Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

GRAND PLACEMENT and GENERAL SERVICES CORPORATION,
Petitioner,

- versus -

COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION, and MARY ANN PARAGAS,
Respondents.

G.R. NO. 142358

Present:

PANGANIBAN, ***C.J.***
(*Chairperson)*
YNARES-SANTIAGO,
AUSTRIA-MARTINEZ,
CALLEJO, SR., and
CHICO-NAZARIO, ***JJ***.

Promulgated:

January 31, 2006

x -x

D E C I S I O N

AUSTRIA-MARTINEZ, *J*.:

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision[1] of the Court of Appeals (CA) dated September 14, 1999 in CA-G.R. SP No. 51965, which affirmed the Decision dated November 25, 1997 and Resolution dated February 19, 1998 of the National Labor Relations

Commission (NLRC) in NLRC CA No. 012651-97; and the CA Resolution dated January 7, 2000, which denied petitioner's motion for reconsideration.

The factual background of the case is as follows:

On February 26, 1996, Mary Ann Paragas (respondent) filed a complaint for breach of contract, non-payment of monetary benefits and damages against Philips Electronics of Taiwan Ltd. (Philips) and its accredited agent, J.S. Contractor, Inc., (JSCI) before the NLRC, National Capital Region, Quezon City, docketed as NLRC NCR OCW Case No. 00-02-1363-96.[2] She alleged that: on December 14, 1994, she was deployed by JSCI to work as a factory operator for Philips for a period of one year with a monthly salary of NT$13,350.00, exclusive of allowances; she worked at the Philips factory in Chupei City until February 13, 1995; from February 14, 1995 to December 13, 1995, she was assigned to the Philips factory in Chungli City; during the 10 months she worked in Chungli City, she did not receive an additional daily night shift allowance of NT$215.00 and full attendance bonus of NT$900.00 per month, benefits which she enjoyed while in Chupei City; she paid an excessive placement fee of ₱52,000.00; she returned to the Philippines on December 23, 1995. Respondent prayed that she be paid ₱207,300.00 for night shift differential, excess placement fee, annual bonus, and full attendance bonus; NT$78,600.00 for salary differential; moral and exemplary damages.[3]

During the pendency of the case, the accreditation of JSCI was transferred to Grand Placement and General Services Corporation (petitioner). Consequently, petitioner was impleaded as additional party respondent in the NLRC case.

JSCI denied liability for herein respondent's monetary claims in view of the transfer of accreditation to petitioner.[4] To refute the charge of excessive placement fee, JSCI presented Official Receipt No. 5890 dated October 28, 1994 in the amount of₱18,350.00.[5]

For its part, petitioner averred that it cannot be held liable as transferee agent because it had no privity of contract with respondent. Nonetheless, it argued that respondent is not entitled to her claim of salary differential, night shift differential and full attendance bonus as she was duly paid her salary and other emoluments under her employment contract. It further alleged that respondent's claims were laid to rest in the Decision dated December 9, 1996 in NLRC NCR OCW Case No. 00-02-1362-96, which is a similar case for unpaid monetary benefits filed by Lilibeth Lazaga, respondent's co-worker, wherein the claim of Lazaga is dismissed by the Labor Arbiter, affirmed by the NLRC and the petition for *certiorari* dismissed by this Court in G.R. No. 130953.[6]

On February 20, 1997, Labor Arbiter Potenciano S. Cañizares, Jr. rendered a decision in favor of respondent, the dispositive portion of which reads as follows:

> WHEREFORE, the respondents are hereby ordered to pay the complainant the sum of ₱207,300.00 representing night shift differential, excess of placement fee, annual bonus, and full attendance bonus, plus her salary differential of NT$78,600.00 as computed by her, and the respondents failed to refute by clear and convincing evidence.[7]

The Labor Arbiter held that: JSCI failed to refute respondent's monetary claims; there was no legal basis to JSCI's allegation that petitioner, as transferee agent, is answerable as the breach of contract happened when JSCI was Philips' agent; on the issue of transfer of accreditation, Section 6, Rule I, Book III of the Rules and Regulations governing overseas employment issued by the Secretary of

Labor and Employment on May 3, 1991 states that "[t]he accreditation of a principal or a project may be transferred to another agency, provided, that transfer shall not involve any diminution of wages and benefits of workers"; respondent instituted her complaint precisely on her claims of diminution of wages and benefits and the breach of contractual obligations.[8]

JSCI appealed to the NLRC invoking anew that it is not liable in view of the transfer of its accreditation. It likewise repeated its argument that respondent paid only the amount of ₱18,350.00 as placement fee.

On November 25, 1997, the NLRC modified the decision of the Labor Arbiter by dismissing the case against JSCI and holding petitioner solely liable for respondent's claims.[9] It sustained JSCI's view that petitioner should shoulder the liability as transferee agent in accordance with the POEA Rules. The NLRC deleted the award of excess placement fee after considering that Official Receipt No. 5890 dated October 28, 1994 showed that respondent paid the amount of only ₱18,350.00.[10]

Petitioner filed a motion for reconsideration[11] but it was dismissed in the NLRC Resolution dated February 19, 1998.[12]

On May 4, 1998, petitioner filed a petition for *certiorari* before us, docketed as G.R. No. 133361.[13] On June 22, 1998, the Court granted the temporary restraining order prayed for in the petition and required the NLRC and respondent to comment thereon.[14]

On January 25 1999, after the parties submitted their respective responsive pleadings, the Court referred the petition to the CA,[15] in accordance with *St. Martin Funeral Homes v. National Labor Relations Commission.*[16]

On September 14, 1999, the CA issued the herein assailed Decision affirming the decision of the NLRC and lifting the TRO issued by this Court.[17] The CA held that petitioner is liable under Section 6, Rule I, Book III of the POEA Rules and Regulations, to wit:

> Section 6. *Transfer of Accreditation*. The accreditation of a principal or a project may be transferred to another agency provided that transfer shall not involve diminution of wages and benefits of workers.
>
> The transferee agency in these instances shall comply with the requirements for accreditation and shall assume full and complete responsibility for all contractual obligations of the principals to its workers originally recruited and processed by the former agency. Prior to the transfer of accreditation, the Administration shall notify the previous agency and principal of such application.

It sustained the NLRC's view that the time of the breach of contract in a case of a valid accreditation is of no moment since the rules did not provide for a qualification and petitioner's Affidavit of Assumption of Responsibility dated July 31, 1996 stated that it is willing to assume any responsibility that may arise or may have arisen with respect to workers recruited by JSCI. It added that while the Supreme Court ruled in *ABD Overseas Manpower Corporation v. National Labor Relations Commission*[18] that the rule on transfer of accreditation should not be given a strict interpretation when the same interpretation would result to grave injustice, said case is inapplicable here since the facts showed that petitioner actively participated in the hearing of the present case and as such, it was given the opportunity to deny its liability and present its defense.

Petitioner filed a motion for reconsideration[19] and a supplement thereto[20] but the CA denied the motion in a Resolution dated January 7, 2000.[21]

Hence, the present petition for review on *certiorari* on the sole ground, to wit:

> THE COURT OF APPEALS HAS DECIDED A QUESTION IN A WAY NOT IN ACCORD WITH THE LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT.[22]

Petitioner offers five arguments in support thereof:

First, it contends that the provisions of the POEA Rules and Regulations on transfer of accreditation is inapplicable because of the express provision of Section 10 of Republic Act No. 8042, the Migrant Workers and Overseas Filipinos Act of 1995, that the liability of the principal and the recruitment agency is joint and several and continues during the entire duration of the employment contract and shall not be affected by any substitution, amendment or modification made locally or in a foreign country of the said contract.

Second, it alleges that the CA misapplied *ABD Overseas Manpower Corporation v. National Labor Relations Commission*[23] to the effect that Section 6, Rule I, Book III of the POEA Rules should not be used as a shield against liability by a recruitment agency.

Third, it argues that the conclusions of the Labor Arbiter and NLRC, as affirmed by the CA, were not supported by substantial evidence. It claims that the

Solicitor General, in his Comment before the CA, even noted that the defenses presented by the petitioner were not touched in the decisions of the Labor Arbiter and the NLRC and suggested that there is a need to remand the case back to the Labor Arbiter for further proceedings on the factual issue of whether respondent is entitled to her monetary claims.

Fourth, it submits that the CA misapplied the rule on *caveat emptor*; that the rule is inapplicable to labor employment contracts which are imbued with public interest and subservient to the police power of the State.

Fifth, it maintains that the CA disregarded the doctrine of *stare decisis* in the light of the Court's ruling on January 14, 1998in G.R. No. 130953 entitled *Lilibeth Lazaga v. National Labor Relations Commission*[24] where the Court sustained the NLRC's dismissal for lack of merit of an identical complaint for unpaid monetary claims of respondent's co-worker in Philips.

In her Comment,[25] respondent alleges that the instant petition merits outright dismissal for being filed out of time since petitioner admitted that its counsel on record, Atty. Ricardo C. Orias, Jr., received copy of the CA Resolution dated January 7, 2000on January 25, 2000 and the petition was filed only on May 5, 2000 or 101 days late. Respondent submits that the argument that the filing of the petition was delayed because the notice of withdrawal of Atty. Orias, Jr. was not filed on time with the CA by the petitioner as it is not adept to legal intricacies is but a tactical ploy to delay the case and avoid payment of its monetary liability. At any rate, respondent insists that the arguments raised in the petition have already been raised and squarely resolved by the NLRC and the CA.

In its Reply,[26] petitioner points out that: it received a copy of the CA Resolution dated January 7, 2000 only on March 23, 2000; within fifteen days thereafter it filed before this Court a motion for a thirty-day extension of time or up to May 7, 2000 to file a petition for review on *certiorari* which was granted by the Court; the petition was filed on May 6, 2000,[27] within the extended period; the failure of Atty. Orias, Jr., who had already withdrawn from the case, to duly inform it that the motion for reconsideration was denied by the CA upon receipt of the CA Resolution dated January 7, 2000 was not its fault and should not be taken against it. It submits that it should be deemed to have notice of the denial of the motion for reconsideration only as of the date of its actual receipt, i.e., March 23, 2000. It insists that it should not be made to bear the adverse consequences of Atty. Orias, Jr.'s negligence.

The Court finds for the petitioner.

To begin with, the Court is fully aware that procedural rules are not to be belittled or simply disregarded for these prescribed procedures insure an orderly and speedy administration of justice. However, it is equally true that litigation is not merely a game of technicalities. The law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.[28]

The Court has often stressed that rules of procedure are merely tools designed to facilitate the attainment of justice. They were conceived and promulgated to effectively aid the court in the dispensation of justice. Courts are not slaves to or robots of technical rules, shorn of judicial discretion. In rendering

justice, courts have always been, as they ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat against substantive rights, and not the other way around. Thus, if the application of the Rules would tend to frustrate rather than promote justice, it is always within our power to suspend the rules or except a particular case from its operation.[29]

In numerous cases, the Court has allowed liberal construction of the Rules of Court with respect to the rules on the manner and periods for perfecting appeals, when to do so would serve the demands of substantial justice and in the exercise of equity jurisdiction of the Supreme Court.[30] Indeed, laws and rules should be interpreted and applied not in a vacuum or in isolated abstraction but in light of surrounding circumstances and attendant facts in order to afford justice to all.[31] Thus, where a decision may be made to rest on informed judgment rather than rigid rules, the equities of the case must be accorded their due weight because labor determinations should not only be *secundum rationem* but also *secundum caritatem*.[32]

In this particular case, the suspension of the Rules is warranted since the procedural infirmity was not entirely attributable to the fault or negligence of petitioner. Petitioner and its counsel, Atty. Orias, Jr., agreed to terminate the services of the latter onJanuary 25, 2000.[33] Atty. Orias, Jr. received the CA Resolution on January 28, 2000.[34] The "Withdrawal of Appearance" which Atty. Orias, Jr. gave to petitioner was sent by the latter thru registered mail only on March 24, 2000 and received by the CA on March 27, 2000.[35]

Considering that only three days have elapsed since the termination of his services, Atty. Orias, Jr. should have promptly relayed to petitioner that he

received the Resolution dated January 7, 2000 denying petitioner's motion for reconsideration. Had he done so, he would have known that his Withdrawal of Appearance has not been sent yet by petitioner. It is the duty of a lawyer to pay heed to the urgency and importance of registered letter sent by the court.[36] Before the date of receipt on March 27, 2000 by the CA of the Withdrawal of Appearance, Atty. Orias, Jr. remained as petitioner's counsel of record.

Ordinarily, until his dismissal or withdrawal is made of record in court, any judicial notice sent to a counsel of record is binding upon his client even though as between them the professional relationship may have been terminated.[37] However, under the peculiar circumstances of this case, Atty. Orias, Jr. was negligent in not adequately protecting petitioner's interest, which necessarily calls for a liberal construction of the Rules. Verily, the negligence of Atty. Orias, Jr. cannot be deemed as negligence of petitioner itself in the present case. A notice to a lawyer who appears to have been unconscionably irresponsible cannot be considered as notice to his client.[38] Thus, petitioner is deemed to have filed its petition for review on *certiorari* within the reglementary period as alleged in its Reply.

The general rule is that findings of fact of the NLRC, as affirmed by the CA, are conclusive upon the Supreme Court when supported by substantial evidence that is manifest in the decision and on the records.[39] However, this Court has recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its

findings, the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[40] In the present case, the Court is constrained to review the NLRC's findings of fact, which the CA chose not to pass upon, as there is ample evidence on record to show that certain facts were overlooked which would clearly affect the disposition of the case.

Foremost to consider and point out is that there is no factual basis for the monetary award in respondent's favor. Significantly, the Labor Arbiter merely accepted *per se* private respondent's computation on her monetary claims in view of JSCI's failure to refute her allegations. He did not assess and weigh or even touch upon herein petitioner's arguments and evidence against respondent's claims. Clearly, the Labor Arbiter should not have precipitately granted private respondent's claims because petitioner had adduced evidence to refute her allegations. Since the Labor Arbiter's decision did not touch upon or rule on petitioner's arguments and evidence against respondent's claims, the NLRC and the CA had no basis for affirming his findings.

Petitioner submits that the NLRC already resolved the same issues in this case in its Decision dated June 25, 1997 in NLRC OCW CA 012269-97,

entitled, *"Lilibeth Lazaga v. Grand Placement & General Services Corp., et al."*[41] and should not be relitigated under the principle of *stare decisis*.

Stare decisis et non quieta movere. Stand by the decision and disturb not what is settled. *Stare decisis* simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike.[42] Thus, where the same questions relating to the same event have been put forward by parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue.[43]

In the *Lazaga* case, Lazaga was contracted to work as factory worker for Philips in Chupei City, Taiwan for one year, from July 26, 1994 to July 26, 1995 with a stipulated salary of NT$13,350.00. On April 27, 1995, she was transferred to the Philips factory in Chungli City. Upon the expiration of her contract, she extended the same until she was voluntarily repatriated onFebruary 15, 1996. Thereafter, she filed her complaint for non-payment of salary differential, night shift differential, full attendance bonus and payment of excessive placement fee against petitioner, Philips and Labor International Corp., before the NLRC, National Capital Region, Quezon City.

In her complaint, Lazaga alleged that: she is entitled to salary differential as the salary of NT$13,350.00 in the OFW Info Sheet refers to the basic salary, exclusive of other benefits such as shift allowance, factory incentives, full attendance bonus, monthly dormitory bonus and others; she is entitled to night shift

allowance of NT$215.00 and full attendance bonus of NT$900.00 per month, benefits she enjoyed in Chupei City; she paid an excessive placement fee of ₱30,000.00.

On December 9, 1996, Labor Arbiter Ariel Cadiente Santos, dismissed Lazaga's complaint for lack of merit. Said the Labor Arbiter in that case:

> Complainant therefore cannot capitalize on the entry on the OCW Info Sheet indicating NT$13,350.00 as the basic salary. This is in light of the clear terms of the Employment Contract she duly executed with respondents. x x x Moreover, complainant herself admits that "in addition to NT$13,350.00, she also enjoyed other emoluments in the form of bonuses and differential (p; 3, Amended Complaint). Hence, the claim for salary differential is patently without basis.
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> The claim for night shift differential is resolved in respondents' favor. x x x The records of this case disclose that the giving of night differential to the workers at respondents Philips was the subject of a meeting/negotiation on December 21, 1996 and was agreed upon to take effect three (3) months thereafter, i.e., on April 1996. Complainant however, by her own volition, had already caused herself to be repatriated before the effectivity of the giving of night shift differential. She therefore cannot claim entitlement thereto. x x x In the absence of proof that the benefit was agreed upon to have a retroactive effect, complainant's claim for night differential cannot be granted.
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> The claim for full attendance bonus is likewise denied for lack of basis. The records indicate that complainant was duly paid the same, as shown by the Employee Payment/Deduct Detail Analysis Report (Annex "1", Answer to Amended Complaint). Complainant's allegation cannot prevail over the documentary evidence on record which establish the fact of payment of full attendance bonus. x x x
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> x x x
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> x x x [C]omplainant's claim for refund of alleged placement fee cannot be sustained against respondent Grand. There is in fact no proof on record that she ever paid respondent Grand the alleged excessive placement fee. xxx[44]

On appeal, the NLRC in its Decision dated June 25, 1997, sustained the Labor Arbiter's findings and conclusions.[45] When the NLRC Decision dated June 25, 1997 was elevated to this Court via a petition for *certiorari*, the First Division, in a minute resolution dated January 14, 1998[46] dismissed the petition for failure to show that the NLRC committed grave abuse of discretion in rendering the questioned judgment. The resolution became final and executory on February 16, 1998.

The *Lazaga* case is not *stare decisis* to the present case since the factual circumstances surrounding each case is different. The contracts of employment of Lazaga and respondent spanned different periods. Lazaga's contract was from July 26, 1994 toJuly 26, 1995 and she opted to extend her employment until her repatriation on February 15, 1996, while herein respondent Paragaswas employed from December 14, 1994 to December 13, 1995. Furthermore, the contract stipulations in their respective contracts have not been shown to be the same. Lazaga's contract of employment is not part of the evidence on record for a detailed comparison with respondent's contract. Besides, evidence to establish their respective claims for salary differential, night shift differential, full attendance bonus and excessive placement fee are different.

Verily, the resolution of the interpretation of the respondent's contract and her entitlement to salary differential, night shift differential, full attendance bonus and excessive placement fee requires conscientious evaluation and assessment of the evidence adduced by the parties, which is best undertaken by the Labor Arbiter. This Court is not the proper venue to consider factual issues nor is it its function to analyze or weigh the probative value of the evidence presented. Needless to stress, the Supreme Court is not a trier of facts.[47] Ordinarily, the case should be

remanded to the Labor Arbiter for proper evaluation of the evidence adduced by the parties. However, considering that the records of the NLRC are before the Court, the Court deems it more appropriate and practical to resolve the present controversy in order to avoid further delay.[48]

Anent the interpretation of the contract of employment regarding the amount of NT$13,350.00, the Court finds that the OCW Info Sheet[49] of respondent indicating NT$13,350.00 as "basic salary" cannot be the basis for her claim of salary differential since Article IV of her employment contract specifically provides that the wage for a full month of working shall be NT$13,350.00 only with free food and accommodation.[50] Moreover, the official interpretation of the Philippine Labor Representative to Taiwan, Guerrero N. Cirilo, that the stipulated salary is the "totality of the amount given to an employee as his compensation for work done on a monthly basis"[51] should stand, in the absence of evidence that said interpretation is patently erroneous.

As to the issue on night shift differential, evidence for the petitioner has shown that the employees' agreement with Philips to grant night shift allowance became effective only after February 1996.[52] In the absence of express provision in the agreement, the grant of night shift allowance cannot be interpreted to apply retroactively. In this case, since the grant of night shift allowance became effective three months after respondent's repatriation to the Philippines on December 23, 1995, she is clearly not entitled to night shift differential.

With regard to the question of respondent's entitlement to salary differential, annual bonus and full attendance bonus, a thorough review of the evidence adduced by the petitioner, comprising of the Employee Payment/Deduct Detail

Analysis Report[53] and bank remittance sheets[54] show that respondent has been duly paid her salary, annual bonus and full attendance bonus. The documentary evidence confirms that private respondent's salary and other benefits have been religiously remitted to her bank account. Against petitioner's documentary evidence, respondent offered none of her own to fully substantiate her allegations. Necessarily therefore, her case must fail.

As to respondent's claim for excessive placement fee, not only did respondent fail to substantiate her claim that she paid the amount of ₱52,000.00, but JSCI Official Receipt No. 5890 dated October 28, 1994 is ample proof that respondent only paid the amount of ₱18,350.00.[55] Consequently, the Labor Arbiter's decision to refund the excess placement fee is barren of factual basis. On this score, the NLRC, as affirmed by the CA, aptly deleted the refund of excess placement fee.

Having ruled that the respondent is not entitled to her monetary claims in the first place, the Court sees no more need to address the other arguments of petitioner.

WHEREFORE, the instant petition is **GRANTED.** The assailed Decision and Resolution of the Court of Appeals dated September 14, 1999 and January 7, 2000, respectively, in CA-G.R. SP No. 51965, are **REVERSED** and **SET ASIDE** insofar as it affirms the NLRC's award in favor of respondent Mary Ann Paragas for salary differential, night shift differential, annual bonus and full attendance bonus. The complaint for unpaid monetary benefits is DISMISSED.

Atty. Ricardo C. Orias, Jr. is admonished to be more conscientious of his duties as counsel for a party.

SO ORDERED.

MA. ALICIA AUSTRIA-MARTINEZ
Associate Justice

WE CONCUR**:**

ARTEMIO V. PANGANIBAN
Chief Justice
Chairperson

CONSUELO YNARES-SANTIAGO
Associate Justice

ROMEO J. CALLEJO, SR.
Associate Justice

MINITA V. CHICO-NAZARIO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ARTEMIO V. PANGANIBAN
Chief Justice

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[1] Penned by Justice Martin S. Villarama, Jr. and concurred in by Justices Angelina Sandoval-Gutierrez (now Associate Justice of this Court) and Romeo A. Brawner (now retired).

[2] NLRC records, p. 3.

[3] Id., pp. 7-9.

[4] Id., pp. 59-60, 67.

[5] Id., pp. 58, 63.

[6] Id., pp. 79, 111, 121 and 125, CA *rollo*, p. 112.

[7] CA *rollo*, p. 43.

[8] Id.

[9] Id., p. 45.

[10] Id., p. 50.

[11] Id., p. 52.

[12] Id., p. 66.

[13] Id., p. 3.

[14] Id., p. 117.

[15] Id., p. 216.

[16] 356 Phil. 811 (1998).

[17] CA *rollo*, p. 260.

[18] 350 Phil. 92 (1998).

[19] CA *rollo*, p. 292.

[20] Id., p. 300.

[21] Id., p. 312.

[22] *Rollo*, p. 19.

[23] Supra, note 18.

[24] CA *rollo*, p. 112.

[25] *Rollo,* p. 69.

[26] Id., p. 77.

[27] Should be May 5, 2000, *rollo*, p. 17.

[28] *Reyes v. Sps. Torres*, 429 Phil. 95, 101 (2002); *Philippine National Bank v. Court of Appeals*, 353 Phil. 473, 480 (1998); *Aguilar v. Court of Appeals*, 320 Phil. 456, 460 (1995).

[29] *Fulgencio v. National Labor Relations Commission,* G.R. No. 141600, September 12, 2003, 411 SCRA 69, 78; *Coronel v. Desierto,* 448 Phil. 894, 903 (2003).

[30] *Jose v. Court of Appeals*, 447 Phil. 159, 166 (2003); *Buenaflor v. Court of Appeals*, G.R. No. 142021, November 29, 2000, 346 SCRA 563, 567.

[31] *Tamayo v. Court of Appeals*, G.R. No. 147070, February 17, 2004, 423 SCRA 175, 180; *Magsaysay Lines, Inc. v. Court of Appeals*, 329 Phil. 310, 323 (1996).

[32] *Rosewood Processing, Inc. v. National Labor Relations Commission*, 352 Phil. 1013, 1031 (1998); *Del Mar Domestic Enterprises v. National Labor Relations Commission*, 347 Phil. 277, 288 (1997).

[33] CA *rollo*, 315.

[34] Registry Return Receipt, CA *rollo*, backpage of p. 311.

[35] Supra, note 33.

[36] *Pascual v. De los Angeles*, G.R. No. L-27914, July 31, 1978, 84 SCRA 310, 319.

[37] *Aromin v. Boncavil*, 373 Phil. 612, 619 (1999) citing *Don Lino Gutierrez & Sons, Inc. v. Court of Appeals*, G.R. No. L-39124, November 15, 1974, 61 SCRA 87; *Intestate Estate of the Deceased Luis C. Domingo, Sr. v. Aquino*, 148 Phil. 486 (1971); *Fojas v. Navarro*, 143 Phil. 451 (1970).

[38] *Sanchez v. Court of Appeals*, G.R. No. 152766, June 20, 2003, 404 SCRA 540, 546; *Bayog v. Natino*, 327 Phil. 1019, 1042 (1996).

[39] *Mayon Hotel & Restaurant v. Adana*, G.R. No. 157634, May 16, 2005, 458 SCRA 609, 624; *Castillo v. NLRC*, 367 Phil. 605, 619 (1999).

[40] *The Insular Life Assurance Company, Ltd. v. Court of Appeals*, G.R. No. 126850, April 28, 2004, 428 SCRA 79, 86; *Aguirre v. Court of Appeals*, G.R. No. 122249, January 29, 2004, 421 SCRA 310, 319; *C & S Fishfarm Corporation v. Court of Appeals*, 442 Phil. 279, 288 (2002).

[41] CA *rollo*, p. 97.

[42] *Villena v. Chavez*, G.R. No. 148126, November 10, 2003, 415 SCRA 33, 42-43; *Ayala Corporation v. Rosa-Diana Realty Corporation*, December 1, 2000, 346 SCRA 663, 671; *Tung Chin Hui v. Rodriguez*, 395 Phil. 169, 177 (2000).

[43] *Negros Navigation Co., Inc. v. Court of Appeals*, 346 Phil. 551, 563 (1997), citing *J.M. Tuason & Co., Inc. v. Mariano*, No. L-33140, October 23, 1978, 85 SCRA 644.

[44] CA *rollo*, pp. 90-93.

[45] Id., pp. 103-107.

[46] Id., p. 112.

[47] *Andaya v. National Labor Relations Commission*, G.R. No. 157371, July 15, 2005, 463 SCRA 577, 582; *Philippine Rabbit Bus Lines, Inc. v. Macalinao*, G.R. No. 141856, February 11, 2005, 451 SCRA 63, 69.

[48] *Philippine Amusement and Gaming Corporation v. Angara*, G.R. No. 142937, November 15, 2005; *Wack Wack Golf and Country Club v. National Labor Relations Commission*, G.R. No.149793, April 15, 2005, 456 SCRA 280, 294.

[49] NLRC records, p. 49.

[50] Id., p. 28.

[51] Id., p. 84.

[52] Id., p. 99.

[53] Id., p. 85.

[54] Id., pp. 86-94.

[55] Id., p. 63.