

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**PHILIPPINE NATIONAL
CONSTRUCTION CORPORATION,**
Petitioner,

-versus-

**G.R. No. 103670
July 10, 1998**

**NATIONAL LABOR RELATIONS
COMMISSION, EFREN MANABO and
IRENEO SORIANO,**
Respondents.

X-----X

D E C I S I O N

ROMERO, J.:

Assailed in this Special Civil Action of *Certiorari* under Rule 65 of the Rules of Court is the decision of the respondent National Labor Relations Commission (NLRC) reversing the Labor Arbiter's dismissal of private respondents' complaints and awarding them separation pay upon the finding that they were regular, not project employees, who were illegally terminated by petitioner.

Private respondents Efren Manabo and Ireneo Soriano, for about seven and nine years respectively, had been employees of petitioner, a government-owned and controlled corporation engaged in the business of general construction, both in the Philippines and

overseas. On July, 19, 1985 private respondents filed separate complaints against petitioner charging illegal dismissal and claiming separation pay.^[1]

Petitioner hired Efren Manabo as a laborer on July 10, 1976 at the petitioner's MSEX/Carmona Project, where he was paid P1.35 pesos per hour. On October 11, 1977 he was transferred to the company's international operation in Najran, Kingdom of Saudi Arabia working initially as shovel raker and eventually as asphalt distributor, for which he was compensated \$1.90 per hour. Upon completion of the project, he was repatriated to the Philippines on August 7, 1983. However after his return to the Philippines, he was not given any assignment for which reason he claims that he was illegally dismissed.^[2]

Ireneo Soriano was hired by petitioner on November 26, 1975 as lead mechanic with the petitioner's equipment and management department with a salary of P4.50 pesos per hour. On August 19, 1981, he was transferred to petitioner's international operation in Najran, KSA project, where he also served as a lead mechanic with a salary of \$2.20 per hour. On June 6, 1984, upon completion of the project, he was repatriated to the Philippines. Soriano claimed that petitioner failed to assign him to any local project upon his arrival in the Philippines which was, according to him, tantamount to his separation from employment.^[3]

Petitioner, on the other hand, claims that private respondents were project employees; that they were hired for specific projects and their tenure was fixed for the duration of the project; and, it was the termination of the project that ended their employment. Therefore, they are not entitled to any separation pay pursuant to the provisions of Policy Instruction No. 20.^[4]

On June 26, 1990, the Labor Arbiter dismissed the complaints for lack of merit declaring private respondents project employees of petitioner. Private respondents appealed.

In a decision dated January 13, 1992 respondent NLRC reversed the Labor Arbiter after finding private respondents to be regular, not

project employees, of the petitioner and therefore entitled to separation pay:

“WHEREFORE, premises considered, the decision dated June 26, 1990 is hereby reversed and respondent Construction Development Corporation of the Philippines (now Philippine National Construction Corporation) is hereby ordered to pay as his separation pay to Efren Manabo, the amount of SEVENTY FOUR THOUSAND SIX HUNDRED NINETY TWO AND 80/100 PESOS (P74,692.80); and similarly to Ireneo Soriano, the sum of ONE HUNDRED ELEVEN THOUSAND ONE HUNDRED NINETY SIX AND 80/100 PESOS (P111,196.80).”^[5]

Petitioner did not file a motion for reconsideration stating that it was not aware of the appeal interposed by private respondents, as it was not furnished a copy of private respondents’ memorandum of appeal. Instead, petitioner directly filed this petition for certiorari.

We find the petition meritorious.

Petitioner claims that respondent NLRC acted in excess of its jurisdiction when it entertained the instant appeal when the same is null and void. In this regard, the Solicitor General recommends that the NLRC decision be set aside on the ground that petitioner was denied due process and that further proceedings be held to afford petitioner the opportunity to participate therein.^[6]

After a careful examination of the records, the Court fully agrees with the Solicitor General’s view that the proceedings before the NLRC were tainted with due process violation. It appears that petitioner was not a participant in the appeal interposed by private respondents. Apparently, such non-participation was never petitioner’s choice as the record is bereft of any indication that petitioner was ever informed or notified of private respondents’ appeal. There is no proof that petitioner was furnished a copy of private respondents’ Memorandum of Appeal, nor was it required to comment thereon. No reference is made whatsoever in the NLRC Decision to any argument, position or comment raised by petitioner in response to the appeal. That petitioner was denied due process is well-substantiated.

The NLRC's grave omission to afford petitioner a chance to be heard on appeal is a clear violation of its constitutional right and has the effect of rendering its judgment null and void.^[7]

It is a cardinal rule in law that a decision or judgment is fatally defective if rendered in violation of a party-litigant's right to due process.

Petitioner's non-filing of a motion for reconsideration of the NLRC's decision is understandable considering that it was deprived of due process. The Court has ruled that a motion for reconsideration may be dispensed with prior to commencement of an action for certiorari where the decision is a patent nullity^[8] or where petitioner was deprived of due process.^[9]

It must be pointed out though, that the fault lies with the NLRC and not with private respondents. While the New Rules of Procedure of the NLRC require proof of service on the other party of the appeal (Rule VI, Sec. 3[a]), non-compliance thereof will present no obstacle to the perfection of the appeal nor does it amount to a jurisdictional defect to the NLRC's taking cognizance thereof.^[10] However, while the law excuses private respondents from notifying the other party of their appeal, no reason can be given by the NLRC that would exempt it from informing the latter of the appeal and giving it an opportunity to be heard. Such an omission is of the gravest nature and cannot be sanctioned for whatever reason by the Court.

The right of due process is fundamental in our legal system and we adhere to this principle not for reasons of convenience or merely to comply with technical formalities but because of a strong conviction that every man must have his day in court. As the Solicitor General stated, "in a society that professes belief in the presumptive innocence of persons and human actions, it is only proper that condemnation be preceded by a fair and impartial hearing where the parties are equally afforded the opportunity to present their respective positions on the matter at issue."

In its most basic sense, the right to due process is simply that every man is accorded a reasonable opportunity to be heard.^[11] Its very concept contemplates freedom from arbitrariness, as what it requires

is fairness or justice.^[12] It abhors all attempts to make an accusation synonymous with liability.^[13]

While the intendment of our laws is to favor the employee, it in no way implies that the employer is not entitled to due process. For a tribunal such as the NLRC to wantonly disregard the employer's constitutional right to be heard is a matter that causes great concern to the Court. Such an action can only result in public mistrust of our entire legal system, and we strongly remind the NLRC of their duty to uphold and inspire confidence in the same.

WHEREFORE, the decision of the NLRC is hereby **SET ASIDE** and the case is hereby **REMANDED** to the NLRC for further proceedings to afford petitioner the opportunity to be heard.

Furthermore, the NLRC is hereby strongly reminded that all proceedings before it must satisfy the constitutional requirements of due process.

SO ORDERED.

Narvasa, C.J., Kapunan and Purisima, JJ., concur.

[1] Rollo, pp. 24, 26.

[2] Ibid., pp. 43-45.

[3] Ibid, pp. 46-48.

[4] Ibid., p. 74.

[5] Ibid., pp. 82-83.

[6] Manifestation in lieu of Comment, Rollo, p. 95.

[7] Villa vs. Lazaro, 189 SCRA 34 (1989).

[8] Vigan Electric Light Co., Inc. vs. Public Service Commission, L-19850, January 30, 1964; Director of Lands vs. Santamaria, 44 Phil. 594.

[9] Luzon Surety Co. vs. Marbella, L-16088, September 30, 1960; Matute vs. CA, L-26751, January 31, 1969.

[10] Pagdonsalan vs. NLRC, 127 SCRA 463 (1984).

[11] Mutuc vs. Court of Appeals, 190 SCRA 43 (1990).

[12] Ibid.

[13] People vs. Reyes, 60 SCRA 126 (1974).