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WHEREFORE, the petition is *GRANTED*. The Decision dated January 31, 2002 and Resolution dated October 9, 2002 of the Court of Appeals are *SET ASIDE*. The Orders dated March 15, 2000 and October 3, 2000, issued by the Regional Trial Court of Pasay City, Branch 231, are *NULLIFIED*.

SO ORDERED.

Ynares-Santiago (Chairperson), Chico-Nazario, and *Nachura, JJ.,* concur.

THIRD DIVISION

[G.R. No. 158609. July 27, 2007]

SPOUSES MARIAN B. LINTAG and ANGELO T. ARRASTIA, represented herein by Attorney-in-Fact REMEDIOS BERENGUER LINTAG, *petitioners, vs.* **NATIONAL POWER CORPORATION,** *respondent.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; STATUTES; REPUBLIC ACT NO. 8974 (AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES); A SUBSTANTIVE LAW.— In the case of *Republic v. Gingoyon*, this Court held that RA No. 8974 is a substantive law, to wit: "**It likewise bears noting that the appropriate standard of just compensation is a substantive matter. It is well within the province of the legislature to fix the standard, which it did through the enactment of Rep. Act No. 8974.** Specifically, this prescribes the new standards in determining the amount of just compensation in expropriation cases relating to national government infrastructure projects, as well as the

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payment of the provisional value as a prerequisite to the issuance of a writ of possession." This ruling was reiterated in this Court's Resolution of February 1, 2006, which further states that: "[I]f the rule takes away a vested right, it is not procedural, and so the converse certainly holds that if the rule or provision creates a right, it should be properly appreciated as substantive in nature. Indubitably, a matter is substantive when it involves the creation of rights to be enjoyed by the owner of property to be expropriated. The right of the owner to receive just compensation prior to acquisition of possession by the State of the property is a proprietary right, appropriately classified as a substantive matter and, thus, within the sole province of the legislature to legislate on. It is possible for a substantive matter to be nonetheless embodied in a rule of procedure, and to a certain extent, Rule 67 does contain matters of substance. Yet the absorption of the substantive point into a procedural rule does not prevent the substantive right from being superseded or amended by statute, for the creation of property rights is a matter for the legislature to enact on, and not for the courts to decide upon. Indeed, if the position of the Government is sustained, it could very well lead to the absurd situation wherein the judicial branch of government may shield laws with the veneer of irrepealability simply by absorbing the provisions of law into the rules of procedure. When the 1987 Constitution restored to the judicial branch of government the sole prerogative to promulgate rules concerning pleading, practice and procedure, it should be understood that such rules necessarily pertain to points of procedure, and not points of substantive law."

2. ID.; ID.; ID.; STATUTES, INCLUDING ADMINISTRATIVE RULES AND REGULATIONS OPERATE PROSPECTIVELY; EXCEPTION.— It is a well-entrenched principle that statutes, including administrative rules and regulations, operate prospectively unless the legislative intent to the contrary is manifest by express terms or by necessary implication because the retroactive application of a law usually divests rights that have already become vested. This is based on the Latin maxim: *Lex prospicit non respicit* (the law looks forward, not backward).

3. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; EXPROPRIATION; STAGES.— Expropriation of lands consists of two stages: "The ***first*** is concerned with the determination

of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action, "of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint x x x. The ***second*** phase of the eminent domain action is concerned with the determination by the court of "the just compensation for the property sought to be taken." This is done by the court with the assistance of not more than three (3) commissioners x x x." It is only upon the completion of these two stages that expropriation is said to have been completed. The process is not complete until payment of just compensation.

4. ID.; ID.; ID.; JUST COMPENSATION; ELUCIDATED.— [J]ust compensation is not only the correct determination of the amount to be paid to the property owner but also the payment of the property within a reasonable time. Without prompt payment, compensation cannot be considered "just." xxx [I]t is the value of the land at the time of the taking or at the time of the filing of the complaint, whichever came first, not the value of the land at the time of the rendition of judgment which should be considered. In this case, where the institution of an expropriation action preceded the taking of the subject property, **just compensation is based on the value of the land at the time of the filing of the complaint**. This is provided by the Rules of Court, the assumption of possession by the expropriator ordinarily being conditioned on its deposit with the National or Provincial Treasurer of the amount equivalent to the value of the property as provisionally ascertained by the court having jurisdiction of the proceedings.

APPEARANCES OF COUNSEL

De Jesus De Jesus and De Jesus Law Office for petitioners.
The Solicitor General for respondent.

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D E C I S I O N

NACHURA, *J.*:

This is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision[2] dated November 29, 2002 and praying that the Order[3] of the Regional Trial Court (RTC) of Sorsogon, Sorsogon, dated July 10, 2001, be reinstated and affirmed *in toto*.

The Facts

Petitioners-spouses Marian Berenguer-Lintag and Angelo T. Arrastia (petitioners) are the registered owners of a property with an area of 80,001 square meters, covered by Transfer Certificate of Title (TCT) No. T-24855 and located at *Barangay* Bibincahan, Sorsogon, Sorsogon.

On December 4, 1996, respondent National Power Corporation (NPC) filed a Complaint[4] for Eminent Domain against petitioners in order to acquire an easement of a right of way over a portion of the said property, consisting of 8,050 square meters (subject property) with an initial assessed value at ₱2,468.09. NPC averred that such acquisition was necessary and urgent for the construction and maintenance of NPC's 350 KV Leyte-Luzon HVDC Power Transmission Project.

On January 17, 1997, after the deposit of the initial assessed value of the subject property amounting to ₱2,468.09 with the Philippine National Bank, the RTC, upon an *ex-parte* motion of NPC, ordered the issuance of a Writ of Possession on the subject property[5] consonant with Presidential Decree (PD) No. 42.[6]

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[1] *Rollo,* pp. 22-40.

[2] Particularly docketed as CA-G.R. SP No. 67700, penned by now retired Associate Justice Renato C. Dacudao, with Associate Justices Eugenio S. Labitoria and Danilo B. Pine, concurring; *id*. at 47-60.

[3] Particularly docketed as Civil Case No. 96-6295; *id*. at 63-69.

[4] *Rollo,* pp. 112-117.

[5] *Id*. at 118.

[6] PD No. 42 entitled "AUTHORIZING THE PLAINTIFF IN EMINENT

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On January 24, 1997, the Writ of Possession[7] was issued in favor of NPC.[8]

On May 25, 2000, the RTC issued an Order[9] appointing three (3) new Commissioners to appraise the value of the subject property. They were directed to take their oath within five (5) days from receipt of said Order, to notify the parties and their respective counsels as to the date of the conduct of ocular inspection of the subject property, and to submit a report within fifteen (15) days from the completion of the ocular inspection.

On June 15, 2000, two commissioners filed a motion praying that the RTC use the previous Commissioners' Report as basis in determining the amount of just compensation.[10]

DOMAIN PROCEEDINGS TO TAKE POSSESSIONS OF THE PROPERTY INVOLVED UPON DEPOSITING THE ASSESSED VALUE, FOR PURPOSE OF TAXATION" was issued on November 9, 1972. The same provides that "upon filing in the proper court of the complaint in eminent domain proceedings or at anytime thereafter, and after due notice to the defendant, plaintiff shall have the right to take or enter upon the possession of the real property involved if he deposits with the Philippine National Bank, in its main office or any of its branches or agencies, an amount equivalent to the assessed value of the property for purposes of taxation, to be held by said bank subject to the orders and final disposition of the court."

[7] *Id*. at 119-120.

[8] Per RTC Order, *supra* note 3 and assailed CA Decision, *supra* note 2, it appears that petitioners questioned the said writ of possession for lack of notice, and the amount of deposit for not being in accordance with PD 42. Thus, these issues were raised to the CA on *certiorari*. On December 4, 1998, the CA, Second Division issued its decision in favor of the petitioners reversing the orders involved and ordering the RTC to comply with the requirements of notice for NPC to deposit the amount of ₱32,930.00 required by PD 42 and to hear the case to determine just compensation. On March 4, 1999, the RTC appointed three (3) commissioners to determine the amount of just compensation and the said commissioners subsequently took their oath of office. These facts were not at all addressed or contested in any of NPC's pleadings before this Court or before the CA when it questioned the validity of the assailed RTC Order via *certiorari*. However, the NPC per Comment dated July 2, 2004 (*rollo,* pp. 90-111,107), averred that on September 2, 1999, the Commissioners' Report signed by two (2) commissioners was submitted. The said report fixed the fair market value of the subject property including the improvements at ₱297,992.50.

[9] *Rollo,* p. 121.

[10] *Supra* note 3 at 64.

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On July 11, 2000, petitioners filed a Motion[11] asking the Court to order the NPC to pay them or their Attorney-in-Fact Remedios Berenguer Lintag (Remedios Lintag) the amount of ₱49,665.63, as the tentative value of the damaged improvements.

On August 28, 2000, the RTC directed Field Personnel Wenifredo A. Halcon, Jr. and Augusto V. Ramos, Jr. to confirm that the damage to the improvements in the subject property amounted to ₱49,665.63.[12] NPC paid the said amount.

On September 13, 2000, pre-trial was held and a pre-trial Order[13] was issued. The case was set for trial on the merits on November 15, 2000.

However, on November 7, 2000, Republic Act (RA) No. 8974 entitled "An Act To Facilitate The Acquisition Of Right-Of-Way, Site Or Location For National Government Infrastructure Projects And For Other Purposes" was approved.

On February 14, 2001, petitioners filed a Motion[14] asking the RTC to direct the NPC to comply with RA No. 8974. In the said motion, petitioners asseverated that pursuant to Sec. 4 of RA No. 8974, they are entitled to 100% of the value of the subject property based on the current relevant zonal valuation made by the Bureau of Internal Revenue (BIR), which at the time was pegged at ₱700.00 per square meter. Thus, petitioners prayed that NPC be directed to pay ₱5,635,000.00 for the subject property.

The Ruling of the RTC

On July 10, 2001, the RTC issued an Order directing the NPC to comply with RA No. 8974. The court held that RA No. 8974 is procedural in nature, and, thus, may be given retroactive effect, *viz.*:

WHEREFORE, premises considered, the plaintiff is ordered to pay the defendants the amount equivalent to one hundred (100%)

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[11] CA *rollo,* pp. 154-155.

[12] *Rollo,* p. 122.

[13] *Id*. at 123-124.

[14] *Id*. at 125-131.

percent of the current Bureau of Internal Revenue's zonal valuation of their property consisting of eight thousand fifty (8,050) square meters affected by the electrical project involved in this case within fifteen (15) days after receipt of this Order.

Set the continuation of hearing for the determination of just compensation to August 31, 2001 at 8:30 o'clock in the morning.

SO ORDERED.

NPC filed a motion for reconsideration which was denied by the RTC in its Order[15] dated September 7, 2001. Aggrieved, NPC went to the CA via Petition for *Certiorari*[16] under Rule 65 of the Rules of Civil Procedure.

The CA's Ruling

In its November 29, 2002 Decision, the CA declared that RA No. 8974 cannot be applied retroactively since an initial deposit had already been made and possession of the subject property had already been obtained by NPC. Moreover, the CA held that the retroactive application of said law would impose a greater burden on the part of the State where none had existed before. It would inflict substantial injury to a substantive right. Finally, the CA opined that RA No. 8974 itself made no mention of retroactivity. The CA disposed, to wit:

WHEREFORE, the petition at bench is GRANTED, and the impugned orders are SET ASIDE. The temporary restraining order earlier issued is hereby c onverted into a writ of preliminary injunction upon the same bond posted by the petitioner. Without costs.

SO ORDERED.

On January 14, 2003, petitioners filed a Motion for Reconsideration[17] which the CA denied in its Resolution[18] dated May 15, 2003.

Hence, this Petition based on the following grounds:

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[15] CA *rollo,* p. 42.

[16] *Id*. at 2-33.

[17] *Id*. at 220-228.

[18] *Rollo,* p. 62.

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1) The CA committed a reversible error when it declared that RA No. 8974 cannot be applied retroactively because it is a substantive law and not a remedial statute; and

2) Assuming for the sake of argument that RA No. 8974 is not retroactive, how should the petitioners be promptly paid just compensation?

Petitioners contend that the Government's deliberate delay of payment of just compensation is the evil sought to be remedied by RA No. 8974; that despite the issuance of Administrative Order (AO) No. 50 and NPC Resolution No. 98-184, NPC never had the intention of making prompt payment of just compensation; and that just compensation does not only mean correct determination of the amount to be paid but also the prompt payment thereof. Petitioners manifest that NPC, as observed by the RTC, failed to pay the initial deposit of ₱32,930.00 as mandated by PD 42.[19] Thus, petitioners submit that they are entitled to the prompt payment of just compensation and on account of NPC's delay in the payment thereof, the imposition of legal interest is warranted.[20]

On the other hand, NPC through the Office of the Solicitor General (OSG) counters that RA No. 8974 is not a remedial statute that can be given retroactive effect, and submits that Sec. 4 thereof is a substantive provision as it vests substantive rights; that the legislature did not intend RA No. 8974 to have retroactive application; that the silence of the Implementing Rules of RA No. 8974 as to prospectivity does not *ipso facto* render it retroactive; that the RTC no longer had jurisdiction to amend its final Order dated January 17, 1997 for initial deposit and possession; and that the valuation fixed by the RTC is improper since the case involves an easement, and thus, NPC should be required to pay only an easement fee.[21]

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[19] *Supra* note 8.

[20] Petitioners' Memorandum dated May 4, 2005; *rollo,* pp. 179-202.

[21] OSG's Comment dated July 2, 2004; *rollo,* pp. 90-111.

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The Court's Ruling

The petition is bereft of merit.

Petitioners' first ground must fail.

In the case of *Republic v. Gingoyon*,[22] this Court held that RA No. 8974 is a substantive law, to wit:

It likewise bears noting that the appropriate standard of just compensation is a substantive matter. It is well within the province of the legislature to fix the standard, which it did through the enactment of Rep. Act No. 8974. Specifically, this prescribes the new standards in determining the amount of just compensation in expropriation cases relating to national government infrastructure projects, as well as the payment of the provisional value as a prerequisite to the issuance of a writ of possession.

This ruling was reiterated in this Court's Resolution[23] of February 1, 2006, which further states that:

[I]f the rule takes away a vested right, it is not procedural, and so the converse certainly holds that if the rule or provision creates a right, it should be properly appreciated as substantive in nature. Indubitably, a matter is substantive when it involves the creation of rights to be enjoyed by the owner of property to be expropriated. The right of the owner to receive just compensation prior to acquisition of possession by the State of the property is a proprietary right, appropriately classified as a substantive matter and, thus, within the sole province of the legislature to legislate on.

It is possible for a substantive matter to be nonetheless embodied in a rule of procedure, and to a certain extent, Rule 67 does contain matters of substance. Yet the absorption of the substantive point into a procedural rule does not prevent the substantive right from being superseded or amended by statute, for the creation of property rights is a matter for the legislature to enact on, and not for the courts to decide upon. Indeed, if the position of the Government is sustained, it could very well lead to the absurd situation wherein the

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[22] G.R. No. 166429, December 19, 2005, 478 SCRA 474, 520 (emphasis supplied).

[23] G.R. No. 166429, 481 SCRA 457, 468, citing the case of *Fabian v. Desierto*, 356 Phil. 787, 809 (1998).

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judicial branch of government may shield laws with the veneer of irrepealability simply by absorbing the provisions of law into the rules of procedure. When the 1987 Constitution restored to the judicial branch of government the sole prerogative to promulgate rules concerning pleading, practice and procedure, it should be understood that such rules necessarily pertain to points of procedure, and not points of substantive law.

It is a well-entrenched principle that statutes, including administrative rules and regulations, operate prospectively unless the legislative intent to the contrary is manifest by express terms or by necessary implication[24] because the retroactive application of a law usually divests rights that have already become vested.[25] This is based on the Latin maxim: *Lex prospicit non respicit* (the law looks forward, not backward).

In the application of RA No. 8974, the Court finds no justification to depart from this rule. *First*, RA No. 8974 is a substantive law. *Second*, there is nothing in RA No. 8974 which expressly provides that it should have retroactive effect. *Third*, neither is retroactivity necessarily implied from RA No. 8974 or in any of its provisions. Unfortunately for the petitioners, the silence of RA No. 8974 and its Implementing Rules on the matter cannot give rise to the inference that it can be applied retroactively. In the two (2) cases[26] wherein this Court applied the provisions of RA No. 8974, the complaints were filed at the time the law was already in full force and effect. Thus, these cases cannot serve as binding precedent to the case at bench.

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[24] *BPI Leasing Corporation v. Court of Appeals*, 461 Phil. 451, 460 (2003).

[25] *Paloma v. Mora*, G.R. No. 157783, September 23, 2005, 470 SCRA 711, 723.

[26] These cases are: (1) *Republic v. Gingoyon, supra* note 22, at 507, wherein the Government filed the complaint for expropriation with the Pasay City RTC *on December 21, 2004*; and (2) *Capitol Steel Corporation v. PHIVIDEC Industrial Authority*, G.R. No. 169453, December 6, 2006 wherein PHIVIDEC, represented by the Government Corporate Counsel, re-filed *on November 24, 2003* an expropriation case, docketed as Civil Case No. 2003-346, and raffled to Branch 20 of RTC of Misamis Oriental.

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As to petitioners' second ground, the parties may be guided by the following principles.

Expropriation of lands consists of two stages:

The ***first*** is concerned with the determination of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action, "of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint x x x.

The ***second*** phase of the eminent domain action is concerned with the determination by the court of "the just compensation for the property sought to be taken." This is done by the court with the assistance of not more than three (3) commissioners x x x.[27]

It is only upon the completion of these two stages that expropriation is said to have been completed. The process is not complete until payment of just compensation.[28] Accordingly, the issuance of the writ of possession in this case does not write *finis* to the expropriation proceedings. To effectuate the transfer of ownership, it is necessary for the NPC to pay the property owners the **final just compensation**.[29]

We observe that petitioners are not questioning the authority of the NPC to exercise the power of eminent domain nor the propriety of its exercise. While the constitutional restraint of public use has been overcome, the imperative just compensation is still wanting. Thus, petitioners now appeal for the prompt payment of just compensation. Indeed, just compensation is not only the correct determination of the amount to be paid to the property owner but also the payment of the property within

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[27] *Republic v. Lim*, G.R. No. 161656, June 29, 2005, 462 SCRA 265, 282-283, citing *Municipality of Biñan v. Garcia*, G.R. No. 69260, December 22, 1989, 180 SCRA 576, 583-584.

[28] *Republic v. Salem Investment Corporation*, G.R. No. 137569, June 23, 2000, 334 SCRA 320,329.

[29] *Republic v. Gingoyon*, *supra* note 22, at 538 (emphasis supplied).

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a reasonable time. Without prompt payment, compensation cannot be considered "just."[30]

This Court understands the plight of petitioners. It has been ten (10) years since they were divested of possession of their property, but they still have to be paid just compensation. It may be noted that the expropriation case still pends at the RTC, and it is in that case where a determination of the amount of just compensation shall be made. Inasmuch as this determination necessarily involves factual matters, and considering that this Court is not a trier of facts, at this point, we can only direct the RTC to try the case expeditiously, so that the amount of just compensation for the subject property can be fixed and promptly paid, as justice and equity dictate.

For this purpose, the RTC must bear in mind that it is the value of the land at the time of the taking or at the time of the filing of the complaint, whichever came first, not the value of the land at the time of the rendition of judgment which should be considered.[31] In this case, where the institution of an expropriation action preceded the taking of the subject property, **just compensation is based on the value of the land at the time of the filing of the complaint**. This is provided by the Rules of Court, the assumption of possession by the expropriator ordinarily being conditioned on its deposit with the National or Provincial Treasurer of the amount equivalent to the value of the property as provisionally ascertained by the court having jurisdiction of the proceedings.[32]

Finally, this Court takes cognizance of petitioners' manifestation that the NPC, as found by the RTC, failed to

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[30] *Republic v. Lim*, *supra* note 27, at 289, citing *Cosculluela v. Court of Appeals*, No. 77765, August 15, 1988, 164 SCRA 393.

[31] *Republic of the Philippines v. Ker and Company Limited*, 433 Phil. 70, 77-78 (2002); Section 4, Rule 67 of the 1997 Rules of Civil Procedure provides that just compensation is to be determined as of the date of the taking or the filing of the complaint whichever came first.

[32] *Republic v. Sarabia*, G.R. No. 157847, August 25, 2005, 468 SCRA 142, 152-153, citing *Jose Ma. Ansaldo v. Francisco S. Tantuico, Jr. and Baltazar Aquino*, 188 SCRA 300 (1990) and *Republic v. PNB*, 1 SCRA 957 (1961) (emphasis supplied).

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pay the initial deposit of ₱32,930.00 as required in PD 42.[33] The RTC had already fixed this amount on the basis of its initial factual findings. The assailed CA Decision adopted the RTC's factual findings. NPC's Comment filed with this Court and even its petition for *certiorari* before the CA did not address, much less contest, this fact. Because this factual finding was not disputed by the NPC in its pleadings before the CA and before this Court, it is, therefore, deemed admitted.[34] However, inasmuch as petitioners made no mention of this amount in their prayer before this Court, the same shall simply be considered by the RTC and included in the determination of the final just compensation.

WHEREFORE, the instant petition is hereby *DENIED*. The Regional Trial Court of Sorsogon, Sorsogon, guided by the foregoing principles, is hereby directed to proceed with the hearing of the expropriation case, docketed as Civil Case No. 96-6295, and to resolve the issue of just compensation with utmost dispatch. No costs.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, and *Chico-Nazario, JJ.,* concur.

SECOND DIVISION

[G.R. No. 159372. July 27, 2007]

RONALDO NICOL, *ET AL.*,* *petitioners, vs.* **FOOTJOY INDUSTRIAL CORP., ANTONIO TAN, ROBERT LIM, TERESITA GAMBOA, DANILO DOMINGO and CHUEN FONG HUI,** *respondents*.

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[33] *Supra* note 8.

[34] *Sunville Timber Products, Inc. v. Abad*, G.R. No. 85502, February 24, 1992, 206 SCRA 482, 489-490.

* Due to their sheer number, the names of the complainants in the twocases, NLRC Case Nos. RAB-III-03-2555-01 and RAB-III-11-3563-01, were