding obligations or accountabilities.[69] Dawal received P590,511.90, Concepcion received P588,575.75, and Sinobago received P411,539.98.[70] PAL also offered work for the employees who were not absorbed by Lufthansa.[71]

On July 20, 2000, PAL issued a Notice of Separation to all the affected employees, containing either of the following letters: (1) offer of new employment from Lufthansa, should it choose to hire the affected employees; or (2) PAL's offer of employment for a lower rank or job grade and for a lesser salary,[72] should Lufthansa not choose to hire the affected employees.[73]

On September 1, 2000, in light of the spin-off of PAL's Maintenance and Engineering Department and the scheduled start of operations of Lufthansa,[74] all affected employees were relieved from their positions.[75]

When PAL spun off the engineering and maintenance facilities, it also created a new engineering department, called the Technical Services Department, allegedly "in compliance with aviation regulations requiring airline companies to maintain an engineering department." [76]

In a letter[77] dated September 7, 2000,[78] the (protested) new PALEA President Jose T. Peñas III submitted a list of economic and non-economic proposals for the renewal of the 1995 Collective Bargaining Agreement,[79] which would expire on September 30, 2000.[80]

PALEA and Dawal, et al. filed before the Labor Arbiter a Complaint[81] dated January 31, 2001 for unfair labor practices and illegal dismissal.[82] Their labor suit[83] was consolidated with a similar complaint filed against PAL.[84]

In his Decision[85] dated September 7, 2001, Labor Arbiter Francisco A. Robles found PAL guilty of illegal dismissal.[86] PAL was ordered to reinstate Dawal, et al. to their "former position[s]" without loss of seniority rights and privileges and to pay them full backwages[.]" [87] The Labor Arbiter also granted moral damages amounting to P200,000 and exemplary damages amounting to P100,000 for each of them, after finding that PAL was guilty of unfair labor practice, and attorney' fees.[88]

In its February 28, 2002 Decision, the National Labor Relations Commission reversed and set aside the Labor Arbiter's Decision in toto.[89] The National Labor Relations Commission stated that PAL validly exercised its

management prerogative[90] and that PAL held the required consultations with PALEA much earlier than 45 days.[91]

Dawal et al. filed an appeal before the Court of Appeals.[92] On July 21, 2004, the Court of Appeals Sixth Division rendered the Decision reversing the judgment of the National Labor Relations Commission and reinstating the September 7, 2001 Decision of the Labor Arbiter.[93] The Court of Appeals ruled that PAL's dismissal of Dawal, et al.'s services was illegal,[94] and that PAL actually invoked redundancy, not retrenchment.[95] The Court of Appeals struck out the part of the decision finding PAL guilty of unfair labor practice[96] and reduced the award for moral and exemplary damages.[97]

Following this, Dawal et al. moved for partial reconsideration.[98] PAL also moved for reconsideration.[99] The Court of Appeals Special Former Sixth Division issued the Resolution dated July 28, 2006 denying both Motions.[100]

On August 31, 2006, PAL filed its Petition for Review on Certiorari docketed as G.R. No. 173921.[101] It reiterated its position that the termination of its employees' work was legal, both on substantive and procedural grounds.[102]

On September 18, 2006, Dawal, et al. filed their own Petition for Review on Certiorari docketed as G.R. No. 173952,[103] arguing that PAL is guilty of unfair labor practices and the Court of Appeals erroneously reduced the award for moral and exemplary damages.[104] PAL filed its Comment[105] on October 20, 2006. Dawal, et al. failed to file a reply, so this court deemed the filing of the reply waived.[106]

On September 24, 2007, Dawal et al. filed their Comment[107] on PAL's Petition, maintaining that their dismissal from employment was illegal and could not be justified as retrenchment. Hence, they should be awarded moral and exemplary damages.[108]

In the Resolution[109] dated September 11, 2006, this court consolidated the Petitions.

PAL submitted its Memorandum[110] on April 23, 2008, while Dawal, et al. submitted their Memorandum[111] on May 5, 2008.

II

We resolve the following issues:

First, whether the termination of the employment of Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago was due to an authorized cause, and could be justified as redundancy or retrenchment;

Second, whether the proper procedure in the PAL-PALEA Collective Bargaining Agreement was followed; and

Lastly, whether Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago are entitled to monetary claims including claims for damages and attorney's fees, and whether Philippine Airlines, Inc. is guilty of unfair labor practice.

PAL posits that the spin-off was "impelled by compelling economic factors which endangered [its] existence and stability[.]"[112] It blames the Asian Financial Crisis and the strike for the heavy losses it incurred.[113] To prevent serious business losses, PAL spun off its Maintenance and Engineering Department to Lufthansa, resulting in the retrenchment of Dawal et al.'s employment based on an authorized cause under Presidential Decree No. 442,[114] as amended, otherwise known as the Labor Code of the Philippines.

PAL claims that PALEA was fully aware of the company's decision.[115] The union members and officers "were

able to ventilate their views not just 45 days prior to implementation of the spin-off but much, much earlier." [116] PAL begins counting in February 1999, when it allegedly met with then PALEA President Alexander Barrientos [117] to explain the planned spin-off of the Department. [118] PAL also claims to have conducted consultation meetings with the outgoing PALEA Executive Board. [119]

Meanwhile, Dawal, et al. argue that PAL's deteriorating financial condition could not be proven, as PAL only presented "machine copies," [120] not the original or "certified true copies" [121] of the audited financial statements [122] and other documents the company relied on. [123]

PAL also allegedly did not hold any consultation with PALEA. [124] The meetings with then PALEA President Alexander Barrientos were said to be inadequate, as he was "not the proper person to consult [with] at the time the spin-off took place." [125] Dawal, et al. claim that PAL "should have met and consulted with the duly elected president of the union, Mr. Jose [T. Peñas III.]" [126] Dawal, et al. also argue that the ugnayan or "monologue" sessions [127] were not the consultations contemplated under the PAL-PALEA Collective Bargaining Agreement. [128]

For PAL, moral damages should not be awarded because its action was not attended by bad faith. [129] There should also be no exemplary damages because the dismissal was not "wanton, oppressive or malevolent[.]" [130] PAL states that the spin-off was done to prevent losses, and this "cannot be deemed an unfair labor practice." [131]

On the other hand, Dawal, et al. claim that they are entitled to be paid P200,000 as moral damages and P100,000 as exemplary damages due to the illegal termination of their employment. [132] Dawal, et al. allege that PAL violated PAL-PALEA Collective Bargaining Agreement provisions on security of tenure, [133] procedures for a valid spin-off, [134] and seniority. [135] There was also union busting, as "nearly half of the union membership [was] terminated from work[.]" [136]

III

We sustain with modifications the Court of Appeals Decision reinstating that of Labor Arbiter Francisco A. Robles.

A petition for certiorari under Rule 45 of the Rules of Court can prosper only if the Court of Appeals, in deciding on a Rule 65 petition, fails to correctly determine whether the National Labor Relations Commission committed grave abuse of discretion. [137]

The Court of Appeals' review of the contradictory findings of labor tribunals was proper as it was based on the evidence presented and done in the exercise of its certiorari jurisdiction. [138]

In reviewing a Rule 65 petition, the Court of Appeals properly reversed the National Labor Relations Commission's February 28, 2002 Decision, the latter having been rendered with grave abuse of discretion. After "tak[ing] judicial notice of [PAL's business situation,]" [139] the National Labor Relations Commission ruled that it was beyond the Labor Arbiter's power to determine whether there was a need or urgency for the spin-off. [140] The National Labor Relations Commission clearly ignored settled law and jurisprudence.

To begin with, the employer has the burden to prove the factual and legal basis for the termination of its employees. [141] PAL has the duty to establish, clearly and satisfactorily, all the elements for a valid retrenchment. [142] "Failure to do so 'inevitably results in a finding that the dismissal is unjustified.'" [143]

PAL's claim of management prerogative does not automatically absolve it of liability. Management prerogative is not unbridled and limitless. Nor is it beyond this court's scrutiny. Where abusive and oppressive, the alleged business decision must be tempered to safeguard the constitutional guarantee of providing "full protection to

labor[.] "[144] Management prerogative cannot justify violation of law or the pursuit of any arbitrary or malicious motive.[145]

Article 298[146] of the Labor Code, as amended, provides for the following legal grounds for an employer's termination of its employees' services:

Art. 298. 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 worker 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 one (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 one (1) whole year. (Emphasis in the original)

The company can resort to any of these authorized causes to "protect and preserve [its] viability and ensure [its] survival." [147] Under Article 298, for there to be valid termination of work based on an authorized cause, several procedural and substantive requirements must be complied with.

We begin with determining whether PAL complied with procedural requirements under Article 298.

For either redundancy or retrenchment, the law requires that the employer give separation pay to the affected employees.[148] The employer must also serve a written notice on both the employees and the Department of Labor and Employment at least one (1) month before the intended date of redundancy or retrenchment.

In this case, that PAL provided for separation pay "over and above the amount provided under the Labor Code"[149] is uncontested by the parties. The only issues raised on procedure are PAL's alleged failure to follow the 30-day prior notice and the supposed lack of hearing prior to dismissal.

Dawal, et al. claim that PAL violated the 30-day prior notice because "they were required to work and render services to PAL up to the last day of their employment[.] "[150] This argument is non sequitur. For purposes of complying with the rule on prior notice, the law only looks at when the notice was given.

PAL has shown proof of service on Concepcion and Sinobago. PAL sent a Notice of Separation dated July 14, 2000 to Concepcion, which she received on July 22, 2000,[151] and to Sinobago, which he received on July 24, 2000.[152] Meanwhile, the Department of Labor and Employment received the Notice of Termination[153] and PAL's list of affected employees[154] on July 24, 2000. The termination of their services was effective on September 1, 2000, thereby fulfilling the 30-day prior notice. The same is not true for Dawal.

The records show that Dawal received the Notice of Separation only on August 31, 2000,[155] 29 days short of what the law requires.

PAL Messenger Nicomedes Romero alleges that he sent the Notice of Separation to Dawal on July 25, 2000 via registered mail.[156] This self-serving claim is unsupported by evidence. First, PAL could only show the Registry Return Receipt[157] dated July 26, 2000 addressed to Jaime Bautista, but not to Dawal. Second, the Affidavit[158] of Henedina Pecana, Administrative Assistant of PAL's Human Resources Department, bolsters the lack of timely notice to Dawal. Henedina Pecana states that she "received the corresponding Registry Return

Receipts of the letters except that of Mr. Isagani Dawal." [159]

Dawal, et al. assail the lack of an adequate opportunity to defend themselves. [160] They claim that PAL "did not undertake prior administrative inquiry to give them a chance to refute their dismissal from work." [161] This argument is unavailing.

For termination of employment due to an authorized cause, the employee is dismissed because the management exercised its business prerogative, not because the employee was at fault.

As a rule, hearing is an unnecessary condition in determining the legality of dismissal due to redundancy or retrenchment. [162] PAL's dismissal of Dawal, et al.'s services did not arise from their fault or negligence, such as serious misconduct, willful disobedience, or gross and habitual neglect of duties. Otherwise, this would have compelled them to be heard to disprove the allegations.

There is no right to be heard in dismissal for an authorized cause. [163] In terminating the employees' services due to the installment of labor-saving devices, redundancy, retrenchment to prevent losses, or closure of business, the employer has no obligation to provide the employees the opportunity to disprove the business and financial reasons for termination. [164]

Where there is no allegation of employee misconduct or negligence that amounts to a just cause for dismissal under Article 282 [165] of the Labor Code, the employee concerned has no right to be heard prior to their dismissal. [166]

IV

We now determine whether the substantive requirements for termination due to an authorized cause have been followed.

PAL invokes retrenchment to justify its acts. [167] The Labor Arbiter, however, found that PAL itself admitted that the dismissal "was not in the concept of retrenchment." [168] Moreover, according to the Court of Appeals, the ground PAL actually invokes is redundancy, not retrenchment. [169] PAL's workforce was allegedly overmanned after the spin-off of its maintenance and engineering facilities. [170] The Court of Appeals concludes that the "downsizing of [PAL's] operations] resulted in excess manpower[,]" [171] leading to redundancy. [172]

In *Sebuguero v. National Labor Relations Commission*, [173] this court differentiated redundancy from retrenchment:

Redundancy exists where the services of an employee are in excess of what is reasonably demanded by the actual requirements of the enterprise. A position is redundant where it is superfluous, and superfluity of a position or positions may be the outcome of a number of factors, such as overhiring of workers, decreased volume of business, or dropping of a particular product line or service activity previously manufactured or undertaken by the enterprise.

Retrenchment, on the other hand, is used interchangeably with the term "lay-off." It is ... an act of the employer of dismissing employees because of losses in the operation of a business, lack of work, and considerable reduction on the volume of his business[.] [174] (Citations omitted)

Redundancy requires good faith in abolishing the redundant position. [175] To establish good faith, the company must provide substantial proof that it is overmanned. [176] This is absent here.

In *General Milling Corporation v. Viajar*, [177] we have held that the act of hiring new employees while firing the old ones "negat[es] the claim of redundancy." [178]

When PAL spun off the engineering and maintenance facilities, it also created a new engineering department called the Technical Services Department.[179] Moreover, after it fired the affected employees, PAL offered to rehire the same retrenched personnel as new employees.[180] The Court of Appeals found that there was "availability of work in PAL [and this] beliefs] its claim that [PAL] has become over manned[.]"[181] The Court of Appeals held:

[T]he dismissal of the petitioners who were later on offered reemployment ... as new employees of PAL appears to be merely a clever ruse ... to deprive [Dawal, et al.], as well as the other employees similarly situated, of the privileges and benefits to which they are already entitled to by reason of the length of services they have rendered to PAL[.][182] (Emphasis supplied)

PAL's acts effectively defeated its employees' security of tenure and seniority rights. The presence of bad faith cancels out any claim of redundancy.[183]

V

PAL invokes retrenchment to justify its dismissal of Dawal, et al.'s services. Retrenchment is the employer's cutting down of personnel to reduce the costs of business operations and avert business losses.[184] As a rule, this court will respect management prerogative to retrench where there is "faithful compliance . . . with the substantive and procedural requirements laid down by law and jurisprudence."[185]

There are several guidelines that PAL should observe to validly dismiss Dawal, et al. due to retrenchment. Among others, the following are the four (4) criteria that the employer must meet:

Firstly, the losses expected should be substantial and not merely de minimis in extent. If the loss purportedly sought to be forestalled by retrenchment is clearly shown to be insubstantial and inconsequential in character, the bonafide nature of the retrenchment would appear to be seriously in question. Secondly, the substantial loss apprehended must be reasonably imminent, as such imminence can be perceived objectively and in good faith by the employer. There should, in other words, be a certain degree of urgency for the retrenchment, which is after all a drastic recourse with serious consequences for the livelihood of the employees retired or otherwise laid-off. Because of the consequential nature of retrenchment, it must, thirdly, be reasonably necessary and likely to effectively prevent the expected losses. The employer should have taken other measures prior or parallel to retrenchment to forestall losses, i.e., cut other costs other than labor costs. An employer who, for instance, lays off substantial numbers of workers while continuing to dispense fat executive bonuses and perquisites or so-called "golden parachutes," [severance packages] can scarcely claim to be retrenching in good faith to avoid losses. To impart operational meaning to the constitutional policy of providing "full protection" to labor, the employer's prerogative to bring down labor costs by retrenching must be exercised essentially as a measure of last resort, after less drastic means — e.g., reduction of both management and rank-and-file bonuses and salaries, going on reduced time, improving manufacturing efficiencies, trimming of marketing and advertising costs, etc. — have been tried and found wanting.

Lastly, but certainly not the least important, alleged losses if already realized, and the expected imminent losses sought to be forestalled, must be proved by sufficient and convincing evidence. The reason for requiring this quantum of proof is readily apparent: any less exacting standard of proof would render too easy the abuse of this ground for termination of services of employees.[186] (Citation omitted)

The employer has the burden of showing by clear and satisfactory evidence that there are existing or imminent substantial losses, and that "legitimate business reasons justif[y] . . . retrenchment."[187] Mere showing of incurred or expected losses does not automatically justify retrenchment.[188] The business losses must be "substantial, serious, actual[,] and real,"[189] not merely de minimis.

Citing case law, PAL states that "[t]here is no better proof of losses of an employer than the financial statements

duly audited by independent external auditors."[190] PAL points to its photocopied financial statements[191] for 1997, 1998, and 1999 to establish the business losses it allegedly suffered. The photocopied documents supposedly reflect PAL's net losses: P2.5 billion on March 1997, P8.58 billion on March 1998, and P10.18 billion on March 1999.[192] These were allegedly "duly audited by independent external auditors." [193]

Dawal, et al. question the documents for being "mere machine copies"[194] and for not having been authenticated.[195] According to them, "PAL built its case through mere submission of copies of documents without presenting any witness or affidavit to identify and establish the genuineness and due execution of the said documents." [196] Neither have these documents been stamped "received" by the Bureau of Internal Revenue or the Securities and Exchange Commission.[197]

PAL would like this court to believe that Dawal, et al. began assailing the presentation of mere photocopied documents "only at this late stage of the proceeding[.]" [198]

However, the records reveal that as early as in their Reply[199] to PAL's Position Paper submitted before the Labor Arbiter, Dawal, et al. already objected to the factual matters raised by PAL.[200] Specifically, Dawal, et al. asked that PAL present "substantial evidence to prove [its] allegations[.]" [201] including the "witnesses who [have] personal knowledge of the alleged facts stated therein [and] the persons who prepared the documents attached to its position paper." [202]

Dawal, et al. also raised their objection before the National Labor Relations Commission. In their Rejoinder and Urgent Motion to Conduct Full-Blown Hearing,[203] they prayed that "[t]he persons who prepared the financial statements of PAL should be asked to execute an affidavit and testify before [the National Labor Relations Commission]." [204]

Before this court, Dawal, et al. again assail the lack of "a competent witness or affidavit of any person who could testify and support its bare and gratuitous allegations[.]" [205] They lengthily discuss how PAL's reliance on unauthenticated photocopies fails to persuade.[206]

For its defense, PAL claims that "the rules of evidence and procedure in labor cases are not strictly applied." [207] Indeed, Rule I, Section 2 of the 2005 (as well as the 2011) Revised Rules of Procedure of the National Labor Relations Commission (NLRC Rules) provides as follows:

SECTION 2. CONSTRUCTION. - These Rules shall be liberally construed to carry out the objectives of the Constitution, the Labor Code of the Philippines and other relevant legislations, and to assist the parties in obtaining just, expeditious and inexpensive resolution and settlement of labor disputes.

Article 221 of the Labor Code also states:

Art. 221. Technical Rules not binding and prior resort to amicable settlement. In any proceeding before the Commission or any of the 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 this 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 technicalities of law or procedure, all in the interest of due process[.]

At this juncture, it is important to put into context the provisions cited above. Both Rule I, Section 2 of the NLRC Rules and Article 221 of the Labor Code cannot be read in isolation; rather, they should be understood in harmony with Article 4 of the Labor Code.

Article 4 states that all doubts regarding the "implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor."

In addition, Rule I, Section 2 explicitly states that the liberal construction shall be used to "carry out the objectives" of the 1987 Constitution and the Labor Code. Both the Organic Law and the Labor Code seek to provide full protection to labor.[208]

In *Bunagan v. Sentinel Watchman & Protective Agency, Inc.*, [209] we have held that the liberal application in labor cases applies insofar as it gives life to "the mandate that the workingman's welfare should be the primordial and paramount consideration." [210]

In *Colgate-Palmolive Philippines, Inc. v. De la Cruz*: [211]

In a protracted legal battle, capital can always protect its interests with its vast and superior resources as well as skilled legal services. Labor does not have such resources under its command; for which reason, the Constitution compels the State — including the courts as organs of the State — to accord labor the needed protection and assurance of social justice. From the very beginning, because of these essential differences in resources — and in power and influence — the battle between capital and labor is always unequal because labor is always the weaker of the two protagonists. [212]

Employees almost always have no possession of the company's financial statements. For reasons of equity, it is not the management or employer, i.e., PAL, but the workers themselves, i.e., Dawal, et al., who can invoke the liberal interpretation rule here.

Moreover, contrary to PAL's claim, the burden is not on Dawal, et al. to "[move] for the submission of the original or authenticated copies of the documents." [213] Rather, it is on PAL to prove before this court the validity of its termination due to alleged business losses. [214]

The resolution of this particular issue was entirely in PAL's hands. Companies such as PAL are required by law to file their audited financial statements before the Bureau of Internal Revenue [215] or the Securities and Exchange Commission. [216] Once filed, these financial statements become public documents, [217] and their genuineness and due execution no longer have to be proven. [218]

Thus, had PAL presented the original or certified true copies of the duly filed financial statements, then their genuineness and due execution would have been laid to rest. [219]

Instead, despite having possession of the original or certified true copies of these documents, PAL inexplicably failed to produce them. All it could present as evidence were mere photocopies, which did not bear the official seal of or the stamp "received" by the Bureau of Internal Revenue or the Securities and Exchange Commission. [220]

At the very least, PAL could have submitted the affidavit of the person(s) who prepared the photocopied documents, or that of any witness who could support the alleged losses it suffered. PAL also failed to do this.

Rule V, Section 7(b) of the then prevailing 2005 (and Rule V, Sec. 11[c] of the 2011) NLRC Rules requires that the position papers of the parties be "accompanied by all supporting documents, including the affidavits of witnesses, which shall take the place of their direct testimony."

With PAL's quick access to its own documents, as well as its heavy burden of proving the validity of retrenchment, this court is bewildered as to how, at every stage of the proceedings, PAL failed to produce the original or certified true copies of the evidence it primarily relies on. Aware of Dawal, et al.'s objection even at the beginning of this case, [221] PAL should have taken steps to dispel any doubts surrounding the questioned photocopies.

The non-litigious nature of the proceedings before the Labor Arbiter and the National Labor Relations

Commission[222] makes it easy for the employer to simply present any document, genuine or not.[223] This gives all the more reason for the photocopied financial statements to not be considered at face value, especially absent an affidavit of a witness, where these would be used to justify the retrenchment of employees' livelihood.

VI

Granted that PAL suffered serious and actual business losses, it must still show that the retrenchment was reasonably necessary to effectively prevent the actual or imminent losses.

It is not enough for a company to simply incur business losses[224] or go through rehabilitation[225] to justify retrenchment. While it can be argued that undergoing corporation rehabilitation evinces its substantial business losses, PAL must still prove all the other elements for a valid retrenchment.

Article 298 of the Labor Code requires that the "retrenchment to prevent losses" should not be used to circumvent the provisions of the Labor Code. Stated otherwise, the retrenchment must not only be "reasonably necessary"[226] to avert serious business losses; it must also be made in good faith and without ill motive.[227]

PAL justifies its action by saying that it "was merely adhering to the . . . [Rehabilitation Plan.]"[228] The Rehabilitation Plan allegedly "mandates PAL to dispose/spin-off ... the Maintenance and Engineering Department[.]"[229] A perusal of the records, however, shows that the Rehabilitation Plan merely states that the sale of "a number of non-core activities that provide support services (or incremental revenues) to [PAL] could be of more value to external operators[.]"[230]

Far from showing the reasonable necessity for retrenchment, the Rehabilitation Plan states that it "does not purport to be comprehensive . . . and has not been independently verified."[231]

In *F.F. Marine Corporation v. The Second Division National Labor Relations Commission*: [232]

Even assuming that the corporation has actually incurred losses by reason of the Asian economic crisis, the retrenchment is not perfectly justified as there was no showing that the retrenchment was the last recourse resorted to by petitioners. Although petitioners allege in their petition before this Court that they had undertaken cost-cutting measures before they resorted to retrenchment, their contention does not inspire belief for the evidence shows that the petition for certiorari filed by petitioners with the Court of Appeals is bereft of any allegation of prior resort to cost-cutting measures other than retrenchment.[233] (Citation omitted)

Here, there is no showing that PAL "resorted to less drastic and less permanent cost-cutting measures"[234] prior to the so-called retrenchment. In 1998, PAL already retrenched about 5,000 employees.[235] Two years later, it again turned to cutting off its employees' livelihood.

Disposal of non-core activities is only 10th in the list of PAL's possible initiatives in support of rehabilitation.[236] Others include "focusing on core customer segments/markets"[237] and "improving customer service to gain market share." [238] PAL has not shown proof that retrenchment was indeed the remedy of last resort, and that it sought for retrenchment only after it had pursued all viable options to no avail.[239]

Likewise, PAL has "failed to explain how the rehiring of the affected employees in the spin-off could possibly alleviate PAL's financial difficulty." [240]

For there to be a valid retrenchment, the employer must exercise its management prerogative "in good faith for the advancement of its interest and not to defeat or circumvent the employees' right to security of tenure[.]" [241]

PAL attempts to prove its alleged good faith on "[t]he very generosity of the separation package [and] the job offers"[242] it gave to the dismissed employees.[243] According to PAL, providing generous separation pay

"negates any impression that PAL was guilty of bad faith or misdoing its retrenchment policy." [244] Claiming that it "accommodat[ed]" [245] Dawal, et al. when it was "not legally obliged to,]" [246] PAL expects to be lauded for its acts. [247]

We are not impressed.

That PAL gave separation pay way beyond [248] what the law requires is not challenged by the parties. However, this sheds doubts on PAL's alleged "dire financial condition[.]" [249]

PAL's job offer is unmistakably for lower positions, "with substantially diminished salaries and benefits[,]" [250] and conditioned on their being considered as new employees. [251] Thus, instead of providing utmost security and reward to PAL's enduring and loyal employees, PAL's acts effectively circumvented their security of tenure and seniority rights.

PAL's ill motive in dismissing its employees easily reveals itself. Prior to their termination, Dawal was its employee for 28 years (1972-2000), [252] Concepcion for 21 years (1979-2000), [253] and Sinobago for 17 years (1983-2000). [254]

When PAL terminated the services of Dawal, et al., and subsequently offered to hire them explicitly as "new employee[s]," [255] their "security of tenure and seniority rights [became] meaningless." [256] Moreover, from earning P17,170 as Chief Storekeeper, Dawal would be paid only P16,047 as Storekeeper. [257] Meanwhile, tenured employees Concepcion and Sinobago, who used to hold technical positions as Master Avionics Mechanics, were offered non-technical positions [258] also as new employees. [259]

In addition, PAL spun off the engineering department but created a new one under a different name, i.e. the Technical Services Department which, according to PAL, is also "an engineering department." [260] PAL "rehired a number of" [261] the retrenched personnel and assigned them to this newly formed engineering department. [262]

PAL's inconsistency belies its allegation of good faith. PAL invoked "severe and unabated financial hemorrhage," [263] supposedly "aggravated by the strikes[,]" [264] but it gave steep separation packages to 1,443 [265] retrenched employees. The separation pay for Dawal, Concepcion, and Sinobago alone amounted to P1,590,627.63. [266] PAL complained that it had become "over-manned" [267] because of the spin-off, but it offered new jobs to these dismissed employees. [268]

Thus, this court agrees with the Labor Arbiter and the Court of Appeals that there is no reasonable necessity for the retrenchment to "prevent any substantial and actual losses." [269] Moreover, PAL failed to prove "any degree of urgency to implement such retrenchment." [270] Indeed, if retrenchment were really necessary to forestall serious business losses, PAL should not have offered to rehire the dismissed employees, especially after it had already given them generous separation benefits. [271]

PAL cites AG & P United Rank and File Association v. National Labor Relations Commission, [272] to show that the re-employment of dismissed workers is compatible with retrenchment itself. [273] The case PAL invokes, however, speaks of the hiring of employees on a project basis (as project employees). [274] On the other hand, the present case involves the rehiring of the dismissed employees themselves as regular employees. [275]

Considering that PAL acted in bad faith and that the grounds for termination were "not sufficiently and convincingly established," [276] its dismissal of Dawal, et al.'s services is therefore unjustified, illegal, and of no effect.

VII

Accepting separation pay does not estop Dawal, et al. from questioning their illegal dismissal.

Accepting the amount of separation pay, as stated in Dawal, et al.'s respective Release, Waiver and Quitclaim, does not prevent them from filing a complaint for illegal dismissal.[277] The law looks at quitclaims and releases with disfavor:[278]

[T]he reason why quitclaims [are] commonly frowned upon as contrary to public policy, and why they are held to be ineffective to bar claims for the full measure of the workers' legal rights, is the fact that the employer and the employee obviously do not stand on the same footing. The employer drove the employee to the wall. The latter must have to get hold of money. Because, out of a job, he had to face the harsh necessities of life. He thus found himself in no position to resist money proffered. His, then, is a case of adherence, not of choice. One thing sure, however, is that petitioners did not relent on their claim. They pressed it. They are deemed not have waived any of their rights.[279]

Dawal, et al.'s non-waiver of rights is further supported by the respective disclaimers they wrote stating that they signed the release and quitclaims without prejudice "to [the] money claims filed[,]"[280] to "the favorabl[e] result of the PAL-PALEA dispute[,]"[281] or to the "rate of pay, wage distortion claim cases with PAL[.]"[282]

Nevertheless, to prevent undue prejudice to PAL, the separation pay already received by Dawal, et al., "as consideration for signing the quitclaims[,]"[283] must be subtracted from their individual monetary awards.

VIII

The spin-off and retrenchment were not made in accordance with the PAL-PALEA Memorandum of Agreement.

The Court of Appeals correctly found that PAL did not properly consult with PALEA, in violation of the express mandate of the PAL-PALEA Memorandum of Agreement.[284]

The PAL-PALEA Memorandum of Agreement states that PAL may change its corporate structure only after "proper consultations with PALEA within 45 days before the implementation of said reorganization." [285]

PAL alleges that consultations were held in 1999, "even before the required 45-day consultation period." [286]

We are not convinced.

As found by the Labor Arbiter, PAL's supposed meeting with PALEA on June 15, 1999 "appear[ed] questionable." [287] First, it was supported only by PAL's self-serving Minutes of the Meeting.[288] Second, it was not held within 45 days prior to September 1, 2000.

The consultation period should have begun on July 18, 2000 and not in 1999. In counting the start of the consultation period, the PAL-PALEA Memorandum of Agreement uses the word "within," and not "at least."

Thus, from a plain reading of the stipulation, the proper consultation must begin specifically within 45 days prior to the date of effectivity of the spin-off. Forty-five days prior to September 1, 2000 begins on July 18, 2000, not earlier.

PAL states that it "lost no time in advising PALEA of the formal commencement [of] the 45-day consultation period mandated under the CBA." [289] To prove this, PAL cites its letter-invitation[290] to PALEA dated March 24, 2000, requesting the PALEA Executive Board "for a meeting on March 30, 2000[.]" [291] PAL, however, failed to present evidence that the alleged meeting actually transpired.

As found by the Labor Arbiter, PAL and PALEA could not have possibly met within 45 days before September 1,

2000[292] because PAL refused to acknowledge the election of the incoming PALEA officers.[293] Likewise, even assuming the meeting happened on March 30, 2000, this was still prior to July 18, 2000, and is, thus, outside the 45-day consultation period.

Further, we agree with the Labor Arbiter's finding, as reinstated by the Court of Appeals, that the primers PAL allegedly distributed "do not constitute the required consultations which envision an actual meeting of the parties to discuss among themselves the matter/s in issue." [294] Indeed, as PAL itself admits, the primers merely "complement[ed] the consultation meetings with PALEA[,] [295] and the alleged ugnayan sessions "with the employees were never meant as a substitute for the consultation meetings under the [Collective Bargaining Agreement]."[296] Even the National Labor Relations Commission held that the primers and the ugnayan sessions served only as "supplement[s] to the consultation meetings"[297] required by the PAL-PALEA Collective Bargaining Agreement.[298]

IX

We agree with the Court of Appeals that there was not enough evidence to prove that PAL committed unfair labor practices.

Dawal, et al. allege that PAL is guilty of the following acts: interfering with their right to self-organization,[299] refusing to bargain with PALEA,[300] and violating several provisions of the PAL-PALEA Collective Bargaining Agreement.[301] These unfair labor practices are found under Article 259[302] of the Labor Code, as amended:

Art. 259. Unfair Labor Practices of Employers. - It shall be unlawful for an employer to commit any of the following unfair labor practices:

- (a) To interfere with, restrain or coerce employees in the exercise of their right to self-organization;
- (g) To violate the duty to bargain collectively as prescribed by this Code;
- (i) To violate a collective bargaining agreement. (Emphasis in the original, citation omitted)

In *Samahang Manggagawa sa Sulpicio Lines, Inc.-NAFLU v. Sulpicio Lines, Inc.*, [303] we have held that the union has the burden to prove, by substantial evidence, its allegation of unfair labor practice.[304] Neither PALEA nor Dawal, et al. have discharged this burden.

On the first ground, Dawal, et al. only showed bare assertions that PAL's real purpose was to bust the union.[305] In terminating the services of those working for the maintenance and engineering facilities, PAL did not single out between the union and non-union members. Instead, PAL "phased out and sold"[306] the whole department, thereby severing the employment of all affected personnel.[307] Thus, contrary to Dawal, et al.'s allegations,[308] PAL did not discriminate against them by reason of their membership in PALEA.

On the second ground, Dawal, et al. claim that PAL terminated their services in violation of its duty to bargain. They assert that at the time of their dismissal from work, PALEA was about to renew its Collective Bargaining Agreement with PAL.[309] They point to the fact that (protested) new PALEA President Jose T. Peñas III submitted a list of economic and non-economic proposals for the renewal of the PAL-PALEA Collective Bargaining Agreement,[310] which PAL ignored.[311]

The relevant dates, however, must be set straight. Dawal, et al.'s dismissal was on September 1, 2000. Meanwhile, PALEA President Jose T. Peñas III submitted proposals through a letter dated September 7, 2000, which PAL received on September 13, 2000.[312] Therefore, Dawal, et al. cannot claim that they were dismissed to prevent the renegotiation of the Collective Bargaining Agreement.

Moreover, PAL could not have validly negotiated for the renewal of its Collective Bargaining Agreement with PALEA due to a leadership crisis in PALEA at that time.[313] The Court of Appeals properly found that PAL was not motivated by malice or bad faith in its acts.[314] PAL validly declined to meet with the alleged newly-elected PALEA officers because the election was marred by "protests and petitions[.]"[315]

As borne by the records, the Department of Labor and Employment later nullified the proclamation of the new PALEA officers.[316] PAL's refusal to recognize the contending factions of the union (and their demands) was pursuant to "prudence and good sense[.]"[317] This does not amount to unfair labor practice under Article 259(g) of the Labor Code.[318]

On the third ground, Dawal, et al. assert that PAL disregarded the following provisions of the PAL-PALEA Collective Bargaining Agreement: Section 1 (Security of Tenure), Section 7 (Lay-off), and Section 10 (Seniority, Promotion, Job Reclassification, Job Progression and Demotion) of Article III on Job Security.[319] These allegedly amount to unfair labor practices under Article 259(i) of the Labor Code.[320]

Dawal, et al. are mistaken.

Article 274[321] of the Labor Code, as amended, qualifies Article 259(i):

[V]iolations of a Collective Bargaining Agreement, except those which are gross in character, shall no longer be treated as unfair labor practice and shall be resolved as grievances under the Collective Bargaining Agreement. For purposes of this article, gross violations of Collective Bargaining Agreement shall mean flagrant and/or malicious refusal to comply with the economic provisions of such agreement. (Emphasis supplied)

In *Silva v. National Labor Relations Commission*,[322] we held that for there to be unfair labor practice, the violation of the Collective Bargaining Agreement must be gross and must be related to the Agreement's economic provisions.[323] Here, Dawal, et al. charge PAL of violating the provisions on Job Security in the Collective Bargaining Agreement, which are non-economic in nature.[324] Thus, PAL's acts do not constitute unfair labor practice under Article 259(i) of the Labor Code.

X

The Court of Appeals correctly ruled that Dawal, et al. are entitled to reinstatement with full backwages or additional separation pay plus backwages.

PAL failed to prove all the requisites for a valid dismissal due to retrenchment.

Whether there was redundancy or retrenchment, or redundancy caused by retrenchment, this court agrees with the Court of Appeals' and the Labor Arbiter's finding[325] that PAL illegally terminated the services of Dawal, et al.

Article 294[326] of the Labor Code provides employees the following rights against unjustified dismissals:

Art. 294. Security of Tenure. In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. (Emphasis supplied, citation omitted)

Where reinstatement is not possible, an employee is entitled to separation pay in addition to one's monetary claims.[327] Damages may also be awarded if the dismissal was done in bad faith.[328]

Thus, in light of PAL's illegal dismissal of their services, Dawal, et al. are entitled to immediate reinstatement to their former positions "without loss of seniority rights and other privileges[,] "[329] as well as to their full backwages computed from the time PAL withheld their compensation up to the time of their actual reinstatement.[330] Where reinstatement is not possible, they should be given the mentioned monetary awards in addition to the separation pay.[331]

As held by the Court of Appeals:

Under the facts and evidence on record, it was sufficiently established that [Dawal, et al.] were illegally dismissed thereby entitling them to their money claims, except that their claims of holiday pay and premium pay for holidays should be denied for lack of evidence. Considering further that such dismissal was effected in total disregard of their length of service as well as in a wanton and oppressive manner, [Dawal, et al.] are entitled to the payment of moral and exemplary damages under Article 1701,[332] in conjunction with [A]rticles 21[333] and 2219 (10)[334] of the Civil Code of the Philippines, and Article 2232[335] of the same Code.[336]

The awards for moral and exemplary damages are "sufficient to ease [Dawal, et al.'s] moral suffering by reason of their illegal dismissal." [337]

Failure to serve the 30-day prior notice on Dawal also makes PAL liable for an indemnity of P50,000.00 as nominal damages.[338]

Moreover, for having been compelled to litigate, Dawal, et al. are entitled to an award for reasonable attorney's fees, pursuant to Article 2208(7)[339] of the Civil Code.[340] Both the Labor Arbiter[341] and the Court of Appeals[342] found the amount equivalent to 10% of their total award to be reasonable.

Finally, aside from reinstatement with backwages, illegally dismissed employees are entitled to interest at the legal rate.[343] In view of our ruling in *Nacar v. Gallery Frames*[344] and the existing temporary restraining order[345] on the Court of Appeals Decision, the rate of legal interest shall be 6% per annum beginning from the date of promulgation of this judgment until fully paid.

WHEREFORE, the Petition is DENIED. The Court of Appeals' July 21, 2004 Decision and July 28, 2006 Resolution in CA-G.R. SP No. 73030 are AFFIRMED with MODIFICATION. Judgment is rendered in favor of Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago:

(1)

Ordering Philippine Airlines, Inc. to immediately reinstate Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago to positions equivalent to their former positions without loss of seniority rights and other benefits upon receipt of this Decision.

(2)

Ordering Philippine Airlines, Inc. to pay Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago their full backwages based on their last salary received, other privileges, allowances, and benefits or their monetary equivalent, computed from the date of their dismissal on September 1, 2000 until their reinstatement, based on the last salary they had received. As of July 31, 2001, Isagani Dawal's, Lorna Concepcion's, and Bonifacio Sinobago's backwages are in the amounts stated and specified below:

(a)

Isagani Dawal

- P17,170.00 x 12 months from September 1, 2000 to July 31, 2000 = P206,040.00

(b)

Lorna Concepcion

- P22,540.00 x 12 months from September 1, 2000 to July 31, 2000 = P270,480.00

(c)

Bonifacio Sinobago

- P21,675.00 x 12 months from September 1, 2000 to July 31, 2000 = P260,100.00

It should be stated and understood that the backwages of Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago shall be subject to further computation up to their reinstatement. It should be further stated and understood that the separation pay actually they had received should be deducted from their respective monetary awards.

(3)

Ordering Philippine Airlines, Inc., in the event that there are no equivalent positions to which Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago may be reinstated (or where reinstatement is not possible), to pay, in addition to the separation pay already given them, their full backwages based on their last salary received, other privileges, allowances, and benefits or their monetary equivalent, computed from their dismissal on September 1, 2000 until their supposed actual reinstatement.

(4)

Ordering Philippine Airlines, Inc. to pay Isagani Dawal P50,000.00 as nominal damages for failure to provide advanced (30-day) notice prior to his termination.

(5)

Ordering Philippine Airlines, Inc. to pay Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago P50,000.00 each as moral damages and P10,000.00 each as exemplary damages.

(6)

Ordering Philippine Airlines, Inc. to pay Isagani Dawal, Lorna Concepcion, and Bonifacio Sinobago attorney's fees equivalent to ten percent (10%) of their respective total monetary award.

(7)

Ordering Philippine Airlines, Inc. to pay legal interest of six percent (6%) per annum of Isagani Dawal's, Lorna Concepcion's, and Bonifacio Sinobago's total monetary awards computed from the date of finality of this judgment until fully paid.

All other claims are dismissed.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, and Mendoza, JJ., concur.

Brion, J., on leave.

- [1] Rollo (G.R. No. 173921), pp. 60-99.
- [2] Rollo (G.R. No. 173952), pp. 10-76.
- [3] Rollo (G.R. No. 173921), p. 62; rollo (G.R. No. 173952), p. 14.
- [4] Rollo (G.R. No. 173921), pp. 104-122. The Decision was penned by Associate Justice Perlita J. Tria Tirona and concurred in by Associate Justices Ruben T. Reyes (Chair) and Jose C. Reyes Jr. of the Sixth Division.
- [5] Rollo (G.R. No. 173952), pp. 175-190. The Decision was penned by Commissioner Ireneo B. Bernardo and concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Tito F. Genilo of the Third Division.
- [6] Id. at 191-192. The Resolution was penned by Commissioner Ireneo B. Bernardo and concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Tito F. Genilo of the Third Division.
- [7] Rollo (G.R. No. 173921), pp. 120-121, Court of Appeals Decision. The Labor Arbiter was Francisco A. Robles.
- [8] Id. at 117.
- [9] Rollo (G.R. No. 173952), p. 267, PALEA and Dawal, et al.'s Amended Complaint and Position Paper. Dawal started working for PAL on September 1, 1972, Concepcion on September 17, 1979, and Sinobago on July 1, 1983.
- [10] Rollo (G.R. No. 173921), p. 120, Court of Appeals Decision.
- [11] Id. at 119.
- [12] Id.
- [13] Id. at 121.
- [14] Id.
- [15] Id. at 1033 and 1035, Dawal, et al.'s Memorandum.
- [16] Id. at 120-122, Court of Appeals Decision.
- [17] Id. at 125-129. The Resolution was penned by Presiding Justice Ruben T. Reyes and concurred in by Associate Justices Rodrigo V. Cosico and Jose C. Reyes, Jr. of the Special Former Sixth Division.
- [18] Id. at 129.
- [19] Rollo (G.R. No. 173952), p. 585, Supreme Court Resolution dated September 25, 2006.
- [20] Rollo (G.R. No. 173921), pp. 988-1029.
- [21] Id. at 1030-1126.
- [22] Id. at 106, Court of Appeals Decision.
- [23] Id.
- [24] Id. at 415, PALEA and Dawal, et al.'s Reply.
- [25] See *Philippine Airlines Employees' Association v. Hon Ferrer-Calleja*, 245 Phil. 382, 384 (1988) [Per J. Grino-Aquino, First Division]. PALEA is the exclusive collective bargaining unit of PAL's ground rank-and-file

employees.

[26] Rollo (G.R. No. 173921), p. 992, PAL's Memorandum.

[27] Id.

[28] Rollo (G.R. No. 173952), p. 197, Labor Arbiter's Decision.

[29] Rollo (G.R. No. 173921), p. 992, PAL's Memorandum. PAL claims that it cost at least US\$4 billion, based on a peso-dollar exchange rate of P26.00 to US\$1.00.

[30] Id. at 993.

[31] Id. Airline Pilots Association of the Philippines (ALPAP) is the exclusive collective bargaining unit of PAL pilots.

[32] Id. at 992-994. According to PAL, ALPAP and PALEA staged "strikes" (Id. at 993) more than once, thus aggravating its "heavy losses" (Id.). However, nowhere in the record has PAL shown proof or mentioned any detail of the alleged "strikes" anytime from June 1997 (Asian Financial Crisis) to June 19, 1998 (when PAL filed for corporate rehabilitation). In any case, this court takes judicial notice of ALPAP's strike on June 5, 1998 (See *Airline Pilots Association of the Philippines v. Philippine Airlines, Inc.*, 665 Phil. 679, 682 (2011) [Per J. Del Castillo, First Division]). This court also takes judicial notice that PALEA conducted a four-day strike on July 22, 1998, which, however, came only after PAL already filed for corporate rehabilitation (See *Rivera v. Hon. Espiritu*, 425 Phil. 169, 175 (2002) [Per J. Quisumbing, Second Division]).

[33] Rollo (G.R. No. 173921), p. 1048, Dawal, et al.'s Memorandum.

[34] Id. at 994, PAL's Memorandum. On June 15, 1998, PAL retrenched 5,000 of its employees, including 1,400 of its cabin crew, to take effect on July 15, 1998 (See *Flight Attendants and Stewards Association of the Philippines (FASAP) v. Philippine Airlines, Inc., et al.*, 617 Phil. 687, 691-692 (2009) [Per J. Ynares- Santiago, Special Third Division]).

[35] Rollo (G.R. No. 173921), p. 108, Court of Appeals Decision.

[36] Id. at 287, PAL President Avelino Zapanta's letter dated March 24, 2000, addressed to the PALEA Executive Board.

[37] Id. at 995, PAL's Memorandum.

[38] Id.

[39] Rollo (G.R. No. 173952), p. 198, Labor Arbiter's Decision.

[40] Rollo (G.R. No. 173921), pp. 224-250.

[41] Id. at 237, PAL's Amended and Restated Rehabilitation Plan, and 994, PAL's Memorandum.

[42] Id.

[43] Id. at 451, Minutes of the PAL-PALEA Meeting dated June 15, 1999.

[44] Id. at 451-452.

[45] Id. at 452.

[46] Id. at 183, PALEA Commission on Election's Notice of Proclamation of Union Officers. The general

elections of the Union were held on February 17, 21- 22, and 23-24,2000.

[47] Rollo (G.R. No. 173952), p. 270, PALEA and Dawal, et al.'s Amended Complaint and Position Paper.

[48] Rollo (G.R. No. 173921), p. 183, PALEA Commission on Election's Notice of Proclamation of Union Officers.

[49] Id. at 186, PAL President Avelino Zapanta's letter dated March 27, 2000, addressed to former PALEA Secretary Jose T. Peñas III.

[50] Id.

[51] Id. at 186, PAL President Avelino Zapanta's letter dated March 27, 2000, addressed to former PALEA Secretary Jose T. Peñas III; rollo (G.R. No. 173952), p. 205, Labor Arbiter's Decision.

[52] Rollo (G.R. No. 173921), p. 994, PAL's Memorandum.

[53] Id. at 281-282, SEC Order in SEC Case No. 06-98-6004, and 996, PAL's Memorandum.

[54] Id. at 1104, Dawal, et al.'s Memorandum.

[55] Id. at 283, PAL-PALEA Memorandum of Agreement.

[56] Id., Emphasis supplied.

[57] Rollo (GR. No. 173952), p. 206, Labor Arbiter's Decision.

[58] Rollo (G.R. No. 173921), p. 187, PALEA's letter dated March 30, 2000, addressed to PAL President Avelino Zapanta.

[59] Id.

[60] Id. at 996, PAL's Memorandum.

[61] Id. at 1051-1052, Dawal, et al.'s Memorandum.

[62] Id. at 996-997, PAL's Memorandum.

[63] Id. at 1041, Dawal, et al.'s Memorandum.

[64] Id.

[65] Id. at 307, PAL President Avelino Zapanta's letter dated July 20, 2000, addressed to PALEA.

[66] Id. at 109.

[67] Id. at 348-350.

[68] Id. at 1012, PAL's Memorandum.

[69] Id. at 109, Court of Appeals Decision; 341, PAL Human Resources Department's letter to Dawal; and 348-350, Release, Waiver and Quitclaim.

[70] Id. at 349-350, Release, Waiver and Quitclaim.

[71] Id. at 109, Court of Appeals Decision; and 1052, Dawal, et al.'s Memorandum.

[72] Rollo (G.R. No. 173952), p. 195, Labor Arbiter's Decision.

- [73] Rollo (G.R. No. 173921), p. 1049, Dawal, et al.'s Memorandum.
- [74] Id. at 307, PAL President Avelino Zapanta's letter dated July 20, 2000, addressed to PALEA.
- [75] Id. at 1046, Dawal, et al.'s Memorandum.
- [76] Rollo (G.R. No. 173952), p. 367, PAL's Consolidated Rejoinder.
- [77] Rollo (G.R. No. 173921), pp. 200-203, PALEA Letter dated September 7, 2000.
- [78] Id. at 200. PAL received the letter on September 13, 2000.
- [79] Id. at 200-203.
- [80] Id. at 1110, Dawal, et al.'s Memorandum.
- [81] Rollo (G.R. No. 173952), pp. 214-218.
- [82] Id. at 217.
- [83] Rollo (G.R. No. 173921), pp. 132-181, PALEA and Dawal, et al.'s Amended Complaint and Position Paper. The case was docketed as NLRC-NCR Case No. 30-02-00842-01.
- [84] Id. at 204, PAL's Position Paper; 351, PAL's Consolidated Reply; and 444, PAL's Consolidated Rejoinder. The cases docketed as NLRC-NCR Case No. 30-02-00842-01 and NLRC-NCR (South) No. 30-12-04058-00 were consolidated.
- [85] Rollo (G.r. No. 173952, pp. 193-213.
- [86] Id. at 200-204.
- [87] Rollo (G.R. No. 173921), p. 1054, Dawal, et al.'s Memorandum.
- [88] Rollo (G.R. No. 173952), pp. 212-213, Labor Arbiter's Decision.
- [89] Id. at 189, National Labor Relations Commission Decision.
- [90] Id. at 182-185.
- [91] Id. at 186.
- [92] Rollo (G.R. No. 173921), p. 104, Court of Appeals Decision.
- [93] Id. at 120.
- [94] Id. at 117.
- [95] Id. at 116.
- [96] Id. at 120.
- [97] Id. at 119.
- [98] Id. at 125, Court of Appeals Resolution.
- [99] Id.
- [100] Id. at 129.
- [101] Id. at 60, Petition for Review.

[102] Id. at 75-94.

[103] Rollo (G.R. No. 173952), p. 10, Petition.

[104] Id. at 44.

[105] Id. at 595-612, PAL's Comment.

[106] Id. at 664, Supreme Court Resolution dated August 11, 2008.

[107] Rollo (G.R. No. 173921), pp. 887-963.

[108] Id. at 942.

[109] Rollo (G.R. No. 173952), p. 9, Supreme Court Resolution dated September 11, 2006.

[110] Rollo (G.R. No. 173921), pp. 988-1029.

[111] Id. at 1030-1126.

[112] Id. at 989, PAL's Memorandum.

[113] Id. at 993.

[114] A Decree Instituting a Labor Code Thereby Revising and Consolidating Labor and Social Laws to Afford Protection to Labor, Promote Employment and Human Resources Development and Insure Industrial Peace Based on Social Justice (1974).

[115] Rollo (G.R. No. 173921), p. 1011, PAL's Memorandum.

[116] Id.

[117] Id. at 69, Petition for Review; and 286, PAL Executive Vice President and Chief Operating Officer Jaime J. Bautista's letter dated February 18, 1999 addressed to then PALEA President Alexander Barrientos.

[118] Id. at 1011, PAL's Memorandum.

[119] Id. at 1011-1012.

[120] Id. at 1079, Dawal, et al.'s Memorandum.

[121] Id. at 1085.

[122] Id.

[123] Id. at 1079.

[124] Id. at 1105-1106.

[125] Id. at 1106.

[126] Id.

[127] Id. at 1098.

[128] Id. at 1104-1106, Dawal, et al.'s Memorandum.

[129] Id. at 1022-1023, PAL's Memorandum.

[130] Id. at 1023.

[131] Id. at 1020.

[132] Id. at 1125, Dawal et al.'s Memorandum. These are the original amounts of moral and exemplary damages awarded by the Labor Arbiter, which Dawal, et al. seek to be reinstated.

[133] Id. at 1108-1109. Article III, Section 1 of the PAL-PALEA Collective Bargaining Agreement provides: Section 1. Security of tenure. No employee shall be subjected to disciplinary action or terminated from employment without just or authorized cause[.]

[134] Id. at 1104-1106.

[135] Id. at 1109-1110. Article III, Section 7 of the PAL-PALEA Collective Bargaining Agreement provides:

Section 7. Lay-Off. Before the Company exercises its right to ... retrench employees, the Company and [PALEA] shall meet not later than sixty (60) days before the intended date of implementation of such retrenchment/lay-off, to discuss the details of the implementation of such action applying the principle of "last in, first out" in so far as practicable taking into consideration the department or area affected.

[136] Id. at 1110.

[137] *Montoya v. Transmed Manila Corporation/Mr. Edilberto Ellena, et al.*, 613 Phil. 696, 707 (2009) [Per J. Brion, Second Division].

[138] *Lambert Pawnbrokers and Jewelry Corporation, et al. v. Binamira*, 639 Phil. 1, 10-11 (2010) [Per J. Del Castillo, First Division].

[139] Rollo (G.R. No. 173952), p. 182, National Labor Relations Commission Decision.

[140] Id.

[141] *Somerville Stainless Steel Corporation v. National Labor Relations Commission*, 350 Phil. 859, 871-872 (1998) [Per J. Panganiban, First Division].

[142] Id.

[143] Id. at 872.

[144] CONST., art. XIII, sec. 3 provides:

SECTION 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

[145] *Arabit v. Jardine Pacific Finance, Inc. (formerly MB Finance)*, G.R. No. 181719, April 21, 2014, 722 SCRA 44, 61 [Per J. Brion, Second Division].

[146] Article 298 was formerly Article 283, before it was renumbered by DOLE Department Advisory No. 1, Series of 2015.

[147] *Central Azucarera de la Carlota v. National Labor Relations Commission*, 321 Phil. 989, 995 (1995) / [Per J. Kapunan, First Division].

[148] LABOR CODE, art. 298.

[149] Rollo (G.R. No. 173921), p. 1021, PAL's Memorandum.

[150] Id. at 1103-1104, Dawal, et al.'s Memorandum.

[151] Id. at 342, PAL's Notice of Separation to Concepcion.

[152] Id. at 343, PAL's Notice of Separation to Sinobago.

[153] Id. at 308-309.

[154] Id. at 310-333.

[155] Id. at 339, PAL's Notice of Separation to Dawal.

[156] Id. at 394, Nicomedes Romero's Affidavit.

[157] Id. at 337.

[158] Id. at 393.

[159] Id.

[160] Id. at 1096-1100, Dawal, et al.'s Memorandum.

[161] Id. at 1086.

[162] *Wiltshire File Co., Inc. v. National Labor Relations Commission*, 271 Phil. 694, 706-707 (1991) [Per J. Feliciano, Third Division].

[163] LABOR CODE, art. 298.

[164] *Wiltshire File Co., Inc. v. National Labor Relations Commission*, 271 Phil. 694, 706-707 (1991) [Per J. Feliciano, Third Division].

[165] LABOR CODE, art. 282 provides:

Art. 282. Termination by employer. An employer may terminate an employment for any of the following just causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

(b) Gross and habitual neglect by the employee of his duties;

(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and (e) Other causes analogous to the foregoing.

[166] *Wiltshire File Co., Inc. v. National Labor Relations Commission*, 271 Phil. 694, 706 (1991) [Per J. Feliciano, Third Division].

[167] Rollo (G.R. No. 173921), pp. 1002-1023, PAL's Memorandum.

[168] Rollo (G.R. No. 173952), p. 203, National Labor Relations Commission Decision.

[169] Rollo (G.R. No. 173921), p. 116, Court of Appeals Decision.

[170] Id.

[171] Id. at 111.

[172] Id. at 116.

[173] 318 Phil. 635 (1995) [Per J. Davide Jr., First Division].

[174] Id. at 645-646.

[175] General Milling Corporation v. Viajar, G.R. No. 181738, January 30, 2013, 689 SCRA 598, 610 [Per J. Reyes, First Division].

[176] Id.

[177] G.R. No. 181738, January 30, 2013, 689 SCRA598 [Per J. Reyes, First Division].

[178] Id. at 612.

[179] Rollo (G.R. No. 173952), p. 367, PAL's Consolidated Rejoinder.

[180] Rollo (G.R. No. 173921), p. 1016, PAL's Memorandum. Thirty-seven positions were offered in the new engineering department, while 196 retrenched employees who were not absorbed by Lufthansa Technik Philippines were offered jobs in various departments within PAL.

[181] Id. at 117, Court of Appeals Decision.

[182] Id. at 118.

[183] General Milling Corporation v. Viajar, G.R. No. 181738, January 30, 2013, 689 SCRA 598, 612 [Per J. Reyes, First Division].

[184] Manila Polo Club Employees' Union (MPCEU) FUR-TUCP v. Manila Polo Club, Inc., G.R. No. 172846, July 24, 2013, 702 SCRA 20, 29-30 [Per J. Peralta, Third Division].

[185] Banana Growers Collective at Puyod Farms v. National Labor Relations Commission, 342 Phil. 511, 520 (1997) [Per J. Romero, Second Division].

[186] Oriental Petroleum and Minerals Corporation v. Fuentes, 509 Phil. 684, 694 (2005) [Per J. Tinga, Second Division].

[187] F.F. Marine Corporation v. The Second Division National Labor Relations Commission, 495 Phil. 140, 157-158 (2005) [Per J. Tinga, Second Division].

[188] Guerrero v. National Labor Relations Commission, 329 Phil. 1069, 1075 (1996) [Per J. Puno, Second Division].

[189] Asian Alcohol Corporation v. National Labor Relations Commission, 364 Phil. 912, 926 (1999) [Per J. Puno, Second Division].

[190] Rollo (G.R. No. 173921), p. 1009, PAL's Memorandum, citing Revidad v. National Labor Relations Commission, 315 Phil. 372, 389 (1995) [Per J. Regalado, Second Division] and Asian Alcohol Corporation v. National Labor Relations Commission, 364 Phil. 912, 927-928 (1999) [Per J. Puno, Second Division].

[191] Id. at 362-391, PAL Financial Statements as of March 31, 1999 and 1998 and for the years ended March 31, 1999, 1998 and 1997.

[192] Id. at 365.

[193] Id. at 1009, PAL's Memorandum.

[194] Id. at 1079, Dawal, et al.'s Memorandum.

[195] Id. at 1083.

[196] Id. at 1082.

[197] Id. at 251-280, PAL Financial Statements as of March 31, 1998, and 1997 and for the years ended March 31, 1998, 1997, and 1996; and 362-391, PAL Financial Statements as of March 31, 1999, and 1998 and for the years ended March 31, 1999, 1998, and 1997.

[198] Id. at 1009, PAL's Memorandum.

[199] Id. at 408-443.

[200] Id. at 414, PALEA and Dawal, et al.'s Reply.

[201] Id. at 431.

[202] Id.

[203] Id. at 453-468.

[204] Id. at 455.

[205] Id. at 1079, Dawal, et al.'s Memorandum.

[206] Id. at 1079-1096.

[207] Id. at 1009, PAL's Memorandum.

[208] CONST., art. XIII, sec. 3, par. 1; See LABOR CODE, art. 3.

[209] 533 Phil. 283 (2006) [Per J. Puno, Second Division].

[210] Id. at 291.

[211] 150-A Phil. 540 (1972) [Per J. Makasiar, En Banc].

[212] Id. at 555.

[213] Rollo (G.R. No. 173921), p. 1009, PAL's Memorandum.

[214] LABOR CODE, art. 277(b) provides:

Article 211. Miscellaneous provisions....

(b) . . . The burden of proving that the termination was for a valid or authorized cause shall rest on the employer[.]

[215] See TAX CODE, sec. 232.

[216] See SECURITIES CODE, sec. 17.

[217] *Salas v. Sta. Mesa Market Corporation*, 554 Phil. 343, 348 (2007) [Per J. Corona, First Division]:

"Financial statements, whether audited or not, are, as general rule, private documents. However, once financial statements are filed with a government office pursuant to a provision of law, they become public documents."

[218] RULES OF COURT, Rule 132, secs. 19 and 23 provide:

RULE 132. Presentation of Evidence

....

B. Authentication and Proof of Documents

Section 19. Classes of documents. — For the purpose of their presentation evidence, documents are either public or private. Public documents are:

....

(c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

Section 23. Public documents as evidence. — Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to then-execution and of the date of the latter.

[219] See RULES OF COURT, Rule 132, secs. 19, 23, 24, 25, 27, and 30. Public documents are admissible in evidence even without further proof of their genuineness and due execution.

[220] Id. at 251-280, PAL Financial Statements as of March 31, 1998, and 1997 and for the years ended March 31, 1998, 1997, and 1996; and 362-391, PAL Financial Statements as of March 31, 1999, and 1998 and for the years ended March 31, 1999, 1998, and 1997.

[221] Rollo (G.R. No. 173921), pp. 431, PALEA and Dawal, et al.'s Reply; and 1082, Dawal, et al.'s Memorandum.

[222] Philippine Airlines, Inc. v. Tongson, 459 Phil. 742, 752 (2003) [Per J. Sandoval-Gutierrez, Third Division].

[223] See RULES OF COURT, Rule 132(B). In contrast, in proceedings before the regular courts, a party must first authenticate the documents presented before these are accepted as evidence.

[224] F.F. Marine Corporation v. The Second Division National Labor Relations Commission, 495 Phil. 140, 157-158 (2005) [Per J. Tinga, Second Division].

[225] Flight Attendants and Stewards Association of the Philippines (FASAP) v. Philippine Airlines, Inc., et al., 581 Phil. 228, 257 (2008) [Per J. Ynares-Santiago, Third Division].

[226] Guerrero v. National Labor Relations Commission, 329 Phil. 1069, 1075 (1996) [Per J. Puno, Second Division].

[227] Lambert Pawnbrokers and Jewelry Corporation, et al. v. Binamira, 639 Phil. 1, 11-12 (2010) [Per J. Del Castillo, First Division].

[228] Rollo, (G.R. No. 173921), p. 1022, PAL's Memorandum.

[229] Id. at 1021.

[230] Id. at 237, PAL's Amended and Restated Rehabilitation Plan.

[231] Id. at 227.

[232] 495 Phil. 140 (2005) [Per J. Tinga, Second Division].

[233] Id. at 158.

[234] Oriental Petroleum and Minerals Corporation v. Fuentes, 509 Phil. 684, 691 (2005) [Per J. Tinga, Second

Division].

[235] Rollo (G.R. No. 173921), p. 1015, PAL's Memorandum.

[236] Id. at 234. PAL's Amended and Restated Rehabilitation Plan.

[237] Id.

[238] Id.

[239] See *F.F. Marine Corporation v. The Second Division National Labor Relations Commission*, 495 Phil. 140, 157-158 (2005) [Per J. Tinga, Second Division].

[240] Rollo (G.R. No. 173952), p. 202, Labor Arbiter's Decision.

[241] *International Management Services, et al. v. Logarta*, 686 Phil. 21, 31 (2012) [Per J. Peralta, Third Division].

[242] Rollo (G.R. No. 173921), p. 1012, PAL's Memorandum.

[243] Id. at 1013.

[244] Id.

[245] Id. at 1016.

[246] Id. at 1013.

[247] Id. at 1017.

[248] Id. at 1019-1020. PAL claims that the retrenched employees "were paid the equivalent of one (1) month pay based on their latest basic salary monthly salary plus 25% thereof as separation pay aside from vacation and sick leave cash commutation based on their last monthly basic rate; prorated 13th and 14th months pay; [Critical Skills Retention Plan Program] retained premium; Travel Benefits for separated employee and his qualified dependents; Medical Benefits for separated employee and his qualified dependents and PAL Share of Stocks."

[249] Id. at 1014.

[250] Id. at 112, Court of Appeals Decision.

[251] Rollo (G.R. No. 173952), pp. 195-196, Labor Arbiter's Decision.

[252] Rollo (G.R. No. 173952), p. 196, Labor Arbiter's Decision.

[253] Id. at 196-197.

[254] Id. at 197.

[255] Rollo (G.R. No. 173921), p. 340, PAL's Job Offer to Dawal.

[256] Rollo (G.R. No. 173952), p. 207, Labor Arbiter's Decision.

[257] Rollo (G.R. No. 173921), p. 340, PAL's Job Offer to Dawal.

[258] Id. at 1016, PAL's Memorandum.

[259] Rollo (G.R. No. 173952), p. 207, Labor Arbiter's Decision.

[260] Id. at 367, PAL's Consolidated Rejoinder.

[261] Id.

[262] Id.

[263] Rollo (G.R. No. 173921), p. 1021, PAL's Memorandum.

[264] Rollo (G.R. No. 173952), p. 202, Labor Arbiter's Decision.

[265] Rollo (G.R. No. 173921), p. 1028, PAL's Memorandum.

[266] Id. at 348-350, Release, Waiver and Quitclaim. Dawal, Concepcion, and Sinobago received P590,511.90, P588,575.75, and P411,539.98, respectively.

[267] Id. at 1000, PAL's Memorandum.

[268] Rollo (G.R. No. 173952), pp. 199 and 202, Labor Arbiter's Decision.

[269] Rollo (G.R. No. 173921), p. 110, Court of Appeals Decision; rollo (G.R. No. 173952), p. 202, Labor Arbiter's Decision.

[270] Rollo (G.R. No. 173952), p. 202 Labor Arbiter's Decision.

[271] Rollo (G.R. No. 173921), p. 111, Court of Appeals Decision.

[272] 332 Phil. 937 (1996) [J. Mendoza, Second Division].

[273] Rollo (G.R. No. 173921), p. 1017, PAL's Memorandum.

[274] AG & P United Rank and File Association v. National Labor Relations Commission, 332 Phil. 937, 945-946 (1996) [J. Mendoza, Second Division].

[275] Rollo (G.R. No. 173921), p. 340, PAL's Job Offer to Dawal.

[276] F.F. Marine Corporation v. The Second Division National Labor Relations Commission, 495 Phil. 140, 158 (2005) [Per J. Tinga, Second Division].

[277] Soriano, Jr. v. National Labor Relations Commission, 550 Phil. 111, 131 (2007) [Per J. Chico- Nazario, Third Division].

[278] Wyeth-Suaco Laboratories, Inc. v. National Labor Relations Commission, G.R. No. 100658, March 2, 1993, 219 SCRA 356, 362 [Per J. Melo, Third Division].

[279] Marcos v. National Labor Relations Commission, 318 Phil. 172, 182 (1995) [Per J. Regalado, Second Division].

[280] Rollo (G.R. No. 173921), p. 348, Dawal's Release, Waiver and Quitclaim.

[281] Id. at 349, Concepcion's Release, Waiver and Quitclaim.

[282] Id. at 350, Sinobago's Release, Waiver and Quitclaim.

[283] F.F. Marine Corporation v. The Second Division National Labor Relations Commission, 495 Phil. 140, 158 (2005) [Per J. Tinga, Second Division].

[284] Rollo (G.R. No. 173921), p. 111, Court of Appeals Decision.

- [285] Id. at 111, Court of Appeals Decision, and 283, PAL-PALEA Memorandum of Agreement.
- [286] Id. at 995, PAL's Memorandum.
- [287] Rollo (G.R. No. 173952), p. 206, Labor Arbiter's Decision.
- [288] Rollo (G.R. No. 173921), pp. 451-452. The Minutes of the PAL-PALEA Meeting was dated June 15, 1999.
- [289] Rollo (G.R. No. 173921), p. 1011, PAL's Memorandum.
- [290] Id. at 287.
- [291] Id.
- [292] Rollo (G.R. No. 173952), p. 205, Labor Arbiter's Decision.
- [293] Id. at 209-210.
- [294] Id. at 205.
- [295] Rollo (G.R. No. 173921), p. 996, PAL's Memorandum.
- [296] Id. at 812, PAL, et al.'s Comment in CA-G.R. SP. No. 73030.
- [297] Rollo (G.R. No. 173952), p. 187, National Labor Relations Commission Decision.
- [298] Rollo (G.R. No. 173921), p. 1104, Dawal, et al.'s Memorandum.
- [299] Id. at 1110 and 1121-1122, Dawal, et al.'s Memorandum.
- [300] Id. at 1111 and 1122.
- [301] Id. at 1106-1110.
- [302] Article 259 was formerly Article 248, before it was renumbered by DOLE Department Advisory No. 1, Series of 2015.
- [303] G.R. No. 140992, March 25, 2004. 426 SCRA 319 [Per J. Sandoval-Gutierrez, Third Division].
- [304] Id. at 326.
- [305] Rollo (G.R. No. 173921), p. 1110. Dawal, et al.'s Memorandum.
- [306] Id. at 1004, PAL's Memorandum.
- [307] Id.
- [308] Id. at 1106, Dawal, et al.'s Memorandum.
- [309] Id. at 165, PALEA and Dawal, et al.'s Amended Complaint and Position Paper.
- [310] Id. at 158.
- [311] Id. at 160.
- [312] Id. at 200.
- [313] Rollo (G.R. No. 173952), p. 187, National Labor Relations Commission Decision.
- [314] Id. at 98-99, Court of Appeals Resolution.

[315] Rollo (G.R. No. 173921), p. 186, PAL President Avelino Zapanta's letter dated March 27, 2000, addressed to former PALEA Secretary Jose T. Peñas III.

[316] Id. at 571-582, DOLE-NCR Decision in NCR-OD-0003-010-IRD. The Decision dated June 15, 2000 was penned by Regional Director Maximo B. Lim.

[317] Rollo (G.R. No. 173952), pp. 98, Court of Appeals Resolution; and 188, National Labor Relations Commission Decision.

[318] Id.

[319] Rollo (G.R. No. 173921), pp. 1108-1110, Dawal, et al.'s Memorandum.

[320] Id. at 1106-1108.

[321] Article 274 was formerly Article 261, before it was renumbered by DOLE Department Advisory No. 1, Series of 2015.

[322] 340 Phil. 286 (1997) [Per J. Romero. Second Division].

[323] Id. at 299-300.

[324] San Miguel Foods, Inc. v. San Miguel Corporation Employees Union-PTWGO, 561 Phil. 263, 271 (2007) [Per J. Carpio Morales, Second Division].

[325] Rollo (G.R. No. 173921), p. 113, Court of Appeals Decision; rollo (G.R. No. 173952), p. 208, Labor Arbiter's Decision.

[326] Article 294 was formerly Article 279, before it was renumbered by DOLE Department Advisory No. 1, Series of 2015.

[327] Golden Ace Builders, et al. v. Talde, 634 Phil. 364, 370-371 (2010) [Per J. Carpio Morales, First Division].

[328] Montinola v. Philippine Airlines, G.R. No. 198656, September 8, 2014, 734 SCRA 439, 443 [Per J. Leonen, Second Division].

[329] LABOR CODE, art. 294.

[330] LABOR CODE, art. 294. See Valdez v. National Labor Relations Commission, 349 Phil. 760, 768 (1998) [Per J. Regalado, Second Division].

[331] Nacar v. Gallery Frames, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 453 and 458 [Per J. Peralta, En Banc].

[332] CIVIL CODE, art. 1701 provides:

Article 1701. Neither capital nor labor shall act oppressively against the other, or impair the interest or convenience of the public.

[333] CIVIL CODE, art. 21 provides:

Article 21. Any person who wilfully causes loss or injury to another in manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

[334] CIVIL CODE, art 2219 provides:

Article 2219. Moral damages may be recovered in the following and analogous cases:

....

(10) Acts and actions referred to in articles 21[.]

[335] Civil Code, art. 2232 provides:

Article 2232. In contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.

[336] Rollo (G.R. No. 173921), p. 113, Court of Appeals Decision.

[337] Rollo (G.R. No. 173952), p. 100, Court of Appeals Resolution.

[338] *Jaka Food Processing Corporation v. Pacot*, 494 Phil. 114,122-123 (2005) [Per J. Garcia, En Banc].

[339] CIVIL CODE, art. 2208(7) provides:

Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

....

(7) In actions for the recovery of wages of household helpers, laborers and skilled workers[.]

[340] *Sebuguero v. National Labor Relations Commission*, 318 Phil. 635, 652 (1995) (Per J. Davide Jr., First Division).

[341] Rollo (G.R. No. 173952), p. 209, Labor Arbiter's Decision.

[342] Rollo (G.R. No. 173921), p. 121, Court of Appeals Decision.

[343] *Lim v. HMR Philippines, Inc.*, G.R. No. 201483, August 4, 2014, 731 SCRA 576, 603-604 [Per J. Mendoza, Third Division].

[344] G.R. No. 189871, August 13, 2013, 703 SCRA 439, 458 [Per J. Peralta, En Banc].

[345] Rollo (G.R. No. 173952), p. 585, Supreme Court Resolution dated September 25, 2006.

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