

SIXTH DIVISION

[CA-G.R. SP NO. 93120, September 11, 2006]

**EDELSTAHL DRAINAGE SYSTEMS ASIA, INC. PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION AND GILBERT C.
RAMOS, RESPONDENTS.**

D E C I S I O N

COSICO, J.:

This is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure which seeks to annul and set aside the Decision¹ dated July 22, 2005 issued by public respondent National Labor Relations Commission in NLRC NCR 09-07771-02 (CA No. 039490-04), the dispositive portion of which reads:

"WHEREFORE, Our Resolution dated November 20, 2004 is hereby, SET ASIDE and a new one entered ordering respondents to:

1. Immediately reinstate complainant to his position and to pay him full backwages computed from the time he was dismissed on September 17, 2002 up to the time he is actually reinstated and that should reinstatement be no longer possible, pay complainant separation pay computed at one (1) month pay for every year of service, a fraction of six (6) months to be considered as one (1) whole year; and

2. Pay complainant attorney's fees equivalent to 10% of the total award.

"SO ORDERED."

The aforequoted decision resolved herein private respondent Gilbert Ramos' complaint for constructive dismissal and non-payment of wages and commission, with damages and attorney's fees, against petitioner Edelstahl Drainage Systems Asia, Incorporated.

On June 2, 2006, herein petitioner Edelstahl Drainage Systems Asia, Inc. filed with this Court a motion to dismiss² on the basis of the compromise agreement entered into by and between the company and herein private respondent Gilbert Ramos on May 11, 2006. The motion states, among other matters, that through the efforts of mediator Jorge E. Garde, the parties executed a compromise agreement in connection with Civil Case No. 75015-PSG for infringement, which agreement expressly includes the settlement of the instant action and other related cases that they have filed against each other. The portions of the compromise agreement³ pertinent to the instant suit are as follows –

"Parties agreed to settle the civil aspects of this case and of all criminal cases attached to this case after parties discussed their issues and found out that they just had misunderstanding which ended them into these