Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PHILIPPINE PHOSPHATE FERTILIZER CORPORATION (PHILPHOS),
Petitioner,

- versus -

ALEJANDRO O. MAYOL,
MANUEL A. TABUCANON.
JOELITO J. BELTRAN,
ALEJO P. PORRAS,
AGAPITO M. PASANA,
PETER T. SUELTO,
SERGIO D. MERINO,
DANILO S. SALEM,
EMELYN B. CORTON,
EUGENIO G. CASTRO,
HERMINIGILDO* P. NAVALES,
LORNA B. RAMIREZ,
LIMUEL C. ROCHE,
FORTUNATO HINGARAY,
OLIMPIO B. LIMOSNERO,
RAMISES C. LAURIO,
OSCAR P. RODADO,
DOMINADOR C. MULLET,
PACIFICO C. TOMAKIN,
BALTAZAR A. NABONG,
ALFONSO M. CABALDA,
MILA A. QUIMZON,
NARCISO G. GUCELA,
ROJARD T. ABUEVA,
RAUL F. DELA CRUZ,
MANUEL ERWIN P. PETILOS,
DANILO S. RANALAN,
ENRILE T. RIAZA,
LUIS L. BARRERA,
JIMMY C. ESMA,
EDWIN T. RETIZA,
ISIDRO TABANAO,
GREGORIO AGUANTA,

G.R. Nos. 205528-29

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* Spelled as Herminio is some part of the *rollo*.

ALVIN HANAPOL, and
VICENTE A. ABALOS, SR.,
Respondents.
x- -x

ALEJANDRO O. MAYOL,
MANUEL A. TABUCANON.
JOELITO J. BELTRAN,
ALEJO P. PORRAS,
AGAPITO M. PASANA,
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EDWIN T. RETIZA,
ISIDRO TABANAO,
GREGORIO AGUANTA,
ALVIN HANAPOL, and
VICENTE A. ABALOS, SR.,
Petitioners,

- versus -

G.R. Nos. 205797-98

Present:

PERALTA, *C.J.*,
CAGUIOA,
CARANDANG,
ZALAMEDA, and
GAERLAN, *JJ.*

PHILIPPINE PHOSPHATE FERTILIZER CORPORATION (PHILPHOS),
Respondent.

Promulgated:
DEC 09 2020

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DECISION

GAERLAN, *J.*:

Employment is not only a source of income, but for others, a means of survival. As such, saving a business from financial woes should not be achieved at the expense of the employees' livelihood. Reducing the workforce through retrenchment should be availed of only in cases of a clear downward spiral and after other means to stave off losses have proved futile.

This resolves the consolidated Petitions for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the January 17, 2011 Decision[2] and the January 17, 2013 Resolution[3] of the Court of Appeals (CA) in the consolidated cases of CA-G.R. SP No. 04267 and CA-G.R. SP No. 04499.

Antecedents

The following facts are common to the petitions:

Philippine Phosphate Fertilizer Corporation (Philphos) is a domestic company engaged in the business of manufacturing, selling and importing fertilizer products. Philphos hired the following rank-and-file employees on various dates and for the following positions:[4]

NAME	DATE EMPLOYED	POSITION
Alejandro O. Mayol	February 23, 1984	Shiploader Operator
Manuel A. Tabucanon	March 1, 1984	Boardman
Joelito J. Beltran	August 16, 1990	Fieldman
Alejo P. Porras	August 27, 1984	Mobile Equipment Operator
Agapito M. Pasana	May 14, 1990	Fieldman

1 *Rollo* (G.R. No. 205528-29), pp. 8-47; Id. (G.R. No. 205797-98) at 3-11.
2 Id. at 51-63; penned by Associate Justice Edwin D. Sorongon, with Associate Justices Portia A. Hormachuelos and Socorro B. Inting, concurring.
3 Id. at 65-79; penned by Associate Justice Maria Elisa Sempio Diy, with Associate Justices Ramon Paul L. Hernando (now a Member of this Court) and Carmelita Salandanan Manahan, concurring.
4 Id. at 81-83; 154; 246-248.

Peter T. Suelto	December 16, 1983	Journeyman
Sergio D. Merino	August 11, 1984	Mechanic
Danilo S. Salem	December 16, 1983	Mechanic
Emelyn B. Corton	December 16, 1983	Inventory Control
Eugenio G. Castro	December 12, 1983	Heavy Equipment Operator
Herminigildo P. Navales	November 17, 1984	Driver
Lorna Ramirez	March 9, 1984	Encoder/Clerk
Limuel Roche	April 1, 2003	Fieldman
Fortunato Hingaray	September 12, 1984	Journeyman
Olimpio B. Limosnero	August 27, 1984	Utilities Boardman
Ramises G. Laurio	August 23, 1984	Heavy Equipment Operator
Oscar P. Rodado	February 6, 1990	Fieldman
Dominador C. Mullet	February 4, 1984	Crane Operator
Pacifico C. Tomakin	December 28, 1984	Mobile Equipment Operator
Baltazar A. Nabong	August 1, 1984[5]	Fieldman
Alfonso M. Cabalda	February 20, 1985	Mechanical Journeyman
Mila A. Quimzon	May 25, 1984	Record Encoder
Narciso G. Gucela	March 1, 1984	Mechanic
Rojard T. Abuevas	November 23, 1992	Fieldman
Raul F. Dela Cruz	July 20, 2002	Fieldman
Manuel Erwin P. Petilos	July 16, 2000	E & I
Danilo S. Ranalan	October 24, 2002	Fieldman
Enrile T. Riaza	May 16, 2002	Maintenance
Luis Barrera	February 23, 1984	Boardman
Jimmy C. Esma	December 16, 1983	Journeyman
Isidro Tabanao	September 3, 1990	Fieldman
Edwin Retiza	August 17, 1992	Farm Technician
Alvin Hanopol	May 16, 1990	Loading Checker
Gregorio Aguanta	March 1, 1984	Journeyman
Vicente A. Abalos, Sr.	October 3, 1984	Journeyman

On January 18, 2007, Dennis Mate, Executive Vice President of Philphos, sent various notices to 84 employees informing them of the management's decision to streamline the organization to avert the losses sustained in 2006.[6] The employees were informed that all benefits accruing to them will be paid upon the accomplishment of their employment clearance.[7]

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5 Stated in their Complaint as June 1, 1984.
6 *Rollo* (G.R. Nos. 205528-29), p. 581.
7 Id.

Thereafter, on January 24, 2007, Razoland B. Roullo, AVP Human Resources of Philphos, submitted to the Department of Labor and Employment (DOLE) Regional Office the list of employees affected by the retrenchment program.[8] Subsequently, Philphos submitted another report adding three more names.[9]

Meanwhile, the Union of Philphos' rank-and-file employees filed a Notice of Strike. Thus, on February 5, 2007, a forum was held between Philphos, the Union and the employees. [10] Representatives from the DOLE, National Conciliation and Mediation Board, and National Labor Relations Commission (NLRC) attended the forum.[11]

On April 19, 2007, 27 retrenched employees signed a Receipt and Release, and accordingly received their separation pay from Philphos. [12] However, Alejandro Mayol (Mayol) and Joelito Beltran (Beltran) did not receive their separation pay due to their refusal to process their employment clearance.[13]

On July 10, 2007, the first group of employees led by Mayol (Mayol Group) filed a complaint for unfair labor practice, illegal dismissal, payment of separation pay differentials, retirement benefits, with moral and exemplary damages, and attorney's fees.[14]

Rulings of the Labor Tribunals

On May 28, 2008, Executive Labor Arbiter Jesselito B. Latoja (LA Latoja) dismissed the complaint filed by the Mayol group. LA Latoja declared that Philphos' retrenchment program was valid. He noted that Philphos sufficiently established that it sustained a loss of ₱1.9 billion. It submitted its balance sheets as of December 3, 2006 and 2005, statement of income, statement of charges in stockholder's equity and statement of cash flows. The audit was undertaken by an independent external auditor.[15] Likewise, Philphos informed the workers of the retrenchment,[16] and paid them separation pay equivalent to 100 percent of their monthly salary.[17]

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8 Id. at 582.
9 Id.
10 Id.
11 Id.
12 Id.
13 Id.
14 Id. at 14.
15 Id. at 584.
16 Id. at 583
17 Id.

LA Latoja disposed of the case as follows:

> WHEREFORE, the instant Complaint is hereby DISMISSED for lack of merit.
>
> Complainants Alejandro Mayol and Joelito Beltran can collect their separation pay from [Philphos] upon completion of their employment clearances.
>
> SO ORDERED.[18]

Aggrieved, the Mayol Group filed an appeal against the LA Decision.

On September 30, 2008, the NLRC dismissed the appeal.[19] It affirmed the LA's ruling that Philiphos' retrenchment program was validly implemented to prevent further losses.[20]

Furthermore, the NLRC observed that out of 87 workers who were retrenched, 29 filed a complaint for illegal dismissal. Thereafter, 27 of the complainants eventually accepted Philphos' offer of separation pay equivalent to one month pay for every year of service,[21] and voluntarily executed a Receipt and Release. The remaining two complainants, Mayol and Beltran refused to accept their separation pay. Moreover, it was only Mayol who filed an appeal against the LA ruling. He did not submit a Special Power of Attorney (SPA) proving his authority to sign on behalf of the other employees. Thus, the Decision has attained finality as against the others.[22]

The dispositive portion of the NLRC ruling states:

> WHEREFORE, the appeal is DISMISSED and the questioned decision is AFFIRMED.
>
> SO ORDERED.[23]

Dissatisfied with the ruling, the Mayol Group filed a Motion for Reconsideration, which was denied in the January 23, 2009 NLRC Resolution.[24]

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18 Id. at 584.
19 Id. at 585-587; penned by Presiding Commissioner Violeta Ortiz-Bantug, with Commissioners Oscar S. Uy, Aurelio D. Menzon, concurring.
20 Id. at 587.
21 Id. at 586.
22 Id.
23 Id. at 587.
24 Id. at 142-143.

Meanwhile, a second group[25] consisting of eight Philphos employees (Retiza Group) filed a Complaint[26] for illegal dismissal, with claim for 200% separation pay for every year of service, 200% early retirement pay, and reinstatement with full backwages.[27]

However, the second complaint suffered the same fate, and was dismissed by LA Latoja in a Decision[28] dated September 22, 2008. LA Latoja reiterated that Philphos' retrenchment program was valid as it was based on substantial evidence that the latter suffered serious and actual business losses. LA Latoja further stated that Philphos complied with the requirements of notice and payment of separation pay.[29]

In addition, LA Latoja denied the Retiza Group's claim for 200% separation pay and 200% retirement pay. He explained that the grant of such benefits never ripened into a company practice.

The dispositive portion of the Decision reads:

> WHEREFORE, this case is hereby DISMISSED for lack of merit.
>
> SO ORDERED.[30]

The Retiza Group filed an appeal.

On January 26, 2009, the NLRC dismissed the appeal.[31] The NLRC noted that the facts of the second complaint stem from the same circumstances in the Mayol Group's case. Hence, it refused to depart from its previous ruling and applied the same precedent.[32] It affirmed that the retrenchment was valid and effected to avert the financial losses sustained by Philphos.[33] Thus, it disposed of the appeal as follows:

> WHEREFORE, the instant appeal is DISMISSED and the challenged decision is AFFIRMED.

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25 Edwin T. Retiza, Fortunato Hingaray, Isidro Tabanao, Gregorio Aguanta, Jimmy Esma, Luis Barrera, Alvin Hanapol and Vicente Abalos.
Luis Barrera and Jimmy Esma were listed as complainants in the Mayol Complaint.

26 Rollo (G.R. Nos. 205528-29), pp. 153-154.

27 Id. at 549.

28 Id. at 178-184.

29 Id. at 549.

30 Id. at 184.

31 Id. at 209-212.

32 Id. at 210.

33 Id. at 211.

> Complainants Isidro Tabanao, Jimmy Esma and Luis Barrera are hereby impose [sic] the penalty of FINE OF FIVE THOUSAND PESOS each for forum-shopping. Their counsel on records, Atty. Agustin Alo who is also the same counsel for the first group, is likewise FINED in the amount of TEN THOUSAND PESOS.
>
> SO ORDERED.[34]

The Retiza Group filed a Motion for Reconsideration, which was denied in the May 29, 2009 NLRC Resolution.[35]

Thereafter, the Mayol and Retiza groups filed separate petitions for *certiorari* before the CA. The CA ordered the consolidation of the cases.[36]

Ruling of the CA

On January 17, 2011, the CA rendered a Decision[37] granting the petitions for *certiorari.* The CA held that Philphos failed to prove serious business losses.[38] It presented no other evidence, save for the 2006 Audited Financial Statement.[39] The CA opined that it is not enough to present the financial statement for the year the retrenchment was undertaken.[40] Rather, it must be shown that the losses increased over a period of time and that the condition will not likely to improve in the near future.

Accordingly, the CA declared that the employees were illegally dismissed. Thus, it awarded backwages computed from the time of their illegal dismissal up to the finality of its judgment.[41] However, the CA opined that reinstatement is no longer possible in view of the situation of the parties. Hence, it ordered the payment of separation pay in lieu of reinstatement.[42] Moreover, the CA noted that all the employees have received their separation pay except for Mayol and Beltran.

Lastly, the CA denied the employees' claim for 200% separation pay, considering that such benefit was not customarily granted by Philphos.[43]

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34 Id.
35 Id. at 213-214.
36 Id. at 52.
37 Id. at 51-63.
38 Id. at 58.
39 Id.
40 Id.
41 Id. at 62.
42 Id.
43 Id. at 61.

The decretal portion of the CA ruling states:

> WHEREFORE, the instant petition is PARTIALLY GRANTED. The impugned decision of the National Labor Relations Commission dated September 30, 2008 as well as the decision of the Labor Arbiter dated May 28, 2008 is REVERSED and SET ASIDE. Accordingly, Alejandro Mayol and Joelito Beltran are directed to collect their separation pay after completing their employment clearances on top of the backwages duly awarded to them. In the meantime, this case is hereby remanded to the Labor Arbiter for the proper computation of the backwages.
>
> SO ORDERED.[44]

Both parties sought reconsideration of the CA ruling. Philphos filed a Motion for Clarification of Judgment dated February 15, 2011, and a Motion for Reconsideration dated February 26, 2011.[45] It sought clarification on whether the award of backwages applies to all employees or only to Mayol and Beltran. It further maintained that it implemented a valid retrenchment program.

Meanwhile, the employees filed a Motion for Reconsideration dated February 9, 2011, insisting that they are entitled to 200% early retirement pay, and 200% separation pay.[46] They further claimed that the award of backwages must be subjected to an interest of 6% *per annum*.[47] Likewise, Mayol and Beltran prayed for their reinstatement.[48]

On January 17, 2013, the CA issued a Resolution[49] resolving the Motions as follows:

First, it granted Philphos' motion for clarification of judgment, and explained that the award of backwages applies to all employees.[50] Additionally, the CA held that the employees who received their separation pay are not barred from questioning the legality of their dismissal.[51]

Second, the CA denied Philphos' motion for reconsideration.[52] The CA reiterated that Philphos failed to prove that its losses were substantial, that they increased over a period of time, and that its condition will not likely improve in

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44 Id. at 62.
45 Id. at 66.
46 Id. at 67.
47 Id.
48 Id.
49 Id. at 65-79.
50 Id. at 71.
51 Id. at 75.
52 Id. at 70.

the near future.[53]

Third, the CA denied the employees' claim for 200% early retirement pay and separation pay, considering that said awards have not ripened into customary company practice.[54]

Fourth, the CA denied Mayol's and Beltran's prayer for reinstatement on the ground of strained relations between the parties.[55] It noted that Mayol and Beltran did not receive their separation pay due to their refusal to process their clearances.[56]

Finally, the CA imposed legal interest of 12% *per annum* on the award of backwages, as a forbearance of money.[57]

The decretal portion of the CA Resolution reads:

> CONFORMABLY TO THE FOREGOING, We resolve the following:
>
> 1. Philphos' Motion to Clarify Judgment is GRANTED and the Court hereby declares that ALL petitioners in this petition are entitled to backwages;
>
> 2. Philphos' Motion for Reconsideration is hereby DENIED; and
>
> 3. Petitioners' Motion for Reconsideration is PARTIALLY GRANTED, to wit:
>
> a. Petitioners' prayer for the reinstatement of petitioners Mayol and Beltran is DENIED;
>
> b. Their prayer for the grant of 200% separation pay is DENIED; and
>
> c. Their prayer for the imposition of interest on backwages is GRANTED, where interest at the rate of 12% per annum may be imposed upon petitioners' backwages from the time this Court's decision dated January 17, 2011 becomes final and executory until the satisfaction of the award provide therein.
>
> SO ORDERED.[58]

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53 Id. at 74.
54 Id. at 76.
55 Id. at 77.
56 Id. at 76.
57 Id.
58 Id. at 78.

Dissatisfied with the CA's ruling, Philphos and the employees respectively filed petitions for review on *certiorari* before the Court.

On July 1, 2013, the Court issued a Resolution [59] ordering the consolidation of the petitions.

Issues

The issues raised in the consolidated petitions are inter-related and consist of procedural and substantive grounds, which may be summarized as follows:

(i) Whether or not the employees' petition should be dismissed for failure to comply with Section 4, Rule 45 of the Rules of Court;

(ii) Whether or not the appeal before the NLRC of the employees who failed to sign the Verification/Certification of Non-Forum Shopping may be given due course;

(iii) Whether or not the January 17, 2011 Decision of the CA reversed and set aside the September 22, 2008 LA Decision and January 26, 2009 NLRC Decision;

(iv) Whether or not Philphos' retrenchment program is valid;

(v) Whether or not Mayol and Beltran are entitled to reinstatement;

(vi) Whether or not the employees who executed the Receipt and Release are barred from recovering their backwages; and

(vii) Whether or not the employees are entitled to the following awards: (a) 200% separation pay; (b) 200% early retirement pay; (c) moral damages; (d) exemplary damages; and (e) attorney's fees.

Philphos claims that the employees' petition should be dismissed outright due to their failure to comply with Section 4, Rule 45 of the Rules of Court.[60] Allegedly, the petition did not state the material dates, was not accompanied by a clearly legible duplicate original or certified true copy of the final order and

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59 Id. at 502-A.
60 Id. at 579.

material documents to support the petition, and did not contain a sworn certification against forum shopping signed by all the employees.[61]

Moreover, Philphos points out that only Mayol appealed the May 28, 2008 LA Decision.[62] He was the only one who signed the Verification/Certification of Non-Forum Shopping in the Appeal Memorandum.[63] Hence, said Decision is already final insofar as the other employees are concerned. They may no longer be parties to the petition for *certiorari* before the CA.[64]

Additionally, Philphos contends that the dispositive portion of the CA's January 17, 2011 Decision only reversed the May 28, 2008 LA Decision and the September 30, 2008 NLRC Decision (Mayol Group cases). It did not reverse and set aside the September 22, 2008 LA Decision and the January 26, 2009 NLRC Decision (Retiza Group cases).[65]

As for the merits of the case, Philphos maintains that it complied with the requirements for a valid retrenchment.[66] It incurred a substantial net loss of around ₱1.9 billion in 2006, which is duly supported by audited financial statements.[67] This net loss is not simply *de minimis,* but is substantial, serious, actual and real.[68] Hence, it implemented its retrenchment program in January 2007 to avert further losses. In fact, after the retrenchment, it saved ₱38 million, which represented the salaries and benefits of the 85 retrenched employees.[69] Likewise, it gave the employees separation pay equivalent to their one-month salary for every year of service, and furnished the DOLE with the required notices.[70]

Furthermore, Philphos contends that the employees who signed the Receipt and Release are barred from claiming benefits.[71] It also argues that Mayol and Beltran are not entitled to reinstatement, considering that the retrenchment program is valid.[72]

Finally, Philphos avers that the employees are not entitled to 200% early retirement pay and to 200% separation pay.[73] Said benefits were not provided

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61 Id.
62 Id. at 39.
63 Id.
64 Id.
65 Id. at 40.
66 Id. at 33.
67 Id. at 19.
68 Id. at 20.
69 Id.
70 Id. at 33.
71 Id. at 40.
72 Id. at 555.
73 Id. at 576.

under the Collective Bargaining Agreement (CBA) and were not given customarily.[74]

On the other hand, the employees counter that Philphos' retrenchment program is illegal. Moreover, they argue that the Receipt and Release is akin to a quitclaim and is contrary to public policy.[75] They contend that they were pressured and tricked by Philphos into signing the Release, under the pretense that the retrenchment was legal.[76] They needed the money because they had just lost their jobs.[77]

Additionally, the employees aver that since they were illegally dismissed, they are entitled to backwages and benefits. Also, Mayol and Beltran ask for their reinstatement to their former positions. They claim that the CA's ruling barring reinstatement due to strained relations is misplaced, as it applies only to managerial employees or those who hold positions of trust and confidence.[78] Moreover, they posit that the degree of hostility in a litigation is not sufficient proof of the existence of strained relations.[79]

Furthermore, the employees insist that Philphos has a standing policy of giving 200% separation pay to its retrenched workers. Likewise, the CBA grants 200% early retirement pay for the laid-off employees who have served for 23 years.[80]

Lastly, the employees clamor for an award of indemnity and exemplary damages in view of Philphos' false accusations of a supposed valid cause for retrenchment.[81]

Ruling of the Court

This case brings to fore another struggle between capital and labor. At odds are the right of the employer to prevent financial loss by reducing its workforce *vis-a-vis* the struggle of the employees to protect their very livelihood.

In resolving the impasse, the Court recognizes the importance of granting businesses/employers freedom and autonomy to carry out their operations.

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74 Id.
75 Id. at 495.
76 Id.
77 Id.
78 Id. (G.R. Nos. 205797-78) at 6.
79 Id. at 7.
80 Id. at 5.
81 Id. at 10.

However, this prerogative is by no means unbridled. The right to save business operations shall not be achieved by trampling upon the employees' tenurial security.

Guided by these precepts, the Court shall resolve the case, starting with the procedural issues raised by Philphos.

The employees substantially complied with Section 4, Rule 45 of the Rules of Court and the rules on non-forum shopping.

Philphos urges for the outright dismissal of the employees' petition due to the following infirmities, namely: (i) absence of a statement of material dates, (ii) failure to submit the certified true copies of the judgment or final order and the material portions of the record that would support the petition and (iii) lack of a sworn certification against forum shopping signed by all the employees.[82]

In a long line of cases, the Court excused the parties' failure to comply with Section 4, Rule 45. It declared that the ends of justice will be better served if cases are decided on the merits, after granting the parties a full opportunity to ventilate their causes and defenses, rather than on technicalities or procedural imperfections. The rules of procedure are designed to expedite the resolution of cases. As such, a strict and rigid application of the same, which results in technicalities that frustrate rather than promote substantial justice, must be avoided.[83]

In fact, in *Metropolitan Bank and Trust Company v. Absolute Management Corporation,* and *Superlines Transportation Company, Inc. v. Philippine National Construction Company and Pedro Balubal,* the Court excused therein petitioners' failure to attach the important documents to their petition, and held that such "omission is not a grievous one that the spirit of liberality cannot address."[84] What matters is that the Court had a clear narration of the facts and arguments according to both parties' views.[85]

The Court shall grant the employees the same modicum of liberality.

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82 Id. (G.R. Nos. 205528-29) at 579.

83 *Nicolas v. Del-Nacia*, 575 Phil. 498, 507 (2008), citing *Posadas-Moya and Associates Construction Co., Inc v. Greenfield Development Corporation et al.*, 451 Phil. 647, 661 (2003); *Metropolitan Bank &Trust Co. v. Absolute Mgm't. Corp.*, 701 Phil. 200, 209-210 (2013), citing *F.A.T. Kee Computer Systems, Inc. v. Online Networks International, Inc.*, 656 Phil. 403, 420-421 (2011).

84 *Metropolitan Bank &Trust Co. v. Absolute Mgm't. Corp.*, id. at 210-211.

85 Id.

A scrutiny of the records shows that the employees substantially complied with Section 4, Rule 45. The petition indicates the date when they received the assailed CA Resolution.[86] This suffices to determine whether their petition for review was filed on time. Likewise, they attached the assailed CA Decision and Resolution in their petition. Their failure to append the other material documents may be excused considering that the Court was able to peruse and scrutinize said documents from the records of the consolidated cases. The records were replete with the rulings of the labor tribunals, the parties' complaint, position papers, petitions, and other important documents that aided in the resolution of the case. Essentially, the Court had the benefit of a clear narration of the facts and arguments of the case according to both parties' perspectives.

Moreover, the employees submitted a Compliance[87] dated January 2, 2014, wherein they attached a Verified Statement[88] declaring that they received the January 17, 2011 CA Decision on January 31, 2011.[89] Furthermore, they attached a SPA[90] executed on January 11, 2008, which proves Mayol's authority to sign the Verification/Certification of Non-Forum Shopping on behalf of the other employees. The SPA states that the employees authorize Mayol to represent them in the proceedings before the NLRC, the CA and the Court.[91]

It is thus clear from the foregoing that the employees substantially complied with Section 4, Rule 45. Besides, the gravity of the issues in the instant case, which involves the livelihood of the employees, certainly warrants a resolution on the merits.

The January 17, 2011 CA Decision reversed all the assailed LA and NLRC Decisions.

The Court rejects Philphos' argument that the CA Decision dated January 17, 2011, merely reversed the May 28, 2008 LA ruling and September 30, 2008 NLRC decision involving the Mayol Group. Notably, the CA ordered the consolidation of the petitions of the Mayol Group and the Retiza Group. Accordingly, the decision rendered by the CA applied to both sets of employees. Likewise, the facts and circumstances in both petitions are intricately entwined. The issues pertaining to the validity of retrenchment, the illegality of the employees' dismissal, and the benefits due them are inter-related. Clearly, the intent of the CA was to apply its disposition to both consolidated petitions.

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86 *Rollo* (G.R. No. 205797-98), p. 4.
87 Id. at 68-69.
88 Id. at 70-71.
89 Id. at 70.
90 Id. at 72-73.
91 Id. at 72.

Having thus disposed of the procedural issues, the Court shall now resolve the merits of the case.

Philphos' retrenchment program is illegal

The Labor Code recognizes the right of the employer to terminate employment to prevent serious business losses:

> **Art. 298 [283]. Closure of establishment and reduction of personnel.** The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

Parenthetically, retrenchment is the termination of employment initiated by the employer through no fault of, and without prejudice to the employees. It is a management prerogative resorted to avoid or minimize business losses during periods of recession, industrial depression, seasonal fluctuations, or during lulls occasioned by lack of orders, shortage of materials, or conversion of the plant.[92]

It bears stressing that the employer's prerogative to retrench employees should not be used as a weapon to frustrate labor.[93] Lest it be forgotten, employment to the common man is his very life and blood, and must thus be protected against concocted causes to legitimize an otherwise irregular termination of employment.[94] Accordingly, to avert devious schemes aimed at frustrating the employees' tenurial security, compliance with the following requisites is imperative:

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92 *Lambert Pawnbrokers and Jewelry Corp., et al. v. Binamira*, 639 Phil. 1, 11 (2010), citing *Anabe v. Asia Construction (ASIAKONSTRUKT), et al.*, 623 Phil. 857, 862 (2009).

93 *Andrada v. National Labor Relations Commission*, 565 Phil. 821, 827 (2007).

94 *F.F. Marine Corporation v. The 2nd Division, NLRC*, 495 Phil. 140, 151-152 (2005).

> x x x (1) the retrenchment is reasonably necessary and likely to prevent business losses which, if already incurred, are not merely *de minimis*, but substantial, serious and real, or only if expected, are reasonably imminent as perceived objectively and in good faith by the employer; (2) the employer serves written notice both to the employee/s concerned and the DOLE at least one month before the intended date of retrenchment; (3) the employer pays the retrenched employee separation pay in an amount prescribed by the Code; (4) the employer exercises its prerogative to retrench in good faith; and (5) the employer uses fair and reasonable criteria in ascertaining who would be retrenched or retained.[95]

Admittedly, Philphos paid the retrenched employees their separation pay equivalent to their one-month salary, and furnished DOLE with the required notices one month prior to the retrenchment. Unfortunately, however, Philphos failed to comply with the other requisites of retrenchment.

Philphos failed to prove that it incurred substantial business losses over a period of time and that its chances of recovery are bleak.

Essentially, the first requirement to implement a valid retrenchment program is to present proof that it is reasonably necessary, and is likely to prevent business losses which are substantial, serious, real, and not merely *de minimis* in extent. If the losses purportedly sought to be forestalled by retrenchment are proven to be insubstantial and inconsequential, the *bonafide* nature of the retrenchment would be in doubt.[96]

Over time, jurisprudence has expanded the concept of "substantial business losses." In *Lambert Pawnbrokers and Jewelry Corp., et al. v. Binamira,* it was stressed that a mere decline in a company's gross income does not constitute a substantial business loss that would warrant retrenchment:

> At any rate, we perused over the financial statements submitted by petitioners and we find no evidence at all that the company was suffering from business losses. In fact, in their Position Paper, petitioners merely alleged a sharp drop in its income in 1998 from ₱1million to only ₱665,000.00. This is not the business losses contemplated by the Labor Code that would justify a valid retrenchment. A mere decline in gross income cannot in any manner be considered as serious business losses. It should be substantial, sustained and real.[97]

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95 *Lambert Pawnbrokers and Jewelry Corp., et al. v. Binamira*, supra note 92 at 11-12, citing *Anabe v. Asia Construction (ASIAKONSTRUKT), et al.*, supra note 92 at 862-863.

96 *F.F. Marine Corporation v. The 2nd Division, NLRC*, supra note 94 at 152-153.

97 *Lambert Pawnbrokers and Jewelry Corp., et al. v. Binamira*, supra note 92 at 12.

Similarly, in *Phil. Carpet Employees Asso. (PHILCEA) v. Hon. Sto. Tomas*, it was clarified that "sliding incomes" or "decreasing gross revenues" are not losses under the purview of the law. Rather, the employer must prove the he/she sustained losses over a period of time, and that the prospect of financial improvement is bleak. In the cited case, the Court noted that although the losses may have been occurring over a period of time, the data however showed that the sales of the company increased.[98]

> What the law speaks of is serious business losses or financial reverses. Sliding incomes or decreasing gross revenues are not necessarily losses, much less serious business losses within the meaning of the law. The bare fact that an employer may have sustained a net loss, such loss, per se, absent any other evidence on its impact on the business, nor on expected losses that would have been incurred had operations been continued, may not amount to serious business losses mentioned in the law. The employer must also show that its losses increased through a period of time and that the condition of the company will not likely improve in the near future.[99] (Citations omitted)

Moreover, in *Emco Plywood Corporation v. Abelgas*,[100] it was declared that the employer must prove that the losses are continuing, and devoid of an immediate prospect of abating. Without this, "the nature of the retrenchment is seriously disputable:"

> In the present case, petitioners have presented only EMCO's audited financial statements for the years 1991 and 1992. As already stated, these show that their net income of ₱1,052,817.00 for 1991 decreased to ₱880,407.85 in 1992. *Somerville Stainless Steel Corporation v. NLRC* held that the presentation of the company's financial statements for a particular year was inadequate to overcome the stringent requirement of the law. According to the Court, "[t]he failure of petitioner to show its income or loss for the immediately preceding years or to prove that it expected no abatement of such losses in the coming years bespeaks the weakness of its cause. The financial statement for 1992, by itself, x x x does not show whether its losses increased or decreased. Although [the employer] posted a loss for 1992, it is also possible that such loss was considerably less than those previously incurred, thereby indicating the company's improving condition.[101]

As correctly ruled by the CA, Philphos' documents fail to prove that it suffered from substantial losses over a period of time, and that the prospect of abating said losses is dismal. Philphos merely showed its financial statement in the year preceding the retrenchment. There was no proof showing that it was suffering from a downward spiral.

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98 *Phil. Carpet Employees Asso. (PHILCEA) v. Hon. Sto. Tomas*, 518 Phil. 299, 316 (2006).
99 Id.
100 471 Phil. 460 (2004).
101 Id. at 478.

The Court further notes that the Independent Auditor's Report[102] was issued on April 30, 2007, while the retrenchment program was implemented in as early as January 18, 2007. In *Lambert Pawnbrokers and Jewelry Corp., et al v. Binamira,* the Court observed that the financial statements were prepared after the date of the retrenchment, which thus rendered the employer's claim of substantial loss, dubious.

Philphos failed to prove that its retrenchment program was a measure of last resort and an effective means to avert losses.

To afford full protection to labor, the employer's prerogative to bring down labor costs through retrenchment must be exercised carefully and as a measure of last resort.[103] Even though a company may have sustained losses, still, retrenchment is not justified absent any showing that it was adopted as a measure of last recourse.[104] Equally important, the employer must prove that the retrenchment is reasonably necessary to avert losses.[105] Notably, "[n]ot every loss incurred or expected to be incurred by employers can justify retrenchment.[106]

The Court's warning in *F.F. Marine Corporation v. The 2nd Division NLRC,* is very clear:

> x x x There should, in other words, be a certain degree of urgency for the retrenchment, which is after all a drastic recourse with serious consequences for the livelihood of the employees retired or otherwise laid-off. Because of the consequential nature of retrenchment, it must, thirdly, be reasonably necessary and likely to effectively prevent the expected losses. The employer should have taken other measures prior or parallel to retrenchment to forestall losses, *i.e.*, cut other costs than labor costs. An employer who, for instance, lays off substantial numbers of workers while continuing to dispense fat executive bonuses and perquisites or so-called "golden parachutes", can scarcely claim to be retrenching in good faith to avoid losses. To impart operational meaning to the constitutional policy of providing "full protection" to labor, ***the employer's prerogative to bring down labor costs by retrenching must be exercised essentially as a measure of last resort, after less drastic means***—*e.g.*, reduction of both management and rank-and-file bonuses and salaries, going on reduced time, improving manufacturing efficiencies, trimming of marketing and advertising costs, etc.—have been tried and found

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102 *Rollo* (G.R. No. 205528-29), pp. 239-245.

103 *Andrada v. National Labor Relations Commission*, supra note 93; *F.F. Marine Corporation v. The 2nd Division, NLRC*, supra note 94 at 158.

104 *F.F. Marine Corporation v. The 2nd Division, NLRC*, id., *Emco Plywood Corporation v. Abelgas*, supra note 100.

105 *Emco Plywood Corporation v. Abelgas*, id., citing *Guerrero v. NLRC*, 329 Phil. 1069, 1076 (1996).

106 Id.

wanting.[107]

In the instant case, Philphos failed to show that it implemented other cost-cutting measures to resurrect itself from financial doom. In addition, it did not prove that its retrenchment program was reasonably necessary to avert serious financial loss. It claims that after implementing its retrenchment program, it was able to save ₱38,469,260.60,[108] which represented the retrenched employees' salaries and benefits. At first glance, it appears as if Philphos saved a substantial sum of money by downsizing its workforce. However, it must be remembered that the loss Philphos purportedly incurred is ₱1,958,559,869.00. Certainly, the amount saved is paltry compared to the loss sustained, and will not significantly contribute in salvaging its financial condition. In fact, the salaries and benefits of the retrenched employees constitute less than 2% of the total amount of the loss. This casts serious doubt on Philphos' contention that the retrenchment was necessary to save it from dire financial straits. This further proves that Philiphos could have availed of other money saving measures rather than directly targeting its employees' livelihood.

Philphos failed to apply a fair and reasonable criteria in implementing the retrenchment.

There is no showing that Philphos used a fair and reasonable criteria in choosing who to retain and who to retrench. Although it alleged that it applied a fair criteria in implementing its retrenchment program, the records are utterly bereft of actual proof showing that said criteria was indeed applied.[109] On the contrary, most of the retrenched employees were senior employees who have been serving the company for 23 long years. Philphos failed to explain why they were chosen to be retrenched.

The illegally dismissed employees are entitled to reinstatement and backwages.

The retrenched employees were illegally dismissed. Correlatively, they are entitled to the twin reliefs of reinstatement without loss of seniority rights and the payment of backwages.[110]

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107 *F.F. Marine Corporation v. The 2nd Division, NLRC*, supra note 94 at 152-153.
108 *Rollo* (G.R. No. 205528-29), pp. 246-248.
109 Id. at 89.
110 *ICT Marketing Services, Inc. v. Sales*, 769 Phil. 498, 512 (2015), citing *Reyes, et al. v. RP Guardians Security Agency, Inc.*, 708 Phil. 598, 603-604 (2013).

However, it must be noted that the employees have received their separation pay, save for Mayol and Beltran, who are seeking their reinstatement. The CA denied their claim for reinstatement due to strained relations, and thus, ordered the payment of separation pay. **The Court does not agree.**

As cautioned in *Rodriguez v. Sintron Systems, Inc.*:

> x x x the doctrine of strained relations cannot be applied indiscriminately since every labor dispute almost invariably results in "strained relations;" otherwise, reinstatement can never be possible simply because some hostility is engendered between the parties as a result of their disagreement. That is human nature. Strained relations must be demonstrated as a fact. The doctrine should not be used recklessly or loosely applied, nor be based on impression alone.[111]

In the case at bar, there is no compelling evidence to support the CA's conclusion that the parties' relationship had become so sour that reinstatement is no longer viable and desirable. Further, it must be noted that Mayol and Beltran have been clamoring for their reinstatement since the filing of their complaint in 2007. Hence, it is time that they finally be granted such relief.

It must be noted however that the order of reinstatement strictly applies to Mayol and Beltran considering that the other employees have already received their separation pay and did not request for their reinstatement. The employees' petition clearly shows that only Mayol and Beltran sought their reinstatement.[112]

Next, all employees including Mayol and Beltran, are entitled to the payment of their backwages, computed from the date of their retrenchment which is their illegal termination, until the finality of the Court's ruling.[113] The base figure in determining full backwages is fixed at the salary rate received by the employees at the time they were illegally dismissed. The award shall also include the benefits and allowances they regularly received as of the time of their illegal dismissal, as well as those granted under the CBA, if any.[114]

The employees who signed the Receipt and Release are likewise entitled to the fruits of this judgment.

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111 G.R. No. 240254, July 24, 2019. See also *Claudia's Kitchen, Inc., et al. v. Tanguin*, 811 Phil. 784, 800 (2017).

112 *Rollo* (G.R. No. 205797-98), pp. 6, 10.

113 *Aliling v. Feliciano, et al.*, 686 Phil. 889 (2012); *CICM Mission Seminaries (Maryhurst, Maryheights, Maryshore and Maryhill) School of Theology, Inc. et al. v. Perez*, 803 Phil. 596 (2017).

114 *United Coconut Chemicals, Inc. v. Almores*, 813 Phil. 685, 698-699 (2017).

Remarkably, in *Mobilia Products, Inc. v. Demecillo, et al.*, the Court underscored that if the retrenchment is illegal, the quitclaims signed by the retrenched employees shall be deemed as vitiated by vices of consent:

> It is the duty of the employer to prove with clear and satisfactory evidence that legitimate business reasons exist to justify retrenchment. Failure to do so inevitably results in a finding that the dismissal is unjustified. Accordingly, where the retrenchment is illegal and of no effect, as in this case, the quitclaims were therefore not voluntarily entered into by the workers. Their consent had been vitiated by mistake or fraud.[115] (Citations omitted)

Similar pronouncements were rendered in *F.F. Marine Corporation*,[116] and *Emco Plywood Corporation.*[117] Furthermore, in said cases, the Court articulated that a quitclaim shall not bar the employees from receiving the benefits that they are legally entitled to:

> Contrary to this assumption, the mere fact that respondents were not physically coerced or intimidated does not necessarily imply that they freely or voluntarily consented to the terms thereof. Moreover, petitioners, not respondents, have the burden of proving that the Quitclaims were voluntarily entered into.
>
> Furthermore, in *Trendline Employees Association-Southern Philippines Federation of Labor (TEA-SPFL) v. NLRC* and *Philippine Carpet Employees Association v. Philippine Carpet Manufacturing Corporation,* similar retrenchments were found to be illegal, as the employers had failed to prove that they were actually suffering from poor financial conditions. In these cases, the Quitclaims were deemed illegal, as the employees' consents had been vitiated by mistake or fraud.
>
> **These rulings are applicable to the case at bar. Because the retrenchment was illegal and of no effect, the Quitclaims were therefore not voluntarily entered into by respondents. Their consent was similarly vitiated by mistake or fraud. The law looks with disfavor upon quitclaims and releases by employees pressured into signing by unscrupulous employers minded to evade legal responsibilities.**
>
> As a rule, deeds of release or quitclaim cannot bar employees from demanding benefits to which they are legally entitled or from contesting the legality of their dismissal. The acceptance of those benefits would not amount to estoppel. The amounts already received by the present respondents as consideration for signing the Quitclaims should, however, be deducted from their respective monetary awards.[118] (Citations omitted and emphasis supplied)

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115 *Mobilia Products, Inc. v. Demecillo, et al.*, 597 Phil. 621, 630 (2009).
116 *F.F. Marine Corporation v. The 2nd Division, NLRC*, supra note 94.
117 *Emco Plywood Corporation v. Abelgas*, supra note 100.
118 Id. at 482-483.

Based on the foregoing, the employees who signed the Receipt and Release are entitled to an award of backwages.

The employees are not entitled to 200% separation pay and early retirement pay; neither are they entitled to moral and exemplary damages.

The Court finds no basis to award the employees 200% separation pay, and 200% retirement pay. The grant of such benefits was not part of a standard company policy or a customary practice. Remarkably, the term "customary" denotes a long-established and constant practice, connoting regularity. [119] Contrary to this definition, the awards were distinctly granted on special occasions. Particularly, the 200% separation pay was given only once to Philphos' employees who were affected by the Rightsizing Program in August 1999. Meanwhile, the 200% retirement pay was granted pursuant to Philphos' Early Retirement Program in 2000. The afore-mentioned initiatives are not adjuncts of the retrenchment program.[120] Neither did the employees prove that the awards are granted under the CBA.

Finally, the Court denies the employees' prayer for moral and exemplary damages, for lack of factual and legal basis. Nonetheless, the employees are entitled to attorney's fees equivalent to ten percent of the total monetary award, since the instant case includes a claim for unlawfully withheld wages, and the employees were forced to litigate to protect their rights.[121] All amounts due shall earn a legal interest of six percent (6%) *per annum.*[122]

WHEREFORE, premises considered, the January 17, 2011 Decision and January 17, 2013 Resolution of the Court of Appeals in the consolidated cases of CA-G.R. SP No. 04267 and CA-G.R. SP No. 04499 are **AFFIRMED with modification** in that (i) Alejandro Mayol and Joelito Beltan shall be reinstated to their former positions without loss of seniority rights; and (ii) the employees shall be entitled to attorney's fees equivalent to 10 percent (10%) of the total monetary award. All amounts due shall be subject to a legal interest of six percent (6%) *per annum* from the finality of the Court's Decision until full satisfaction.

The Labor Arbiter is hereby **DIRECTED** to compute the amounts due to the employees in accordance with the Court's ruling.

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119 *Millares v. National Labor Relations Commission*, 365 Phil. 42, 51-52 (1999).
120 *Rollo* (G.R. No. 205528-29), p. 89.
121 LABOR CODE OF THE PHILIPPINES, Article 111.
122 *Nacar v. Gallery Frames*, 716 Phil. 267, 278-279 (2013).

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Chief Justice