

A strict sanction must be imposed against employers in order for them to recognize the right of the employee to notice and hearing. But such sanction should take into consideration that not all employers are big corporations with well-defined structures and big capitalization. There are also small businesses and medium-sized firms which may not be able to stand the imposition of sanctions if the basis will be constitutional due process.

The High Court in *Agabon* emphasized that while it is true that due process may be invoked against private entities, such due process is statutory due process and not constitutional due process. The effect for non-observance, as earlier stated are not the same. The former provides for monetary sanction, the latter voids the act or the proceeding. This concept is in tune with the changing times. In this age where companies have acquired powers traditionally only exercised by the State, it is necessary that due process should also be invoked against them, although not under the pain of the same consequence for its non-compliance.

All things considered, the remaining question is whether or not the monetary sanction in the *Agabon* case is already sufficient to counter the evils that the Court wished to thwart from the very beginning?

There is a Need for Legislation

As earlier mentioned, the solution needed is no longer judicial. The judiciary may only interpret laws and not legislate. The changing doctrines prove that the High Court have tried to address the deficiency in legislation, by considering the surrounding circumstances in each case and by balancing the rights of employers and employees. However, in order to come up with a solution which will keep up with the changes in time, and at the same time, uphold and fairly recognize the rights of labor and capital, specific parameters should be legislated to determine the value of the monetary sanction to be imposed.

The Legislature should provide for the standards and basis for the grant of monetary sanction. It should not be left altogether for the judiciary to determine according to the circumstances of the case. It is suggested that the circumstances of the case must be viewed in relation to specific standards of monetary award. At present, there is a very wide discretion on the part of the judges in determining how much damages should be awarded. This will

result to inconsistencies in decisions and could result to prolonged litigation. There must be a formula which will be reasonable on both sides, sufficient to deter the evil of dismissing without due process, commensurate to the infraction done, and completely not within the control of any of the parties.

A Final Note

Undeniably, protection to labor should be a paramount concern of the State. One's job is his means of existence, an exercise of his profession, and an expression of his passion. An individual does not only gain monetary compensation from his work, likewise, he receives fulfillment and satisfaction. These things are enough to justify the high level of protection given to labor. However, one must not lose sight of the fact that to an employer, his business is his job. Therefore, his right must also be protected. Both sectors must be reinforced and protected.

Social Justice is for all. Though it is often said that those who have less in life must have more in law, it is likewise true that all rights must be exercised with due regard to the rights of others, with the ultimate end of rendering justice. As Domitus Ulpian said, "Justice is the constant and perpetual will to allot to every man his due."⁵²

⁵² Domitus Ulpian, Roman Jurist (100 AD-228 AD).