

THE HEIRS OF THE LATE PANFILO V. PAJARILLO, PETITIONERS, VS. THE HON. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION AND SAMAHAN NG MGA MANGGAGAWA NG PANFILO V. PAJARILLO...

G.R. NOS. 155056-57. October 19, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

In this Petition for Review on Certiorari under Rule 45 of the Rules of Court,[1] petitioners, heirs of Panfilo V. Pajarillo, seek to set aside the Decision,[2] and Resolution,[3] dated 12 March 2002 and 28 August 2002, respectively, of the Court of Appeals in CA-G.R. SP No. 54330 and CA-G.R. SP No. 54331, reversing the two Per Curiam Orders dated 28 October 1996 and 10 January 1997,[4] of the National Labor Relations Commission (NLRC) in NLRC NCR Cases No. 08-03013-87 and 01-00331-88.

Stripped of the non-essentials, the facts are as follows:

Panfilo V. Pajarillo (Panfilo) was the owner and operator of several buses plying certain routes in Metro Manila. He used the name “PVP Liner” in his buses. Private respondents were employed as drivers, conductors and conductresses by Panfilo.

During their employment with Panfilo, private respondents worked at least four times a week or for an average of fifteen working days per month. They were required to observe a work schedule starting from 4:00 in the morning up to 10:00 in the evening on a straight time basis. Private respondent drivers were paid a daily commission of 10%, while private respondent conductors and conductresses received a daily commission of 7%. In sum, each of the private respondents earned an average daily commission of about P150.00 a day. They were not given emergency cost of living allowance (ECOLA), 13th month pay, legal holiday pay and service incentive leave pay.[5]

The following were deducted from the private respondents’ daily commissions: (a) costs of washing the assigned buses; (b) terminal fees; (c) fees for sweeping the assigned buses; (d) fees paid to the barangay tanod at bus terminals; and (e) rental fees for the use of stereo in the assigned buses. Any employee who refused such deductions were either barred from working or dismissed from work.[6]

Thereafter, private respondents and several co-employees formed a union called “SAMAHAN NG MGA MANGGAGAWA NG PANFILO V. PAJARILLO” (respondent union). The Department of Labor and Employment (DOLE) issued a Certificate of Registration in favor of the respondent union.[7]

Upon learning of the formation of respondent union, Panfilo and his children ordered some of the private respondents to sign a document affirming their trust and confidence in Panfilo and denying any irregularities on his part. Other private respondents were directed to sign a blank document which turned out to be a resignation letter. Private respondents refused to sign the said documents, hence, they were barred from working or were

dismissed without hearing and notice. Panfilo and his children and relatives also formed a company union where they acted as its directors and officers.[8]

On 25 August 1987, respondent union and several employees filed a Complaint for unfair labor practice and illegal deduction before the Labor Arbiter with “Panfilo V. Pajarillo Liner” as party-respondent. This was docketed as NLRC/NCR Case No. 00-08-03013-87.[9] On 28 September 1987, the respondent union filed an Amended Complaint alleging this time not only unfair labor practice and illegal deduction but also illegal dismissal.[10]

On 20 January 1988, respondent union and several employees filed another Complaint for violation of labor standard laws claiming non-payment of (1) ECOLA, (2) 13[th] month pay, (3) overtime pay, (4) legal holiday pay, (5) premium pay, and (6) service incentive leave. The party-respondents in this complaint were “PVP LINER INC. and PANFILO V. PAJARILLO, as its General Manager/Operator.” This was docketed as NLRC Case No. 00-01-00331-88.[11]

Notifications and summons with respect to NLRC/NCR Case No. 00-08-03013-87 were addressed and sent to “PANFILO V. PAJARILLO, President/Manager, Panfilo V. Pajarillo Liner, Pasig Line St., Sta. Ana, Manila” on 31 August 1987. The Registry Return Receipt dated 4 September 1987 was addressed to Panfilo V. Pajarillo, and a signature therein appears on top of the signature of the name of the addressee.[12] With regard to NLRC Case No. 00-01-00331-88, notifications and summonses were addressed and sent to “THE PRESIDENT/MANAGER, PVP Liner Inc. and Panfilo V. Pajarillo, 2175 Zamora Street, Sta. Ana, Manila” on 25 January 1988. The Registry Return Receipt dated 4 February 1988 was addressed to “PVP Liner Inc.” and was signed by a certain “Irene G. Pajarillo” as the addressee’s agent.[13]

Panfilo denied the charges in the complaints. He maintained that private respondents were not dismissed from work on account of their union activities; that private respondents and several of their co-employees either resigned or were separated from work, or simply abandoned their employment long before the respondent union was organized and registered with the DOLE; that the private respondents are not entitled to ECOLA and 13[th] month pay because they received wages above the minimum provided by law; that the private respondents are not entitled to overtime and legal holiday pay because these are already included in their daily commissions; that the private respondents are not entitled to five days incentive leave pay because they work only four days a week; that no deductions were made in the daily commissions of the private respondents; that the private respondents voluntarily and directly paid certain individuals for barangay protection and for the cleaning of the assigned buses; that he had no participation in these activities/arrangements; that the private respondents were not dismissed from work; and that the private respondents either abandoned their jobs or voluntarily resigned from work.[14]

Upon motion of Panfilo, the complaints in NLRC/NCR Case No. 00-08-03013-87 and NLRC Case No. 00-01-00331-88 were consolidated.[15] On 29 January 1991, Panfilo died.[16]

After hearing and submission by both parties of their respective position papers and memoranda, Labor Arbiter Manuel P. Asuncion (Arbiter Asuncion) rendered a Decision[17] dated 28 December 1992, dismissing the consolidated complaints for lack of merit. Thus:

IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, the complaint should be as it is hereby dismissed for lack of merit.

Respondent union appealed to the NLRC. On 18 June 1996, the NLRC reversed the decision of Arbiter Asuncion and ordered the reinstatement of, and payment of backwages, ECOLA, 13[th] month pay, legal holiday pay and service incentive leave pay to, private respondents.[18] The dispositive portion of the NLRC decision reads:

Wherefore, the appealed decision is hereby set aside. Accordingly, judgment is hereby rendered directing:

(1) The respondent, PVP Liner, Inc. to reinstate to their former positions, without loss of seniority rights and other benefits, the following complainants: Alfredo [Hoyohoy], Bernardo Roco, Rodolfo Torres, Julian Jorvina, Florita Yapoc, Marlon Aldana, Paraluman Ulang, Tolentino Sanhi, Johnny Soriano, Andres Calaque, Roberto Lavarez, Francisco Morales, Salvacion Perina, Antonio Abala, Alfonso Baldomar, Jr., Romeo Salonga, Augur Manipol, Bienvenida Tequil, Mario Elep, Aladino Latigo, Bernardine Bansal, Pedro de Baguio, Ricardo Calica, Laura Co, Vicente Recana, Elena Tolledo, Alfredo Plaza, Sr., Herminio Baldono, Felioe Yapoc, Ariston Nipa and Herminia Castillo and to pay them their backwages corresponding to a period of three (3) years without qualifications and deductions;

(2) The same respondent PVP Liner, Inc. to pay amounts to be computed in a hearing called for said purpose by the Arbitration Branch of Origin, the aforesaid complainants their claims for emergency cost of living allowance (ECOLA), 13th month pay, legal holiday pay and service incentive leave benefits subject to the three-year prescriptive period provided under Article 291 of the Labor Code, as amended;

(3) The dismissal of the claims on alleged illegal deductions of the respondents for lack of merits; and

(4) The dismissal of the case of Lourdes Roco due to prescription.

All other claims of the complainants and the respondents are likewise DISMISSED, for being without merit.

The Arbitration Branch of Origin is hereby directed to enforce this decision.

Panfilo's counsel filed a motion for reconsideration which was partially granted by the NLRC in its Order dated 28 October 1996, to wit:

Dictated, however, by the imperatives of due process, we find it more judicious to just remand this case for further hearing on key questions of:

1) whether or not PVP Liner Inc. was properly impleaded as party respondent in the consolidated cases below;

2) whether or not summons was properly served on said corporation below; and

3) whether or not the subject cases can be considered as principally money claims which have to be litigated in intestate/testate proceedings involving the estate of the late Panfilo V. Pajarillo.

WHEREFORE, our decision dated June 18, 1996 is hereby set aside. Let this case be remanded to the NCR Arbitration Branch for further hearing on the questions above-mentioned.[19]

Respondent union filed a motion for reconsideration of the above-stated Order, but this was denied by the NLRC in its Order dated 10 January 1997.[20] Thus, respondent union filed a Petition for Certiorari under Rule 65 before this Court. Pursuant, however, to our ruling in *St. Martin Funeral Home v. National Labor Relations Commission*, [21] we remanded the petition to the Court of Appeals for proper disposition.

On 12 March 2002, the Court of Appeals rendered a Decision granting the respondent union's petition and nullifying the Orders dated 28 October 1996 and 10 January 1997 of the NLRC. It also reinstated the Decision dated 18 June 1986 of the NLRC.[22] The appellate court decreed:

WHEREFORE, premises considered, the PETITION FOR CERTIORARI is hereby GRANTED. Accordingly, the Order dated October 28 1996 and January 10, 1997 of the NLRC are hereby NULLIFIED and its Decision dated 18 June 1986 be REINSTATED.

Panfilo's counsel filed a motion for reconsideration of the said decision but this was denied by the appellate court in its Resolution dated 28 August 2002.[23]

Herein petitioners, as heirs of Panfilo, filed the instant petition before this Court assigning the following errors:

I.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN ARRIVING AT THE CONCLUSION THAT PVP LINER INC. WAS PROPERLY MISPLEADED, WHICH IS A NON-EXISTING CORPORATION.

II.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT CONSIDERING THAT THERE WAS NO PROPER AND EFFECTIVE SERVICE OF SUMMONS.

III.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN PIERCING THE VEIL OF CORPORATE ENTITY OF PVP PAJARILLO LINER INC.

IV.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN REINSTATING THE ORDER OF THE NLRC DATED JUNE 18, 1996, WHICH DECLARED THAT PRIVATE RESPONDENTS WERE ILLEGALLY DISMISSED.[24]

Anent the first issue, petitioners alleged that the Decision dated 18 June 1996 of the NLRC, ordered PVP Liner Inc. to reinstate private respondents and pay their backwages, ECOLA, 13[th] month pay, legal holiday pay and service incentive leave pay; that there was no such entity as PVP Liner Inc. organized and existing in the Philippines; that it was not possible for Arbiter Asuncion and the NLRC to acquire jurisdiction over a non-existing company; that there can never be a service of summons or notice to a non-existent entity; that the true employer of private respondents was Panfilo as the sole proprietor/operator of passenger buses doing business under the tradename, PVP Liner, and not PVP Liner Inc. which was non-existent; that Panfilo never used PVP Liner Inc. as his tradename; that the present operator of PVP Liner buses is P.V. PAJARILLO LINER, a corporation duly registered with the Securities and Exchange Commission; that at the time the instant case was filed before Arbiter Asuncion in 1987, the latter did not have jurisdiction over P.V. PAJARILLO LINER because it was organized and duly registered only on 22 January 1990; that P.V. PAJARILLO LINER has a separate and distinct personality from Panfilo as the sole operator of PVP Liner buses; that, therefore, P.V. PAJARILLO LINER cannot be made a party or impleaded in the present case; that the amended complaint in NLRC/NCR Case No. 00-08-03013-87 impleaded as party-respondent "PANFILO V. PAJARILLO LINER and PANFILO V. PAJARILLO, as operator and responsible officer"; that PVP Liner Inc. was not impleaded in the instant case; and that no summons was ever served on PVP Liner Inc. in NLRC/NCR Case No. 00-08-03013-87.[25]

The contentions are bereft of merit.

In the Complaint dated 20 January 1988, PVP Liner Inc. and Panfilo were impleaded as party-respondents, thus:

That respondent PVP Liner, Inc., is a private business entity, engaged in transportation of passengers, duly organized and existing pursuant to law and for this purpose maintains its principal office at 2175, Zamora Street, Sta. Ana, Manila; while individual respondent [Panfilo] is the General Manager/Operator and may be served with summons, notices and other processes at the aforementioned principal office.[26]

Panfilo did not question in his position paper or in his motion for consolidation of the complaints the foregoing allegations. Neither did he assail the inclusion of PVP Liner Inc. as party-respondent in respondent union's position paper dated 6 June 1988.

In Panfilo's position paper as well as in the records of the proceedings before Arbiter Asuncion, there is nothing

that shows that Panfilo challenged the jurisdiction of Arbiter Asuncion over PVP Liner Inc. When Arbiter Asuncion decided in favor of Panfilo, the latter said nothing about the inclusion of PVP Liner Inc. as party respondent and the lack of jurisdiction of Arbiter Asuncion over the same. It was only when the NLRC rendered a Decision adverse to Panfilo that the latter alleged the non-existence of PVP Liner Inc. and the fact that Arbiter Asuncion and the NLRC had no jurisdiction over it.

Petitioners are now precluded from questioning the inclusion of PVP Liner Inc. as party-respondent as well as the jurisdiction of Arbiter Asuncion and the NLRC over them under the principle of estoppel. It is settled that the active participation of a party against whom the action was brought, coupled with his failure to object to the jurisdiction of the court or quasi-judicial body where the action is pending, is tantamount to an invocation of that jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court or body's jurisdiction.[27] This Court has time and again frowned upon the undesirable practice of a party submitting his case for decision and then accepting the judgment only if favorable, and attacking it for lack of jurisdiction when adverse.[28]

It is apparent that Panfilo V. Pajarillo Liner and PVP Liner Inc. are one and the same entity belonging to one and the same person, Panfilo. When PVP Liner Inc. and Panfilo V. Pajarillo Liner were impleaded as party-respondents, it was Panfilo, through counsel, who answered the complaints and filed the position papers, motions for reconsideration and appeals. It was also Panfilo, through counsel, who participated in the hearings and proceedings. In fact, Abel Pajarillo (Abel), son of Panfilo, testified before Arbiter Asuncion that he was the operations manager of PVP Liner Inc.[29] Further, both Panfilo and PVP Liner Inc. were charged jointly and severally in the aforesaid complaints.

Apropos the second issue, petitioners alleged that the notices and summons were received by a certain Irene G. Pajarillo (Irene) for and in behalf of the PVP Liner Inc.; that Irene was neither and could not have been the President/Manager of PVP Liner Inc., the latter being non-existent; and that Irene was not an officer of P.V. Pajarillo Liner.[30]

Sections 4 and 5 of Rule IV of the Revised Rules of Procedure of the NLRC provides the rule for the service of summonses and notices in NLRC cases, viz:

Sec. 4. Service of notices and resolutions. – a) Notices or summons and copies of orders, resolutions or decisions shall be served personally by the bailiff or the duly authorized public officer or by registered mail on the parties to the case within five (5) days from receipt thereof by the serving officer.

Sec. 5. Proof and completeness of service. – The return is prima facie proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent.[31]

Records show that Irene received the summons for NLRC Case No. 00-01-00331-88 on 4 February 1988 in behalf of PVP Liner Inc. These summonses were addressed and sent to “THE PRESIDENT/MANAGER, PVP Liner Inc. and Panfilo V. Pajarillo, 2175 Zamora Street, Sta. Ana, Manila” on 25 January 1988. The Registry Return Receipt dated 4 February 1988 was addressed to “PVP Liner Inc.” and was signed by Irene as the addressee's agent.[32] Abel, one of the heirs of Panfilo and the Operations Manager of PVP Liner Inc., testified during the hearing before Arbiter Asuncion that Irene was one of the secretaries of PVP Liner Inc.[33] Hence, there was a valid service of summons.

Regarding the third issue, petitioners posited that P.V. Pajarillo Liner Inc. is an independent corporation and cannot be considered as an adjunct or extension of Panfilo as the sole operator of PVP Liner buses; and that at the time P.V. Pajarillo Liner Inc. was established, it had no liability or obligation which it tried to shield or circumvent.[34]

It is a fundamental principle of corporation law that a corporation is an entity separate and distinct from its stockholders and from other corporations to which it may be connected. However, this separate and distinct personality of a corporation is merely a fiction created by law for convenience and to promote justice. Hence, when the notion of separate juridical personality is used to defeat public convenience, justify wrong, protect fraud or defend crime, or is used as a device to defeat labor laws, this separate personality of the corporation may be disregarded or the veil of the corporate fiction pierced. This is true likewise when the corporation is merely an adjunct, a business conduit or an alter ego of another corporation. The corporate mask may be lifted and the corporate veil may be pierced when a corporation is but the alter ego of a person or another corporation.[35]

It is apparent that Panfilo started his transportation business as the sole owner and operator of passenger buses utilizing the name PVP Liner for his buses. After being charged by respondent union of unfair labor practice, illegal deductions, illegal dismissal and violation of labor standard laws, Panfilo transformed his transportation business into a family corporation, namely, P.V. Pajarillo Liner Inc. He and petitioners were the incorporators, stockholders and officers therein. P.V. Pajarillo Inc. and the sole proprietorship of Panfilo have the same business address. P.V. Pajarillo Inc. also uses the name “PVP Liner” in its buses. Further, the license to operate or franchise of the sole proprietorship was merely transferred to P.V. Pajarillo Liner Inc. The testimony of Abel during the hearing before Arbiter Asuncion is revealing, thus:

Q:

Mr. Pajarillo, when did you start assuming the functions of operations manager of PVP Liner?

A:

Seven years from now, sometime in the year 1984 or 1985, sir.

Q:

Do you have any written appointment as Operations Manager?

A:

No, sir.

Q:

I noticed that your surname is Pajarillo you are one way or another related to Mr. Panfilo V. Pajarillo, is that correct?

Witness:

A:

I am the son of Panfilo Pajarillo, sir.

Q:

In so far as PVP Liner is concerned and being the operations manager, are you aware if it is a single proprietor or a corporation?

A:

At the start it was a single proprietorship, lately, it has become a family corporation.

Atty. Flores, Jr. (to witness)

Q:

When you became the Operations Manager of PVP Liner, is it a single proprietor or a family Corporation?

A:

It was a single proprietorship.

Q:

Mr. Witness, since PVP Liner is a transportation business it has a license to operate these buses?

A:

Yes, there is, sir.

Atty. Flores, Jr. (to witness)

Q:

In whose name was it registered?

A:

Before it was with my father Panfilo V. Pajarillo, sir.

Q:

Do I understand that the licensing of this transportation company was transferred to another person?

A:

It was never transferred to another person, except now, that it has been transferred to a corporation.[36]

It is clear from the foregoing that P.V. Pajarillo Liner Inc. was a mere continuation and successor of the sole proprietorship of Panfilo. It is also quite obvious that Panfilo transformed his sole proprietorship into a family corporation in a surreptitious attempt to evade the charges of respondent union. Given these considerations, Panfilo and P.V. Pajarillo Liner Inc. should be treated as one and the same person for purposes of liability.[37]

Finally, petitioners averred that no unfair labor practice was committed, and that private respondents were not illegally dismissed from work.

In its Decision dated 18 June 1996, the NLRC made an exhaustive discussion of the allegations and evidence of both parties as regards unfair labor practice and illegal dismissal. It concluded that private respondents, officers and members of respondent union were dismissed by reason of their union activities and that there was no compliance with substantial and procedural due process in terminating their services. It also held that the private respondents who were not members of the respondent union were also dismissed without just or valid cause, and that they were denied due process. These factual findings and conclusions were supported by substantial evidence comprised of affidavits, sworn statements, testimonies of witnesses during hearings before Arbiter Asuncion, and other documentary evidence. These findings were sustained by the Court of Appeals.

The rule is that findings of fact of quasi-judicial agencies like the NLRC are accorded by this Court not only respect but even finality if they are supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[38] We find no compelling reason to deviate from such findings of the NLRC as affirmed by the Court of Appeals.

Consequently, the private respondents are entitled to reinstatement, backwages and other privileges and benefits under Article 279 of the Labor Code. Separation pay may be given in lieu of reinstatement if the employee concerned occupies a position of trust and confidence. In the case at bar, however, the private respondents, as former bus drivers, conductors and conductresses of petitioners, do not hold the position of trust and confidence.[39]

Nonetheless, it appears from the records that some of the private respondents, namely, Augur Manipol, Rodolfo Torres, Ricardo Calica, Paraluman Ulang, Edith Chua, Alfredo Hoyohoy, Johnny Soriano, Bernardo Roco, Tolentino Sanhi, Salvacion Perina, Pedro L. de Baguio, Ariston Nipa, Felipe Yapoc, Laura Co, Bienvenida Tequil, Roberto Lavarez, Francisco Morales and Herminio Castillo, had executed a Quitclaim/Release discharging petitioners “from any and all claims by way of unpaid wages, separation pay, overtime pay, differential pay, ECOLA, 13[th] month pay, holiday pay, service incentive leave pay or otherwise.”[40]

Generally, deeds of release, waivers, or quitclaims cannot bar employees from demanding benefits to which they are legally entitled or from contesting the legality of their dismissal, since quitclaims are looked upon with disfavor and are frowned upon as contrary to public policy. Where, however, the person making the waiver has done so voluntarily, with a full understanding thereof, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as being a valid and binding undertaking.[41]

There is no showing that the executions of these quitclaims were tainted with deceit or coercion. On the contrary, each of the private respondents’ Sinumpaang Salaysay, which accompanied the quitclaims, evinces voluntariness and full understanding of the execution and consequence of the quitclaim. In their said Sinumpaang Salaysay, the private respondents stated that their lawyer had extensively explained to them the computation and the actual amount of consideration they would receive; that they were not forced or tricked by their lawyer in accepting the same; and that they already received the amount of consideration.[42]

Further, the considerations received by the private respondents were credible and reasonable because they were not grossly disproportionate to the computation by the NLRC of the amount of backwages and other money claims.[43]

Given these circumstances, the quitclaims should be considered as binding on the private respondents who executed them. It is settled that a legitimate waiver which represents a voluntary and reasonable settlement of a

worker's claim should be respected as the law between the parties.[44] Accordingly, the private respondents who made such quitclaims are already precluded from claiming reinstatement, backwages, ECOLA, 13[TH] month pay, legal holiday pay, service incentive leave pay, and other monetary claims.

With regard to the other private respondents who did not execute such quitclaims, they are entitled to reinstatement, backwages, ECOLA, 13[TH] month pay, legal holiday pay and service incentive leave pay in accordance with the computation of the NLRC.

WHEREFORE, the petition is hereby DENIED. The Decision and Resolution dated 12 March 2002 and 28 August 2002, respectively, of the Court of Appeals in CA-G.R. SP No. 54330 and CA-G.R. SP No. 54331, are hereby AFFIRMED with the following MODIFICATIONS: (1) Private respondents Augur Manipol, Rodolfo M. Torres, Ricardo Calica, Paraluman Ulang, Edith Chua, Alfredo Hoyohoy, Johnny Soriano, Bernardo Roco, Tolentino Sanhi, Salvacion Perina, Pedro L. de Baguio, Ariston Nipa, Felipe Yapoc, Laura Co, Bienvenida Tequil, Roberto Lavarez, Francisco Morales and Herminio Castillo are hereby precluded from claiming reinstatement, backwages, ECOLA, 13[TH] month pay, legal holiday pay and service incentive leave pay by reason of their respective quitclaims; (2) Petitioners are hereby ordered to reinstate private respondents Julian Jorvina, Florita Yapoc, Marlon Aldana, Andres Calaque, Antonio Abala, Alfonso Baldomar, Romeo Salonga, Mario Elep, Aladino Latigo, Bernardine Bansal, Vicente Recana, Elena Tolledo and Alfredo Plaza, Sr., and to pay these respondents backwages from the time of their dismissal up to the finality of this Decision. Petitioners are also ordered to pay the foregoing private respondents ECOLA, 13[TH] month pay, legal holiday pay and service incentive leave pay in accordance with the computation of the NLRC. Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Rollo, pp. 39-56.

[2] Penned by Associate Justice Bienvenido L. Reyes with Associate Justices Roberto A. Barrios and Rebecca De Guia-Salvador, concurring; rollo, pp. 9-29.

[3] Rollo, pp. 31-33.

[4] Id. at 141-158 and 160-161.

[5] Records, Vol. I, pp. 150-155, 158-159, 166-167, 182-186 and 260-263.

[6] Id.

[7] Id. at 46, 49-50 and 220-232.

[8] Id. at 150-155, 158-159, 166-167, 182-186 and 260-263.

[9] Id. at 2.

[10] Id. at 7.

[11] Records, Vol. II, pp. 2-4.

[12] Records, Vol. I, pp. 3-4.

[13] Records, Vol. II, pp. 5 and 13.

- [14] Records, Vol. I, pp. 110- 121.
- [15] Id. at 22-23.
- [16] Id. at 301.
- [17] Rollo, pp. 86-98.
- [18] Id. at 99-139.
- [19] Id. at 157-158.
- [20] Id. at 160-161.
- [21] 356 Phil. 811 (1998).
- [22] Rollo, p. 29.
- [23] Id. at 31-33.
- [24] Id. at 44-45.
- [25] Id. at 45-46.
- [26] Records, Vol. II, p. 2.
- [27] *Pastor Austria v. National Labor Relations Commission*, 371 Phil. 340, 355 (1999).
- [28] *Prudential Bank and Trust Company v. Reyes*, 404 Phil. 961, 973 (2001), citing *Banaga v. Commission on the Settlement of Land Problems*, G.R. No. 66386, 30 January 1990, 181 SCRA 599, 608.
- [29] TSN, 27 February 1992, pp. 5-9.
- [30] Rollo, p. 46.
- [31] This has been amended by the 2005 Revised Rules of Procedure of the National Labor Relations Commission.
- [32] Records, Vol. II, pp. 5 and 13.
- [33] Id. at 15-16.
- [34] Rollo, p. 47.
- [35] *Concept Builders, Inc. v. National Labor Relations Commission*, 326 Phil. 955, 964-965 (1996).
- [36] TSN, 27 February 1992, pp. 5-9.
- [37] *Jacinto v. Court of Appeals*, G.R. No. 80043, 6 June 1991, 198 SCRA 211, 214.
- [38] *Nueva Ecija Electric Cooperative (NEECO) II v. National Labor Relations Commission*, G.R. No. 157603, 23 June 2005, 461 SCRA 169, 184-185.
- [39] *Vallacar v. National Labor Relations Commission*, 316 Phil. 556, 561-562 (1995).
- [40] Records, Vols. I and II.
- [41] *Wack Wack Golf and Country Club v. National Labor Relations Commission*, G.R. No. 149793, 15 April 2005, 456 SCRA 280, 295.

[42] Records, Vols. I and V.

[43] Records, Vol. I.

[44] Mendoza, Jr. v. San Miguel Foods, Inc., G.R. No. 158684, 16 May 2005, 458 SCRA 664, 680.

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