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awarded.[6] The Court, after reading through the text of the appealed decision, finds the same bereft of any findings of fact and law to justify the award of attorney's fees. The matter of such fees was touched but once and appears only in the dispositive portion of the decision. Simply put, the text of the decision did not state the reason why attorney's fees are being awarded, and for this reason, the Court finds it necessary to disallow the same for being conjectural.

WHEREFORE, judgment is hereby rendered modifying the appealed decision by deleting therefrom the award of attorney's fees.

SO ORDERED.

Teehankee (Chairman), Makasiar, Muñoz Palma, and *Fernandez, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-33089. July 31, 1978]

STA. CLARA LUMBER CO., INC., *petitioner, vs.* **HON. JUDGE ARSENIO MARTINEZ, CHIEF COURT PROSECUTOR and ARNALDO DE MESA, JOSE CIPRIANO JR., ANGEL SANTIAGO, CARLOS SANTIAGO, VIRGILIO TOLENTINO, SANTIAGO TINIO, RUFINO ABRIGO, FEDERICO CASIANO, FELICIDAD R. DULAY, SOTERO BONAYON, ADRIANO LUMIBAO, ROGELIO MELENDRES, FLORENCIO REYES, TIMOTEO SANSANO, IRENEO ISIP, PEDRO DIAZ, and DOMINGO LEYTE,** *respondents.*

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[6] *Ibid.*

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SYLLABUS

REMEDIAL LAW; COURTS; COURT OF INDUSTRIAL RELATIONS; JURISDICTION; A MOTION FOR RECONSIDERATION OF THE DECISION OF ANY JUDGE ALONE SHALL BE RESOLVED BY THE COURT OF INDUSTRIAL RELATIONS SITTING *EN BANC*.— The motion for the reconsideration of the order denying the motion to dismiss should have been resolved by the CIR sitting *en banc* pursuant to Section 1 of the Commonwealth Act No. 103, as amended.

APPEARANCES OF COUNSEL

Ledesma & Associates for petitioner.
N. R. Rivera for private respondents.

D E C I S I O N

CONCEPCION, JR., *J.*:

Petition for *certiorari*, prohibition and *mandamus* with preliminary injunction, to annul and set aside the orders of the respondent judge dated May 12, 1970 and January 11, 1971, in CIR Charge No. 3212, and to order the respondent judge to submit the petitioner's motions for reconsideration to the CIR *en banc*.

It appears that on October 14, 1969, herein private respondent Arnaldo de Mesa, Jose Cipriano, Jr., Angel Santiago, Carlos Santiago, Virgilio Tolentino, Santiago Tinio, Rufino Abrigo, Federico Casiano, Felicidad Dulay, Sotero Bonayon, Adriano Lumibao, Rogelio Melendres, Florencio Reyes, Timoteo Sansano, Ireneo Isip, Pedro Diaz and Domingo Leyte, as members and officers of the Sta. Clara Employees' Union, filed a complaint for unfair labor practice against the herein petitioner, Sta. Clara Lumber Co., Inc., with the Court of Industrial Relations, for allegedly dismissing the complainants without any reason or cause whatsoever and in discriminating against them, in violation

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of their Collective Bargaining Agreement.[1] The preliminary investigation of the complaint was conducted by the respondent Court Prosecutor after which, he submitted to the court a motion to dismiss the charge on the grounds that "the court has no jurisdiction over the subject matter of the cause of action and/or if the court has jurisdiction, the complainants failed to establish a *prima facie* case to warrant the filing of the complaint."[2] The respondent judge denied the motion to dismiss on April 18, 1970 and instructed the Prosecution Division of the CIR to file a formal complaint.[3] Consequently, the Sta. Clara Lumber Co., Inc. filed a motion for the reconsideration of the said order,[4] which the respondent judge denied on May 12, 1970.[5] The Sta. Clara Lumber Co., Inc. then filed a motion for the reconsideration of this order claiming that the denial of the motion for reconsideration by the Presiding Judge alone and not by the CIR sitting *en banc* is contrary to the Rules of the Court of Industrial Relations, Section 1 of Commonwealth Act No. 103, as amended, and settled jurisprudence on the matter; and that the ruling, order and/or decision of the CIR sitting *en banc* on the motion for reconsideration is a pre-requisite and absolutely necessary before an aggrieved party can appeal to the Supreme Court and in accordance with the principle of exhaustion of administrative remedies as well as for the determining the period within which an appeal by *certiorari* may be taken.[6] The respondent judge, however, denied said motion for reconsideration stating "that preliminary investigation of charges for unfair labor practice under Republic Act No. 875 are administrative in nature, hence, under the direct control and supervision of the Presiding Judge of this Court as the administrative head thereof. There

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[1] *Rollo*, p. 13.

[2] *Id.*, p. 51.

[3] *Id.*, p. 83.

[4] *Id.*, p. 84.

[5] *Id.*, p. 110.

[6] *Id.*, p. 111.

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is therefore no necessity of forwarding the charge to the Court *en banc*."[7] Hence, the present recourse.

The petitioner maintains that the respondent Judge, in resolving the motions for reconsideration without submitting the same to the CIR *en banc* acted without or in excess of his jurisdiction since the preliminary investigation of charges under Republic Act No. 875 are not administrative in nature, but judicial. Hence, the ruling of the court prosecutor is reviewable by the CIR sitting *en banc*.

There is merit in the petition. On February 11, 1971, this Court issued the following resolution:[8]

"In G.R. No. L-33089 (*Sta. Clara Lumber Co., Inc. vs. The Hon. Judge Arsemo Martinez, et al.*), the Court resolved to enjoin the respondents therein from further proceedings in Charge No. 3212 for Unfair Labor Practice filed against the petitioner, upon the filing of a bond in the sum of ₱500.00, *it appearing that this Court has already ruled in previous cases that the preliminary investigation of charges for Unfair Labor Practice under Republic Act 875 is not administrative in nature.*" (Emphasis supplied)

Pursuant thereto, the motion for the reconsideration of the order denying the motion to dismiss should have been resolved by the CIR sitting *en banc* pursuant to Section 1 of Commonwealth Act No. 103, as amended, the pertinent provisions of which reads, as follows:

"Should any party aggrieved by a ruling or decision of any of the Judges, request reconsideration thereof, or at the request of any of them, the Judges shall sit together, and the concurrence of at least three of the five judges shall be necessary for the pronouncement of a decision, order, or award."

The orders of the respondent judge, dated May 12, 1970 and January 11, 1971, are, therefore, unjustified and hence, of no legal effect.

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[7] *Id.*, p. 137.

[8] *Id.*, p. 145.

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WHEREFORE, the orders of the respondent judge dated May 12, 1970 and January 11, 1971 are hereby annulled and set aside. Let this case be remanded to the National Labor Relations Commission for further proceedings pursuant to Section 1, Rule XVIII of its Rules.

SO ORDERED.

Fernando (Chairman), Barredo, Antonio, Aquino, and *Santos, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-37051. July 31, 1978]

ANITA U. LORENZANA, *petitioner, vs.* **POLLY CAYETANO and COURT OF APPEALS,** *respondents.*

SYLLABUS

REMEDIAL LAW; ACTIONS; MOOT AND ACADEMIC; WHEN SUPERVENING LAWFUL ACT RENDERS THE QUESTION OF POSSESSION MOOT AND ACADEMIC; CASE AT BAR.— We agree with the petitioner that the possessory aspect of the judgment of the Court of Appeals which We had affirmed has become moot and academic for the reasons adduced by her. Considering that the owner of the land, subject of the controversy, which is the government, acting thru the Director of the Bureau of Building and Real Property Management with the approval of the Secretary of General Services, had turned over the possession of the premises under a lease contract in favor of petitioner, which lease is admittedly legal and lawful, petitioner can no longer be compelled to restore possession of the same to the prevailing party, the private respondent herein. To do so would certainly be a violation of petitioner's property rights. By reason of a lawful act which supervened after the institution of this case, petitioner's possession of the premises has been legalized.