

THIRD DIVISION

[G.R. No. 118120, February 23, 1996]

JAIME SALONGA, ET AL., PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, NEWFOUNDLAND PAPER PRODUCTS, INC. (NOW LUMINAIRE PRINTING & PUBLISHING CORP.), ET AL., RESPONDENTS.

RESOLUTION

PANGANIBAN, J.:

On January 20, 1993, petitioners filed with the labor arbiter their Complaint for illegal dismissal and non-payment of service incentive leave pay. For their part, private respondents countered merely with a Motion to Dismiss alleging that petitioners "have voluntarily executed quitclaims and were already paid their separation pay and all claims due them from the company." On February 16, 1993, petitioners filed an Amended Complaint/Position Paper with Joint Affidavit basically saying that they were inveigled by management to receive their separation pay and to sign quitclaims because the company was "losing heavily," only to reopen "in the same location x x x this time using entirely new employees x x x." To this, private respondents filed their opposition alleging that the amendment was "procedurally improper" because of the pendency of the unresolved motion to dismiss.

Although private respondents called for a trial on the merits, the labor arbiter dispensed with the necessity of a hearing but nevertheless ordered that the motion to dismiss would be treated as their position paper unless within ten (10) days from notice, said private respondents submitted one. Not having received any more pleadings from the parties, the labor arbiter decided the case on the basis of the aforementioned submissions.

In her decision dated January 7, 1994, Labor Arbiter Nieves V. de Castro found a case of illegal dismissal and awarded reinstatement, full backwages (minus separation pay already paid), service incentive leave benefits and 10% attorney's fees in favor of petitioners. On appeal, the NLRC Second Division on a vote of 2-to-1 (Comm. Rogelio I. Rayala, *ponente*; concurred in by Comm. Domingo H. Zapanta; Presiding Comm. Edna Bonto-Perez, dissenting) reversed the labor arbiter and "remand(ed) (the) case to the Arbitration Branch of origin for further proceedings." The NLRC held that the labor arbiter erred in deciding the case on the basis of the pleadings and position papers only.

In their Comment filed on February 28, 1995, private respondents alleged that petitioners manifested willingness to accept separation pay after management informed them on January 4, 1993 that the company had decided to close down its operations. The company also advised the Social Security System and the Department of Labor and Employment of such decision. The private respondents further averred that thereafter, the company retained only four (4) employees "for