the policies of liberalization and deregulation because we think that these are good for us.[190] Related to self-interest and expediency is the factor of world opinion. The fear of adverse reaction among peoples of the world can certainly motivate the State to obey the rules of international law.[191] A very real motivation is encompassed by the desire for social approval in the society of nations.[192]

In summary, non-compliance of individual commitments under APEC and the Philippine Individual Action Plan may subject the Philippines to any or all of the following: the Dispute Settlement Procedure under the WTO, whenever appropriate, and the sanctions allowed under such system, retorsion and social disapproval among the family of nations.

VI. CONCLUSION

With respect to the consequences of membership and whether APEC commitments provide for concrete legal obligations, these commitments may be considered to be "non-legal soft law". There is no immediately identifiable international delinquency. However, there are legal implications for deliberate and unreasonable disregard of APEC commitments.

It may be argued that in so far as imputations of violations refer to principles embodied in the WTO, there is enough basis to conclude that a breach of these GATT-WTO-based obligations engages WTO member States' international responsibility but the resolution of the dispute hinges upon a trade issue between WTO member States.

On the other hand, the question of enforcement of the Individual Action Plans can be measured by existing principles of international law, such as, good faith, estoppel, and abuse of rights. To the extent that States have assumed subsequent acts pursuant to APEC commitments, then these principles shall be applied to determine responsibility.

Insofar as Philippine commitments are concerned, existing constitutional mandates and jurisprudence affirm the applicability of soft law rules. Research shows that the doctrine of incorporation found in the Constitution provides the means by which soft law may find application in domestic law. In a supporting manner, the procedure on ratification of international agreements under Article 7 of the Constitution has been interpreted by the Supreme Court to be susceptible of exception with regard to executive agreements. Such agreements are the form that a majority of Philippine APEC commitments have assumed.

190 Julius Caesar Parrenas, *APEC as an Instrument of Total Human Development*, 12 FOREIGN REL. J. 36 (1997).

191 KAPLAN & KATZENBACH, THE POLITICAL FOUNDATIONS OF INTERNATIONAL LAW 343 (1961).

192 *Id.*

REQUIEM TO SPEEDY LABOR JUSTICE: AN ANALYSIS OF THE EFFECTS AND UNDERPINNINGS OF THE SUPREME COURT'S RULING IN ST. MARTIN FUNERAL HOME V. NLRC*

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I. INTRODUCTION

In the case of ***Cebu Royal Plant v. Deputy Minister of Labor***,[1] decided in August 12, 1987, the Supreme Court eloquently professed its special concern for labor:

> We take this opportunity to reaffirm our concern for the lowly worker who, often at the mercy of his employers, must look up to the law for his protection. Fittingly, the law regards him with tenderness, even favor, and always with faith and hope in his capacity to help in shaping the nation's future. It is error to take him for granted. He deserves our abiding respect. How society treats him will determine whether the knife in his hands shall be a caring tool for beauty and progress, or an angry weapon to defiance and revenge.The choice is obvious of course. If we cherish him as we should, we must resolve to lighten "the weight of centuries" of exploitation and disdain that bends his back but does not bow his head.[2]

Eleven years after the ***Cebu Royal Plant*** case, the Supreme Court, sitting *en banc*, seemed to have lost its resolve to "lighten the weight of centuries of exploitation and disdain burdening the workers. In reexamining the "functional validity and systematic practicability" of the mode of judicial review of decisions of the National Labor Relations Commission (NLRC), the Supreme Court imposed an additional burden on workers. It declared that all actions questioning the decision of the NLRC should be initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts. The Supreme Court made this ruling in the case of ***St. Martin Funeral Home v. National Labor Relations Commissions and Bienvenido Aricayos***,[3] decided on September 16, 1998.

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1 153 SCRA 38 (1987).

2 *Id.* at 44-45.

3 295 SCRA 494 (1998) [hereinafter St. Martin Case].

Prior to the Supreme Court's ruling in the ***St. Martin*** case, it was a settled rule that decisions of the NLRC shall be final and executory and shall not be appealable. The only mode to question such decisions was through the filing of a special civil action for certiorari[4] alleging jurisdictional grounds, *i.e.*, the NLRC issued the decision without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction. Since the original provisions of Batas Pambansa Bldg. 129,[5] the Judiciary Reorganization Act of 1980, specifically excluded from the jurisdiction of the Court of Appeals orders issued under the Labor Code, there was no dispute that only the Supreme Court had jurisdiction over petitions for certiorari assailing NLRC decisions.

After Republic Act No. 7902[6] amended Section 9 of B.P. Blg. 129 in 1995 to expand the jurisdiction of the Court of Appeals, the Supreme Court continued to follow the rule that NLRC decisions can only be questioned through a petition for certiorari filed with the Supreme Court. Litigants followed this procedure for more than three years after the passage of R.A. No. 7902. On September 16, 1998, however, the Supreme Court abandoned this rule in an *en banc* decision in the ***St. Martin*** case. The Supreme Court declared that NLRC decisions must be initially filed with the Court of Appeals. The Supreme Court made this decision after its examination of the amendment introduced by R.A. No. 7902.

The ***St. Martin*** ruling now applies to the numerous cases decided by the NLRC. Recent statistics of the Department of Labor show that, as of the first quarter of 1999, there are 16,832 cases pending before the labor arbiters and 4,369 appealed cases pending before the NLRC, commission level.[7] Following the new rule of procedure laid down by the Supreme Court, NLRC decisions on these cases, and on the cases filed afterward, must be brought initially to the Court of Appeals before they can be raised to the Supreme Court.

Supreme Court Justice Artemio V. Panganiban, in a speech before the Rotary Club of Manila on October 10, 1998,[8] explained the impact of the ***St. Martin*** doctrine on the Supreme Court's disposition of cases:

> The good news is that the present Court recently promulgated a decision that will scale down the filing (sic) of new judicial cases, because the judgment of the National Labor Relations Commission (NLRC) will now be reviewable by the Court of Appeals, concurrently with the Supreme Court. There are no available statistics, but by my own estimate, NLRC cases constitute about 20 percent of the Court's docket. I therefore expect that with this new doctrine, the number of new cases filed at the Court will be reduced by 20 percent. Thus the Court will have a little more time to attend to its backlog cases.[9] (Footnotes omitted.)

[4] Under the Rules of Court, the special civil action for certiorari under Rule 65 is an original action and not a mode of appeal.

[5] An Act Reorganizing the Judiciary, Appropriating Funds Therefor, and for Other Purposes, otherwise known as "The Judiciary Reorganization Act of 1980."

[6] An Act Expanding the Jurisdiction of the Court of Appeals, Amending for the Purposes, Section 9 of Batas Pambansa Blg. 129 known as The Judiciary Reorganization Act of 1980. The law took effect on March 18, 1995.

[7] Current Labor Statistics, First Quarter 1999, Department of Labor and Employment, Bureau of Labor and Employment Statistics.

[8] Justice Artemio V. Panganiban, *An Introduction to the Supreme Court*, THE LAWYER'S REVIEW, First Quarter 1999, Current Labor Statistics, Bureau of Labor and Employment Statistics, Department of Labor and Employment, Oct. 1998, at 74.

While the Supreme Court sees the ***St. Martin*** ruling as "good news," the labor sector thinks or "sees it as otherwise." As the Supreme Court itself cited in its decision,[10] some quarters believe that requiring the Court of Appeals' review of NLRC decisions as an initial step in the process of judicial review would be circuitous and would unduly prolong the proceedings. Seen in the light of the State policy of protection to labor, the ***St. Martin*** ruling is considered contradictory to the principle of speedy labor justice.

More than one year after its promulgation, the ***St. Martin*** case remains the focal point of an important policy issue: the apparent conflict between the need to unclog the Supreme Court's docket and the need for speedy disposition of labor cases.

This paper discusses the impact of the Supreme Court's ruling in the ***St. Martin*** case on the labor sector. After such discussion, the paper examines the basis of the Supreme Court's ruling. Since the ***St. Martin*** ruling resulted from the Supreme Court's interpretation of the amendment introduced by R.A. No. 7902 to B.P. Blg. 129, this paper will devote ample attention to examine the validity of such interpretation. The paper posits that the ***St. Martin*** ruling is contrary to both the State policy in labor and the legislative intent in the enactment of R.A. No. 7902.

More than a criticism of the Supreme Court's ruling, this paper is an appeal for the correction of a doctrine that has unduly burdened and will continue to burden the working class.

II. THE ST. MARTIN RULING'S IMPACT ON LABOR

Prior to the ***St. Martin*** case, a workers will normally wait for four years before their complaint filed with the NLRC can be resolved with finality. The case will spend one year in the labor arbiter level (this period includes the mandatory conciliation conferences); another year in the commission level (this includes the resolution of a Motion for Reconsideration); and two years in the Supreme Court (this also includes the resolution of a Motion for Reconsideration). With the additional level required by the St. Martin ruling, at least one year will be added to the worker's waiting period. The worker's complaint will now be decided five years from the time it is filed. From the worker's point of view, therefore, the St. Martin case has one certain effect - delay in the disposition of labor cases.

[9] *Id.* at 77-78.

[10] St. Martin Case, *supra* note 3.

In anticipation of arguments that the ruling in the ***St. Martin*** case will result in delays, the Supreme Court adopted the explanation of Senator Roco in its decision. The Court said:

> Incidentally, it was noted by the sponsor therein that some quarters were of the opinion that recourse from the NLRC to the Court of Appeals as an initial step in the process of judicial review would be circuitous and would prolong the proceedings. On the contrary, as he commendably and realistically emphasized, that procedure would be advantageous to the aggrieved party on this reasoning:
>
> On the other hand, Mr. President, to allow these cases to be appealed to the Court of Appeals would give litigants the advantage to have all the evidence on record be reexamined after which the findings of facts and conclusions of said bodies are correspondingly affirmed, modified or reversed.
>
> Under such guarantee, the Supreme Court can then apply strictly the axiom that factual findings of the Court of Appeals are final and may not be reversed on appeal to the Supreme Court. A perusal of the records will reveal appeals which are factual in nature and may, therefore, be dismissed outright by minute resolutions.
>
> While we do not wish to intrude into the Congressional sphere on the matter of the wisdom of a law, on this score we add the further observations that there is a growing number of labor cases being elevated to this Court which, not being a trier of facts, has at times been constrained to remand the case to the NLRC for resolution of unclear or ambiguous factual finding; that the Court of Appeals is procedurally equipped for that purpose, aside from the increased number of its component divisions; and that there is undeniably an imperative need for expeditious action on labor cases as a major aspect of constitutional protection to labor.[11]

Senator Roco's explanation cannot hold water. The supposed advantages identified by Senator Roco are already available to the parties even without adding the route to the Court of Appeals. First, the Supreme Court can do a reexamination of "all the evidence in the record" which, according to Senator Roco, can be done by the Court of Appeals. Since the mode of review of NLRC decisions by the Court of Appeals – petition for certiorari under Rule 65 — is the same as the mode of review under the rule prior to the ***St. Martin*** case, except that the review was done by the Supreme Court, there is absolutely no difference between what the Court of Appeals can do and what the Supreme Court can do under the same mode of review.

The Supreme Court's statement that it has been constrained at times to remand the case to the NLRC for resolution of unclear or ambiguous factual findings, does not justify the additional route to the Court of Appeals. Remanding the case to the NLRC for further proceedings is, for all intents and purposes, the same as requiring the case to be filed initially with the Court of Appeals. Furthermore, adding the route to the Court of Appeals does not guarantee that the Supreme Court will not be

[11] *Id.* at 508 - 509.

constrained to remand the case to the Court of Appeals for further proceedings in case the Court of Appeals makes unclear or ambiguous factual findings, or if the Court of Appeals decides the case based on the NLRC's unclear or ambiguous findings.

Second, the general rule the factual findings of the Court of Appeals are final and may not be reversed on appeal to the Supreme Court also applies with respect to findings of the NLRC. Hence, Senator Roco's statement that a perusal of the records will reveal appeals which are factual in nature and may, therefore, be dismissed outright, is likewise applicable under the prevailing rule prior to the ***St. Martin*** case. Since NLRC decisions can only be questioned on jurisdictional grounds, petitions for certiorari which are clearly factual in nature, can be dismissed outright even without the new rule.

Justice Panganiban offers additional arguments in support of the Supreme Court's position that the ***St. Martin*** ruling does not cause undue delay in the disposition of labor cases. He says:

> The labor sector may ask: Will the assumption by the CA of jurisdiction over NLRC cases just unduly prolong their adjudication in as much as CA decision are appealable to the SC anyway? No. *First*, the CA, which is composed of 51 members divided into 17 Divisions of 3 members each, can act on these cases much faster that the SC. *Second*, not all CA decisions are actually brought to the SC by the parties. *Third*, the SC places great persuasive value on CA decisions. There are no statistics, but based on my own experience and observation, about 60 percent of all petitions from the CA judgments are denied through minute resolutions of the SC in the First Round. Of the balance, another 20 percent are thrown out during the Second Round. Thus, only about 20 percent of appealed CA decisions mature to penned decisions in the Third Round. And of these, about one half are affirmed and the other half are reversed or modified. In other words, there is only a 10 percent chance that CA decisions may be reversed or modified by the SC.[12]

Justice Panganiban's first argument is a mere presumption. There is no guarantee that the Court of Appeal can act on labor cases much faster than the Supreme Court. While the Court of Appeals has more divisions than the Supreme Court, it is burdened with more cases that require factual findings. In fact, the Court of Appeals, unlike the Supreme Court, even conducts trials whenever necessary.

Moreover, since the Court of Appeals has not handled labor cases for several years, it is expected to undergo an adjustment period as a result of the new rule of procedure. Within this adjustment period, the Court of Appeals will either spend more time in the resolution of labor issues or, worse, prefer to resolve non-labor cases ahead of labor cases. The Court of Appeals' initial difficulty in promptly discharging the additional burden imposed by the ***St. Martin*** ruling will then result in the further clogging of the Court of Appeals' dockets as more labor cases are elevated to it. In the end, even the resolution on non-labor cases will be delayed.

[12] An Introduction to the Supreme Court, *supra* note 8, at 78.

Justice Panganiban's second argument – not all Court of Appeals decisions are actually brought to the Supreme Court - is based on the Supreme Court's experience with Court of Appeals' decisions on non-labor cases. While it may be true that not all Court of Appeals decisions are brought to the Supreme Court, the percentage of Court of Appeals decisions on labor cases that will be elevated to the Supreme Court is expected to be higher than the percentage of decisions on non-labor cases. This is due to two reasons: first, the lack of experience of the Court of Appeals on labor cases may result in more lapses in these cases (compared to non-labor cases), at least during its adjustment period; and second, the penchant of litigants in labor cases to exhaust all available procedural steps.

The Court of Appeals' lack of experience in resolving labor disputes may result in lapses that will necessitate resort to the Supreme Court. Recently decided cases will illustrate this point.[13] The Court of Appeals decided the case in favor of the worker and ruled that the employer committed an illegal dismissal. In its ruling, the Court of Appeals awarded the worker backwages from the time of dismissal up to the time of actual reinstatement. Instead of giving full backwages, however, the Court of Appeals ordered the deduction of income the worker earned from other sources during the pendency of the case from the worker's rightful backwages. This is clearly contrary to the Supreme Court's recent ruling in the case of ***Bustamante v. NLRC,***[14] where the Supreme Court abandoned its earlier rulings and declared that backwages to be awarded to an illegally dismissed employee should not be diminished by the earnings that the employee derived elsewhere while the case is pending.

In another case,[15] the Court of Appeals dismissed the petition for certiorari filed by the worker because of a technicality - the failure of the petitioner to attach to the petition a copy of the complaint that was filed with the NLRC. It is common knowledge that the complaint in an NLRC case is different from a complaint that is available at the NLRC. The first pleading that is filed is the Position Paper. The Court of Appeals' dismissal of the petition is, therefore, overly strict, to say the least, considering that a copy of the worker's Position Paper is attached to the petition.

While the Court of Appeals' initial lapses may be excusable and some may be corrected by the Court of Appeals itself in its resolution of a Motion for Reconsideration, many Court of Appeals' decisions are still expected to be brought up to the Supreme Court.

Experience will also show that litigants in labor cases are inclined to exhaust all available procedural steps in the resolutions of a case. This may be due to a number of factors. It may be the result of the workers' desperate effort to regain

[13] Since this case is still pending, the title and the names of the parties will not be revealed. The author is the counsel for the complainant, in this case.

[14] 265 SCRA 61 (1996).

[15] This case is being handled by one of the author's colleagues in SALIGAN.

their employment and means of livelihood. It may also be the result of many unscrupulous employers' attempts to delay the resolution of the case and the payment of the worker's money claims. The Supreme Court's conflicting rulings in many labor issues also give the parties the impression that they can always obtain a new ruling in their favor.

Justice Panganiban's third argument, that the Supreme Court places great persuasive value on Court of Appeals' decision, may be true with respect to non-labor cases, but not necessarily to labor cases. As stated earlier, the Court of Appeals may commit lapses in deciding labor cases while it has not fully adjusted to the new rule. Given this, it is incumbent upon the Supreme Court to be more careful in scrutinizing Court of Appeals' decisions on labor cases.

While the ***St. Martin*** ruling will probably ease the workload of the Supreme Court, at least for a short period, it adds to the workload of the Court of Appeals. The additional time given to the Supreme Court to devote to cases of public interest means less time for the Court of Appeals to devote to non-labor cases. The ***St. Martin*** case, therefore, has not made any significant improvement to the judicial system. It merely shifts the workload form one level to another. The total number of unresolved labor cases remains the same. Moreover, the transfer of the workload is not an actual transfer, since most of the labor cases decided by the Court of Appeals will eventually end up with the Supreme Court. With the additional layer of adjudication, the final resolution of cases will be delayed and the disposition rate will decline.

In sum, the requirement that petitions for certiorari questioning NLRC decisions must be filed initially with the Court of Appeals gives no advantage to the aggrieved workers. In the final analysis, the only thing added by the ***St. Martin*** ruling is another layer of adjudication that delays the final resolution of labor cases.

The delay caused by the ***St. Martin*** ruling is a serious disadvantage to the aggrieved workers. For a dismissed worker, for example, who has to look for another job, either in the country or abroad, or go home to his province of origin, the speedy disposition of a complaint is not only desirable but, in most cases, urgently necessary. Faced with uncertainty, the ordinary worker-complainant may be constrained to accept a miserly settlement offer made by the employer rather that wait for a favorable decision that may never come or may come too late. In many cases, a delayed resolution of the complaint my give the worker an empty victory against an employer that has ceased to exist or can no longer be found, or against an employer whose assets have already been dissipated. Unscrupulous employers and their counsel can also use the ***St. Martin*** ruling not only to evade their liabilities for unjust acts, but to further commit acts of injustice against the workers. The ***St. Martin*** ruling gives these employers and their counsel an additional opportunity to delay the worker's cause for their benefit, to the prejudice of the workers.

Initial resort to the Court of Appeals will also burden the worker with additional litigation expenses. An added layer of adjudication means additional professional fees for the worker's counsel, additional photocopying expenses, notarial fees and

filing fees. If the worker resides outside the National Capital Region, the worker now has to go to Manila at least twice, to verify the petitions that will be filed with the Court of Appeals and Supreme Court. To check the status of the case with the Court of Appeals, the worker will incur additional transportation expenses. All these additional costs were not necessary prior to the ***St. Martin*** case, when direct resort to the Supreme Court was allowed.

Given the disadvantaged position of the worker in relation to the employer insofar as litigation is concerned, the ***St. Martin*** ruling undoubtedly prejudices the worker. As the famous saying goes, "Justice delayed is justice denied." Doubtless, the ***St. Martin*** ruling delays the delivery of justice to the worker. This is not all, however. The difficulty of attaining justice under the procedure required may, in many cases, prevent the worker from seeking justice through the NLRC and through the courts.

With this grim reality facing the workers, the propriety of the Supreme Court's ruling in the ***St. Martin*** case should be evaluated. Are the Supreme Court's hands tied by legislation that it is constrained to abandon its duty to the worker? Or is the Supreme Court's interpretation of the law influenced by its desire to unclog its dockets? Whatever the reason behind the Supreme Court's ruling in the ***St. Martin*** case may be, this serious blow to the worker's cause must be remedied.

III. ANALYSIS OF THE COURT'S RULING

A. The Case

The ***St. Martin*** case stemmed from a complaint for a illegal dismissal filed on May 28, 1996[16] by Bienvenido Aricayos before the National Labor Relations Commission (NLRC), Regional Arbitration Branch No. III, in San Fernando, Pampanga. Aricayos claimed that he started working as Operations Manager of St. Martin Funeral Home on February 6, 1995 and was illegally dismissed from employment on January 22, 1996. Respondent St. Martin Funeral Home claimed, on the other hand, that Aricayos was not an employee but a volunteer who assisted in the management of the business out of gratitude for the financial assistance given by the deceased owner of St. Martin Funeral Home. Answering the charge of illegal dismissal, St. Martin Funeral Home claimed that when Amelita Malabed took over the management of the business after the death of her mother, she made some changes in the business operation and Aricayos was no longer allowed to participate in the management of the business.

Based on the parties' position papers, Labor Arbiter Emiliano T. De Asis dismissed the complaint in a decision rendered on October 25, 1996, declaring that no employer-employee relationship existed between the parties and that the NLRC had no jurisdiction over the case.[17] Aricayos appealed to the NLRC. On June 13,

[16] Republic Respondent's Comment on the Petition for Certiorari, at 2, St Martin Case (En Banc. 1998) (No. 130866).

[17] Resolution of the National Labor Relations Commission, at 4, St. Martin Case (3d Div. 1997) (NLRC CA No. 012311-97).

1997, the NLRC rendered a resolution setting aside the questioned decision and remanding the case to the labor arbiter for appropriate proceedings.[18] St. Martin Funeral Home filed a Motion for Reconsideration that was denied for lack of merit by the NLRC in a resolution dated August 18, 1997.[19] St. Martin Funeral Home then filed a Petition for Certiorari[20] that was received by the Supreme Court on October 20, 1997.

In its Petition for Certiorari, St. Martin Funeral Home contended that the NLRC gravely abused its discretion in remanding the case to the labor arbiter for appropriate proceedings. St. Martin Funeral Home claimed that no further appropriate proceedings could be done by the labor arbiter because there was sufficient trial on the merits and the labor arbiter had already rendered a decision. St. Martin Funeral Home further alleged that the NLRC's assumption that the parties were not given the opportunity to ventilate their respective positions was not only contrary to the evidence presented, but had no bases in the records of the case.[21]

B. The Court's Ruling

After its summary of the facts of the case and the proceedings before the NLRC, the Supreme Court's first statement forewarned of its ruling:

> Before proceeding further into the merits of the case at bar, the Court feels that it is now exigent and opportune to reexamine the functional validity and systemic practicability of the mode of judicial review it has long adopted and still follows with respect to decisions of the NLRC. The increasing number of labor disputes that find their way to this Court and the legislative changes introduced over the years into the provisions of Presidential Decree (P.D.) No. 442 (The Labor Code of the Philippines and Batas Pambansa Blg. (B.P. Blg.) 129 (The Judiciary Reorganization Act of 1980) now stridently call for and warrant a reassessment of the procedural aspect.[22]

The Supreme Court then made a brief review of the legal history of the NLRC and concluded by saying that, under the present state of the law, there was no provision for appeals from the NLRC decision. The Court cited Section 223 of the Labor Code, as amended by R.A. No. 6715, saying that NLRC decisions shall be final and executory after ten calendar days from receipt thereof by the parties. Citing its earlier ruling in the case of ***San Miguel Corporation v. Secretary of Labor, et al.***,[23] the Court clarified that it had rejected the argument that the Supreme Court has no jurisdiction to review the decisions of the NLRC since there is no legal

[18] *Id.*

[19] Resolution of the National Labor Relations Commission, St. Martin Case (3d Div. 1997) (NLRC CA No. 012311-97).

[20] Dated September 17, 1997.

[21] Petition for Certiorari at 4, St. Martin Case (En Banc, 1998) (No. 130866).

[22] St. Martin Case, *supra* note 3, at 499.

[23] 64 SCRA 56 (1975).

provision for appellate review thereof. The Court reiterated its ruling that there is an underlying power of the courts to scrutinize the acts of such agencies on questions of law and jurisdiction even though no right of review is given by statute.

Coming now to its " reassessment"[24] of the mode of review of NLRC decisions, the Court analyzed the amendment introduced by R.A. No. 7902, effective March 18, 1995, to Section 9 of B.P. Blg. 129. The Supreme Court noted that before the amendments, Section 9 originally provided as follows:

> SEC. 9. Jurisdiction – The Intermediate Appellate Court shall exercise:
>
> (1) Original jurisdiction to issue writs of *mandamus*, prohibition, *certiorari, habeas corpus, quo warranto*, and auxiliary writs of processes, whether or not in aid of its appellate jurisdiction;
>
> (2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts; and
>
> (3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards, or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.
>
> The Intermediate Appellate Court shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual, issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings.
>
> These provisions shall not apply to decisions and interlocutory orders issued under the Labor Code of the Philippines and by the Central Board of Assessment Appeals.

With the amendment, the provision now reads:

> SEC. 9. Jurisdiction – The Court of Appeals shall exercise:
>
> (1) Original jurisdiction to issue writs of *mandamus*, prohibition, *certiorari, habeas corpus, quo warranto*, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction;
>
> (2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Court; and
>
> (3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards of commissions, including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary act of 1948.
>
> The Court of Appeals shall have the power to try cases, conduct hearings, receive evidence, and perform any and all necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings. Trials or hearings in the Court of Appeals must be continuous and must be completed within, three (3) months, unless extended by the Chief Justice.

After comparing the original and the amended Section 9 of B.P. Blg. 129, the Supreme Court made the following observations:

> 1. The last paragraph which excluded its application to the Labor Code of the Philippines and the Central Board of Assessment Appeals was deleted and replaced by a new paragraph granting the Court of Appeals limited powers to conduct trials and hearings in cases within its jurisdiction.
>
> 2. The reference to the Labor Code in that last paragraph was transposed to paragraph (3) of the section, such that the original excluding clause therein now provides, "except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948." (Emphasis supplied)
>
> 3. Contrary, however, specifically added to and included among the quasi-judicial agencies over which the Court of Appeals shall have exclusive appellate jurisdiction are the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission.[25]

The Supreme Court then pointed out what is considered, "a somewhat perplexing impasse."[26] Paragraph (3), Section 9 of B.P. Blg. 129 now grants exclusive **appellate jurisdiction**[27] to the Court of Appeals over all final adjudication of the Regional Trial Courts and the quasi-judicial agencies generally or specifically referred to therein except, among others, "those falling within the appellate jurisdiction of the Supreme Court in accordance with ... the Labor Code of the

[24] St. Martin Case, *supra* note 3, at 499.

[25] *Id.* at 503.

[26] *Id.*

[27] Simply put, authority to decide appealed cases.

Philippines under Presidential Decree No. 442, as amended."[28] As analyzed by the Court, this provision would necessarily contradict the settled rule that appeal does not lie from decisions of the NLRC. The Courts stated that by necessary implication, the provision states that the **appeal** from the NLRC cannot be brought to the Court of Appeals, but to the Supreme Court. The Court declared this statement in Section 9 as "illogical and impracticable," as there are no cases in the Labor Code where the decisions, resolutions, orders or awards therein are within the appellate jurisdiction of the Supreme Court or of any other court for that matter.[29]

In an effort to clarify the confusion, the Supreme Court resorted to the records of Congress on Senate Bill No. 1495 and the Conference Committee Report on Senate Bill No. 1495 and the Conference Committee Report on Senate Bill No. 1495 and House Bill No. 10452.[30] In reviewing the records of Congress, the Court made the following explanation of the impasse that it identified earlier:

> A review of the legislative records on the antecedents of R.A. No. 7902 persuades us that there may have been an oversight in the course of the deliberations on the said act of an imprecision in the terminology used therein. In fine, Congess did intend to provide for judicial review of the adjudication of the NLRC in labor cases by the Supreme Court, but there was an inaccuracy in the term used for the intended mode of review. [31]

Further, clarifying the inaccuracy in the term used for the intended mode of review, the Court said:

> The Court is, therefore, of the considered opinion that ever since appeals from the NLRC to the Supreme Court were eliminated, the legislative intendment was that the special civil action of certiorari was and still is the proper vehicle for judicial review of decisions of the NLRC. The use of the word "appeal" in relation thereto and in the instances we have noted could have been a *lapsus plumae* because appeals by certiorari and the original action for certiorari are both modes of judicial review addressed to the appellate courts. The important distinction between them, however, and which the Court is particularly concerned here, is that the special civil action of certiorari is within the concurrent original jurisdiction of the Court and the Court of Appeals; whereas to indulge in the assumption that appeals by certiorari to the Supreme Court are allowed would not subserve, but would subvert, the intention of Congress as expressed in the sponsorship speech on Senate Bill No. 1495.[32]

In interpreting the amended Section 9 of B.P. Blg. 129, the Supreme Court made a seemingly harmless statement. In pointing out the important distinction between a special civil action for certiorari and an appeal by certiorari, the Supreme Court

[28] B.P. Bldg. 129, §9 (3) *as amended by* R.A. No. 7 902 (1995).

[29] St. Martin Case, *supra* note 3, at 504.

[30] *Id.* at 505.

[31] *Id.* at 504.

[32] *Id.* at 507 - 508.

stated that the special civil action for certiorari is within the concurrent jurisdiction of the Supreme Court and the Court of Appeals. The Court further stated, in a footnote, that the Regional Trial Court also shares that concurrent jurisdiction but that cannot be considered with regard to the NLRC since they are of the same rank.[33] The Supreme Court's subsequent pronouncements showed, however, that this was not a mere innocuous statement but the precursor of a revolutionary rule of procedure.

The Supreme Court could have stopped with its clarification that the use of the term "appeal" in Section 9 of B.P. Blg. 129 was an oversight, a *lapsus plumae*.[34] It could have simply ruled that the word "appeal" should be interpreted as referring to petitions for certiorari under Rule 65. With this clarification, the Court could then affirm the rule that NLRC decisions can only be questioned by filing a special civil action for certiorari under Rule 65 **with the Supreme Court**. As it turned out, however, the Supreme Court had something else in mind when it said that reassessment of the procedural aspect of labor disputes was called for. The Supreme Court, in categorical language, declared:

> Therefore all references in the amended Section 9 of B.P. Blg. 129 to supposed appeals from the NLRC to the Supreme Court are interpreted and hereby declared to mean and refer to petitions for certiorari under Rule 65. **Consequently, all such petitions should henceforth be initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts as the appropriate forum for the relief desired.**[35] (Emphasis added)

This statement of the new rule was preceded by the Supreme Court's reference to the sponsorship speech of Senator Raul Roco, who was then the Chairperson of the Senate Committee on Justice and Human Rights, and the Court's own observations, thus:

> Incidentally, it was noted by the sponsor therein that some quarters were of the opinion that recourse from the NLRC to the Court of Appeals as an initial step in the process of judicial review would be circuitous and would prolong the proceedings. On the contrary, as he commendably and realistically emphasized, that procedure would be advantageous to the aggrieved party on this reasoning."
>
> On the other hand, Mr. President, to allow these cases to be appealed to the Court of Appeals would give litigants the advantage to have all the evidence on record be reexamined and reweighed after which the findings of facts and conclusions of said bodies are correspondingly affirmed, modified or reversed.
>
> Under such guarantee, the Supreme Court can the apply strictly the axiom that factual findings of the Court of Appeals are final and may not be reversed on appeal to the Supreme Court. A perusal of the records will reveal appeals which are factual in nature and may, therefore, be dismissed outright by minute resolutions.

[33] *Id.* at 508.

[34] *Id.*

[35] *Id.* at 509.

> While we do not wish to intrude into the Congressional sphere on the matter of the wisdom of a law, on this score, we add the further observation that there is a growing number of labor cases being elevated to this Court which, not being a trier of fact, has at times been constrained to remand the case to the NLRC for resolution of unclear of ambiguous factual findings; that the Court of Appeals is procedurally equipped for that purpose, aside from the increased number of its component divisions; and that there is undeniably an imperative need for expeditious action on labor cases as major aspect of constitutional protection to labor.[36]

With the Supreme Court's ruling on the mode of review of NLRC decisions, the Court did not go into the merits of the petition filed by St. Martin Funeral Home. Pursuant to the new rule that it laid down, the Supreme Court remanded the case to the Court of Appeals for appropriate action.

C. The NLRC'S Motion for Reconsideration

In an unusual move, the NLRC, the public respondent in the ***St. Martin*** case, filed on October 22, 1998, a Motion for Reconsideration with a Motion for Leave to file Motion for Reconsideration. In its Manifestation/Motion for Leave to Enter Appearance,[37] the NLRC explained that the Office of the Solicitor General informed the NLRC, through a letter sent by Associate Solicitor Sally D. Escutin to Commissioner Raul T. Aquino, acting NLRC Chairman, of the Solicitor General's decision that the NLRC should file its own Motion for Reconsideration. The NLRC, thus, filed its own Motion for Reconsideration through counsel, Renaldo O. Hernandez, Officer-in-charge of the NLRC's Legal and Enforcement Division.

In its Motion for Reconsideration, the NLRC raised two grounds:

1. When the Honorable Tribunal admitted in its Decision that regular courts "of the same rank" with "[t]he NLRC" cannot review the decision of the Commission, it essentially concedes that the Court of Appeals cannot entertain a petition for certiorari under Rule 65 against NLRC decisions, they being of the same rank.

2. The creation by this Honorable Court of an additional layer for review will unduly delay the disposition of the parties' labor dispute, the very matter sought to be avoided by R.A. 6715 in amending pertinent provisions of the Labor Code.[38]

The NLRC pointed out that Article 216 of the Labor Code made it clear that the NLRC and the Court of Appeals are of the same rank. According to the Motion for Reconsideration, since the NLRC and the Court of Appeals are of the same rank, one cannot validly exercise jurisdiction over the other, it being a well-settled

[36] *Id.* at 508-509.

[37] Annex B, *St. Martin Case* (En Banc, 1998) (No. 130866).

[38] NLRC's Motion for Reconsideration at 1, St. Martin Case (En Banc, 1998) (No. 130866).

rule that "writs may be issued only by a court to another tribunal or office lower in rank which exercises either judicial or ministerial functions." [39]

Arguing that the Supreme Court's creation of an additional layer of review will unduly delay the disposition of labor disputes, the NLRC pointed out that the Court of Appeals has not been given the opportunity to decide labor cases since 1945. This lack of exposure, according to the NLRC, will lead to the Court of Appeal's preference to non-labor disputes in disposing cases.[40]

On November 10, 1998, the Supreme Court denied the NLRC's Motion for Reconsideration in a minute resolution stating that "the basic issues raised therein have been passed upon by the Court in its questioned decision and no substantial arguments were presented to warrant its reversal."[41] Consequently, the Supreme Court's ruling in the ***St. Martin*** case became final and executory on December 14, 1998.[42]

D. The Rationale for the Ruling

In arriving at its ruling in the ***St. Martin*** case, the Supreme Court pointed out the absence of any law providing for appellate review of NLRC decisions. The Court then reiterated the rule that NLRC decisions can only be questioned through a special civil action for certiorari (an original action, not a mode of appeal) under Rule 65 of the Rules of Court.[43] With this premise, the Court proceeded to examine this mode of review of NLRC decisions. In doing so, the Court cited two reasons that warrant the reassessment of this procedural issue: (1) the increasing number of labor disputes that find their way to the Supreme Court; and (2) the legislative changes introduced over the years into both the Labor Code (P.D. No. 442) and the Judiciary Reorganization Act of 1980 (B.P. Blg. 129).[44]

In its examination of Section 9 of B.P. Blg. 129, as amended by R.A. No. 7902, the Court noted the deletion of the last paragraph excepting decisions issued under the Labor Code from the jurisdiction of the Court of Appeals. The reference to the Labor Code was transferred to paragraph (3), which relates to the original appellate jurisdiction of the Court of Appeals.

Before the amendment, the last paragraph of Section 9 categorically excludes decisions issued under the Labor Code from the jurisdiction of the Court of Appeals by saying that:

[39] *Id.* at 7.

[40] *Id.* at 10.

[41] Resolution of the Supreme Court, *en banc*, dated November 10, 1998.

[42] Entry of Judgment, undated.

[43] St. Martin case, *supra* note 3, at 501.

[44] *Id.* at 499.

These provisions shall not apply to decisions and interlocutory orders issued under the Labor Code of the Philippines and by the Central Board of Assessment Appeals.

When R.A. No. 7902 deleted this paragraph and included the reference to the Labor Code in the paragraph on the Court of Appeals' appellate jurisdiction, the clear exclusion of decisions under the Labor Code from the Court of Appeals' jurisdiction disappeared. With the transfer of the clause on the Labor Code to the paragraph on the Court of Appeals' appellate jurisdiction, it appears that the exclusion only applies to the appellate jurisdiction of the Court of Appeals and not to provisions within its original jurisdiction.[45] The amended paragraph (3) of Section 9 reads:

(3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

Worse, the transfer of the reference to the Labor Code to paragraph (3) after the clause, "except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution" indicates the exclusion of cases under the Labor Code that fall within the appellate jurisdiction of the Supreme Court. This exclusion, literally construed, means nothing, for there are no cases under the Labor Code that fall under the appellate jurisdiction of the Supreme Court.

To resolve this issue, the Supreme Court resorted to the records of Congress and quoted the following sponsorship speech of Senator Raul S. Roco:

The Judiciary Reorganization Act, Mr. President, Batas Pambansa Blg. 129, reorganized the Court of Appeals and at the same time expanded its jurisdiction and powers. Among others, its appellate jurisdiction was expanded to cover not only final judgment of Regional Trial Courts, but also all final judgment [s], decisions, resolutions, order or awards of quasi-judicial agencies, instrumentalities, boards and commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of B.P. Blg. 129 and of subparagraph 1 of the third paragraph and subparagraph and subparagraph 4 of Section 17 of the Judiciary Act of 1948.

Mr. President, the purpose of the law is to *ease the workload of the Supreme Court by the transfer of some of its burden of review of factual issues to the Court of Appeals. However, whatever benefits that can be derived from the expansion of the appellate jurisdiction to the Court of Appeals was cut short by the last paragraph of Section 9 Batas Pambansa Blg. 129 which excludes from its coverage the "decisions and interlocutory orders issued under the Labor Code of the Philippines and by the Central Board of Assessment Appeals."*

[45] Original jurisdiction of a tribunal refers to its jurisdiction to hear and decide cases that are filed with the said tribunal on first instance as an original action.

Among the highest number of cases that are brought up to the Supreme Court are labor cases. Hence, Senate Bill No. 1495 *seeks to eliminate the exceptions enumerated in Section 9* and, additionally, extends, the coverage of appellate review of the Court of Appeals in the decision[s] of the Securities and Exchange Commission, the Social Security Commission, and the Employees Compensation Commission to reduce the number of cases elevated to the Supreme Court. (Emphases and corrections ours)

Senate Bill No. 1495 authored by our distinguished Colleague from Laguna provided the ideal situation of drastically reducing the workload of the Supreme Court without depriving the litigants of the privilege of review by an appellate tribunal.

In closing, allow me to quote the observations of former Chief Justice Teehankee in 1986 in the Annual Report of the Supreme Court:

Amendatory legislation is suggested so as to relieve the Supreme Court of the burden of reviewing these cases which present no important issues involved beyond the particular fact and the parties involved, so that the Supreme Court may wholly devote its time to cases of public interest in the discharge of its mandated task as the guardian of the Constitution and the guarantor of the people's basic rights and an additional task expressly vested on it now "to determine whether or not there has been a grave abuse of discretion amounting to lack of jurisdiction on the part of any branch or instrumentality of the Government."

We used to have 500,000 cases pending all over the land, Mr. President. It has been cut down to 300,000 cases some five years ago. I understand we are now back to 400,000 cases. Unless we distribute the work of the appellate courts, we shall continue to mount and add to the number of cases pending.

In review of the foregoing, Mr. President, and by virtue of all the reasons we have submitted, the Committee on Justice and Human Rights requests the support and collegial approval of our Chamber.[46]

The Supreme Court pointed out that, despite Senator Roco's statement that Senate Bill No. 1495 seeks to eliminate the exceptions enumerated in Section 9, he later introduced on amendment that contradicted his sponsorship speech, to wit:

Senator Roco: On page 2, line 5, after the line "Supreme Court in accordance with the Constitution," *add the phrase, "THE LABOR CODE OF THE PHILIPPINES UNDER P.D. 442, AS AMENDED." So that it becomes clear, Mr. President, that issues arising from the Labor Code will still be appealable to the Supreme Court.*

[46] St. Martin case, *supra* note 3, at 505 -506.

The President: Is there any objection? (*Silence*) Hearing none, the amendment is approved.

Senator Roco: On the same page, we move that lines 25 to 30 be deleted. This was also discussed with our Colleagues in the House of Representatives and as we understand it, as approved in the House, this was also deleted, Mr. President.

The President: Is there any objection? (*Silence*) Hearing none, the amendment is approved.

Senator Romulo: Mr. President, I move that we close the period of Committee amendments.

The President: Is there any objection? (*Silence*) Hearing none, the amendment is approved. (Italics supplied)[47]

With its review of the legislative records on Senate Bill No. 1495, the Supreme Court concluded, "reluctantly", that Congress intended to provide for judicial review of the decisions of the NLRC by the Supreme Court but there was an inaccuracy in the terminology used.[48] The term "appeal," according to the Court, should be interpreted to mean a special civil action for certiorari under Rule 65, which is an original action.[49]

Apparently emboldened by the statements of Senator Roco on the amendment's purpose to ease the Supreme Court's workload, and the deletion of the last paragraph of Section 9, the Court made a further explanation of the conclusion that it had "reluctantly but prudently arrived at."[50] The Court ruled that since the proper mode of review of NLRC decisions is through the special civil action for certiorari under Rule 65, the Supreme Court and the Court of Appeals have concurrent jurisdiction over these cases.[51] Delivering the final blow, the Supreme Court then declared that such special civil actions should be filed initially in the Court of Appeal in strict observance of the doctrine on the hierarchy of courts.[52]

The Supreme Court's ruling in the ***St. Martin*** case would not have been possible without the deletion of the last paragraph of Section 9. With the said paragraph intact, there is no doubt that the Court of Appeals has no jurisdiction over cases decided under the Labor Code. The deletion of the said paragraph and the transfer of the reference to the Labor Code to the paragraph on the Court of Appeals' appellate jurisdiction enabled the Supreme Court to declare that the Court

[47] *Id.* at 507.

[48] *Id.* at 504.

[49] *Id.* at 508.

[50] *Id.* at 504 - 505.

[51] *Id.* at 504 - 505.

[52] *Id.* at 508.

of Appeals has jurisdiction (concurrent with the Supreme Court) over labor cases decided under the Labor Code. Having ruled that the Court of Appeals and the Supreme Court have concurrent jurisdiction over such cases, it was then easy for the Supreme Court to rule that such cases must be initially filed with the Court of Appeals.

A careful scrutiny of Section 9 of B.P. Blg. 129, as amended by R.A. No. 7902, and the legislative records on Senate Bill No. 1495 and House Bill No. 10452 will show, however, that the Supreme Court adopted an erroneous interpretation of the provisions involved. The Court missed the real legislative intent.

E. The Legislative Intent

When the Supreme Court stated in the ***St. Martin*** case that all references to supposed appeals from the NLRC to the Supreme Court in the amended Section 9 of B.P. Blg. 129 should be interpreted to refer to petitions for certiorari under Rule 65, the Supreme Court resolved the ambiguity in the clause "except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended." What the Supreme Court failed to resolve, however, was the issue brought about by the inclusion of the said clause in paragraph (3) which refers to the appellate jurisdiction of the Court of Appeals.

Following the Supreme Court's interpretation, Section 9 (3) would read:

> (3) Exclusive appellate jurisdiction over all final judgment, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948, AND CASES DECIDED UNDER THE LABOR CODE OF THE PHILIPPINES, PRSIDENTIAL DECREE NO. 442, AS AMENDED, WHICH CAN BE RAISED TO THE SUPREME COURT ON A SPECIAL CIVIL ACTION FOR CERTIORARI UNDER RULE 65 OF THE RULES OF COURT. (emphasis added)

With the interpretation that the Court of Appeals has original jurisdiction over the NLRC decisions assailed through a petition for certiorari under Rule 65, the amendment introduced by Senator Roco to Section 9 (3) becomes meaningless. There would be no need to insert the clause on the Labor Code under the said paragraph if the only intention is to state the obvious – that a case falling within the original jurisdiction of the Court of Appeals would certainly be excluded from its exclusive appellate jurisdiction.

From the legislative record, however, it is clear that Senator Roco's amendment had a purpose. In fact, he categorically stated:

> Senator Roco: On page 2, line 5, after the line "Supreme Court in accordance with the Constitution," *add the phrase, "THE LABOR CODE OF THE PHILIPPINES UNDER P.D. 442, AS AMENDED."* ***So that it becomes clear, Mr. President, that issues arising from the Labor Code will still be appealable to the Supreme Court.*** (Emphasis added)[53]

Contrary to the Supreme Court's interpretation, Congress intended, not only to retain the special civil action of certiorari as the proper mode of review of NLRC decisions, but also to give the Supreme Court **exclusive** jurisdiction over such cases.

If Congress committed an oversight in the use of the term "appeal" with respect to the mode of review of NLRC decisions by the Supreme Court, it is logical to assume that such oversight was also committed when the reference to the Labor Code was inserted in paragraph (3) was a result of the mistaken notion that the **appellate** jurisdiction of the Court of Appeals includes petitions for certiorari under Rule 65. In short, **the intention of Congress was to exclude NLRC decisions from the jurisdiction of the Court of Appeals.** This legislative intent can be seen clearly from the legislative records. Unfortunately, however, the Supreme Court committed a grave oversight in reviewing the records.

In its review of the legislative records in the St. Martin case, the Supreme Court cited two committee amendments introduced by Senator Roco:

> Senator Roco: On page 2, line 5, after the line "Supreme Court in accordance with the Constitution," *add the phrase, "THE LABOR CODE OF THE PHILIPPINES UNDER P.D. 442, AS AMENDED." So that it becomes clear, Mr. President, that issues arising from the Labor Code will still be appealable to the Supreme Court.*
>
> The President: Is there any objection? (*Silence*) Hearing none, the amendment is approved.
>
> Senator Roco: On the same page, we move that lines 25 to 30 be deleted. This was also discussed with our Colleagues in the House of Representative and as we understand it, as approved in the House, this was also deleted, Mr. President.
>
> The President: Is there any objection? (*Silence*) Hearing none, the amendment is approved.[54]

The first amendment was clear – the reference to the Labor Code was inserted in the third paragraph. The substance of the second amendment, however, was not shown in the portion of the deliberation that was quoted by the Supreme Court. Senator Roco moved that lines 25 to 30 be deleted. The Record of the Senate does not show the exact provision that was deleted. In fact, the Record of the Senate that

[53] *Id.* at 507.

[54] *Id.*

the Supreme Court studied does not show the original version of Senate Bill No. 1495. The version contained in the Record of the Senate is the third reading copy, which already incorporated the amendments introduced by Senator Roco.[55] To determine the substance of Senator Roco's second committee amendment, the original version of the bill, as reported by Senator Roco's Committee on Justice and Human Rights, must be studied. The Supreme Court failed to do this in its decision.

Section 1 of Senate Bill No. 1495, as filed by Senator Jose D. Lina, Jr., reads:

> SECTION 1. Section 9 of Batas Pambansa Blg. 129, as amended known as the Judiciary Reorganization Act of 1980, is hereby further amended to read as follows:
>
> SEC. 9 Jurisdiction – The Court of Appeals shall exercise:
>
> (1) Original jurisdiction to issue writs of *mandamus*, prohibition, *certiorari*, *habeas corpus*, and *quo warranto*, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction;
>
> (2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Court; and
>
> (3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards of commissions, INCLUDING THE SECURITIES AND EXCHANGE COMMISSION, THE SOCIAL SECURITY COMMISSION, THE EMPLOYEES COMPENSATION COMMISSION AND THE CIVIL SERVICE COMMISSION, except those falling within the jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section17 of the Judiciary Act of 1948.
>
> The Court of Appeals shall have the power to TRY CASES AND CONDUCT HEARINGS receive evidence and perform any and all acts necessary to resolve factual issues raised in (a) cases falling within its original AND APPELLATE jurisdiction, such as actions for annulment of judgments of regional trial court in paragraph (2) hereof; and in (b) cases falling within its appellate jurisdiction wherein a motion for new trial based only on the grounds of newly discovered evidence is granted by it INCLUDING THE POWER TO GRANT AND CONDUCT NEW TRIALS OR FURTHER PROCEEDINGS TRIALS OR HEARINGS IN THE COURT OF APPEALS MUST BE CONTINUOUS AND MUST BE COMPLETED WITHIN THREE (3) MONTHS, UNLESS EXTENDED BY THE CHIEF JUSTICE.
>
> "DECISIONS OF THE NATIONAL LABOR RELATIONS COMMISSION UNDER THE LABOR CODE OF THE PHILIPPINES, AS AMENDED, MAY BE SUBJECT OF PETITIONS FOR CERTIORARI TO THE COURT OF APPEALS AS A SPECIAL CIVIL ACTION ON THE SOLE GROUND OF GRAVE ABUSE OF DISCRETION."
>
> These provisions shall not apply to decisions and interlocutory orders issued under the Labor Code of the Philippines, and by the Central Board of Assessment Appeals.[56]

[55] 4 Record of the Senate No. 60, at 711 (1995).

[56] Original Bill filed by Senator Jose D. Lina, Jr.

Senator Lina's original version of Senate Bill No. 1495 not only deleted the last paragraph of Section 9, excluding decisions and orders issued under the Labor Code from the jurisdiction of the Court of Appeals, it also inserted a paragraph clearly stating that NLRC decisions may be the subject of petitions for *certiorari* to the Court of Appeals. Senator Lina's intention is clear from Senate Bill No. 1495's explanatory note.[57]

> In line with the observations and recommendations of the Supreme Court contained in its 1986 Annual Report, this amendatory legislation is timely and has a far reaching effect of taking away considerable load of cases from the Supreme Court to enable the Supreme Court to devote its precious time to cases as mandated by the 1987 Constitution. This bill seeks to amend Section 9 of Batas Pambansa Blg. 129 by vesting the Court of Appeals exclusive appellate jurisdiction to review all issues under the Labor Code of the Philippines and by the Central Board of Assessment Appeals.[58]

Senator Lina's bill submitted on February 7, 1999 was referred to Senator Roco's Committee on Justice and Human Rights. The Subsequent Committee Report No. 883 recommended the approval, without amendment, of Senator Lina's bill.[59]

When Senator Roco introduced the two committee amendments, therefore, the Senate was working on the original version of the bill filed by Senator Lina.[60] Comparing Senator Lina's version and the final version of the bill contained in the Record of the Senate, it is clear that when Senator Roco moved for the deletion of "lines 25-30", he was referring to the paragraph in Senator Lina's bill categorically placing NLRC decisions under the jurisdiction of the Court of Appeals. Thus, the final version approved by the Senate on third reading does not contain this paragraph.[61]

The deletion of the paragraph sought to be inserted by Senator Lina, taken together with Senator Roco's statement about the House version in his sponsorship speech, leads to only one clear conclusion –

> WHILE SENATOR LINA, SENATOR ROCO AND THE COMMITTEE ON JUSTICE AND HUMAN RIGHTS INITIALLY SOUGHT THE INCLUSION OF NLRC DECISIONS IN THE JURISDICTION OF THE COURT OF APPEALS, THE SENATE EVENTUALLY DROPPED THIS PROPOSAL.

[57] Senator Lina repeated these statements in his co-sponsorship speech. *See* RECORD OF THE SENATE. VOL. IV No. 60, at 713 (1995).

[58] This statement in Senator Lina's explanatory note was quoted from the explanatory note of Senate Bill No. 124, introduced by Senator Ernesto M. Maceda in the Eighth Congress. Senator Lina's explanatory merely explains that Senate Bill No. 1495 is lifted verbatim from Senate Bill No. 1142, reported by the Senate Committee on Justice and Human Rights of the Eighth Congress, and originally introduced by Senator Jovitor R. Salonga, Ernesto M. Maceda and Wigberto E. Tañada.

[59] Senate Committee Report No. 883, submitted by the Committee on Justice and Human Rights on February 7,1995.

[60] Unfortunately, the second reading copy of the bill that contains the line numbers cannot be found in the Senate's Archives.

[61] 4 RECORD OF THE SENATE, No. 60, at 711 (1995).

When Senator Roco explained the first amendment, i.e., the insertion of the reference to the Labor Code in paragraph 3, he plainly meant what he said, that issues arising from the Labor Code will still be appealable to the Supreme Court. Stated otherwise, issues arising from the Labor Code will remain to be outside the jurisdiction of the Court of Appeals.

The interpretation of the legislative deliberations is supported by the records of the House of Representatives. The original version of the House Bill No. 10452 filed by Representative Pablo P. Garcia, like Senator Lina's version, deleted the last paragraph of the original Section 9 of B.P. Blg. 129, which specifically excludes NLRC decisions form the jurisdiction of the Court of Appeals. The House Committee on Justice, headed by Representative Garcia himself, recommended in its Committee Report No. 450, dated December 17, 1993, that Representative Garcia's House Bill No. 10452 be approved without amendments. As approved by the House of Representatives, however, House Bill No. 10452 contained the last paragraph referring to the Labor Code that was deleted in Representative Garcia's original version. Only the clause "and by the Central Board of Assessment Appeals" was deleted.[62]

The record of the House of Representatives reveal the floor discussion that led to the final version approved by the House:

PERIOD OF AMENDMENTS

MR. ROXAS: Mr. Speaker, I move that we proceed to the period of amendments by recognizing the Chairman of the Committee to introduce committee amendments, if any.

THE PRESIDING OFFICER (Mr. Abueg): The Chairman is reorganized for committee amendments.

MR. GARCIA (P.): We have no committee amendments, Mr. Speaker.

THE PRESIDING OFFICER (Mr. Abueg): The majority Floor Leader.

MR. ROXAS: Mr. Speaker...

THE PRESIDING OFFICER (Mr. Abueg): What is the pleasure of the Gentleman from the Labor Sector?

MR. VILLAVIZA: We have some individual amendments to introduce, Mr. Speaker.

THE PRESIDING OFFICER (Mr. Abueg): The Gentleman will please proceed with his individual amendment.

MR. VILLAVIZA: We propose, Your Honor, Mr. Speaker, to...

MR. ALBANO: What line, Page?

MR. VILLAVIZA: On page 2 of this bill, line 17, we propose that the bracket ([) be removed and transferred to line 19, between the word "Philippines" and the conjunction "and". And then after the word "Philippines" appearing on line 19, the period (.) sign be placed thereafter.

THE PRESIDING OFFICER (Mr. Abueg): What does the Chairman of the sponsoring committee say?

MR. GARCIA (P.): Is the distinguished Gentleman saying that the formerly bracketed portion be restored?

[62] Approved version of House Bill No. 10452.

MR. VILLAVIZA: Yes.
MR. GARCIA (P.): Except the portion on line 19, starting with the word "and" ending with the word "Appeals" on same line?
MR. VILLAVIZA: That is correct, Your Honor, Mr. Speaker.
MR. GARCIA (P.): Accepted.
THE PRESIDING OFFICER (Mr. Abueg): Is there no objection? (Silence) Amendment is approved.[63] (Emphasis supplied)

In proposing his individual amendment, Representative Alejandro C. Villaviza referred to the paragraph in the original Section 9 of B.P. Blg. 129, which was bracketed and sought to be deleted in Representative Garcia's bill. The paragraph reads:

> These provisions shall not apply to decisions and interlocutory orders issued under the Labor Code of the Philippines, and by the Central Board of Assessment Appeals.[64]

After Representative Villaviza's amendment, the paragraph was changed to:

> These provisions shall not apply to decisions and intercutory orders issued under the Labor Code of the Philippines and by the Central Board of Assessment Appeals.[65]

Hence, as in the Senate, the clear intent of the legislators in the House of Representative was to maintain the prevailing rule that NLRC decisions were outside the jurisdiction of the Court of Appeals.

The version approved by the House on third reading on February 15, 1995[66] prompted Senator Roco to say:

> Senator Roco: On the same page, we move that lines 25 to 30 be deleted. This was also discussed with our Colleagues in the House of Representative and as we understand and as we understand it, as approved in the House, this was also deleted, Mr. President.
>
> The President: Is there any objection? (Silence) Hearing none, the amendment is approved.[67]

The House version with Rep. Villaviza's amendment, thus led to Senator Roco's second committee amendment inserting the reference to the Labor Code in paragraph 3 of Section 9.

[63] 5 RECORD OF THE HOUSE OF REPRESENTATIVES, No. 65 at 385-386 (1995).

[64] In the second reading copy of the bill, this paragraph appears on page 2, line numbers 17-19.

[65] *Id.*

[66] 5 RECORD OF THE HOUSE OF REPRESENTATIVES, No. 65 at 386 (1995).

[67] 5 RECORD OF THE SENATE, No. 63, at 179 (1995).

Senator Roco's second amendment apparently facilitated the Bicameral Conference Committee's reconciliation of the provisions of Senate Bill No. 1495 and House Bill No. 10452. As early as February 16, 1995, or one day after the Senate and the House of Representatives approved on third reading Senate Bill No. 1495 and House Bill No. 10452, respectively, the Senate already received the Conference Committee Report.[68] The Bicameral Committee adopted fully the Senate version.[69]

After analyzing the legislative records that the Supreme Court overlooked in the ***St. Martin*** case, the legislative intent is beyond doubt. Congress, in enacting R.A. No. 7902, did not confer on the Court of Appeals jurisdiction over NLRC decisions. Contrary to the Supreme Court's finding in the ***St. Martin*** case, Congress maintained NLRC decisions within the exclusive original jurisdiction of the Supreme Court.

With the legislative intent clarified, the other legal arguments against the Supreme Court's ruling in the ***St. Martin*** case become secondary. For a thorough analysis of the legal and practical implications of the ruling, however, a brief discussion of these arguments must be done.

F. Finality of the NLRC Decision Compromised

Article 223 of the Labor Code (P.D. No. 442, as amended) provides that the decision of the NLRC shall be final and executory after ten (10) calendar days from receipt thereof by the parties. As the Supreme Court stated in the ***St. Martin*** case, there is no statutory provision in the Labor Code or in any other law that provides for the remedy of appeal from the decisions of the NLRC. The remedy of the aggrieved party is to timely file a motion for reconsideration and then question the NLRC decision through a special civil action for certiorari under Rule 65 of the Revised Rules of Court, which is an original action and not a mode of appeal.[70] A petition for certiorari under Rule 65 can only can be filed on the ground that the NLRC acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.[71]

Prior to the ***St. Martin*** case, it was a settled rule that an NLRC decision can only be questioned on jurisdictional grounds. With the ***St. Martin*** ruling, however, NLRC decisions can be questioned, albeit indirectly, on a non-jurisdictional ground. In fact, NLRC decisions, which are declared by the Labor code to be final and executory after ten (10) calendar days from receipt thereof by the parties, now become indirectly subject to appeal.

[68] The stamp of the Senate's Bill and Index Division shows the date of receipt on the Senate's copy of the Conference Committee Report is undated.

[69] RECORD OF THE SENATE, No. 63, at 384 (1995).

[70] St. Martin case, *supra* note 3, at 501.

[71] 1997 RULES OF CIVIL PROCEDURE, Rule 65, §1, (1997).

With the ruling that an action questioning an NLRC decision must be initially filed with the Court of Appeals, a case that has already been decided by the NLRC will again be subject to adjudication, this time by the Court of Appeals. After the Court of Appeals has decided the case, there are two modes of review of the Court of Appeals' decision. The first is through a Petition for Review on Certiorari under Rule 45. The second, and only in exceptional cases, is through a Petition for Certiorari under Rule 65, Both petitions will be filed with the Supreme Court. The first mode is an appeal and shall be raise only questions of law while the second is an original action file on jurisdictional grounds.

Technically, a petition for review on certiorari questioning a decision of the Court of Appeals is an appeal of the said decision, and not of the NLRC decision reviewed by the Court of Appeals. The effect, which is to make the NLRC decision indirectly subject to appeal through the intervention of the Court of Appeals, still runs contrary to the rule clearly stated in the Labor Code that the NLRC decision is final and executory.

It is a well-settled principle in statutory construction that in construing two apparently conflicting statutes, the wise policy is for the court to harmonize them, if possible, bearing in mind that we are equally the handwork of the same legislature.[72] Following this principle, the Supreme Court should have harmonized Section 9 of B.P. Blg. 129, as amended by R.A. No. 7902, with Section 223 of the Labor Code. The Court should have ruled that the ambiguity in the amended Section 9 should be construed so as not to negate Section 223 of the Labor Code. Instead of doing this, however, the Supreme Court interpreted Section 9 of B.P. Blg. 129 in isolation and in utter disregard of Section 223 of the Labor Code. This results in the nullification of a key principle in labor law.

G. The NLRC Erroneously Equated with the Regional Trial Court

The Supreme Court, in footnote number 23 of its decision in the ***St. Martin*** case, stated that the Regional Trial court also shares the concurrent jurisdiction (with the Supreme Court and the Court of Appeals) over petitions for certiorari under Rule 65 but that cannot be considered with regard to the NLRC "since they are of the same rank."[73] This statement is erroneous. It is readily apparent that the Regional Trial Court cannot be equated with the NLRC, which is a collegial body. This was pointed out in the NLRC's Motion for Reconsideration but was ignored by the Supreme Court.

Article 216 of the Labor Code provides:

> ART. 216. Salaries, benefits and other emoluments. – The Chairman and members of the Commission shall be receive an annual salary at least equivalent to, and be entitled to the same allowances and benefits as, those of the Presiding Justice and Associate Justices of the Court of Appeals, respectively.
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[72] Gordon v. Veridiano, 167 SCRA 51 (1988).

[73] St. Martin case, *supra* note 3, at 508.

Article 213, on the other hand, states that the Commission, when sitting *en banc*, shall be assisted by the Executive Clerk of the Commission, and when acting through its divisions, by the Executive Clerks of the respective divisions. "in the performance of such similar or equivalent functions and duties as are discharged by the Clerk of Court and Deputy Clerks of Court of the Court of Appeals."

From these provisions in the Labor Code, it is clear that the NLRC is equivalent in rank to the Court of Appeals and not to the Regional Trial Court. As correctly pointed out by the NLRC in its Motion for Reconsideration,[74] the Supreme Court cited the proper rule by applied it incorrectly. Since the Supreme Court stated the rule that a tribunal cannot entertain a petition for certiorari assailing the decision of another tribunal of the same rank, it follows that the Court of Appeals, being of the same rank as the NLRC pursuant to the cited Labor Code provisions, does not have jurisdiction for certiorari questioning an NLRC decision.

IV. CONCLUSION

In this decision in the *St. Martin* case, the Supreme Court declared that "there is undeniably an imperative need for expeditious action of labor cases as a major aspect of constitutional protection to labor."[75] Unfortunately, however, the Court's ruling contradicts its own declaration. The requirement that labor cases decided by the NLRC must be initially brought to the Court of Appeals clearly prejudices the labor sector since it further delays the resolution of labor cases. The ***St. Martin*** case itself is a classic illustration.

The complaint in the said case was filed on May 28, 1996.[76] The labor arbiter dismissed the case on October 25, 1996.[77] The NLRC then reversed the labor arbiter's decision and remanded the case to the labor arbiter for further proceedings in a resolution issued on June 13, 1997.[78] The employer's Motion for Reconsideration was denied by the NLRC on August 18, 1997.[79] The case thus spent more that one year at the NLRC without any ruling on the merits.

On October 20, 1997, the Supreme Court received the employer's Petition for Certiorari dated September 17, 1997. The Supreme Court issued its controversial ruling on September 16, 1998. On November 10, 1998, the Supreme Court denied the NLRC's Motion for Reconsideration. On December 14, 1998, the Supreme Court's decision remanding the case to the NLRC became final and executory. At

[74] Motion for Reconsideration, at 5, St. Martin Case (*En Banc*, 1998).

[75] St. Martin case, *supra* note 3, at 509.

[76] Public Respondent's Comment on the Petition for Certiorari, at 2, St. Martin Case (*En Banc*, 1998) (No. 130866).

[77] Resolution of the National Labor Relations Commissions, St. Martin Case (3D DIV. 1997) (NLRC CA No. 12311-97).

[78] *Id.*

[79] *Id.*

this stage, more than two and a half years had passed since the complaint was filed and the case has not yet been decided on the merits.

On September 30, 1999, one year after the Supreme Court's ***St. Martin*** ruling, the Court of Appeals issued a decision affirming the NLRC's decision to remand the case to the labor arbiter for further proceedings.[80] Up to this point, more than three and half years had passed since the filing of the complaint and the case has not yet been decided on the merits.

Assuming – and this is a safe assumption – that the employer will file a Motion for Reconsideration of the Court of Appeals' decision, the case will probably spend at least six months with the Court of Appeals before the Motion for Reconsideration is resolved. Assuming, again, that the Court of Appeals will deny the employer's Motion for Reconsideration, the employer can file a petition for review on certiorari with the Supreme Court.

Had the Court of Appeals' decision been issued by the Supreme Court, the case would now be thrown back to the labor arbiter for further proceedings (after a Motion for Reconsideration is denied, of course). With the ***St. Martin*** ruling, however, the case will most probably go to the Supreme Court for the second time.

The decision of the Supreme Court on the petition for review can be the subject of a Motion for Reconsideration. Judging from the Supreme Court's resolution of the original petition that was filed in 1997, the case will probably spend at least one year with the Supreme Court. At this stage, more than five years had lapsed since the filing of the complaint and the complainant has not yet obtained a decision on the merits. The circuitous route continues.

Assuming the Supreme Court affirms the Court of Appeals' decision remanding the case to the labor arbiter, the case will spend at least one year with the labor arbiter before it is resolved. The decision of the labor arbiter will be appealed to the NLRC, commission level, and another year will be spent in this level. The NLRC's decision will be questioned again through a petition for certiorari with the Court of Appeals, and another one and a half years will be needed for this stage. Finally, the Court of Appeals' decision will again be elevated to the Supreme Court and the case will not be finally resolved until after one year.

In sum, nearly ten years will lapse before the complaint filed on May 28, 1996 will be finally resolved. It is expected to be finally resolved in the year 2006. This is certainly not a speedy resolution and the procedure required by the ***St. Martin*** ruling account for at least three years of this long period.

This additional burden imposed by the ***St. Martin*** ruling on the worker was made possible by an inaccurate determination of the real legislative intent in the amendment introduced by R.A. No. 7902 to B.P. Blg. 129. From the congressional

[80] Decision of the Court of Appeals, St. Martin Case (8th Div. 1999) (CA-G.R. SP No. 49183).

records, it is very clear that the legislators' intent was to retain NLRC decisions within the exclusive jurisdiction of the Supreme Court. Unfortunately, however, the Supreme Court had a different interpretation of this legislative intent.

Even assuming, for the sake of argument, that there was a doubt as to the legislative intent behind the law, the Supreme Court should have resolved that doubt in favor of labor. Contrary to this established doctrine in the interpretation of labor laws, however, the Supreme Court resolved the doubt in R.A. No. 7902 the "perplexing impasse,"[81] the "*lapsus plumae*,"[82] the "oversight"[83] the "imprecision"[84] – against the worker. In doing so, the Supreme Court not only changed a rule a procedure, it adversely affected the workers' chance of obtaining justice. Worse, it even discourages workers form even attempting to seek justice.

If the State will be consistent with its declared policy of protection to labor, the ***St. Martin*** ruling must be reversed, and promptly. If the Supreme Court will find it hard to reverse a recent ruling issued by it *en banc*, then, legislators should act by amending B.P. Blg. 129 to clearly state its intent to place NLRC decisions within the Supreme Court's exclusive jurisdiction.

In deciding the ***St. Martin*** case, and in tossing labor cases to the Court of Appeals, the Supreme Court purportedly acted in favor of "cases of public interest in the discharge of its mandated task as the guardian of the Constitution and the guarantor of the people's basic rights."[85] The Supreme Court and the legislators must be reminded that labor cases of public interest and that labor rights are among the people's basic rights that the Supreme Court is mandated to guarantee as the guardian of the Constitution.

To paraphrase the Supreme Court's own statement in the case of ***Cebu Royal Plant v. Deputy Minister of Labor,***[86] the Supreme Court must reaffirm its concern for the lowly worker who, often at the mercy of his/her employers, must look to the law for his/her protection. If the Supreme Court cherishes the workers as it should, it must resolve to lighten the weight of centuries of exploitation and disdain that bends their backs but does not bow their heads.

[81] St. Martin case, *supra* note 3, at 503.

[82] *Id.* at 508.

[83] *Id.* at 504.

[84] *Id.*

[85] *Id.* at 506.

[86] 153 SCRA 38 (1987).

requirements for extra-judicial foreclosure under Act 3135 are complied with by the applicant, as a measure of protection of the rights of the mortgagors in cases of Auction Sale conducted by the notary public.

3. There is no conflict between Supreme Court A.O. No. 3 and Act 3135, as amended. If A.O. No. 3 is valid insofar as foreclosure sales conducted by the Ex-Officio Sheriff under Act 3135, as amended, are concerned, there is nothing legally wrong or objectionable in applying its requirements, as it actually does, to foreclosure sales conducted by the Notary Public, who, as an officer of the Court may legally be subject to the supervision of the Executive Judge through the Clerk of Court as Ex-Officio Sheriff in the conduct of foreclosure proceedings under Act 3135.

4. Supreme Court A.O. No. 3 is a procedural rule which has no conflict with the provisions of Act 3135, as amended, and the same may be implemented side by side with Act 3135, by making it uniformly applicable to all foreclosures, as expressly provided under par. 2 (c) thereof, whether conducted under the direction of the Sheriff or under the direction of the Notary Public.

5. A.O. No. 3 of the Supreme Court is clear and explicit in stating that it applies to all extra-judicial foreclosures, whether "conducted under its (Sheriff's) direction or under the direction of Notary Public." To exempt foreclosure before a notary public from the payment of filing fees and from the scrutiny of the Ex-Officio sheriff under the supervision of the Executive Judge would be discriminatory to, and would violate the rights of, those who foreclose through the sheriff's office to equal protection of the law. All applicants for extra-judicial foreclosure of real estate mortgage, whether the auction sale will be conducted by a Sheriff or a notary public must comply with the requirements of Supreme Court A.O. No. 3 to avoid invidious discrimination prohibited by the Equal Protection of the Law clause of the Constitution.

6. Moreover, if the petition for foreclosure filed with the notary public will not pass the scrutiny of the Ex-Officio Sheriff under the supervision of the Executive Judge as required under paragraph 2 (c) of A.O. No. 3, it would violate the rights of the mortgagor to due process of law because the Notary Public, who is hired and paid by the foreclosing Bank, would not be impartial and objective in examining whether the mortgagee Bank has complied with all the requirements of Act 3135 before the Public Auction is conducted.

The judicial law in the *China Banking Corporation* case, holding that extra-judicial foreclosure of real estate mortgage before a notary public is not covered by the requirements of A.O. No. 3, may be expeditiously corrected by an amendment of the Supreme Court, clarifying that A.O. No. 3 applies as well to the extra-judicial foreclosure of real estate mortgage before a notary public. Otherwise, the matter will have to await an appropriate case to come up before the Supreme Court calling for a re-examination, re-appraisal, and re-evaluation and review of the questioned ruling in the *China Banking Corporation* case.

THE HUMAN RIGHTS IMPACT OF CHARTER CHANGE PROPOSALS*

CARLOS P. MEDINA**

INTRODUCTION

To make governance more effective and open up the country to the global economy, the administration of President Joseph Estrada and other sectors of society are proposing that certain provisions of the 1987 Philippine Constitution be amended.

Specifically, the following constitutional amendments have been suggested:

A. Political Reform Proposal:

a. Shift in the form of government from presidential to parliamentary;
b. Shift to federalism;
c. Increase in the number of senators and senatorial election by region;
d. Extend terms of office of certain officials; and
e. Package-deal (same party) election of the President and the Vice President.

B. Economic Reform Proposals

a. Allow ownership of land by foreigners;
b. Allow / increase the participation / ownership of foreigners in certain areas of investment reserved for Filipinos; and
c. Clip the power of the Supreme Court to decide economic questions.

This paper will examine the likely impact of these proposals on the basic human rights of Filipinos. In evaluating the proposals, the writer will give special attention to the effects, particularly of the economic reform proposals, on the rights of vulnerable groups like farmers, fisherfolk, indigenous peoples, the urban poor and ordinary workers. This is because they constitute the poor majority and have been declared to be the intended beneficiaries of the proposed amendments. Moreover, analyzing the proposals from the standpoint of vulnerable groups is, for this writer, the most reasonable way of determining the merits of the proposals. As one human rights advocate puts it: "The ultimate measure of whether a society can properly be called civilized ... is how it treats those who are near the bottom of its human heap." (Palkhivala, 1993)

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