

FIRST DIVISION

[G.R. No. 134903, January 16, 2002]

**UNICRAFT INDUSTRIES INTERNATIONAL CORPORATION,
ROBERT DINO, CRISTINA DINO AND MICHAEL LLOYD DINO,
PETITIONERS, VS. THE HON. COURT OF APPEALS, VOLUNTARY
ARBITRATOR FLORANTE V. CALIPAY, DANILO ABARAO, ROGIETO
ABARAO, BENJAMIN AVENTURADO, BENIGNO BELARMINO,
FELIX BRAZIL, RENATO BRIONES, RECCIL ELCANA, ROLAND
GERON, RICKY GIMENA, ROMEO INOC, NILIA MANDawe,
ANTONIO MANGABON, AMELITO MONTELIN, MATIAS ONGOS,
ARTURO ORTEGA, ADRIANO PALO, JR., BERNARDO RAMOS,
WILMA RANILE, EDGAR RIVERA, RAFAEL RONDINA, ANILO
ROSALES, DIVINA ROSALES, ALONA SORTOÑES, VINCH TRUZ,
WILSON VILLARTA, EMETERIO YBAS, ROMEO ABARAO,
WILFREDO ABARAO, EUGENIO ABING, JAIME AGUSTIN, RUBEN
RONDINA, LORENA SORTOÑES, RESPONDENTS.**

R E S O L U T I O N

YNARES-SANTIAGO, J.:

On March 26, 2001, a Decision was rendered annulling the assailed resolutions of the Court of Appeals as well as the decision of Voluntary Arbitrator Florante V. Calipay, and remanding the case to the Voluntary Arbitrator for reception of evidence for petitioners.

Private respondents filed a Motion for Reconsideration^[1] on May 15, 2001, a Supplemental Motion for Reconsideration^[2] on July 30, 2001 and a 2nd Supplemental Motion for Reconsideration^[3] on September 6, 2001. They argue, in sum, that petitioners were not deprived of due process considering that they were able to submit their position paper and supporting evidence; and that their failure to present additional evidence was through their own fault or inaction.

It should be stressed that the issue of whether or not petitioners were denied due process in the proceedings before the voluntary arbitrator was laid to rest when the parties entered into a stipulation, which the Court of Appeals approved on April 22, 1997, wherein they agreed to remand the case to the voluntary arbitrator "so that the petitioners will be granted their day in court to prove their case." For reference, the stipulation is again reproduced as follows:

STIPULATION

PARTIES, through their respective counsel, unto this Honorable Court,
most respectfully stipulate:

1. Both parties desire to put an end to the litigation before this

Honorable Court, and instead refer the above-entitled case back to Voluntary Arbitrator Florante V. Calipay for further hearing under the following terms and conditions:

a) The petitioners will put up a bond in the amount of P6.5 Million to be issued by the Visayan Surety & Insurance Company or any other accredited bonding company acceptable to private respondents to secure payment of the decision dated March 15, 1997 (Annex A of the Petition) rendered by Voluntary Arbitrator Calipay.

b) The case will be referred back to Voluntary Arbitrator Calipay so that the petitioners will be granted their day in court to prove their case, the hearing thereat to treat the following issues:

1. Whether or not the complainants mentioned in Exhibit J of the Decision really filed their complaints before the NLRC;
2. Whether or not complainants were dismissed; if so, whether or not their dismissals were valid;
3. Whether or not complainants are entitled to separation pay, money claims, attorney's fees and litigation costs specified in the decision, Annex A of the petition; and
4. Whether or not Robert Dino, Cristina Dino and Michael Dino can be held liable for the claims of complainants.

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court to approve the foregoing Stipulation and to render a resolution in accordance therewith.^[4]

The proceedings, however, were not continued because Voluntary Arbitrator Florante V. Calipay declared that he has lost jurisdiction over the case when he rendered judgment therein.^[5]

Worse, the Court of Appeals, in violation of the parties' aforesaid stipulation, issued on June 18, 1998 a resolution ordering the partial execution of the decision of the voluntary arbitrator with respect to the award of separation pay and attorney's fees. Petitioners assail the resolution ordering the partial execution of the decision of the voluntary arbitrator arguing that the Court of Appeals deprived them of their day in court when it disregarded their agreement with private respondents for the remand of the case.

In our Decision, we ordered the remand of the case to the voluntary arbitrator for reception of evidence for the petitioners. We ruled that the award of separation pay cannot be executed before trial is terminated since to do so would be to preempt the proceedings before the voluntary arbitrator. It is worth noting that the case filed was for illegal dismissal. The affirmance of the award of separation pay would be tantamount to a judicial declaration that private respondents were indeed illegally dismissed.

WHEREFORE, the Motion for Reconsideration, the Supplemental Motion for Reconsideration, and the 2nd Supplemental Motion for Reconsideration are **DENIED** for lack of merit. This denial is **FINAL**.

SO ORDERED.

Kapunan, and Pardo, JJ., concur.

Davide, Jr., C.J., (Chairman), I join Mr. Justice Puno in his dissent.

Puno, J., please see Dissent.

[1] Rollo, pp. 668-684.

[2] *Ibid.*, pp. 730-734.

[3] *Ibid.*, pp. 762-769.

[4] Records, pp. 125-126.

[5] *Ibid.*, pp. 131-141.

DISSENTING OPINION

PUNO, J.:

Private respondents seek the reconsideration of the Court's Decision dated March 26, 2001 remanding the case to Voluntary Arbitrator Florante V. Calipay for reception of evidence and further proceedings. In the Decision sought to be reconsidered, the Court held that petitioners were deprived of due process when the voluntary arbitrator rendered a ruling declaring that private respondents were illegally dismissed without giving them an opportunity to present evidence. The ruling was grounded on the fact that neither petitioners nor their counsel were able to attend the hearing before the voluntary arbitrator set for March 3, 1997 at 3:00 o'clock in the afternoon because they received the notice thereof only at 4:00 o'clock in the afternoon of the same date.

With due respect to the majority, I submit otherwise. A more prudent examination of the records would reveal that petitioners were given ample opportunity to present their arguments and their supporting evidence before the voluntary arbitrator but they refused to do so.

It appears that the complaints for illegal dismissal, underpayment/non-payment of wages, overtime pay, holiday pay, 13th month pay and service incentive leave were initially filed by private respondents before the National Labor Relations Commission Regional Arbitration Branch VII (NLRC RAB), Cebu City in July 1995.^[1] In November 1995, after initial hearings, the parties submitted their position papers. Summary