

**FRAMANLIS FARMS, INC., ELOISA SYCIP AND LINCOLN SYCIP,
PETITIONERS, VS. HON. MINISTER OF LABOR, MANILA, PAFLU
SEPTEMBER CONVENTION, ZOILO ESTANISLAO, EMILIO ANITO,
JAIME ARNEJO,...**

G.R. Nos. 72616-17. March 08, 1989

Ponente: GRIÑO-AQUINO. J.

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GRIÑO-AQUINO. J.

In April 1980, eighteen (18) employees of the petitioners filed against their employer, and the other petitioners two labor standard cases which were docketed in the Regional Office of the Ministry of Labor in Bacolod City as FAD Cases Nos. 1791-80 and 0792-80 ("PAFLU SEPTEMBER CONVENTION VS. FRAMANLIS FARMS"), alleging that in 1977 to 1979 they were not paid emergency cost of living allowance (ECOLA), minimum wage, 13[th] month pay, holiday pay, and service incentive leave pay.

In their answer to the amended complaint, petitioners alleged that the private respondents were not regular workers on their hacienda but were migratory (sacadas) or pakyaw workers who worked on-and-off and were hired seasonally, or only during the milling season, to do piece-work on the farms, hence, they were not entitled to the benefits claimed by them. They also alleged that under the decrees, the living allowance shall be paid on a monthly, not percentage, basis depending on the total assets or authorized capital stock of the employer, whichever is higher and applicable. They admitted that their total assets or authorized capital stock exceeded P2 million. However, in 1977 they had applied for exemption under PDs 525 and 1123 but no ruling has been issued by the Ministry of Labor on their application.

The claims for holiday pay, service incentive leave pay, social amelioration bonus and underpayment of minimum wage were not controverted. With respect to the complainants' other claims, the petitioners submitted only random payrolls which showed that the women workers were underpaid as they were receiving an average daily wage of P5.94 only, although the male workers received P10 more or less, per day.

In an Order November 10, 1980, the Minister of Labor, through Assistant Regional Director Dante Ardivilla, adopting the recommendations of the Chief of the Labor Regulation Section, Bacolod District Office, directed the respondents (now petitioners) to pay the following:

"1. Deficiency payment of P-2.00 per day to female workers under PD925[*] from May 1, 1976 to April 30, 1979;

"2. Deficiency payment of P3.00 per day to female workers and P1.00 per day to male workers, under PD 1614 from April 1, 1979 to August 17, 1980;

"3. Deficiency payment of P5.50 per day to female workers and P3.50 to male workers under Ministry Order No. 5, effective at the start of grinding (sic) for the crop year 1979-80;

"4. Effective August 18, 1980, P6.50 per day to female workers and P4.50 to male workers up to the date of restitution;

"5. Deficiency payment of emergency living allowance at P60 per month under PD 1678 and another P-60 per month under Ministry Order No. 5;

"6. Service incentive leave pay, holiday pay and social amelioration bonus for 3 years for 1977 to 1979;

"7. The claims for 13[*] month pay for 1977 and emergency living allowance under PD 1123 and 525 are held in abeyance due to the application for exemption which is unacted up to the present.

"Compliance must be made within ten (10) days from receipt of the Order." (p. 34, Rollo.)

Upon the petitioners' appeal of that Order, the Deputy Minister of Labor Vicente Leogardo, Jr. modified it on January 18, 1983 by ordering the employer to pay:

"1. all non-pakyaw workers their claim for holiday and incentive leave pay for the years 1977, 1978 and 1979;

"2. all complainants their 13[th] month pay for the years 1978 and 1979;

"3. all 'pakyaw' workers for the same period on days they worked for at least eight (8) hours and earned below P8.00 daily, their pay differentials.

"The claims for 13[th] month pay for 1977, as well as for ECOLA under PD Nos. 525 and 1123 shall, pending outcome of respondent's application for exemption therefrom, be held in abeyance." (Annex H, p. 55, Rollo.)

The Deputy Minister clarified that pakyaw workers were excluded from holiday and service incentive leave pay (p. 54, Rollo).

Upon the denial of its motion for reconsideration, Framanlis Farms, Inc. filed this petition for certiorari alleging that the Deputy Minister erred:

- in awarding pay differentials, holiday and service incentive leave for pakyaw workers who are not regular employees but are merely paid on piece-rate, contrary to Art. 82 of the Labor Code;
- in requiring the petitioners to pay 13[th] month pay despite the fact that they (petitioners) had substantially complied with the requirement by extending yearly bonuses and other benefits in kind and in cash to the complainants, pursuant to Section 3(c) of PD 851 which exempts the employer from paying 13[th] month pay when its equivalent has already been given; and
- in not precisely stating who among the private respondents are pakyaw and non-pakyaw workers.

The petition is not impressed with merit.

In 1976, PD No. 928 fixed a minimum wage of P7.00 for agricultural workers in any plantation or agricultural enterprise irrespective of whether or not the worker was paid on a piece-rate basis. However, effective July 1, 1978, the minimum wage was increased to P8.00 (Sec. 1, PD 1389). Subsequently, PD 1614 provided for a P2.00 increase in the daily wage of all workers effective April 1, 1979. The petitioners admit that those were the minimum rates prevailing then. Therefore, the respondent Minister did not err in requiring the petitioners to pay wage differentials to their pakyaw workers who worked for at least eight hours daily and earned less than P8.00 per day in 1978 to 1979.

With regard to the 13[th] month pay, petitioners admitted that they failed to pay their workers 13[th] month pay in 1978 and 1979. However, they argued that they substantially complied with the law by giving their workers a yearly bonus and other non-monetary benefits amounting to not less than 1/12[th] of their basic salary, in the form

of:

- a weekly subsidy of choice pork meat for only P9.00 per kilo and later increased to P11 per kilo in March 1980, instead of the market price of P10 to P15 per kilo;

- free choice pork meat in May and December of every year; and

- free light or electricity all of which were allegedly "the equivalent" of the 13[th] month pay-Unfortunately, under Section 3 of PD No. 851, such benefits in the form of food or free electricity, assuming they were given, were not a proper substitute for the 13[th] month pay required by law. PD 851 provides:

"Section 3. Employees covered — The Decree shall apply to all employees except to:

x x x

x x x

x x x

"The term 'its equivalent' as used in paragraph (c) hereof shall include Christmas bonus, mid-year bonus, profit-sharing payments and other cash bonuses amounting to not less than 1/12 of the basic salary but shall not include cash and stock dividends, cost of living allowances and all other allowances regularly enjoyed by the employee, as well as non-monetary benefits.

"Where an employer pays less than 1/12 of the employee's basic salary the employer shall pay the difference."

Neither may year-end rewards for loyalty and service be considered in lieu of 13[th] month pay. Section 10 of the Rules and Regulations Implementing Presidential Decree No. 851 provides:

"Section 10. Prohibition against reduction or elimination of benefits — Nothing herein shall be construed to authorize any employer to eliminate or diminish in any way supplements or other employee benefits or favorable practice being enjoyed by the employee at the time of promulgation of this issuance."

The failure of the Minister's decision to identify the pakyaw and non-pakyaw workers does not render said decision invalid. The workers may be identified or determined in the proceedings for execution of the judgment.

WHEREFORE, the petition for certiorari is dismissed with costs against the petitioners.

SO ORDERED.

Narvasa, Cruz, Gancayco, and Medialdea, JJ., concur.

[*] Should be PD 928.

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