

**VIVIAN T. RAMIREZ, ALBERTO B. DIGNO, DANILO M. CASQUITE,
JUMADIYA A. KADIL, FAUJIA SALIH, ANTONIO FABIAN, ROMEL
DANAG, GINA PANTASAN, ARTHUR MATUGAS, VIRGILIA OSARIO,
ORLANDO EB...**

G.R. No. 168208. June 13, 2012

Ponente: SERENO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-168208/>

SERENO, J.:

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court, seeking a review of the Court of Appeals (CA) 19 March 2004 and 12 May 2005 Resolutions in CA-G.R. SP NO. 82651. The appellate court had dismissed the Petition for Review on the ground that it lacked a Verification and Certification against forum shopping.

The pertinent facts are as follows:

On 28 June 2001, respondent Mar Fishing Co., Inc. (Mar Fishing), engaged in the business of fishing and canning of tuna, sold its principal assets to co-respondent Miramar Fishing Co., Inc. (Miramar) through public bidding.[1] The proceeds of the sale were paid to the Trade and Investment Corporation of the Philippines (TIDCORP) to cover Mar Fishing's outstanding obligation in the amount of ₱897,560,041.26.[2] In view of that transfer, Mar Fishing issued a Memorandum dated 23 October 2001 informing all its workers that the company would cease to operate by the end of the month.[3] On 29 October 2001 or merely two days prior to the month's end, it notified the Department of Labor and Employment (DOLE) of the closure of its business operations.[4]

Thereafter, Mar Fishing's labor union, Mar Fishing Workers Union – NFL – and Miramar entered into a Memorandum of Agreement.[5] The Agreement provided that the acquiring company, Miramar, shall absorb Mar Fishing's regular rank and file employees whose performance was satisfactory, without loss of seniority rights and privileges previously enjoyed.[6]

Unfortunately, petitioners, who worked as rank and file employees, were not hired or given separation pay by Miramar.[7] Thus, petitioners filed Complaints for illegal dismissal with money claims before the Arbitration Branch of the National Labor Relations Commission (NLRC).

In its 30 July 2002 Decision, the Labor Arbiter (LA) found that Mar Fishing had necessarily closed its operations, considering that Miramar had already bought the tuna canning plant.[8] By reason of the closure, petitioners were legally dismissed for authorized cause.[9] In addition, even if Mar Fishing reneged on notifying the DOLE within 30 days prior to its closure, that failure did not make the dismissals void. Consequently, the LA ordered Mar Fishing to give separation pay to its workers.[10]

The LA held thus:[11]

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered in these cases:

1. Ordering Mar Fishing Company, Inc., through its president, treasurer, manager or other proper officer or representative, to pay the complainants their respective separation pay, as computed in page 12 to 33 hereof, all totaling SIX MILLION THREE HUNDRED THIRTY SIX THOUSAND FIVE HUNDRED EIGHTY SEVEN & 77/100 PESOS (P6,336,587.77);
2. Dismissing these case [sic] as against Miramar Fishing Company, Inc., as well as against Robert Buehs and Jerome Spitz, for lack of cause of action;
3. Dismissing all other charges and claims of the complainants, for lack of merit.

SO ORDERED.

Aggrieved, petitioners pursued the action before the NLRC, which modified the LA's Decision. Noting that Mar Fishing notified the DOLE only two days before the business closed, the labor court considered petitioners' dismissal as ineffectual.[12] Hence, it awarded, apart from separation pay, full back wages to petitioners from the time they were terminated on 31 October 2001 until the date when the LA upheld the validity of their dismissal on 30 July 2002.[13]

Additionally, the NLRC pierced the veil of corporate fiction and ruled that Mar Fishing and Miramar were one and the same entity, since their officers were the same.[14] Hence, both companies were ordered to solidarily pay the monetary claims.[15]

On reconsideration, the NLRC modified its ruling by imposing liability only on Mar Fishing. The labor court held that petitioners had no cause of action against Miramar, since labor contracts cannot be enforced against the transferee of an enterprise in the absence of a stipulation in the contract that the transferee assumes the obligation of the transferor.[16] Hence, the dispositive portion reads:[17]

WHEREFORE, foregoing premises considered, the assailed resolution is MODIFIED in that only Mar Fishing Company, Inc. through its responsible officers, is ordered to pay complainants their separation pay, and full backwages from the date they were terminated from employment until 30 July 2002, subject to computation during execution stage of proceedings at the appropriate Regional Arbitration Branch.

SO ORDERED.

Despite the award of separation pay and back wages, petitioners filed a Rule 65 Petition before the CA. This time, they argued that both Mar Fishing and Miramar should be made liable for their separation pay, and that their back wages should be up to the time of their actual reinstatement. However, finding that only 3 of the 228 petitioners[18] signed the Verification and Certification against forum shopping, the CA instantly dismissed the action for certiorari against the 225 other petitioners without ruling on the substantive aspects of the case.[19]

By means of a Manifestation with Omnibus Motion,[20] petitioners submitted a Verification and Certification against forum shopping executed by 161 signatories. In the said pleading, petitioners asked the CA to reconsider by invoking the rule that technical rules do not strictly apply to labor cases.[21] Still, the CA denied petitioners' contentions and held thus:[22]

Anent the liberality in application of the rules, as alleged by petitioners, the same deserves scant consideration.
x x x.

xxx. While litigation is not a game of technicalities, and that the rules of procedure should not be enforced strictly at the cost of substantial justice, still it does not follow that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation, assessment and just resolution of the issues. xxx.

Before this Court, 124 petitioners raise the issue of whether the CA gravely erred in dismissing their Petition for

Review on the ground that their pleading lacked a Verification and Certification against forum shopping.[23]

The Rules of Court provide that a petition for certiorari must be verified and accompanied by a sworn certification of non-forum shopping.[24] Failure to comply with these mandatory requirements shall be sufficient ground for the dismissal of the petition.[25] Considering that only 3 of the 228 named petitioners signed the requirement, the CA dismissed the case against them, as they did not execute a Verification and Certification against forum shopping.

Petitioners invoke substantial compliance with procedural rules when their Manifestation already contains a Verification and Certification against forum shopping executed by 161 signatories. They heavily rely on *Jaro v. Court of Appeals*,[26] citing *Piglas-Kamao v. National Labor Relations Commission* and *Cusi-Hernandez v. Diaz*, in which we discussed that the subsequent submission of the missing documentary attachments with the Motion for Reconsideration amounted to substantial compliance.

However, this very case does not involve a failure to attach the Annexes. Rather, the procedural infirmity consists of omission – the failure to sign a Verification and Certification against forum shopping. Addressing this defect squarely, we have already resolved that because of noncompliance with the requirements governing the certification of non-forum shopping, no error could be validly attributed to the CA when it ordered the dismissal of the special civil action for certiorari.[27] The lack of certification against forum shopping is not curable by mere amendment of a complaint, but shall be a cause for the dismissal of the case without prejudice.[28] Indeed, the general rule is that subsequent compliance with the requirements will not excuse a party's failure to comply in the first instance.[29] Thus, on procedural aspects, the appellate court correctly dismissed the case.

However, this Court has recognized that the merit of a case is a special circumstance or compelling reason that justifies the relaxation of the rule requiring verification and certification of non-forum shopping.[30] In order to fully resolve the issue, it is thus necessary to determine whether technical rules were brushed aside at the expense of substantial justice.[31] This Court will then delve into the issue on (1) the solidary liability of Mar Fishing and Miramar to pay petitioners' monetary claims and (2) the reckoning period for the award of back wages.

For a dismissal based on the closure of business to be valid, three (3) requirements must be established. Firstly, the cessation of or withdrawal from business operations must be bona fide in character. Secondly, there must be payment to the employees of termination pay amounting to at least one-half (1/2) month pay for each year of service, or one (1) month pay, whichever is higher. Thirdly, the company must serve a written notice on the employees and on the DOLE at least one (1) month before the intended termination.[32]

In their Petition for Review on Certiorari, petitioners did not dispute the conclusion of the LA and the NLRC that Mar Fishing had an authorized cause to dismiss its workers. Neither did petitioners challenge the computation of their separation pay.

Rather, they questioned the holding that only Mar Fishing was liable for their monetary claims.[33]

Basing their conclusion on the Memorandum of Agreement and Supplemental Agreement between Miramar and Mar Fishing's labor union, as well as the General Information Sheets and Company Profiles of the two companies, petitioners assert that Miramar simply took over the operations of Mar Fishing. In addition, they assert that these companies are one and the same entity, given the commonality of their directors and the similarity of their business venture in tuna canning plant operations.[34]

At the fore, the question of whether one corporation is merely an alter ego of another is purely one of fact generally beyond the jurisdiction of this Court.[35] In any case, given only these bare reiterations, this Court sustains the ruling of the LA as affirmed by the NLRC that Miramar and Mar Fishing are separate and distinct

entities, based on the marked differences in their stock ownership.[36] Also, the fact that Mar Fishing's officers remained as such in Miramar does not by itself warrant a conclusion that the two companies are one and the same. As this Court held in *Sesbreño v. Court of Appeals*, the mere showing that the corporations had a common director sitting in all the boards without more does not authorize disregarding their separate juridical personalities.[37]

Neither can the veil of corporate fiction between the two companies be pierced by the rest of petitioners' submissions, namely, the alleged take-over by Miramar of Mar Fishing's operations and the evident similarity of their businesses. At this point, it bears emphasizing that since piercing the veil of corporate fiction is frowned upon, those who seek to pierce the veil must clearly establish that the separate and distinct personalities of the corporations are set up to justify a wrong, protect a fraud, or perpetrate a deception.[38] This, unfortunately, petitioners have failed to do. In *Indophil Textile Mill Workers Union vs. Calica*, we ruled thus:[39]

In the case at bar, petitioner seeks to pierce the veil of corporate entity of Acrylic, alleging that the creation of the corporation is a devi[c]e to evade the application of the CBA between petitioner Union and private respondent company. While we do not discount the possibility of the similarities of the businesses of private respondent and Acrylic, neither are we inclined to apply the doctrine invoked by petitioner in granting the relief sought. The fact that the businesses of private respondent and Acrylic are related, that some of the employees of the private respondent are the same persons manning and providing for auxiliary services to the units of Acrylic, and that the physical plants, offices and facilities are situated in the same compound, it is our considered opinion that these facts are not sufficient to justify the piercing of the corporate veil of Acrylic. (Emphasis supplied.)

Having been found by the trial courts to be a separate entity, Mar Fishing – and not Miramar – is required to compensate petitioners. Indeed, the back wages and retirement pay earned from the former employer cannot be filed against the new owners or operators of an enterprise.[40]

Evidently, the assertions of petitioners fail on both procedural and substantive aspects. Therefore, no special reasons exist to reverse the CA's dismissal of the case due to their failure to abide by the mandatory procedure for filing a petition for review on certiorari. Given the correctness of the appellate court's ruling and the lack of appropriate remedies, this Court will no longer dwell on the exact computation of petitioners' claims for back wages, which have been sufficiently threshed out by the LA and the NLRC. Judicial review of labor cases does not go beyond an evaluation of the sufficiency of the evidence upon which labor officials' findings rest.[41]

While we sympathize with the situation of the workers in this case, we cannot disregard, absent compelling reasons, the factual determinations and the legal doctrines that support the findings of the courts a quo. Generally, the findings of fact and the conclusion of the labor courts are not only accorded great weight and respect, but are even clothed with finality and deemed binding on this Court, as long as they are supported by substantial evidence.[42]

On a final note, this Court reminds the parties seeking the ultimate relief of certiorari to observe the rules, since nonobservance thereof cannot be brushed aside as a "mere technicality." [43] Procedural rules are not to be belittled or simply disregarded, for these prescribed procedures ensure an orderly and speedy administration of justice.[44]

IN VIEW THEREOF, the assailed 19 March 2004 and 12 May 2005 Resolutions of the Court of Appeals in CA-GR SP NO. 82651 are AFFIRMED. Hence, the 04 July 2005 Petition for Review filed by petitioners is hereby denied for lack of merit.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Reyes, JJ., concur.

[1] Executive Labor Arbiter's Decision, rollo, pp. 226-227; NLRC's Resolution dated 17 December 2003, rollo, pp. 713-714.

[2] Id.

[3] Rollo, p. 68.

[4] Id. at 98.

[5] Id. at 80-82

[6] Id. at 81.

[7] Petitioners' Petition for Review, rollo, p. 24.

[8] Executive Labor Arbiter's Decision, rollo, p. 230.

[9] Id. at 229.

[10] Id. at 230.

[11] Id. at 254.

[12] NLRC's Resolution dated 29 August 2003, rollo, p. 333.

[13] Id.

[14] Id. at 334.

[15] Id.

[16] NLRC's Resolution dated 17 December 2003, rollo, p. 714.

[17] Id. at 715.

[18] Jose D. Robocca, Teresita A. Sosmeña, and Nathan B. Ego-Ugan.

[19] CA's Resolution dated 19 March 2004, rollo, pp. 742-743.

[20] Rollo, p. 744.

[21] Id. at 746.

[22] CA's Resolution dated 12 May 2005, rollo, p. 769.

[23] Petitioners' Petition for Review, rollo, p. 29.

[24] Rules of Court, Rule 65, Sec. 1.

[25] Rules of Court, Rule 46, Sec. 3; Chinese Young Men's Christian Association of the Philippine Islands v. Remington Steel Corporation, G.R. No. 159422, 28 March 2008, 550 SCRA 180.

[26] 427 Phil. 532 (2002).

[27] Mariveles Shipyard Corporation v. Court of Appeals, 461 Phil. 249 (2003).

- [28] Republic v. Coalbrine International Philippines, Inc., G.R. No. 161838, 7 April 2010, 617 SCRA 491.
- [29] Philippine Public School Teachers Association v. The Heirs of Carolina P. Iligan, 528 Phil. 1197 (2006).
- [30] Shipside v. Court of Appeals, 404 Phil. 981 (2001).
- [31] Millennium Erectors Corporation v. Magallanes, G.R. No. 184362, 15 November 2010, 634 SCRA 708.
- [32] Mobil Employees Association v. NLRC, 262 Phil. 803 (1990).
- [33] Petitioner's Petition for Review on Certiorari, rollo, p. 731.
- [34] Id. at 734-736.
- [35] Sarona v. National Labor Relations Commission, G.R. No. 185280, 18 January 2012.
- [36] Supra note 8, at 252-253.
- [37] G.R. No. 89252, 24 May 1993, 222 SCRA 466.
- [38] Kukan International Corporation v. Reyes, G.R. No. 182729, 29 September 2010, 631 SCRA 596.
- [39] G.R. No. 96490, 3 February 1992, 205 SCRA 697, 704.
- [40] Martinez v. National Labor Relations Commission, 339 Phil. 176 (1997).
- [41] G & M (Phil.), Inc. v. Zenas Rivera, G.R. No. 141802, 29 January 2007, 513 SCRA 180.
- [42] Id.
- [43] Lanzaderas v. Amethyst Security and General Services, 452 Phil. 621 (2003).
- [44] Bank of the Philippine Islands v. Dando, G.R. No. 177456, 4 September 2009, 598 SCRA 378.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.