567 Phil. 323

THIRD DIVISION

[G.R. No. 157966, January 31, 2008]

EDDIE PACQUING, RODERICK CENTENO, JUANITO M. GUERRA, CLARO DUPILAD, JR., LOUIE CENTENO, DAVID REBLORA** and RAYMUNDO*** ANDRADE, vs. COCA-COLA PHILIPPINES, INC.,**** Respondent.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision[1] dated November 25, 2002 of the Court of Appeals (CA) in CA-G.R. SP No. 68756 which dismissed petitioners' Petition for *Certiorari* and the CA Resolution[2] dated April 15, 2003 which denied petitioners' Motion for Reconsideration.

The factual background of the case is as follows:

Eddie Pacquing, Roderick Centeno, Juanito M. Guerra, Claro Dupilad, Jr., Louie Centeno, David Reblora, Raymundo Andrade (petitioners) were sales route helpers or *cargadores-pahinantes* of Coca-Cola Bottlers Philippines, Inc., (respondent), with the length of employment as follows:

Name	Date Hired	Date Dismissed
Eddie P. Pacquing	June 14, 1987	January 30, 1988
Roderick Centeno	November 15, 1985	January 15, 1995
Juanito M. Guerra	June 16, 1980	February 20, 1995
Claro Dupilad, Jr.	March 1, 1992	June 30, 1995
David R. Reblora	September 15, 1988	December 15, 1995
Louie Centeno	September 15, 1988	March 15, 1996
Raymundo Andrade	January 15, 1988	October 15, 1995

Petitioners were part of a complement of three personnel comprised of a driver, a salesman and a regular route helper, for every delivery truck. They worked exclusively at respondent's plants, sales offices, and company premises.

On October 22, 1996, petitioners[3] filed a Complaint[4] against respondent for unfair labor practice and illegal dismissal with claims for regularization, recovery of benefits under the Collective Bargaining Agreement (CBA), moral and exemplary

damages, and attorney's fees.

In their Position Paper,[5] petitioners alleged that they should be declared regular employees of respondent since the nature of their work as *cargadores-pahinantes* was necessary or desirable to respondent's usual business and was directly related to respondent's business and trade.

In its Position Paper,[6] respondent denied liability to petitioners and countered that petitioners were temporary workers who were engaged for a five-month period to act as substitutes for an absent regular employee.

On July 5, 2000, Labor Arbiter Adolfo C. Babiano rendered a Decision[7] dismissing the complaint. He declared that petitioners were temporary workers hired through an independent contractor and acted as substitutes for the company's regular work force; that petitioner cannot be considered regular employees because, as *cargadores-pahinantes*, their work was not necessary or desirable in respondent's business - the manufacture of softdrinks.

On August 22, 2000, petitioners filed a Memorandum of Appeal[8] with the National Labor Relations Commission (NLRC). The appeal memorandum was verified by Roderick and Louie Centeno only.[9]

On October 17, 2000, respondent filed an Opposition to Appeal[10] alleging that with the exception of Roderick and Louie Centeno, the Decision of the Labor Arbiter has become final and executory as regards the other complainants who did not indicate their consent to the filing of the appeal by proper verification or grant of authority; that even if the appeal is effective with respect to all complainants, the Labor Arbiter was correct in finding that complainants are not regular employees of the respondent.

On June 8, 2001, the NLRC issued a Resolution[11] dismissing the appeal and affirming the Decision of the Labor Arbiter. The NLRC held that in the absence of showing that the other complainants have authorized Roderick and Louie Centeno to act for and in their behalf for the purpose of pursuing their appeal, the non-verification by the other complainants rendered the decision final as against them; that complainants cannot be considered regular employees since the nature of their duties are not directly related to respondent's primary or main business but pertained to post production or delivery operations.

On July 7, 2001, petitioners filed a Motion for Reconsideration[12] but it was denied by the NLRC in a Resolution[13] dated October 31, 2001.

On January 25, 2002, petitioners filed a Petition for *Certiorari*[14] with the CA. This time, the Verification and Certification[15] was signed by five[16] of the eight petitioners.

On November 25, 2002, the CA rendered a Decision[17] dismissing the petition for petitioner's failure to comply with the verification requirement in the petition and the appeal memorandum. It held that the failure of all the petitioners to affix their

signatures in the verification and certification against non-forum shopping rendered the petition dismissable, citing *Loquias v. Office of the Ombudsman;*[18] that with respect to the appeal memorandum in the NLRC, petitioners failed to comply with the New Rules of Procedure of the NLRC, specifically Section 3, Rule VI thereof, which requires that the appeal memorandum be under oath. The CA affirmed the NLRC's finding that petitioners' functions were not related to respondent's main business.

Petitioners filed a Motion for Reconsideration[19] but it was denied by the CA in a Resolution[20] dated April 15, 2003.

Petitioners then filed the present petition raising the following issues for resolution:

I

> WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING THE PETITION FOR CERTIORARI FILED BY THE PETITIONER (sic) DUE TO THE FAILURE OF THREE OUT OF THE EIGHT PETITIONERS TO AFFIX THEIR SIGNATURES (sic) THE VERIFICATION AND CERTIFICATION AGAINST FORUM SHOPPING.

II

> WHETHER OR NOT THE RESOLUTIONS OF HONORABLE COURT OF APPEALS DEPARTED OR DEVIATED FROM THE PREVAILING DOCTRINE OR LAW AND APPLICABLE DECISIONS OF THIS HIGH TRIBUNAL THAT VERIFICATION IS MERELY A MATTER OF FORM AND NON-COMPLIANCE THEREWITH DOES NOT RENDER THE PLEADING FATALLY DEFECTIVE.

III

> WHETHER OR NOT THE CONCLUSIONS AND DECISIONS OF THE LABOR ARBITER [sic] NATIONAL LABOR RELATIONS COMMISSION [sic] IN ACCORDANCE WITH EVIDENCE, JURISPRUDENCE, LABOR LAWS, STATUTES AND CONSTITUTIONAL MANDATES PROPITIOUS TO THE PETITIONERS.

IV

> WHETHER OR NOT PETITIONERS SHOULD BE DECLARED REGULAR EMPLOYEES OF COCA-COLA AND THUS ENTITLED TO BE REINSTATED WITH BACKWAGES FROM THE DATE OF THEIR DISMISSAL UP TO THE DATE OF THEIR ACTUAL REINSTATEMENT, DAMAGES AND ATTORNEY'S FEES.[21]

Petitioners contend that the absence of the signatures of the three other petitioners in the verification and certification against forum-shopping in the Petition for *Certiorari* before the CA was not fatal since verification is merely a matter of form of pleading and non-compliance does not render the pleading fatally defective; that the absence of the signature of the six other complainants in the verification in the appeal memorandum was not fatal since technicalities have no room in labor cases; that petitioners are regular employees of respondent since they have been

employed for more than one year and perform functions necessary to respondent's business.

Respondent, on the other hand, argues that petitioners' blatant violation of and non-compliance with procedural rules should not be countenanced; that the petition seeks an evaluation of evidence and factual findings of the CA and the NLRC which is beyond the scope of a petition for review on *certiorari* under Rule 45 of the Rules of Court where only questions of law are entertained.

The petition is impressed with merit.

While the general rule is that the certificate of non-forum shopping must be signed by all the plaintiffs in a case and the signature of only one of them is insufficient, the Court has stressed that the rules on forum shopping, which were designed to promote and facilitate the orderly administration of justice, should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective. Strict compliance with the provision regarding the certificate of non-forum shopping underscores its mandatory nature in that the certification cannot be altogether dispensed with or its requirements completely disregarded.[22] It does not, however, prohibit substantial compliance therewith under justifiable circumstances,[23] considering especially that although it is obligatory, it is not jurisdictional.[24]

In recent decisions, the Court has consistently held that when all the petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the rules.[25]

In *HLC Construction and Development Corporation v. Emily Homes Subdivision Homeowners Association,*[26] it was held that the signature of only one of the petitioners substantially complied with the Rules because all the petitioners share a **common interest** and invoke a **common cause of action or defense**. The Court said:

> Respondents (who were plaintiffs in the trial court) filed the complaint against petitioners as a group, represented by their homeowners' association president who was likewise one of the plaintiffs, Mr. Samaon M. Buat. **Respondents raised one cause of action** which was the breach of contractual obligations and payment of damages. They shared a common interest in the subject matter of the case, being the aggrieved residents of the poorly constructed and developed Emily Homes Subdivision. **Due to the collective nature of the case, there was no doubt that Mr. Samaon M. Buat could validly sign the certificate of non-forum shopping in behalf of all his co-plaintiffs. In cases therefore where it is highly impractical to require all the plaintiffs to sign** the certificate of non-forum shopping, it is sufficient, in order not to defeat the ends of justice, for one of the plaintiffs, acting as representative, to sign the certificate provided that xxx the **plaintiffs share a common interest in the subject matter of the case or filed the case as a "collective," raising only one common cause of action or defense.** (Emphasis and underscoring supplied)[27]

In *San Miguel Corporation v. Aballa*,[28] the dismissed employees filed with the NLRC a complaint for declaration as regular employees of San Miguel Corporation (SMC) and for an illegal dismissal case, following SMC's closure of its Bacolod Shrimp Processing Plant. After an unfavorable ruling from the NLRC, the dismissed employees filed a petition for *certiorari* with the CA. Only three out of the 97 named petitioners signed the verification and certification of non-forum shopping. This Court ruled that given the collective nature of the petition filed before the CA, which raised only one common cause of action against SMC, the execution by the three petitioners of the certificate of non-forum shopping constitutes substantial compliance with the Rules.

More recently, in *Espina v. Court of Appeals,*[29] the Court held that the signatures of 25 out of the 28 employees who filed the Petition for *Certiorari* in the CA, likewise, constitute substantial compliance with the Rules. Petitioners therein raised one common cause of action against M.Y. San and Monde, i.e., the illegal closure of M.Y. San and its subsequent sale to Monde, which resulted in the termination of their services. They shared a common interest and common defense in the complaint for illegal dismissal which they filed with the NLRC. Thus, when they appealed their case to the CA, they pursued the same as a collective body, raising only one argument in support of their rights against the illegal dismissal allegedly committed by M.Y. San and Monde. There was sufficient basis, therefore, for the 25 petitioners, to speak for and in behalf of their co-petitioners, to file the petition in the CA.

In the same vein, this is also true in the instant case where petitioners have filed their case as a collective group, sharing a common interest and having a common single cause of action against respondent. Accordingly, the signatures of five of the eight petitioners in the Petition for *Certiorari* before the CA constitute substantial compliance with the rules.

Contrary to the CA's pronouncement, *Loquias* finds no application here. In said case, the co-parties were being sued in their individual capacities as mayor, vice mayor and members of the municipal board of San Miguel, Zamboanga del Sur, who were criminally charged for allegedly withholding the salary increases and benefits of the municipality's health personnel. They were tried for alleged violation of Republic Act No. 3019[30] in their various respective personal capacities. Clearly, the conviction or acquittal of one accused would not necessarily apply to all the accused in a graft charge.

As to the defective verification in the appeal memorandum before the NLRC, the same liberality applies. After all, the requirement regarding verification of a pleading is formal, not jurisdictional.[31] Such requirement is simply a condition affecting the form of pleading, the non-compliance of which does not necessarily render the pleading fatally defective.[32] Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith.[33] The court or tribunal may order the correction of the pleading if verification is lacking or act on the pleading although it is not verified, if the attending circumstances are such that strict compliance with the rules may be dispensed with in order that the ends of justice may thereby be served.[34]