

SECOND DIVISION

[G.R. No. 110914, June 28, 2001]

**ALFREDO CANUTO, JR. AND ROMEO DE LA CORTE, PETITIONERS,
VS. NATIONAL LABOR RELATIONS COMMISSION AND COLGATE
PALMOLIVE PHILIPPINES, INC., RESPONDENTS.**

D E C I S I O N

DE LEON, JR., J.:

Before us is a petition for *certiorari* under Rule 65 seeking the reversal of the Resolution^[1] and Order^[2] of public respondent National Labor Relations Commission dated April 22, 1993 and June 30, 1993, respectively, rendered in NLRC NCR CA No. 003891-92, declaring petitioners to have been lawfully dismissed by private respondent.

Prior to their termination, petitioners Alfredo Canuto, Jr. and Romeo De La Corte were employed by private respondent Colgate Palmolive Philippines, Inc. (Colgate) as statistical quality control supervisor and production foreman, respectively. Canuto was then earning a salary of P9,540.00 per month plus a monthly allowance of P6,770.00, while De La Corte was paid P8,250.00 per month.

On July 5, 1989, Colgate terminated petitioners' services. The notice of termination, signed by respondent's officers, namely Aniceto Y. Dideles, Dexter C. Mendoza, and Ramon F. Alborte, stated that petitioners were being dismissed for loss of confidence. Petitioners, it would appear, were involved in a scheme to defraud respondent company. Basically, the plot consisted of an attempt to induce the company to purchase several drums of perfume used in the manufacture of its toilet soaps and shampoos. The deception was that Colgate already owned the drums of perfume.

The plot was uncovered when Colgate's Manufacturing Director, William Christopher, received two (2) confidential letters detailing the anomaly. An investigation resulted, leading to the entrapment of the malefactors, among whom were petitioners. For purposes of this resolution, we deem it unnecessary to recount at length the complicated behind-the-scene maneuverings which revealed petitioners' complicity in the scheme, for reasons we shall subsequently discuss.

On July 4, 1990, petitioners filed a complaint for illegal termination against Colgate.^[3] The complaint prayed for the payment of backwages and other benefits, as well as damages.

Hearings ensued. On September 8, 1992, Labor Arbiter Manuel R. Caday issued a Decision^[4] finding petitioners to have been illegally dismissed. He ordered private respondent to reinstate petitioners and to pay them backwages and other benefits equivalent to P825,492.00 [Canuto] and P404,814.00 [De La Corte]. Colgate

appealed the decision to the Commission. As aforesaid, the Commission overruled the labor arbiter's findings and declared petitioners to have been dismissed for cause. However, it ordered Colgate to pay petitioners an indemnity of P1,000.00 in view of the company's alleged failure to accord petitioners due process.

The petitioners then interposed the instant special civil action. As grounds for allowance of their petition, petitioners argue, to wit:

I

Public Respondent gravely abused its discretion in completely ignoring the findings of facts by the labor arbiter in the case at bar;

II

Public Respondent gravely abused its discretion in admitting/considering purely respondent evidence in resolving the appeal made to them by respondent company Colgate Palmolive Philippines despite its inadmissibility as ruled by the labor arbiter;

III

Public Respondent gravely abused its discretion in resolving that respondent Colgate Palmolive Philippines, Inc. had sufficiently proven petitioners guilt in the labor arbiter's proceedings;

IV

Public Respondent gravely abused its discretion in ignoring petitioners evidence and testimonies given in the proceedings undisputed;

V

Public Respondent gravely abused its discretion in not awarding petitioners of lawful claim arising out of their illegal termination from employment as provided for by existing jurisprudence.

The petition should be dismissed.

It has been revealed that prior to filing the illegal dismissal case before the labor tribunal, petitioners filed an amended complaint for damages dated August 16, 1989 against Dideles, Mendoza and Alborte, the officers whose signatures appeared in the notice of termination given to petitioners, docketed as Civil Case No. Q-89-3291 before the Regional Trial Court of Quezon City. Abbreviating the proceedings before the trial court, the defendants therein filed a second motion to dismiss the civil case *after* petitioners initiated the illegal dismissal case before the labor arbiter on July 4, 1990. The defendants interposed the defense of lack of jurisdiction, averring that the trial court had no jurisdiction over a labor dispute, and accused petitioners of forum shopping. When the trial court denied the motion to dismiss, the defendants elevated the matter to the Court of Appeals via a special civil action for certiorari,

docketed as CA-G.R. SP No. 25418. On September 13, 1999, the former Ninth Division of the appellate court rendered judgment dismissing the civil case on the ground of forum shopping. Reconsideration having been denied, petitioners filed a petition for review of certiorari before us, which was docketed as G.R. No. 142851.

On July 10, 2000, the Third Division of this Court issued a Resolution denying the petition for its failure to comply with Section 11, Rule 13 of the Rules of Court. Further, the resolution stated that petitioners failed to show that the Court of Appeals committed a reversible error. Instead of filing a motion for reconsideration, petitioners filed a *motion for extension of time* to file the aforesaid motion. In a Resolution dated October 18, 2000, we denied the motion for extension for being a prohibited pleading. Accordingly, we decreed that no further pleadings would be entertained, and that entry of judgment be made in due course. In a subsequent Resolution dated November 27, 2000, we denied *with finality* petitioners' motion for reconsideration.

Undeniably, the dismissal of G.R. No. 142851 affects the disposition of the present case, exhibiting as it does petitioners' clear act of forum shopping. Forum shopping is manifest whenever a party "repetitively avail[s] of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by, some other court."^[5] It has also been defined as "an act of a party against whom an adverse judgment has been rendered in one forum of seeking and possibly getting a favorable opinion in another forum, other than by appeal or the special civil action of certiorari, or the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition."^[6] Considered a pernicious evil, it adversely affects the efficient administration of justice since it clogs the court dockets, unduly burdens the financial and human resources of the judiciary, and trifles with and mocks judicial processes.^[7]

There is no doubt that at the time the complaint for illegal dismissal was filed, there was already pending before the regular courts another action involving substantially the same issues. In relation thereto, Rule 7, Section 5 of the Rules of Court provides:

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.