

FIRST DIVISION

[G.R. No. 126689, October 27, 1998]

**LA CARLOTA PLANTERS ASSOCIATION INC./RUDOLFO AZCONA,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION
(FOURTH DIVISION) AND FELIX COMPACION, RESPONDENTS.**

D E C I S I O N

VITUG, J.:

The petition for *certiorari* (under Rule 65 of the Rules of Court) before the Court seeks to set aside and nullify the decision of the National Labor Relations Commission ("NLRC"), promulgated on 25 September 1995, the dispositive portion of which reads:

"WHEREFORE, We give due course to the Appeal of complainant.

"The Decision of the Labor Arbiter is hereby vacated and set aside, and a new one is issued directing the respondent to pay complainant backwages and separation pay in lieu of reinstatement, computed at one (1) month per year of service. The computation of the total awards to complainant are as follows:

"I. Separation pay (1988-Dec. 15/92)

P89.00	x	365/12	x	5
years				P13,535.42

"II. Backwages (Dec. 15/92 - Sept. 15/92)

a) Basic (Dec. 15/92 - Dec. 2/93)

P89.00 x 365/12 x 11 mo.	= P29,777.92	
89.00 x 17 days	= 1,513.00	P31,290.92

Dec. 3/93 - Sept. 15/95

P97.90 x 365/12 x 21 mos.	= P62,533.62	
97.90 x 12 days	= 1,174.80	63,708.42

b) COLA/ERA

Dec. 15/92 - Dec. 2/93

P8.90 x 365/12 x 11 mos.	= P2,977.79	
8.90 x 17 days	= 151.30	3,129.09

Dec. 3/93 - Sept. 15/95

P11.50 x 365/12 x 21 mos.	= 7,345.63	
11.50 x 12 days	= 138.00	7,483.63

Dec. 29/90 - Jan. 31/91		
P10.00	x	32
days		320.00

c) SILP

P97.90 x 5 days x 5 years	2,447.50
108,379.56	

Sub Total	P121,914.98
-----------	-------------

"SUMMARY:

SEPARATION PAY - P 13,535.42

BACKWAGES - 108,379.56
TOTAL AWARD P 121,914.98

"SO ORDERED."^[1]

In its decision, the NLRC adopted the factual antecedents narrated by the Labor Arbiter; viz:

"Complainant, in his position paper, allege that he was a regular employee of the respondent since 1988, hired as truck driver, which truck has a capacity of only 18 tons; that on December 14, 1992, at about 9:00 P.M., at the instance of the respondent, he drove the truck overloaded (23 tons) of sugarcane bound for La Carlota Sugar Central; that while driving through Sitio Bacus, Ma-ao, Bago City, the road was very slippery causing the truck to be outbalance (sic) resulting to the truck turning right side down, causing minor damage on the U Clamp costing around P200.00; that he was not drunk when he drove the truck on December 14, 1992; that the Security Guards of Central La Carlota issued a clearance (Annex `B') to the effect that he is cleared from whatever issues against him; that Rene Baylon reported the incident only on March 1993 when the incident happened on December 14, 1992 as shown by the Police Blotter (Annex `C'); that he was not issued any notice of termination thus making his termination arbitrary and without due process; that because of his illegal dismissal, he sought the help of a legal counsel who helped him in filing this case for which he claims for payment of attorney's fees.

"Complainant further averred that the incident was never reported to the police authorities.

"On the other hand, respondents allege that complainant Felix Compacion is a truck driver of Nature's Beauty Trucking Services owned by respondent Rodolfo Azcona; as such, he was assigned to Ma-ao Transloading Station, a loading station of sugarcane bound for Central La Carlota located at Brgy. Ma-ao, Bago City, Negros Occidental; that on December 14, 1992, complainant who was very drunk and with a knife

entered the Ma-ao Transloading Station and harassed the office personnel to the extent of stabbing the person of Gerry Flores who fortunately was able to escape the said assault (Annex `5' - Police Blotter) and Annex `6' - Affidavit of Rene Baylon); that despite the repeated warning made by the Shifting In-charge Rene Baylon not to drive the truck, complainant drove the ten wheeler truck loaded with 18 tons of sugarcane bound for La Carlota Central in a reckless manner (Annex `7' - Truck Trip Memo, dated December 14, 1992; Annex `8' - Police Blotter, dated December 14, 1992) causing the truck to turn right side down resulting in a damage to property amounting to P36,607.00 plus the P400.00 paid by the owner Azcona to Mr. Eulalio Pagunsan, owner of the bananas and pig pen hit and destroyed by the truck (Annexes `9' - Summary of Expenses for Truck No. 2; `9-A' to `9-M' - Receipts of Expenses; Annex `10' - Receipt dated December 19, 1992); that the said Mr. Eulalio Pagunsan observed that the driver Felix Compacion, at the time of the accident, was very drunk; that because of this accident which happened because of complainant's reckless driving, the truck underwent major repair causing its failure to realize an average daily income of P1,800.00 for 24 days or a total of P43,000.00; that after the accident, driver Felix Compacion was nowhere to be found, never reporting the accident to the police authorities or to the owner Mr. Azcona; that despite repeated calls, he refused to meet respondent Azcona nor he reported to the office of herein respondent thus prompting the latter to write him a letter dated January 4, 1993 (Annex `11' - letter dated January 4, 1993) copy furnished the Department of Labor and Employment, suspending him for 30 days; further requiring him to report to the office and explain why he should not be terminated.

"Respondent further averred that during his employment, complainant was paid wages and other benefits in accordance with law (Annex `1' to `1-V' - Payroll; Annexes `2' to `2-AA' - Weekly Driver's Incentives; Annexes `3' to `3-S' - Half month rice ration); that at the time of the accident, there was no rain and the road was not slippery; that at the time he stopped reporting, he has an outstanding account with respondent in the amount of P3,650.00; that prior to this accident on December 14, 1992, specifically on November 27, 1992, Felix Compacion was caught stealing diesel fuel from the drums owned by La Carlota Planters Association (Annex `4' - Millsite Transloading Report dated November 28, 1992) for which he was admonished and warned not to repeat the same."^[2]

Claiming that his services had been unlawfully and unceremoniously dispensed with, herein private respondent Felix Compacion filed with the Arbitration Branch of the NLRC, Bacolod City, a complaint for illegal dismissal, underpayment of wages, non-payment of 13th month pay, separation pay, Social Amelioration Bonus with claims for moral damages, exemplary damages and attorney's fees against petitioners. The parties filed their respective position papers and other pleadings. On 23 August 1994, Executive Labor Arbiter Oscar Uy rendered his decision dismissing the complaint for lack of merit. Private respondent went to the NLRC. In its decision, dated 25 September 1995, public respondent gave due course to the appeal and reversed the decision of the Labor Arbiter. Petitioners filed a motion for