

## FIFTH DIVISION

[ CA-G.R. SP NO. 75053, July 14, 2006 ]

**PINAKAMASARAP CORPORATION, PETITIONER, VS. NATIONAL  
LABOR RELATIONS COMMISSIONS (THIRD DIVISION) AND  
ISAIAS O. RICO, RESPONDENTS.**

### DECISION

**BARRIOS, J.:**

In this special civil action for certiorari, the reversal and setting aside of the Resolutions of the National Labor Relations Commission (or NLRC) promulgated on August 5, 2002 and November 22, 2002 are prayed for on the allegation that these were issued with grave abuse of discretion. The earlier Resolution upheld the April 27, 2001 Decision of Labor Arbiter Fedriel Panganiban ordering the return of the cash bond, and the later one denied the motion for its reconsideration.

The petitioner Pinakamasarap Corporation (or hereafter Pinakamasarap) is a company engaged in the manufacture of food condiments. In 1995 its rank and file employees staged a strike and for this reason there was a production stoppage. As a stopgap measure, it offered a distributorship scheme to all its salesmen including the respondent Isaias Rico (hereafter Rico). The salesmen rejected the idea claiming that this would be tantamount to their constructive dismissal. Pinakamasarap nonetheless insisted, and so Rico and the other salesmen filed a case for unfair labor practice, illegal dismissal and damages which was docketed as case no. NCR-00-04-03043-95.

On January 23, 1996 the Labor Arbiter rendered a Decision on this, declaring Pinakamasarap guilty of unfair labor practice and ordering the salesmen's reinstatement with backwages. On appeal, the NLRC modified the Labor Arbiter's Decision. It upheld the reinstatement of the salesmen but deleted the awards of backwages in their favor. Also, it absolved Pinakamasarap from the charge of unfair labor practice. This NLRC's Decision attained finality on October 7, 1996 and an Entry of Judgment was issued on December 16, 1996. The salesmen including Rico were physically reinstated on January 27, 1997 but they allegedly failed to perform their jobs because Pinakamasarap refused to give them the products and further failed to provide them the delivery vans. Also on April 19, 1997 Pinakamasarap allegedly barred them from entering the premises. The salesmen were thus prompted to file another case, a claim for reinstatement compensation. Labor Arbiter Francisco Robles granted this on July 21, 1998 and Pinakamasarap was again directed to reinstate the salesmen without loss of seniority rights, privileges and benefits. This case again reached the NLRC where it was docketed as NLRC CA No. 010855-96. On appeal, the NLRC in its Decision of July 7, 1999 reduced the award of reinstatement compensation. The award was further reduced in its Decision of March 31, 2000 on motion for reconsideration. It further ordered the payment of separation pay in lieu of reinstatement.

Pinakamasarap and the salesmen assailed these two Decisions in separate petitions for certiorari with this Court. The petition of Pinakamasarap was dismissed, while that of the salesmen was given due course and granted in the Decision of November 21, 2001 decreeing that:

**WHEREFORE**, premises considered, the instant *Petition* is partially **GRANTED**, and the assailed *Decision* dated 31 March 2000 is hereby **MODIFIED**, declaring the award of separation pay in lieu of reinstatement as **NULL** and **VOID**.

Private respondent is hereby **ORDERED**:

1. To pay petitioners their accrued income in the total amount of P2,923,904 for the period from 27 January 1997 to 27 June 1998;
2. To reinstate petitioners as salesmen without loss of seniority rights and other privileges and benefits.

**SO ORDERED.** (p. 75, rollo)

In the meantime on July 18, 2000, Rico demanded from Pinakamasarap the return of the cash bond which was collected from him to ensure the payment of company goods. Pinakamasarap however refused, and so on September 4, 2000 Rico filed another complaint, this time for money claims with the Labor Arbiter which was docketed as NLRC NCR Case No. 09-04629-2000.

Pinakamasarap moved to dismiss this complaint on the ground of prescription. Citing Article 291 of the Labor Code, it asseverated that Rico should have filed his claim within three (3) years from the time he was terminated on June 15, 1993 and should have ventilated his claim in the illegal dismissal case he filed against Pinakamasarap. It was thus too late in the day for Rico to demand its return.

On April 27, 2001, the Labor Arbiter rendered a Decision disposing that:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents to refund unto the complainant his cash bond in the sum of P159,983.64.

SO ORDERED. (p. 29, rollo)

Pinakamasarap appealed to the NLRC imputing reversible error on the Labor Arbiter in granting Rico's claim. On August 5, 2002 the NLRC upheld the Labor Arbiter and ruled that:

FOR ALL THE FOREGOING, the decision appealed from is hereby **AFFIRMED** and the instant appeal **DISMISSED** for want of merits.

SO ORDERED. (pp. 35-36, rollo)

A Motion for Reconsideration was filed but this was struck down in the Resolution dated November 22, 2002.