

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**AURORA LAND PROJECTS CORP.
Doing business under the name
“AURORA PLAZA” and TERESITA T.
QUAZON,**

Petitioners,

-versus-

**G.R. No. 114733
January 2, 1997**

**NATIONAL LABOR RELATIONS
COMMISSION and HONORIO DAGUI,
*Respondents.***

X-----X

DECISION

HERMOSISIMA, JR., J.:

The question as to whether an employer-employee relationship exists in a certain situation continues to bedevil the courts. Some businessmen try to avoid the bringing about of an employer-employee

relationship in their enterprises because that judicial relation spawns obligations connected with workmen's compensation, social security, medicare, minimum wage, termination pay, and unionism.^[1] In light of this observation, it behooves this Court to be ever vigilant in checking the unscrupulous efforts of some of our entrepreneurs, primarily aimed at maximizing their return on investments at the expense of the lowly workingman.

This petition for *certiorari* seeks the reversal of the Resolution^[2] of public respondent National Labor Relations Commission dated March 16, 1994 affirming with modification the decision of the Labor Arbiter, dated May 25, 1992, finding petitioners liable to pay private respondent the total amount of P195,624.00 as separation pay and attorney's fees.

The relevant antecedents:

Private respondent Honorio Dagui was hired by Doña Aurora Suntay Tanjanco in 1953 to take charge of the maintenance and repair of the Tanjanco apartments and residential buildings. He was to perform carpentry, plumbing, electrical and masonry work. Upon the death of Doña Aurora Tanjanco in 1982, her daughter, petitioner Teresita Tanjanco Quazon, took over the administration of all the Tanjanco properties. On June 8, 1991, private respondent Dagui received the shock of his life when Mrs. Quazon suddenly told him: "Wala ka nang trabaho mula ngayon,"^[3] on the alleged ground that his work was unsatisfactory. On August 29, 1991, private respondent, who was then already sixty-two (62) years old, filed a complaint for illegal dismissal with the Labor Arbiter.

On May 25, 1992, Labor Arbiter Ricardo C. Nora rendered judgment, the decretal portion of which reads:

"IN VIEW OF ALL THE FOREGOING, respondents Aurora Plaza and/or Teresita Tanjanco Quazon are hereby ordered to pay the complainant the total amount of ONE HUNDRED NINETY FIVE THOUSAND SIX HUNDRED TWENTY FOUR PESOS (P195,624.00) representing complainant's separation pay and the ten (10%) percent attorney's fees within ten (10) days from receipt of this Decision.

All other issues are dismissed for lack of merit.”^[4]

Aggrieved, petitioners Aurora Land Projects Corporation and Teresita T. Quazon appealed to the National Labor Relations Commission. The Commission affirmed, with modification, the Labor Arbiter’s decision in a Resolution promulgated on March 16, 1994, in the following manner:

“WHEREFORE, in view of the above considerations, let the appealed decision be as it is hereby AFFIRMED with (the) MODIFICATION that complainant must be paid separation pay in the amount of P88,920.00 instead of P177,840.00. The award of attorney’s fees is hereby deleted.”^[5]

As a last recourse, petitioners filed the instant petition based on grounds not otherwise succinctly and distinctly ascribed, viz.:

I

“RESPONDENT NLRC COMMITTED A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING THE LABOR ARBITER’S DECISION SOLELY ON THE BASIS OF ITS STATEMENT THAT WE FAIL TO FIND ANY REASON OR JUSTIFICATION TO DISAGREE WITH THE LABOR ARBITER IN HIS FINDING THAT HONORIO DAGUI WAS DISMISSED BY THE RESPONDENT’ (p. 7, RESOLUTION), DESPITE — AND WITHOUT EVEN BOTHERING TO CONSIDER — THE GROUNDS STATED IN PETITIONERS’ APPEAL MEMORANDUM WHICH ARE PLAINLY MERITORIOUS.

II

RESPONDENT NLRC COMMITTED A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FINDING THAT COMPLAINANT WAS EMPLOYED BY THE RESPONDENTS MORE SO ‘FROM 1953 TO 1991’ (p. 3, RESOLUTION).

III

RESPONDENT NLRC COMMITTED A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AWARDING SEPARATION PAY IN FAVOR OF PRIVATE RESPONDENT MORE SO FOR THE EQUIVALENT OF 38 YEARS OF ALLEGED SERVICE.

IV

RESPONDENT NLRC COMMITTED A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING BOTH PETITIONERS LIABLE FOR SEPARATION PAY.”^[6]

It is our impression that the crux of this petition rests on two elemental issues: (1) Whether or not private respondent Honorio Dagui was an employee of petitioners; and (2) If he were, whether or not he was illegally dismissed.

Petitioners insist that private respondent had never been their employee. Since the establishment of Aurora Plaza, Dagui served therein only as a job contractor. Dagui had control and supervision of whoever he would take to perform a contracted job. On occasion, Dagui was hired only as a “tubero” or plumber as the need arises in order to unclog sewerage pipes. Every time his services were needed, he was paid accordingly. It was understood that his job was limited to the specific undertaking of unclogging the pipes. In effect, petitioners would like us to believe that private respondent Dagui was an independent contractor, particularly a job contractor, and not an employee of Aurora Plaza.

We are not persuaded.

Section 8, Rule VIII, Book III of the Implementing Rules and Regulations of the Labor Code provides in part:

“There is job contracting permissible under the Code if the following conditions are met:

- (2) The contractor has substantial capital or investment in the form of tools, equipment, machineries, work premises, and other materials which are necessary in the conduct of his business.”

Honorio Dagui earns a measly sum of P180.00 a day (latest salary).^[7] Ostensibly, and by no stretch of the imagination can Dagui qualify as a job contractor. No proof was adduced by the petitioners to show that Dagui was merely a job contractor, and it is absurd to expect that private respondent, with such humble resources, would have substantial capital or investment in the form of tools, equipment, and machineries, with which to conduct the business of supplying Aurora Plaza with manpower and services for the exclusive purpose of maintaining the apartment houses owned by the petitioners herein.

The bare allegation of petitioners, without more, that private respondent Dagui is a job contractor has been disbelieved by the Labor Arbiter and the public respondent NLRC. Dagui, by the findings of both tribunals, was an employee of the petitioners. We are not inclined to set aside these findings. The issue whether or not an employer-employee relationship exists in a given case is essentially a question of fact.^[8] As a rule, repetitious though it has become to state, this Court does not review supposed errors in the decision of the NLRC which raise factual issues, because factual findings of agencies exercising quasi-judicial functions [like public respondent NLRC] are accorded not only respect but even finality, aside from the consideration that this Court is essentially not a trier of facts.^[9]

However, we deem it wise to discuss this issue full-length if only to bolster the conclusions reached by the labor tribunals, to which we fully concur.

Jurisprudence is firmly settled that whenever the existence of an employment relationship is in dispute, four elements constitute the reliable yardstick: (a) the selection and engagement of the employee; (b) the payment of wages; (c) the power of dismissal; and (d) the employer’s power to control the employee’s conduct.^[10] It is the so-called “control test,” and that is, whether the employer controls or has

reserved the right to control the employee not only as to the result of the work to be done but also as to the means and methods by which the same is to be accomplished,^[11] which constitute the most important index of the existence of the employer-employee relationship. Stated otherwise, an employer-employee relationship exists where the person for whom the services are performed reserves the right to control not only the end to be achieved but also the means to be used in reaching such end.^[12]

All these elements are present in the case at bar. Private respondent was hired in 1953 by Doña Aurora Suntay Tanjangco (mother of Teresita Tanjangco-Quazon), who was then the one in charge of the administration of the Tanjangco's various apartments and other properties. He was employed as a stay-in worker performing carpentry, plumbing, electrical and necessary work (sic) needed in the repairs of Tanjangco's properties.^[13] Upon the demise of Doña Aurora in 1982 petitioner Teresita Tanjangco-Quazon took over the administration of these properties and continued to employ the private respondent, until his unceremonious dismissal on June 8, 1991.^[14]

Dagui was not compensated in terms of profits for his labor or services like an independent contractor. Rather, he was paid on a daily wage basis at the rate of P180.00.^[15] Employees are those who are compensated for their labor or services by wages rather than by profits.^[16] Clearly, Dagui fits under this classification. Doña Aurora and later her daughter petitioner Teresita Quazon evidently had the power of dismissal for cause over the private respondent.^[17]

Finally, the records unmistakably show that the most important requisite of control is likewise extant in this case. It should be borne in mind that the power of control refers merely to the existence of the power and not to the actual exercise thereof. It is not essential for the employer to actually supervise the performance of duties of the employee; it is enough that the former has a right to wield the power.^[18] The establishment of petitioners is engaged in the leasing of residential and apartment buildings. Naturally, private respondent's work therein as a maintenance man had to be performed within the premises of herein petitioners. In fact, petitioners do not dispute the fact that Dagui reports for work from 7:00 o'clock in the morning

until 4:00 o'clock in the afternoon. It is not far-fetched to expect, therefore, that Dagui had to observe the instructions and specifications given by then Doña Aurora and later by Mrs. Teresita Quazon as to how his work had to be performed. Parenthetically, since the job of a maintenance crew is necessarily done within company premises, it can be inferred that both Doña Aurora and Mrs. Quazon could easily exercise control on private respondent whenever they please.

The employment relationship established, the next question would have to be. What kind of an employee is the private respondent — regular, casual or probationary?

We find private respondent to be a regular employee, for Article 280 of the Labor Code provides:

“Regular and Casual employment. — The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such actually exists.”

As can be gleaned from this provision, there are two kinds of regular employees, namely: (1) those who are engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer; and (2) those who have rendered at least one year of

service, whether continuous or broken, with respect to the activity in which they are employed.^[19]

Whichever standard is applied, private respondent qualifies as a regular employee. As aptly ruled by the Labor Arbiter:

“As owner of many residential and apartment buildings in Metro Manila, the necessity of maintaining and employing a permanent stay-in worker to perform carpentry, plumbing, electrical and necessary work needed in the repairs of Tanjangco’s properties is readily apparent and is in fact needed. So much so that upon the demise of Doña Aurora Tanjangco, respondent’s daughter Teresita Tanjangco-Quazon apparently took over the administration of the properties and continued to employ complainant until his outright dismissal on June 8, 1991.”^[20]

The jobs assigned to private respondent as maintenance man, carpenter, plumber, electrician and mason were directly related to the business of petitioners as lessors of residential and apartment buildings. Moreover, such a continuing need for his services by herein petitioners is sufficient evidence of the necessity and indispensability of his services to petitioners’ business or trade.

Private respondent Dagui should likewise be considered a regular employee by the mere fact that he rendered service for the Tanjangcos for more than one year, that is, beginning 1953 until 1982, under Doña Aurora; and then from 1982 up to June 8, 1991 under the petitioners, for a total of twenty-nine (29) and nine (9) years respectively. Owing to private respondent’s length of service, he became a regular employee, by operation of law, one year after he was employed in 1953 and subsequently in 1982. In *Baguio Country Club Corp. vs. NLRC*,^[21] we decided that it is more in consonance with the intent and spirit of the law to rule that the status of regular employment attaches to the casual employee on the day immediately after the end of his first year of service. To rule otherwise is to impose a burden on the employee which is not sanctioned by law. Thus, the law does not provide the qualification that the employee must first be issued a regular appointment or must first be formally declared as such before he can acquire a regular status.

Petitioners argue, however, that even assuming *arguendo* that private respondent can be considered an employee, he cannot be classified as a regular employee. He was merely a project employee whose services were hired only with respect to a specific job and only while the same exists,^[22] thus falling under the exception of Article 280, paragraph 1 of the Labor Code. Hence, it is claimed that he is not entitled to the benefits prayed for and subsequently awarded by the Labor Arbiter as modified by public respondent NLRC.

The circumstances of this case in light of settled case law do not, at all, support this averment. Consonant with a string of cases beginning with *Ochoco vs. NLRC*,^[23] followed by *Philippine National Construction Corporation vs. NLRC*,^[24] *Magante vs. NLRC*,^[25] and *Capitol Industrial Construction Corporation vs. NLRC*,^[26] if truly, private respondent was employed as a “project employee,” petitioners should have submitted a report of termination to the nearest public employment office everytime his employment is terminated due to completion of each project, as required by Policy Instruction No. 20, which provides:

“Project employees are not entitled to termination pay if they are terminated as a result of the completion of the project or any phase thereof in which they are employed, regardless of the number of project in which they have been employed by a particular construction company. Moreover, the company is not required to obtain a clearance from the Secretary of Labor in connection with such termination. What is required of the company is a report to the nearest Public Employment Office for statistical purposes.”

Throughout the duration of private respondent’s employment as maintenance man, there should have been filed as many reports of termination as there were projects actually finished, if it were true that private respondent was only a project worker. Failure of the petitioners to comply with this simple, but nonetheless compulsory, requirement is proof that Dagui is not a project employee.^[27]

Coming now to the second issue as to whether or not private respondent Dagui was illegally dismissed, we rule in the affirmative.

Jurisprudence abound as to the rule that the twin requirements of due process, substantive and procedural, must be complied with, before a valid dismissal exists.^[28] Without which the dismissal becomes void.^[29]

The twin requirements of notice and hearing constitute the essential elements of due process. This simply means that the employer shall afford the worker ample opportunity to be heard and to defend himself with the assistance of his representative, if he so desires.^[30] As held in the case of Pepsi Cola Bottling Co. vs. NLRC:^[31]

“The law requires that the employer must furnish the worker sought to be dismissed with two written notices before termination of employee can be legally effected: (1) notice which apprises the employee of the particular acts or omissions for which his dismissal is sought; and (2) the subsequent notice which informs the employee of the employer’s decision to dismiss him (Section 13, BP 130; Sections 2-6, Rule XIV, Book V Rules and Regulations Implementing the Labor Code as amended). Failure to comply with the requirements taints the dismissal with illegality. This procedure is mandatory; in the absence of which, any judgment reached by management is void and inexistent. (Tingson, Jr. vs. NLRC, 185 SCRA 498 [1990]; National Service Corporation vs. NLRC, 168 SCRA 122 [1988]; Ruffy vs. NLRC, 182 SCRA 365 [1990].”

These mandatory requirements were undeniably absent in the case at bar. Petitioner Quazon dismissed private respondent on June 8, 1991, without giving him any written notice informing the worker herein of the cause for his termination. Neither was there any hearing conducted in order to give Dagui the opportunity to be heard and defend himself. he was simply told: “Wala ka nang trabaho mula ngayon,” allegedly because of poor workmanship on a previous job.^[32] The undignified manner by which private respondent’s services were terminated smacks of absolute denial of the employee’s right to due process and betrays petitioner Quazon’s utter lack of respect for labor. Such an attitude indeed deserves condemnation.

The Court, however, is bewildered why only an award for separation pay in lieu of reinstatement was made by both the Labor Arbiter and the NLRC. No backwages were awarded. It must be remembered that backwages and reinstatement are two reliefs that should be given to an illegally dismissed employee. They are separate and distinct from each other. In the event that reinstatement is no longer possible, as in this case,^[33] separation pay is awarded to the employee. The award of separation pay is in lieu of reinstatement and not of backwages. In other words, an illegally dismissed employee is entitled to (1) either reinstatement, if viable, or separation pay if reinstatement is no longer viable, and (2) backwages.^[34] Payment of backwages is specifically designed to restore an employee's income that was lost because of his unjust dismissal.^[35] On the other hand, payment of separation pay is intended to provide the employee money during the period in which he will be looking for another employment.^[36]

Considering, however, that the termination of private respondent Dagui was made on June 8, 1991 or after the effectivity of the amendatory provision of Republic Act of 6715 on March 21, 1989, private respondent's backwages should be computed on the basis of said law.

It is true that private respondent did not appeal the award of the Labor Arbiter awarding separation pay sans backwages. While as a general rule a party who has not appealed is not entitled to affirmative relief other than the ones granted in the decision of the court below,^[37] law and jurisprudence authorize a tribunal to consider errors, although unassigned, if they involve (1) errors affecting the lower court's jurisdiction over the subject matter, (2) plain errors not specified, and (3) clerical errors.^[38] In this case, the failure of the Labor Arbiter and the public respondent NLRC to award backwages to the private respondent, who is legally entitled thereto having been illegally dismissed, amounts to a "plain error" which we may rectify in this petition, although private respondent Dagui did not bring any appeal regarding the matter, in the interest of substantial justice. The Supreme Court is clothed with ample authority to review matters, even if they are not assigned as errors on appeal, if it finds that their consideration is necessary in arriving at a just decision of the case.^[39] Rules of procedure are mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would

result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided.^[40] Thus, substantive rights like the award of backwages resulting from illegal dismissal must not be prejudiced by a rigid and technical application of the rules.^[41]

Petitioner Quazon argues that, granting the petitioner corporation should be held liable for the claims of private respondent, she cannot be made jointly and severally liable with the corporation, notwithstanding the fact that she is the highest ranking officer of the company, since Aurora Plaza has a separate juridical personality.

We disagree.

In the cases of *Maglutac vs. National Labor Relations Commission*,^[42] *Chua vs. National Labor Relations Commission*,^[43] and *A.C. Ransom Labor Union-CCLU vs. National Labor Relations Commission*^[44] we were consistent in holding that the highest and most ranking officer of the corporation, which in this case is petitioner Teresita Quazon as manager of Aurora Land Projects Corporation, can be held jointly and severally liable with the corporation for the payment of the unpaid money claims of its employees who were illegally dismissed. In this case, not only was Teresita Quazon the most ranking officer of Aurora Plaza at the time of the termination of the private respondent, but worse, she had a direct hand in the private respondent's illegal dismissal. A corporate officer is not personally liable for the money claims of discharged corporate employees unless he acted with evident malice and bad faith in terminating their employment.^[45] Here, the failure of petitioner Quazon to observe the mandatory requirements of due process in terminating the services of Dagui evinced malice and bad faith on her part, thus making her liable.

Finally, we must address one last point. Petitioners aver that, assuming that private respondent can be considered an employee of Aurora Plaza, petitioners cannot be held liable for separation pay for the duration of his employment with Doña Aurora Tanjanco from 1953 up to 1982. If petitioners should be held liable as employers, their liability for separation pay should only be counted from the time Dagui was rehired by the petitioners in 1982 as a maintenance man.

We agree.

Petitioners' liability for separation pay ought to be reckoned from 1982 when petitioner Teresita Quazon, as manager of Aurora Plaza, continued to employ private respondent. From 1953 up to the death of Doña Aurora sometime in 1982, private respondent's claim for separation pay should have been filed in the testate or intestate proceedings of Doña Aurora. This is because the demand for separation pay covered by the years 1953-1982 is actually a money claim against the estate of Doña Aurora, which claim did not survive the death of the old woman. Thus, it must be filed against her estate in accordance with Section 5, Rule 86 of the Revised Rules of Court, to wit:

“Section 5. Claims which must be filed under the notice. If not, filed barred; exceptions. — All claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses for the last sickness of the decedent, and judgment for money against the decedent, must be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants.”

WHEREFORE, the instant Petition is partly **GRANTED** and the Resolution of the public respondent National Labor Relations Commission dated March 16, 1994 is hereby **MODIFIED** in that the award of separation pay against the petitioners shall be reckoned from the date private respondent was re-employed by the petitioners in 1982, until June 8, 1991. In addition to separation pay, full backwages are likewise awarded to private respondent, inclusive of allowances, and other benefits or their monetary equivalent pursuant to Article 279^[46] of the Labor Code, as amended by Section 34 of Republic Act No. 6715, computed from the time he was dismissed on June 8, 1991 up to the finality of this decision, without deducting therefrom the earnings derived by private respondent elsewhere during the period of his illegal dismissal, pursuant to our ruling in *Osmalik Bustamante, et al. vs. National Labor Relations Commission*.^[47]

No costs.

SO ORDERED.

Padilla, Bellosillo, Vitug and Kapunan, *JJ.*, concur.

- [1] Brotherhood Labor Union Movement of the Philippines vs. Zamora, 147 SCRA 49, 54 [1987], citing Mafinco Trading Corporation vs. Ople, 70 SCRA 139 [1976].
- [2] Docketed as NLRC NCR CA 00344-92 and NLRC NCR 00-08-05033-91.
- [3] Rollo, p. 202.
- [4] Rollo, p. 70-71.
- [5] Rollo, p. 78.
- [6] Petition, p. 17; Rollo, p. 22.
- [7] Rollo, p. 73.
- [8] Cathedral School of Technology vs. National Labor Relations Commission, 214 SCRA 551, 558 [1992] citing RTL Martinez Fishing Corporation vs. National Labor Relations Commission, 127 SCRA 454 [1984]; Murillo vs. Sun Valley Realty, Inc., 163 SCRA 271 [1988].
- [9] Bernardo Jimenez and Jose Jimenez vs. National Labor Relations Commission, G.R. No. 116960, April 2, 1996.
- [10] Ibid., citing Canlubang Security Agency vs. National Labor Relations Commission, 216 SCRA 280 [1992]; Ruga vs. National Labor Relations Commission, 181 SCRA 266 [1990]; Makati Haberdashery, Inc. vs. National Labor Relations Commission, 179 SCRA 448 [1989].
- [11] Investment Planning Corporation of the Phils. vs. Social Security System, 21 SCRA 924, 929 [1967].
- [12] Dy Keh Beng vs. International Labor and Marine Union of the Philippines, 90 SCRA 161, 167 [1979].
- [13] Rollo, pp. 67-68.
- [14] Ibid.
- [15] Supra.
- [16] People vs. Distributors Division, Smoked Fish Workers Union, Local No. 20377, Sup 7 N.Y 2d 185, 187 in “Words and Phrases,” loc. cit.
- [17] Supra.
- [18] MAM Realty Development Corporation vs. National Labor Relations Commission, 244 SCRA 797, 800-801 [1995], citing Zanotte Shoes/Leonardo Lorenzo vs. National Labor Relations Commission, 241 SCRA 261 [1995]; Dy Keh Beng vs. International Labor and Marine Union of the Philippines, 90 SCRA 161 [1979].
- [19] Philippine Geothermal, Inc. vs. National Labor Relations Commission, 189 SCRA 211, 215 [1990] citing Kimberly Independent Labor Union for Solidarity, Activism, and Nationalism- Olalia vs. Drilon, 185 SCRA 190 [1990].

- [20] Rollo, pp. 67-68.
- [21] 206 SCRA 643,650 [1992].
- [22] Rollo, p. 34.
- [23] 120 SCRA 774 [1983].
- [24] 174 SCRA 191 [1989].
- [25] 185 SCRA 21 [1990].
- [26] 221 SCRA 469 [1993].
- [27] See *Supra.*, Note 24 at 194.
- [28] *Nitto Enterprises vs. National Labor Relations Commission*, 248 SCRA 654, 662 [1995] citing *Century Textile Mills, Inc. vs. National Labor Relations Commission*, 161 SCRA 528 [1988]; *Gold City Integrated Port Services, Inc. vs. National Labor Relations Commission*, 189 SCRA 811 [1990]; *Kwikway Eng Works vs. NLRC*, 195 SCRA 526 [1991].
- [29] *Ibid.*
- [30] *Ibid.*
- [31] 210 SCRA 277, 286 [1992].
- [32] *Supra.*
- [33] Rollo, p. 70.
- [34] *Torillo v Leogardo, Jr.*, 197 SCRA 471, 477 [1991].
- [35] *Lopez, Jr. vs. National Labor Relations Commission* 245 SCRA 644, 650 [1995] citing *General Textile Inc. vs. National Labor Relations Commission*, 243 SCRA 232 [1995].
- [36] *Ibid.*, citing *A' Prime Security Services, Inc. vs. National Labor Relations Commission*, 220 SCRA 142 [1993].
- [37] *Philippine Airlines, Inc. vs. Court of Appeals*, 185 SCRA 110, 123 [1990], citing *Aparri vs. CA*, 13 SCRA 611; *Dy vs. Kuizon*, 113 Phil. 592; *Borromeo vs. Zaballero*, 109 Phil 332.
- [38] *Santos vs. Court of Appeals*, 221 SCRA 42, 46 [1993], citing Section 7, Rule 51 of the Revised Rules of Court, which can be applied by analogy in this case.
- [39] Regalado, Florenz D, *Remedial Law Compendium*, Vol. I, 5th Revised Edition, p. 378, citing *Ortigas, Jr. vs. Lufthansa German Airlines*, L-28773, June 30, 1975; *Soco vs. Militante*, L-58961, June 28, 1983.
- [40] *Radio Communications of the Philippines, Inc. vs. NLRC*, 210 SCRA 222,227[1992], citing *Piczon vs. Court of Appeals*, 190 SCRA 31 [1990].
- [41] *Ibid.*
- [42] 189 SCRA 767 [1990].
- [43] 182 SCRA 353 [1990].
- [44] 142 SCRA 269 [1986].
- [45] *Businessday Information Systems and Services, Inc. vs. NLRC*, 221 SCRA 9, 14 [1993].
- [46] Article 279. 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.

[47] G.R. No. 111651, November 28, 1996.

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