

**JIMMY KENT RAMBUYON, JOVITO CONDEZA, TONY MAQUIDATO,
NESTOR ODCHIGUE, NICOLAS GOMONID, JULITO SISLES, ROBERTO
PILA, VITO AGAGARING, RUBEN SALE, ELEAZAR CAGO,
PETITIONERS, VS. FI...**

G.R. NO. 157029. December 15, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari are the resolutions dated July 31, 2002[1] and January 6, 2003[2] of the Court of Appeals in CA-G.R. SP No. 71438. The said resolutions had dismissed herein petitioners' special civil action for certiorari on the ground that the verification and certification of non-forum shopping was signed by only one of the petitioners.

The antecedent facts are as follows:

Respondent Fiesta Brands, Inc. is a corporation engaged in the manufacture of desiccated coconut and other coconut products for export. Its office is located at Medina, Misamis Oriental.

In processing desiccated coconut, shelling is the first step in the production process. At this stage, the coconut shell is removed using a shelling machine. The workers assigned in this stage are called shellers.

Respondent employed 105 workers each shift to work as shellers. However, when there is oversupply of coconuts, respondent is constrained to hire extra hands to work as shellers. In the same manner, when a regular employee is unable to report for work, respondent would hire a temporary replacement. These extra workers, whether shellers or temporary replacement are taken from the work pool of extra shellers. They receive P158 per day for shelling a minimum of 1,400 coconuts. If they finish shelling the said minimum number of coconuts ahead of the normal eight-hour daily work, they immediately go home unless they want to render overtime work.

In August 2000, respondent implemented a new shelling system wherein the extra shellers were paid P220 per day, but this time the quota per eight-hour daily labor was fixed at 2,000 coconuts. Those who subscribed to the new shelling system were accredited and given preference over the others in the pool of extra shellers who refused to adopt the new system.

Petitioners herein, together with two other extra shellers, refused to embrace respondent's new shelling system. As a consequence, petitioners were not given preference in hiring. Finding themselves jobless, they filed consolidated cases[3] for illegal dismissal in Regional Arbitration Branch No. 10 in Cagayan de Oro City.

In a decision[4] dated March 30, 2000, Labor Arbiter Rexel M. Pacuribot ordered the dismissal of the complaint for lack of merit. The Labor Arbiter found that the extra shellers in the work pool, such as the petitioners herein, were not regular employees of respondent. Thus, the Labor Arbiter held that petitioners were not dismissed, but were simply not given work assignments because of their unjustified refusal to adopt the new shelling system

being implemented by respondent.

On appeal, the National Labor Relations Commission (NLRC), in its resolution[5] of September 19, 2001, affirmed the Labor Arbiter's ruling. It reasoned that petitioners' adamant refusal to work under the new shelling system cannot be accepted and sustained without infringing respondent's management prerogative to introduce measures aimed at maximizing production. To quote the pertinent portion of the NLRC decision:

It is established on record that respondent maintains a work pool (sic) of extra-shellers from which it draws the needed shellers to work when there is an oversupply or surplus of coconuts for shelling. Complainants admittedly belong to this work pool so that if they were not given work because apart from no available excess supply of coconuts they refused to work under the new shelling system, they cannot claim that they were dismissed, muchless (sic) illegally.[6]

Dissatisfied, petitioners filed a motion for reconsideration, which was denied for lack of merit by the NLRC in its resolution[7] of March 20, 2002. Undaunted, petitioners filed with the Court of Appeals a special civil action for certiorari ascribing to the NLRC grave abuse of discretion.

However, the petition's verification and certification of non-forum shopping were signed by only one of the petitioners therein. Thus, the Court of Appeals, in its resolutions dated July 31, 2002 and January 6, 2003, dismissed the petition for being insufficient in form and substance in violation of Sections 4[8] and 5[9] of Rule 7 of the Revised Rules of Court.

Petitioners now come to us on a petition for review of the said resolutions of the Court of Appeals alleging that:

- WITH DUE RESPECT, THE RESOLUTION OF THE HONORABLE COURT OF APPEALS DISMISSING THE PETITION ON THE GROUND OF VIOLATION OF SECTIONS 4 AND 5 OF RULE 7 OF THE RULES OF CIVIL PROCEDURE IS NOT IN ACCORDANCE WITH LAW AND JURISPRUDENCE;
- WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS ABUSED ITS DISCRETION IN DISREGARDING THE EXPLANATION OF PETITIONERS FOR THE INABILITY TO SIGN THE VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING; AND
- WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS ABUSED ITS DISCRETION IN NOT PREVENTING MISCARRIAGE OF JUSTICE AND NOT APPLYING THE PRINCIPLE OF SOCIAL JUSTICE AND PROTECTION TO LABOR.[10]

Petitioners argue that there is nothing in Sections 4 and 5 of Rule 7 that require all the petitioners to execute and sign the verification and certification of non-forum shopping. Petitioners cite *Escorpizo v. University of Baguio*[11] in insisting that the certification of non-forum shopping may be signed by any of the principal parties, not necessarily all of the principal parties.

Petitioners also contend that the claimed difficulty in locating each and every one of the petitioners constitutes a compelling reason why they failed to jointly sign the verification and certification of non-forum shopping.

Finally, petitioners cry illegal dismissal. They allege that they are regular employees performing activities usually necessary and desirable in the business or trade of respondent. They claim that they were terminated without just cause and without notice and hearing.

For its part, respondent maintains that the Court of Appeals correctly dismissed the petition for certiorari. Citing Sections 4 and 5 of Rule 7, respondent argues that the verification and certification of non-forum shopping must be signed by all the petitioners. It dismissed as flimsy and baseless the explanation on why the other petitioners failed to sign the said verification and certification. Finally, respondent contends that petitioner could not raise the

factual issue of illegal dismissal in a petition for certiorari.

While this Court adheres to the principle of social justice and protection to labor, we find the instant petition bereft of merit.

Petitioners' appreciation of the Escorpizo[12] case is less than accurate. The petitioners therein were Esperanza Escorpizo, a dismissed teacher, and the union to which she belonged, the University of Baguio Faculty Education Workers Union. Neither the teacher nor the union signed the certification of non-forum shopping. It was their counsel who executed and signed the certification. We thus held that "the certification of non-forum shopping must be by the plaintiff or any of the principal party and not the attorney." [13] Escorpizo laid down the doctrine that a certification of non-forum shopping signed only by the parties' counsel is insufficient. Nowhere in the said case, other than a mere obiter dictum, did we categorically rule that a certification of non-forum shopping signed by only one of the principal parties is sufficient compliance with the rules. Therefore, petitioners' reliance on Escorpizo is patently misplaced.

The rule on this matter is well-settled. Supreme Court (SC) Circular No. 28-91,[14] as amended by SC Administrative Circular No. 04-94,[15] specifically mandates that the certification of non-forum shopping must be signed by all the petitioners and failure to do so shall be a cause for the dismissal of the petition.

In the cases of United Residents of Dominican Hill, Inc. v. Commission on the Settlement of Land Problems[16] and Docena v. Lapesura,[17] we held that the certification of non-forum shopping should be signed by all of the petitioners in a case, and that the signing by only one of them is insufficient.

However, in Loquias v. Office of the Ombudsman,[18] we qualified the rule and stated that where there are two or more petitioners, a petition signed by only one of them is defective, unless he was duly authorized by his co-parties to represent them and to sign the certification.

Thus, absent a showing that the sole affiant in this case, petitioner Jimmy Kent Rambuyon, was duly authorized by the other nine petitioners[19] to represent them and to sign the certification, the Court of Appeals did not err in dismissing the petition for being insufficient in form.

Petitioner Rambuyon's excuse that it was difficult to locate his co-petitioners is untenable. Records show that he, together with each and every one of his nine co-petitioners, did sign the verification of the Position Paper[20] they filed with the Labor Arbiter. Thus, we are not prepared to indulge his plea for liberal construction of the rules. Utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.[21] The attestation contained in the certification of non-forum shopping requires personal knowledge by the party who executed the same.[22] It cannot be presumed that petitioner Rambuyon knew, to the best of his knowledge, whether his nine other co-petitioners had the same or similar actions or claims filed or pending.

Anent the final issue, petitioners' arguments ring hollow.

Petitioners are raising factual issues which are not proper in a petition for review. Well-entrenched is the rule that in an appeal via certiorari, only questions of law may be reviewed. The question of whether petitioners were regular employees and were dismissed without notice and hearing is a factual issue. It had been exhaustively discussed and ruled upon in the negative by both the Labor Arbiter and the NLRC. It bears stressing that factual findings of quasi-judicial bodies that have acquired expertise are generally accorded great respect and even finality, if they are supported by substantial evidence.[23]

In this case, we find no cogent reason to disturb the factual findings of the Labor Arbiter as affirmed by the NLRC. We find supported by evidence on record their finding that petitioners were not illegally dismissed, and

that they were not regular employees to begin with.

WHEREFORE, the petition is DENIED. The assailed resolutions, dated July 31, 2002 and January 6, 2003, of the Court of Appeals in CA-G.R. SP No. 71438 are AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), and Azcuna, JJ., concur.
Carpio, J., On official leave.

[*] Also "Rodelito" in some parts of the records.

[1] Rollo, p. 25. Penned by Associate Justice Bernardo P. Abesamis, with Associate Justices Eubulo G. Verzola, and Josefina Guevarra-Salonga concurring.

[2] Id. at 28-30.

[3] Id. at 32. Docketed as NLRC Case No. RAB 10-09-00537-2000 to 538, 540 to 10-09-00547-2000.

[4] Id. at 56-65.

[5] Id. at 95-102. Penned by Presiding Commissioner Salic B. Dumarpa, with Commissioners Oscar N. Abella, and Leon G. Gonzaga, Jr. concurring.

[6] Id. at 101.

[7] Id. at 110-111.

[8] SEC. 4. Verification.. – Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.

A pleading required to be verified which contains a verification based on "information and belief", or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.

[9] SEC. 5. Certification against forum shopping. – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct

contempt, as well as cause for administrative sanctions.

[10] Rollo, pp. 10-11.

[11] G.R. No. 121962, 30 April 1999, 306 SCRA 497.

[12] Ibid.

[13] Id. at 503.

[14] Effective 1 January 1992.

[15] Effective 1 April 1994.

[16] G.R. No. 135945, 7 March 2001, 353 SCRA 782, 800.

[17] G.R. No. 140153, 28 March 2001, 355 SCRA 658, 666.

[18] G.R. No. 139396, 15 August 2000, 338 SCRA 62, 67-68.

[19] Namely Jovito Condeza, Tony Maquidato, Nestor Odchigue, Nicolas Gomonid, Julito Sisles, Roberto Pila, Vito Agagaring, Ruben Sale, and Eleazar Cago.

[20] Rollo, p. 38.

[21] Supra, note 18 at 68.

[22] Ibid.

[23] *Bangko Sentral ng Pilipinas v. Santamaria*, G.R. No. 139885, 13 January 2003, 395 SCRA 84, 92.

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