

SPECIAL FOURTEENTH DIVISION

[CA-G.R. SP NO. 78527, August 14, 2006]

**PORTLAND CONCRETE PHILS., INC., AND PAULINO CHUA,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION,
ROGELIO VILLARIN AND GERRY BARCOMA, RESPONDENTS.**

D E C I S I O N

BATO, JR., J.:

For our consideration is a petition for certiorari brought under Rule 65 of the 1997 Rules of Civil Procedure assailing the Resolution of the National Labor Relations Commission, First Division, Quezon City in NLRC NCR Case No. 00-01-00344-2000 dated August 30, 2002 affirming *in toto* the Decision of the Labor Arbiter dated April 30, 2001, as well as the Order dated May 7, 2003 denying petitioners' Motion for Reconsideration thereof.

The facts of the case are as follows:

Petitioner Portland Philippines, Inc. (hereinafter referred to as Portland), is a domestic corporation represented by its President and General Manager, Paulino Chua. On January 18, 2000, a complaint^[1] for illegal dismissal, underpayment of salaries, non-payment of overtime pay, service incentive leave pay and 13th month pay plus attorney's fees was filed by private respondents Rogelio Villarín and Jerry Barcoma, together with four other complainants namely, Samuel P. Ebona, Crispulo C. Serrano, Jose Ricky S. Romulo and Santiago B. Rambayong. During the course of the proceedings before the labor arbiter, the four complainants verbally manifested their withdrawal in pursuing the case as they decided to go back to work for the petitioners. Thus, only private respondents Rogelio Villarín and Jerry Barcoma filed their position paper^[2] dated June 29, 2000 wherein they alleged that: 1) private respondent Jerry Barcoma was employed by petitioner Portland on April 20, 1997 as concrete crew, while Rogelio Villarín worked with Federal Builders, Inc. (the sister company of petitioner Portland, managed by Perry Chua, the son of Paulino Chua) as pumpcrete operator since 1979; 2) Villarín rendered services for FBI and petitioner Portland in the same capacity as pumpcrete operator; 3) on March 18, 1998, private respondents were informed by Mr. Perry Chua that, starting immediately, they would be working for three (3) days a week; 4) private respondents conceded because they were in dire need of work; 5) on January 8, 2000, Mr. Perry Chua approached the complainant and his co-workers and asked them to sign a pre-drafted resignation letter. When private respondents refused, Mr. Chua then told them that their services were no longer needed; and 6) that when they reported for work the next day, the security guards barred them from entering the company premises.

The petitioners failed to submit their position paper and appear before the Labor Arbiter despite due notice, thus, on the basis of private respondents' position paper,

Labor Arbiter Lutricia F. Quitevis-Alconcel rendered a Decision^[3] dated April 30, 2001 finding private respondents to be illegally dismissed by petitioner Portland, the dispositive portion of which states:

“WHEREFORE, viewed from this light, judgment is hereby rendered declaring respondents guilty of illegal dismissal.

Respondents are hereby ordered to pay the following:

I. Rogelio Villarin

1. Backwages from the date of dismissal on January 8, 2000 up to the date of actual reinstatement, which up to the date of this Decision is P95,455.36.

In the event that reinstatement to his former position is no longer feasible, respondents should pay him separation pay reckoned from January 1992, when he started to work for respondent Portland Concrete Phils., Inc., up to the date of this Decision in the amount of Php58,500.00. This shall be in addition to his backwages.

2. Service incentive leave pay – Php4,829.73.

3. 13th month pay – Php25,387.61.

II. Jerry Barcoma

1. Backwages from the date of his dismissal on January 8, 2000 up to the date of actual reinstatement, which up to the date of this Decision is Php56,715.36.

In the event that reinstatement to his former position is no longer feasible, respondents should pay him separation pay reckoned from April 1997, when he started to work for respondent Portland Concrete Phils., Inc., up to the date of this Decision in the amount of Php26,000.00. This shall be in addition to his backwages.

2. Service incentive leave pay – Php4,529.73.

3. 13th month pay – Php4,499.73.

Plus 10% attorneys fees of the total award in the amount of Php33,352.64.

The complaint filed by complainants Samuel P. Ebona, Crispulo C. Serrano, Jose Ricky S. Romulo and Santiago B. Rambayong is hereby declared dismissed for lack of interest to prosecute.

All other reliefs herein sought and prayed for are hereby denied for lack of merit.

SO ORDERED.”^[4]

On November 16, 2001, petitioners filed their Memorandum of Appeal^[5] asserting in the main, that their failure to submit the position paper was due to accident and/or excusable negligence as notices of hearing were not duly served on them. They also denied that the private respondents were terminated but that they went on prolonged unauthorized absences. In a Resolution^[6] dated August 30, 2002, the NLRC, First Division of Quezon City, finding no cogent reason to reverse the labor arbiter's decision, dismissed the appeal and affirmed *in toto* the decision of the Labor Arbiter. Aggrieved, the petitioners filed a Motion for Reconsideration^[7] on November 18, 2002 reiterating the arguments in their appeal. In an Order^[8] dated May 7, 2003, the NLRC denied their motion. Hence, the present recourse, on the following grounds:

I

THAT PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT HOLDING THAT HEREIN PETITIONERS WERE DENIED DUE PROCESS DUE TO ACCIDENT MISTAKE (sic) OR EXCUSABLE NEGLIGENCE.

II

THAT PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT SETTING ASIDE AND/OR REVERSING THE DECISION OF THE LABOR ARBITER OR, IN THE ALTERNATIVE, REMANDING THE CASE TO THE SAID LABOR ARBITER FOR FURTHER PROCEEDINGS OR RECEPTION OF HEREIN PETITIONER'S EVIDENCE.

III

THAT PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DISMISSING HEREIN PETITIONER'S APPEAL.

The main thrust of petitioners' arguments is that the National Labor Relations Commission (NLRC) committed grave abuse of discretion in finding herein petitioners liable of illegal dismissal and deciding the case based only on private respondents' position paper.

Petitioners' argument is devoid of merit.

Petitioners' contention that their right to due process had been violated when the Labor Arbiter rendered the assailed decision on the basis merely of private respondents' position papers deserves scant consideration. The essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.^[9] The requirements of due process are satisfied when the parties to a labor case are given the opportunity to submit position papers wherein they are supposed to attach all the documents that would prove their claim in the event it will be decided that no further hearing should