SUPREME COURT
SECOND DIVISION

NATIONAL FEDERATION OF LABOR, ABELARDO SANGADAN, LUCIANO RAMOS, NESTOR TILASAN, GREGORIO TILASAN, JOAQUIN GARCIA, ROGELIO SABAITAN, CASTRO LEONARDO, PILARDO POTENCIANO, RONILLO POTENCIANO, SANTIAGO SABAITAN, JOVENCIO BARTOLOME, JUANITO CONCERMAN, GEORGE TUMILAS, PATROCINIO DOMINGO, AVELINO FRANCISCO, MELITON SANGADAN, ALEXANDER GERONIMO, JOAQUIN GERONIMO, RAMIL MACASO, LAMBERTO JOVEN, CRISTINO GARINA, SAMMY GANTAAN, NACIAL USTALAN, EDWIN USTALAN, ROLAND POTENCIANO, RODY CONCERMAN, ELMER DOMINGO, ARNAGUEZ SANGADAN, UNDING BOLENG, EDUARDO BOLENG, ROBERTO PANEO and HENRY SANGADAN,
***Petitioners*,**

-versus-

G.R. No. 127718
March 2, 2000

NATIONAL LABOR RELATIONS COMMISSION (5th Division), PATALON COCONUT ESTATE and/or

CHARLIE REITH as General Manager and SUSIE GALLE REITH, as owner,
Respondents.
x----------x

D E C I S I O N

DE LEON, JR., *J.*:

Before us is a Special Civil Action for Certiorari to set aside and annul two (2) resolutions of the National Labor Relations Commission[1] promulgated on April 24, 1996[2] and August 29, 1996[3] denying the award of separation pay to petitioners.

The pertinent facts are as follows:

Petitioners are bona fide members of the National Federation of Labor (NFL), a legitimate labor organization duly registered with the Department of Labor and Employment. They were employed by private respondents Charlie Reith and Susie Galle Reith, general manager and owner, respectively, of the 354-hectare Patalon Coconut Estate located at Patalon, Zamboanga City. Patalon Coconut Estate was engaged in growing agricultural products and in raising livestock. In 1988, Congress enacted into law Republic Act (R.A.) No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL), which mandated the compulsory acquisition of all covered agricultural lands for distribution to qualified farmer beneficiaries under the so-called Comprehensive Agrarian Reform Programme (CARP).

Pursuant to R.A. No. 6657, the Patalon Coconut Estate was awarded to the Patalon Estate Agrarian Reform Association (PEARA), a cooperative accredited by the Department of Agrarian Reform (DAR), of which petitioners are members and co-owners.

As a result of this acquisition, private respondents shut down the operation of the Patalon Coconut Estate and the employment of the

petitioners was severed on July 31, 1994. Petitioners did not receive any separation pay.

On August 1, 1994, the cooperative took over the estate. A certain Abelardo Sangadan informed respondents of such takeover via a letter which was received by the respondents on July 26, 1994. Being beneficiaries of the Patalon Coconut Estate pursuant to the CARP, the petitioners became part-owners of the land.[4]

On April 25, 1995, petitioners filed individual complaints before the Regional Arbitration Branch (RAB) of the National Labor Relations Commission (NLRC) in Zamboanga City, praying for their reinstatement with full backwages on the ground that they were illegally dismissed. The petitioners were represented by their labor organization, the NFL.

On December 12, 1995, the RAB rendered a decision, the dispositive portion of which provides:

> "WHEREFORE, in view of the foregoing, judgment is hereby rendered dismissing complainants' charge for illegal dismissal for lack of merit, but ordering respondents thru [sic] its owner-manager or its duly authorized representative to pay complainants' separation pay in view of the latter's cessation of operations or forced sale, and for 13th month differential pay in the amount, as follows, for:

Names	Separation Pay	13th Mo Pay Diff.	Total
Abelardo Sangadan	P23,879.06	None	P23,879.06
Luciano Ramos	43,605.24	P 711.25	44,316.49
Nestor Tilasan	19,726.18	401.46	20,127.64
Gregorio Tilasan	25,955.50	None	25,955.50
Joaquin Garcia	7,267.54	1,211.25	8,478.79
Rogelio Sabaitan	21,798.00	1,211.25	23,009.25
Castro Leonardo, Jr.	25,955.50	63.1	26,018.60
Pilardo Potenciano	5,191.10	911.25	6,102.35
Ronillo Potenciano	7,267.54	None	7,267.54
Jovencio Bartolome	8,305.76	477.25	8,783.01
Santiago Sabaitan	4,152.88	1,011.25	5,164.13

Juanito Concerman	7,267.54	611.25	7,928.79
George Tumilas	16,611.52	1,011.25	17,622.77
Patrocinio Domingo	2,076.44	1,011.25	3,087.69
Avelino Francisco	3,114.66	1,211.25	4,325.91
Meliton Sangadan	15,573.30	392.50	15,965.80
Alexander Geronimo	15,573.00	None	15,573.30
Joaquin Geronimo	24,917.28	1,211.25	26,128.53
Ramil Macaso	6,229.32	861.25	7,090.57
Lamberto Joven	16,611.62	1,011.25	17,622.77
Cristino Garina	35,299.48	849.65	36,149.13
Sammy Gantaan	14,535.08	961.25	15,496.33
Nacial Ustalan	38,414.14	79.95	38, 494.09
Edwin Ustalan	7,267.54	1,011.25	8,278.79
Roland Potenciano	5,191.10	911.25	6,102.35
Rody Concerman	7,267.54	691.25	7,958.79
Elmer Domingo	3,114.66	1,211.25	4,325.91
Aranquez Sangada	45,681.68	711.25	46,392.93
Unding Boleng	31,146.60	None	31,146.60
Eduardo Boleng	35,299.48	759.30	36,058.78
Roberto Paneo	23,876.06	911.25	24,787.31
Henry Sangadan	16,611.52	1,011.25	17,622.77

Total Benefits:			P586,774.22
			=========

> "FURTHER, complainants' claim for Muslim Holiday, overtime pay and rest day pay should be dismissed for lack of merit, too."[5]

Appeal was taken by private respondents to public respondent NLRC.[6]

On April 24, 1996, the NLRC issued a resolution, the dispositive portion of which provides:

> "WHEREFORE, the decision appealed from is hereby modified in favor of the following findings:
>
> 1) Respondents are not guilty of illegally dismissing complainants. Respondents' cessation of operation was

not due to a unilateral action on their part resulting in the cutting off of the employment relationship between the parties. The severance of employer-employee relationship between the parties came about INVOLUNTARILY, as a result of an act of the State. Consequently, complainants are not entitled to any separation pay.

2) The award of 13th month pay differential is, however, Set Aside. Any award of 13th month pay differentials to complainants should be computed strictly based on their reduced pay, equivalent to six (6) hours work, Monday to Friday, pursuant to what the parties agreed in the November 18, 1991 Compromise Agreement."

SO ORDERED.[7]

Petitioners filed a motion for reconsideration which was denied by the NLRC in its Resolution[8] dated August 29, 1996.

Hence, this petition.

The issue is whether or not an employer that was compelled to cease its operation because of the compulsory acquisition by the government of its land for purposes of agrarian reform, is liable to pay separation pay to its affected employees.

The petition is bereft of merit.

Petitioners contend that they are entitled to separation pay citing Article 283 of the Labor Code which reads:

> "ARTICLE 283. Closure of establishment and reduction of personnel. — The employer may also terminate the employment of any employee due to the installation of labor saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one

> (1) month before the intended date thereof. In case of termination due to the installation of labor saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one- half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered as one (1) whole year."

It is clear that Article 283 of the Labor Code applies in cases of closures of establishment and reduction of personnel. The peculiar circumstances in the case at bar, however, involves neither the closure of an establishment nor a reduction of personnel as contemplated under the aforesaid article. When the Patalon Coconut Estate was closed because a large portion of the estate was acquired by DAR pursuant to CARP, the ownership of that large portion of the estate was precisely transferred to PEARA and ultimately to the petitioners as members thereof and as agrarian lot beneficiaries. Hence, Article 283 of the Labor Code is not applicable to the case at bench.

Even assuming, arguendo, that the situation in this case were a closure of the business establishment called Patalon Coconut Estate of private respondents, still the petitioners/employees are not entitled to separation pay. The closure contemplated under Article 283 of the Labor Code is a unilateral and voluntary act on the part of the employer to close the business establishment as may be gleaned from the wording of the said legal provision that "The employer may also terminate the employment of any employee due to."[9] The use of the word "may", in a statute, denotes that it is directory in nature and generally permissive only.[10] The "plain meaning rule" or verba legis in statutory construction is thus applicable in this case. Where the words of a statute are clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.[11]

In other words, Article 283 of the Labor Code does not contemplate a situation where the closure of the business establishment is forced upon the employer and ultimately for the benefit of the employees.

As earlier stated, the Patalon Coconut Estate was closed down because a large portion of the said estate was acquired by the DAR pursuant to the CARP. Hence, the closure of the Patalon Coconut Estate was not effected voluntarily by private respondents who even filed a petition to have said estate exempted from the coverage of RA 6657. Unfortunately, their petition was denied by the Department of Agrarian Reform. Since the closure was due to the act of the government to benefit the petitioners, as members of the Patalon Estate Agrarian Reform Association, by making them agrarian lot beneficiaries of said estate, the petitioners are not entitled to separation pay. The termination of their employment was not caused by the private respondents. The blame, if any, for the termination of petitioners' employment can even be laid upon the petitioner-employees themselves inasmuch as they formed themselves into a cooperative, PEARA, ultimately to take over, as agrarian lot beneficiaries, of private respondents' landed estate pursuant to RA 6657. The resulting closure of the business establishment, Patalon Coconut Estate, when it was placed under CARP, occurred through no fault of the private respondents.

While the Constitution provides that "the State shall protect the rights of workers and promote their welfare", that constitutional policy of providing full protection to labor is not intended to oppress or destroy capital and management. Thus, the capital and management sectors must also be protected under a regime of justice and the rule of law.

WHEREFORE, the petition is **DISMISSED**. The Resolutions of the National Labor Relations Commission dated April 24, 1996 and August 29, 1996 are hereby **AFFIRMED**. No costs.

SO ORDERED.

Bellosillo, Mendoza, Quisumbing and Buena, *JJ.*, concur.

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[1] 5th Division.

[2] In NLRC Case No. RAB-09-04-00096-95, Rollo, pp. 23-39.
[3] In NLRC CA No. M-002823-96, Rollo, pp. 41-51.
[4] Rollo, pp. 43-44.
[5] Id, pp. 38-39.
[6] 5th Division, Cagayan de Oro City.
[7] Rollo, pp. 50-51.
[8] Id, pp. 61-62.
[9] Emphasis ours.
[10] Agpalo, Ruben E., Statutory Construction, 1995 ed., p. 263.
[11] Fianza vs. People's Law Enforcement Board, 243 SCRA 165, 178 (1995).