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failed to take the necessary precautions to forestall the entry by the appellant of an improvident plea of guilty before passing judgment upon him."

WHEREFORE, THE DECISION OF THE COURT *A QUO* OF OCTOBER 7, 1970, FINDING THE ACCUSED GUILTY OF ROBBERY WITH HOMICIDE AND SENTENCING EACH AND ALL OF THEM TO THE SUPREME PENALTY OF DEATH, IS HEREBY SET ASIDE AND THE CASE REMANDED TO IT FOR FURTHER PROCEEDINGS IN CONFORMITY WITH THIS DECISION. WITHOUT PRONOUNCEMENT AS TO COSTS.

Teehankee (Chairman), Muñoz Palma, Concepcion, Jr., and *Martin, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-40817. January 31, 1977]

THE SAN MIGUEL CORPORATION, *petitioner, vs.* **THE HONORABLE SECRETARY OF LABOR, THE NATIONAL LABOR RELATIONS COMMISSION, SAN MIGUEL BREWERY SALES FORCE UNION (PTGWO) AND JEROME ESPINO,** *respondents.*

R E S O L U T I O N

MUÑOZ PALMA, *J.*:

The San Miguel Corporation filed the instant Petition for review of a Decision of the Hon. Secretary of Labor dated February 18, 1974, the dispositive portion of which reads:

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"WHEREFORE, for lack of merit, the Motion for Reconsideration interposed by respondent, which is hereby treated as an appeal, should be, as it is hereby, Denied. Respondent is hereby ordered to reinstate complainant immediately, with back wages beginning July 26, 1973 until his actual and effective reinstatement. The Commission's Order and the Arbitrator's Award are accordingly modified." (pp. 93-94, *rollo*)

The thrust of the appeal is that inasmuch as respondent Secretary of Labor held that private respondent Espino committed a violation of company rules and ordered him suspended for a period of one (1) year, respondent Secretary committed a grave abuse of discretion when he required petitioner to reinstate respondent Espino to the same position of trust and confidence he was holding and pay him commissions which he had not earned.

Finding the appeal *prima facie* meritorious, We required respondents to comment on the Petition after which parties were given time to file their memoranda and the case was considered submitted for decision. (pp. 146, 169, *rollo*)

On January 4, 1977, the Court received petitioner's "Motion to Withdraw Appeal" which alleged that an amicable settlement was arrived at by the parties. Copy of the agreement is attached to the motion and it reads in part as follows:

"WHEREAS, pending the resolution of the aforesaid Petition for Review on *Certiorari*, individual respondent Jerome Espino wrote the company a letter seeking retirement and/or termination from his employment effective December 15, 1976 if granted the amount of P6,065.35 covering backwages from July 25, 1973 to the date of his reinstatement of June 10, 1974, as well as termination pay, vacation and sick leave commutation benefits;

"WHEREAS, the proposal of Mr. Jerome Espino is acceptable to the San Miguel Corporation;

"NOW, THEREFORE, in consideration of the premises, covenants and undertakings, terms and conditions herein contained, it is hereby mutually agreed by and between the parties hereto as follows:

"1. Jerome Espino agrees as per his voluntary proposal to be terminated and/or retired from employment effective December 15, 1976.

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"2. Jerome Espino accepts the fact that during the period covering July 25, 1973 to June 10, 1974, he was not entitled to any commission.

"3. Jerome Espino hereby accepts and acknowledges receipt from the San Miguel Corporation the total amount of P26,120.82 in consideration of the foregoing:

Back wages without commission	–	₱ 6,065.35
Termination pay benefits	–	16,481.24
Unused vacation and sick leave pay	–	3,574.23
		₱26,120.82

"4. Jerome Espino waives any and all claims which he ever had, now has, or shall or may have upon or by reason of any matter, cause or thing whatsoever in connection with his employment with the San Miguel Corporation up to the time of these presents.

"5. The San Miguel Corporation agrees to withdraw its appeal in Case No. G.R. L-40817 upon final execution of instrument and the necessary release papers.

"6. Jerome Espino further waives any and all rights he may have pursuant to the decision in the case entitled '*Jerome Espino, et al. vs. SMC,*' NLRC Case No. LR-182.

"IN WITNESS WHEREOF, the parties have hereunto set their hands at Makati, Rizal, Philippines, this 17th day of December, 1976.

(Sgd.) J. Espino
JEROME ESPINO

SAN MIGUEL CORPORATION

Assisted by:

By:

(Sgd.) JESUS ROMEO D. DUQUE
Counsel

(Sgd.) Jose V. Adriano
JOSE V. ADRIANO
Vice President

WHEREFORE, considering that the aforequoted Agreement was signed by respondent Jerome Espino with the assistance of counsel, and that the same is a voluntary termination of employment with payment of all benefits due to said respondent, the same is hereby approved and judgment is rendered pursuant thereto.

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Let copy hereof be sent to Atty. Isidro D. Amoroso, the counsel of record of private respondent as shown in page 144 of the *rollo* of this case.

SO ORDERED.

Teehankee, Makasiar, Concepcion Jr., and *Martin, JJ.,* concur.

SECOND DIVISION

[G.R. No. L-41288. January 31, 1977]

PHILIPPINE LABOR ALLIANCE COUNCIL (PLAC), *petitioner, vs.* **BUREAU OF LABOR RELATIONS, FEDERATION OF FREE WORKERS-ORION CHAPTER, GERARDO ROSANA and ORION MANILA, INC.** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; CERTIFICATION ELECTION; THE MOST EXPEDITIOUS WAY OF DETERMINING WHICH LABOR ORGANIZATION IS TO BE THE EXCLUSIVE BARGAINING REPRESENTATIVE.— It is indisputable that the present controversy would not have arisen if there were no mass disaffiliation from petitioning union. Such a phenomenon is nothing new in the Philippine labor movement. Nor is it open to any legal objection. It is implicit in the freedom of association explicitly ordained by the Constitution. There is then the incontrovertible right of any individual to join an organization of his choice. That option belongs to him. A workingman is not to be denied that liberty. He may be, as a matter of fact, more in need of it if the institution of collective bargaining as an aspect of industrial democracy is to succeed. No obstacle that may possible thwart the desirable objective of militancy in labor's struggle for better terms and