

## SECOND DIVISION

[ G.R. No. 207286, July 29, 2015 ]

**DELA ROSA LINER, INC. AND/OR ROSAURO DELA ROSA, SR. AND  
NORA DELA ROSA, PETITIONERS, VS. CALIXTO B. BORELA AND  
ESTELO A. AMARILLE, RESPONDENTS.**

### DECISION

**BRION, J.:**

Before us is Dela Rosa Liner, et al.'s petition for review on *certiorari*<sup>[1]</sup> which seeks to annul the March 8, 2013 decision<sup>[2]</sup> and May 21, 2013 resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 128188.

#### The Antecedents

The facts as set out in the CA decision are summarized below.

On September 23, 2011, **respondents** Calixto **Borela**, bus driver, and Estelo **Amarille**, conductor, filed separate complaints<sup>[4]</sup> (later consolidated) against petitioners Dela Rosa Liner, Inc., a public transport company, Rosauro Dela Rosa, Sr., and Nora Dela Rosa, for underpayment/non-payment of salaries, holiday pay, overtime pay, service incentive leave pay, 13<sup>th</sup> month pay, sick leave and vacation leave, night shift differential, illegal deductions, and violation of Wage Order Nos. 13, 14, 15 and 16.

In a motion dated October 26, 2011, the petitioners asked the labor arbiter to dismiss the case for forum shopping. They alleged that on September 28, 2011, the CA 13th Division disposed of a similar case between the parties (**CA-G.R. SP No. 118038**) after they entered into a compromise agreement<sup>[5]</sup> which covered all claims and causes of action they had against each other in relation to the respondents' employment.

The respondents opposed the motion, contending that the causes of action in the present case are *different from* the causes of action settled in the case the petitioners cited.

#### The Rulings on Compulsory Arbitration

Labor Arbiter (LA) Danna A. **Castillon**, in an order<sup>[6]</sup> dated November 24, 2011, upheld the petitioners' position and dismissed the complaint on grounds of forum shopping. Respondents appealed the LA's ruling. On July 31, 2012, the National Labor Relations Commission (NLRC) 1st Division granted the appeal,<sup>[7]</sup> reversed LA Castillon's dismissal order, and reinstated the complaint.

The NLRC held that the respondents could not have committed forum shopping as there was no identity of causes of action between the two cases. The **first complaint**, the NLRC pointed out, charged the petitioners with *illegal dismissal and unfair labor practice*; while the **second complaint** was based on the petitioners' alleged nonpayment/underpayment of their salaries and monetary benefits, and violation of several wage orders.

The petitioners moved for reconsideration, but the NLRC denied their motion, prompting them to file with the CA a petition for *certiorari*, for alleged grave abuse of discretion by the NLRC in: (1) holding that the respondents did not commit forum shopping when they filed the second complaint; and (2) disregarding respondents' quitclaim in relation to the compromise agreement in the first complaint.

### **The CA Decision**

In its decision under review, the CA 15th Division denied the petition; it found no grave abuse of discretion in the NLRC ruling that the respondents did not commit forum shopping when they filed their second complaint. The NLRC likewise held that neither was the case barred by *res judicata* arising from the CA judgment in the first case.

The appeals court explained that the first case involved the issues of whether respondents had been illegally dismissed and whether petitioners should be liable for unfair labor practice. The labor arbiter<sup>[8]</sup> dismissed the first complaint for lack of merit in his decision of November 6, 2008.

On the respondents' appeal against the LA ruling in this first case, the NLRC 6th Division rendered a decision on March 25, 2010, reversing the dismissal of the complaint. It awarded respondents back wages (P442,550.00 for Borela and P215,775.00 for Amarille), damages (P10,000.00 each in moral and exemplary damages for Borela), and moral and exemplary damages (P25,000.00 each for Amarille), plus 10% attorney's fees for each of them.<sup>[9]</sup>

On the petitioners' motion for reconsideration of the NLRC ruling in the first complaint, however, the NLRC vacated its decision, and in its resolution of September 30, 2010, issued a new ruling that followed the LA's ruling, with modification. It awarded the respondents financial assistance of P10,000.00 each, in consideration of their long years of service to the company.

The respondents sought relief from the CA through a petition for *certiorari* (**CA-G.R. SP No. 118038**). Thereafter, the parties settled the case (involving the first complaint) amicably through the compromise agreement<sup>[10]</sup> adverted to earlier. Under the terms of this agreement, "(t)he parties has (sic) agreed to terminate the case now pending before the Court of Appeals and that both parties further agree that no further action based on the same grounds be brought against each other, and this Agreement applies to all claims and damages or losses either party may have against each other whether those damages or losses are known or unknown, foreseen or unforeseen."

Based on this agreement, Borela and Amarille received from respondents P350,000.00 and P150,000.00, respectively, and executed a quitclaim.

Consequently, the CA 13th Division rendered judgment in accordance with the compromise agreement and ordered an entry of judgment which was issued on September 28, 2011. ***In this manner, the parties resolved the first case.***

To go back to the present case ***CA-G.R. SP No. 128188***, which arose from the second complaint the respondents subsequently filed), the CA 15th Division upheld the NLRC's (1st Division) decision and ruled out the presence of forum shopping and *res judicata* as bars to the respondents' subsequent money claims against the petitioners. The petitioners moved for reconsideration, but the CA denied the motion in its resolution of May 21, 2013.

### **The Petition**

The petitioners now ask the Court to nullify the CA judgment in CA-G.R. SP No. 128188 (arising from the second complaint), contending that the appellate court erred in upholding the NLRC ruling that there was no forum shopping nor *res judicata* that would bar the second complaint. They submit that private respondents should be penalized and be dealt with more severely, knowing fully well that the same action had been settled and they both received a considerable amount for the settlement.<sup>[11]</sup>

### **The Respondents' Position**

In their Comment<sup>[12]</sup> filed on September 4, 2013, the respondents pray for the denial of the petition for having been filed out of time and for lack of merit.

They argue that the petition should not prosper as it was belatedly filed. They claim that according to the petitioners' counsel herself, her law firm received a copy of the CA resolution of May 21, 2013, denying their motion for reconsideration on May 28, 2013, and giving them until June 12, 2013, to file the petition. The petition, they point out, was notarized only on June 13, 2013, which means that it was filed only on that day, or beyond the 15-day filing period.

On the substantive aspect of the case, respondents contend that their second complaint involved two causes of action: (1) their claim for sick leave, vacation leave, and 13th-month pay under the collective bargaining agreement of the company; and (2) the petitioners' noncompliance with wage orders since the year 2000 until the present.

They quote the NLRC's (1st Division) decision of July 31, 2012,<sup>[13]</sup> almost in its entirety, to support their position that they did not commit forum shopping in the filing of the second complaint and that they should be heard on their money claims against the petitioners.

### **The Court's Ruling**

#### ***The procedural issue***

We find the petition for review on *certiorari* **timely filed** pursuant to Rule 45, Section 2 of the Rules of Court.<sup>[14]</sup>