Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

EDUARDO BANDILLION, ERNESTO BAYLON, represented by his sister GERTRUDES BAYLON; ALFREDO BRAGA; BALTAZAR BUCAYAN; TERESITO CAPILLO; ROLANDO CAYAPADO (deceased), represented by his wife FELICITAS CAYAPADO; JONELL CLEMENTE, ROMEO COLOCAR, CARLOS CONSULAR, WILHIM CONVOCAR, CEAZAR CORTEZ, GODOFREDO DABLEO, represented by his wife PATRICIA DABLEO; CHRISTOPHER DAGPIN, ALTER DAYADAY, NORMAN DIAMANTE, EDUARDO ESMERALDA (deceased), represented by his daughter EDNA ESMERALDA; RICARDO GARCIA, ELEIZER HARI-ON (deceased), represented by his brother TITO HARI-ON; ROBERTO HARI-ON, TITO HARI-ON, PEDRO LARA; (deceased), represented by his wife JOCELYN LARA, FERNANDO MADIS, JR., AQUILINO MATUS, JR., RODRIGO ORLINA, represented by his wife, ROSALINDA ORLINA; ROMEO PADERNAL (deceased), represented by his wife CORAZON PADERNAL; JUNNY PANCHITA; (deceased), represented by his wife LEDILLA PANCHITA, RODOLFO PANGANTIHON, REINERIO PASOLES, ROMUALDO	**G.R. No. 202446**

PASOLES, SR., RONALDO PAYDA, IRENEO PORCAL, ROEL RAMOS, MARCELINO SINSORO, WILFREDO SINSORO, ERNESTO TABLASON (deceased), represented by his son JOEMARIE TABLASON; REY TABLASON, BENZON ZANTE, and BIENVENIDO ZANTE,

Petitioners,

- versus -

LA FILIPINA UYGONGCO CORPORATION (LFUC),

Respondent.

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Present:

VELASCO, JR., *J.*, *Chairperson,*
PERALTA,
VILLARAMA, JR.,
PEREZ,* and
JARDELEZA, *JJ.*

Promulgated:

September 16, 2015

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DECISION

PERALTA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Court of Appeals' Decision[1] dated September 13, 2011 and Resolution[2] dated May 24, 2012 in CA-G.R. SP No. 03690, which ordered a remand of the case to the Department of Labor and Employment (*DOLE*) Regional Director for the reception of evidence and re-computation of monetary awards therein.

The facts of the case follow.

Petitioners Eduardo Bandillion, *et al.* (*employees*) are truck drivers and employees of respondent La Filipina Uygongco Corporation (*LFUC*). They filed a complaint for violation of labor standard laws against the latter before the DOLE Region VI.[3] Upon inspection, a finding of "no violation" was made by the Labor Enforcement Officer, a finding that was upheld on

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* Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2112 dated July 16, 2015.

1 Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Edgardo L. De los Santos and Ramon Paul L. Hernando, concurring; *rollo*, pp. 29-33.

2 *Id.* at 35-38.

3 *Id.* at 30.

appeal to the DOLE-VI Regional Director, who stated the same in an Order dated December 1, 1998.[4]

The employees filed an appeal with the Secretary of Labor and Employment (*DOLE Secretary*). Thus, on June 4, 2003, Acting DOLE Secretary Manuel G. Imson issued an Order overturning the previous order of the DOLE-VI Regional Director. The dispositive portion of the decision states:

> WHEREFORE, the Order dated December 01, 1998 is hereby SET ASIDE and VACATED and a new one is entered finding the appellee, Iloilo La Filipina Uygongco Corporation liable for underpayment of wages, non-payment of holiday pay, rest day pay, and overtime pay.
>
> Let the case be REMANDED to the DOLE-Regional Office VI for the appropriate computation of the workers' individual entitlements as above-stated.
>
> All other claims of appellants are DISMISSED for lack of merit.
>
> SO ORDERED.[5]

Upon a denial of its motion for reconsideration by DOLE Secretary Patricia A. Sto. Tomas, LFUC filed a petition for *certiorari* with the Court of Appeals. The appellate court denied the petition, however, and affirmed the decision of the DOLE Secretary. The motion for reconsideration filed by LFUC was likewise denied by the court.

Thus, the case was elevated to this Court *via* a petition for *certiorari* where it was captioned and docketed as *Iloilo La Filipina Uygongco Corporation v. Court of Appeals*,[6] but the same was dismissed by this Court. LFUC's motion for reconsideration was likewise denied with finality in a Resolution dated February 27, 2008.[7] Then, Entry of Judgment was issued by this Court on July 8, 2008.[8]

Consequently, as the employees filed a Motion for Execution before the DOLE Region VI to enforce the DOLE Secretary's Order of June 4, 2003, it was discovered that Regional Director Carlos L. Boteros, on August 28, 2006, had already issued an Order directing LFUC to pay the total amount of Three Million Three Hundred Forty-Five Thousand Six Hundred Fifty-Seven Pesos and Ninety-Four Centavos (Php3,345,657.94), or Eighty-

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4 *Id.* at 30.
5 *Id.* at 7.
6 564 Phil. 163 (2007).
7 *Id.* at 30.
8 *Id.* at 7, 39-40.

Eight Thousand Forty Three-Pesos and Sixty-Three Centavos (Php88,043.63) for each of the employees in differentials on wages, holiday pay, rest day pay and overtime pay.[9] The dispositive portion of the Order states:

> WHEREFORE, premises considered, respondent/appellee Iloilo La Filipina Uygongco Corporation is hereby ordered within ten (10) days from receipt hereof, to pay its thirty-eight (38) employees the total sum of THREE MILLION THREE HUNDRED FORTY-FIVE THOUSAND SIX HUNDRED FIFTY SEVEN and 94/100 PESOS (₱3,345,657.94) representing their differentials on wages, holiday pay, rest day pay and overtime pay distributed as follows:

# Name of Employees	Total amount of Benefits
1. Bandillon, Eduardo	₱ 88,043.63
2. Baylon, Ernesto	88,043.63
3. Braga, Alfredo	88,043.63
4. Bucayan, Baltazar	88,043.63
5. Capillo, Teresito	88,043.63
6. Cayapado, Rolando	88,043.63
7. Clemente, Jonell	88,043.63
8. Colocar, Romeo	88,043.63
9. Consula, Carlos	88,043.63
10. Convocar, Wilhim	88,043.63
11. Cortez, Ceazar	88,043.63
12. Dableo, Godofredo	88,043.63
13. Dagpin, Christopher	88,043.63
14. Dayaday, Alter	88,043.63
15. Diamante, Norman	88,043.63
16. Esmeralda, Eduardo	88,043.63
17. Garcia, Ricardo	88,043.63
18. Hari-On, Eleizar	88,043.63
19. Harion, Robert	88,043.63
20. Harion, Tito	88,043.63
21. Lara, Pedro	88,043.63
22. Madis, Fernando Jr.	88,043.63
23. Matus, Aquilino Jr.,	88,043.63
24. Orlina, Rodrigo	88,043.63
25. Padernal, Romeo	88,043.63
26. Panchita, Junny	88,043.63
27. Pangantihon, Rodolfo	88,043.63
28. Pasoles, Reinerio	88,043.63
29. Pasoles, Renwaldo Sr.,	88,043.63
30. Payda, Ronaldo	88,043.63
31. Porcal, Ireneo	88,043.63
32. Ramos, Roel	88,043.63
33. Sinsoro, Marcelino	88,043.63
34. Sinsoro, Wilfredo	88,043.63
35. Tablason, Ernesto	88,043.63
36. Tablason, Rey	88,043.63

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9 *Id.* at 7-8, 41-44.

37. Zante, Benzon	88,043.63
38. Zante, Bienvenido	88,043.63
Grand Total	~~P~~3,345,657.94[10]

The Order complies with the DOLE Secretary's Order of June 4, 2003 which called for the "appropriate computation of the workers' individual entitlements."

The DOLE Region VI then issued a Writ of Execution[11] on July 15, 2008. The writ directed the enforcement of the Order of August 28, 2006 by Director Boteros for LFUC to pay the employees Three Million Three Hundred Forty-Five Thousand Six Hundred Fifty-Seven Pesos and Ninety-Four Centavos (Php3,345,657.94), or Eighty-Eight Thousand Forty-Three Pesos and Sixty-Three Centavos (Php88,043.63) for each employee in various forms of unpaid wages and other pays.[12]

LFUC moved for the writ to be recalled, but the same was merely "noted without action" by the DOLE-VI Regional Director, in a letter dated August 1, 2008.[13]

After being served with the writ, LFUC filed a Petition[14] for *certiorari* and injunction dated August 15, 2008 with the Court of Appeals, seeking to set aside the writ of execution, on the grounds that: (1) the same was immediately issued without first issuing a "compliance order" which is provided for in Section 18 of Rule II of the Rules on the Disposition of Labor Standard Contests; and (2) grave abuse was committed by the Regional Director in denying LFUC's motion to recall the writ.[15] LFUC posited that the correct procedure was the issuance of a Compliance Order prior to the issuance of a writ of execution.[16] Allegedly, a computation of the money due to the employees was all that was required by the Order of June 4, 2003 by the DOLE Secretary; hence, LFUC theorized that such computation should have been made first, followed by the issuance of a Compliance Order, before execution was ordered.[17] It also claimed that some of the employees have since been dismissed; thus, they should not have been included in the computation.[18]

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10 *Id.* at 43-44.
11 *Id.* at 8, 45-46.
12 *Id.*
13 *Id.* at 51-52.
14 *Id.* at 47-62.
15 *Id.* at 8, 52.
16 *Id.* at 53.
17 *Id.* at 54-55.
18 *Id.* at 55-56.

Apparently, LFUC was not yet served with the Order dated August 28, 2006 of the DOLE-VI Regional Director when it filed the petition for *certiorari* before the Court of Appeals.

Subsequently, however, LFUC was served a copy of the Order dated August 28, 2006. Thus, on September 30, 2008, LFUC filed with DOLE Region VI a Motion for Reconsideration (treated as an Appeal)[19] of the Order dated August 28, 2006 of Regional Director Boteros, wherein it called the said order a "Compliance Order" that was allegedly issued in grave abuse of discretion for it deprived LFUC of its right to due process since the latter was not given the opportunity to adduce evidence to refute the workers' allegations, specifically the latter's monetary claims.[20] It alleged that the employees were piece-rate truck drivers and, thus, were not entitled to overtime, holiday and rest day pay as well as wage differentials, and that some already had executed waivers and quitclaims.[21]

The motion for reconsideration filed before DOLE Region VI was denied by Regional Director Aida Estabillo in a Decision[22] dated December 15, 2008. From that decision, LFUC filed an appeal to the DOLE Secretary via a Notice of Appeal and a Memorandum of Appeal[23] dated December 30, 2008.

Meanwhile, the petition before the Court of Appeals was duly opposed by the employees as well as by the DOLE-VI Regional Director, who alleged that the petition had been rendered moot and academic by LFUC's filing of a motion for reconsideration of the Order dated August 28, 2006.[24]

In an Order[25] dated August 2, 2010, DOLE Undersecretary Lourdes M. Trasmonte, acting for the DOLE Secretary, denied the appeal of LFUC and affirmed the Order of December 15, 2008 by the DOLE-VI Regional Director which, in turn, is also an affirmation of the Order of August 28, 2006 by the same office.

LFUC filed a Motion for Reconsideration of the Order, but the same was denied in a Resolution[26] dated August 19, 2011, also signed by Undersecretary Trasmonte.

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19 Per Sec. 19 of the Rules on the Disposition of Labor Standards Cases in the Regional Offices, a motion for reconsideration that is filed beyond the seven-day reglementary period is to be treated as an appeal if filed within the ten-day reglementary period for appeal.

20 *Rollo*, pp. 8, 67-68, 208.

21 *Id.* at 68-70.

22 *Id.* at 73-75.

23 *Id.* at 76-99.

24 *Id.* at 9.

25 *Id.* at 110-118.

26 *Id.* at 126-130.

On March 5, 2012, the DOLE issued an Entry of Judgment,[27] stating that the foregoing Resolution dated August 19, 2011 had become final and executory on October 7, 2011 and thereby was recorded in the Book of Entries of Judgments.

Thereafter, the DOLE-VI Regional Director-Officer-in-Charge (*OIC*) issued another Writ of Execution,[28] dated November 21, 2011, essentially ordering the Sheriff to proceed to LFUC's address and require the latter's compliance with the Order of August 28, 2006 of the said office to pay a total of Three Million Three Hundred Forty-Five Thousand Six Hundred Fifty-Seven Pesos and Ninety-Four Centavos (Php3,345,657.94) to its employees-claimants.

Meanwhile, on July 8, 2011, the Court of Appeals issued a Resolution[29] denying LFUC's application for Temporary Restraining Order (*TRO*) and submitting the case for decision.

On September 13, 2011, the Court of Appeals promulgated its assailed Decision, the dispositive portion of which states:

> WHEREFORE, premises considered, let this case be REMANDED to the DOLE Regional Director, Region VI for the reception of evidence for all the parties, and the re-computation of monetary awards.
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> SO ORDERED.[30]

The Court of Appeals found that the office of the DOLE-VI Regional Director arrived at its computations of the payment due to the workers without any evidence from the parties, and without considering the fact that the National Labor Relations Commission (*NLRC*) has a final decision upholding as valid the dismissal of most of the employees.[31] Hence, the appellate court held that due process was not observed and ordered the case remanded to the DOLE-VI Regional Director for the reception of evidence in order to properly compute the monetary claims of the employees.[32]

The employees filed a motion for reconsideration of the appellate court's decision but, in the other assailed Resolution[33] dated May 24, 2012, the same was denied.

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27 *Id.* at 131.
28 *Id.* at 132-134.
29 *Id.* at 135-137.
30 *Id.* at 33.
31 *Id.* at 31-32.
32 *Id.* at 32.
33 *Id.* at 35-38.

Hence, this petition for review on *certiorari* filed by the employees.

The petitioners-employees Bandillion, *et al*. maintain that LFUC's petition before the Court of Appeals was rendered moot and academic by its filing of a motion for reconsideration of the August 28, 2006 Order before the Regional Director.[34] Thus, for the petitioners, it follows that the petition for *certiorari* filed by LFUC was improper as there was another adequate remedy available to it.[35] Further, petitioners deny that LFUC was denied due process, as it was in fact served with a *subpoena duces tecum* to produce employment records.[36] Petitioners also accuse LFUC of violating the rule against forum shopping in its filing of the petition while a motion for reconsideration was pending.[37]

In its Comment, respondent LFUC first presented some procedural challenges to the petition. It reported that a number of the employees did not sign the Special Power of Attorney for them to be represented in this petition by their union president, Ronaldo C. Payda.[38] In addition, the employees who died were allegedly not properly substituted.[39] Lastly, LFUC alleges that the copies of the assailed resolutions that were attached in the petition were mere "machine copies" and not certified true copies as required by Section 1, Rule 65, of the Rules of Court.

As to the merits of the petition, respondent LFUC contends that its filing of a motion for reconsideration of the August 28, 2006 Order of the DOLE-VI Regional Director did not render as moot and academic the petition for *certiorari* it earlier filed with the Court of Appeals.[40] There is allegedly no "identity of relief" between the motion for reconsideration and the petition for *certiorari.*"[41] It theorizes that a motion for reconsideration is "a mere tool (for) seeing the review of arguments and evidence" and does not affect the petition for *certiorari.*[42] LFUC also denies committing forum shopping, stating that the elements of *litis pendentia* are not present and that a judgment in one case would not amount to *res judicata* in the other.[43]

Respondent LFUC claims that it was after it filed its petition with the Court of Appeals that it received, on September 24, 2008, the Compliance Order (dated August 28, 2006), which it immediately appealed to the DOLE

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34 *Id.* at 13.
35 *Id.* at 14.
36 *Id.* at 15.
37 *Id.* at 16-18.
38 *Id.* at 197-198.
39 *Id.* at 198-199.
40 *Id.* at 201-202.
41 *Id.* at 203.
42 *Id.* at 203.
43 *Id.* at 206-207.

Secretary.[44] Thus, it claims that it was a "supervening event" so that the filing of the petition did not bar the appeal and vice-versa.[45] LFUC also alleges that the employees never before raised the issue of forum shopping and did so for the first time only after the decision of the Court of Appeals was adverse to them.[46] Then, LFUC refutes the employees' charge that the Court of Appeals' assailed decision was based only on "assumptions, conjectures and suppositions," noting that it was the compliance order of the DOLE-Region VI that was issued without evidence of data and figures from the parties.[47]

The singular issue to resolve is whether or not the case decided by the Court of Appeals in CA-G.R. SP No. 03690 has been rendered moot by herein respondent LFUC's filing of a motion for reconsideration (treated as an appeal) of the Order dated August 28, 2006 of the DOLE-VI Regional Director.

First, We discuss the procedural matters.

Respondent LFUC alleges that several of the concerned employees did not sign the Special Power of Attorney (*SPA*)[48] authorizing their union president and co-petitioner, Ronaldo C. Payda, to file this petition, and to sign the verification and certification against forum shopping for such purpose, which allegedly rendered the said petition defective.

This contention lacks merit. According to prevailing jurisprudence, neither the fact that Payda alone signed the petition's verification and certification against forum shopping, nor the fact that the SPA authorizing the filing of the petition was not signed by all petitioners, invalidate nor render the petition defective, as the present case is one of those instances when the rules are interpreted more liberally in order to attain substantial justice. We hold that Payda's lone signature and the SPA signed by most of the petitioners already substantially comply with the requirements for a properly and validly filed petition.

Indeed, Payda alone signed the verification and certification against forum shopping – as the person authorized in the SPA to do so – but instead of rendering the petition defective or invalid, this Court, as it has previously ruled in *Altres, et al. v. Empleo, et al.*[49] regards the same as already in substantial compliance with the rules. In that case, it was held that in certain

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44 *Id.* at 208.
45 *Id.*
46 *Id.* at 211.
47 *Id.* at 219.
48 *Id.* at 25-27.
49 594 Phil. 246 (2008), cited in *Jacinto v. Gumaru, Jr.*, G.R. No. 191906, June 2, 2014, 724 SCRA 343, 354.

instances, the signature of even just one person out of many petitioners in the verification and certification against forum shopping can be deemed as enough to meet the requirements of the rules. In sum, the Court laid down the guidelines as follows:

> For the guidance of the bench and bar, the Court restates in capsule form the jurisprudential pronouncements already reflected above respecting non-compliance with the requirements on, or submission of defective, verification and certification against forum shopping:
>
> 1) A distinction must be made between non-compliance with the requirement on or submission of defective verification, and non-compliance with the requirement on or submission of defective certification against forum shopping.
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> 2) As to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.
>
> 3) **Verification is deemed *substantially complied* with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification**, and when matters alleged in the petition have been made in good faith or are true and correct.
>
> 4) As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."
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> 5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. **Under reasonable or justifiable circumstances, however, as when all the plaintiffs or 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 Rule.**
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> 6) Finally, the certification against forum shopping must be executed by the party-pleader, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his behalf. x x x[50]

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[50] *Altres, et al. v. Empleo, et al., supra,* at 356-357. (Emphasis ours)

In the case at bar, the subject SPA is an authorization granted by the employees in favor of their union president Payda to, among other things, "file the appropriate petition before the Supreme Court relative to the Court of Appeals' Decision and Resolution dated September 13, 2011 and May 24, 2012, respectively," and to sign the petition's verification and certification against forum shopping for such purpose. The said employees, who are the SPA's principals, along with Payda himself, became the petitioners in the petition, which is the case that is now being resolved. Payda performed his mandate under the SPA and, for himself and for on behalf of his principals, filed the instant petition and alone signed the accompanying verification and certification against forum shopping. The SPA was signed by the great majority of the persons named as petitioners in the case.[51] We hold the same to have duly complied with the jurisprudential guidelines on the rules on verification and certification against forum shopping as outlined above.

While Payda alone signed, per the SPA, the petition is neither invalid nor defective as LFUC alleges because, as for the verification requirement, Payda signed as one who has "ample knowledge to swear to the truth of the petition's allegations," being himself a petitioner and the employees' union president who personally knows the story and facts of the case; and as for the certification against forum shopping, Payda, as a co-employee of his co-petitioners, "shares a common interest and invokes a common cause of action or defense" as the rest and, as their attorney-in-fact tasked to initiate the action, he himself has the knowledge of whether or not he has initiated similar actions or proceedings in different courts or agencies. Both already satisfy the guidelines' requirements on when a lone signature of a petitioner substantially complies with the requirements for a valid verification and certification against forum shopping.

But more importantly, unlike other lone signatories in jurisprudence[52] whose petitions were declared improperly filed by this Court due to lack of authority from their co-petitioners to file such action on the latter's behalf, Payda, in the case at bar, is armed with such an authority – the SPA signed by his co-petitioners. It has been held that when an SPA was constituted precisely to authorize the agent to file and prosecute suits on behalf of the principal, then it is such agent who has actual and personal knowledge whether he or she has initiated similar actions or proceedings before various courts on the same issue on the principal's behalf, thus satisfying the requirements for a valid certification against forum shopping.[53] In such a

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[51] Of the thirty-eight (38) petitioners, twenty-four (24) personally signed the said authorization. Then, six (6) of the petitioners, though indicated as "deceased," were signed for by a representative/heir, while three (3) of the petitioners were simply signed for by a representative. Only five (5) of the petitioners had no signature above their names.

[52] *Northeastern College Teachers and Employees Association v. Northeastern College Inc*., 596 Phil. 163, 188-195 (2009); *Fuentebella v. Castro*, 526 Phil. 668 (2006); *Vda. de Formoso v. Philippine National Bank*, 665 Phil. 184 (2011).

[53] *Spouses Wee v. Galvez*, 479 Phil. 737, 751-752 (2004).

case, when it is the agent or attorney-in-fact who initiated the action on the principal's behalf and who signed the certification against forum shopping, the rationale behind the rule that it must be the "petitioner or principal party himself" who should sign such certification does not apply; the rule on the certification against forum shopping has been properly complied with.[54]

We treat the instant case in this manner in part due to the particular circumstances of the petitioners in the case at bar. *First*, the petitioners are so numerous that their filing of a single petition through a representative is in fact a commendable act compared to the alternative of flooding this Court with a multiplicity of suits involving the same parties, subject matter, cause and relief. *Second*, as claimed by LFUC itself,[55] most of the petitioners have since been separated from LFUC's employment, the natural consequence of which is that the employees have now changed employment and residences, a development which, combined with their meager monetary resources, presents logistical difficulties to them as litigants unless they choose, as they did, the practical and cost-effective option of appointing a representative, in this case their union president Payda, *via* the SPA, to represent them and file a petition in this case on their behalf. The Court is not unmindful of such pragmatic nature of petitioners' stance so that it is one more reason, in addition to supporting jurisprudence, to allow the petition instead of dismissing it based on the grounds raised by respondent LFUC.

We also consider LFUC's allegation that the petition was defective because the SPA was not signed by all petitioners, or that it was signed by some only through unauthorized representatives, to hold no water. In the case at bar, the SPA was signed by everyone but five (5) of the petitioners.[56] According to *Altres v. Empleo*, the only consequence of such an incomplete signing is that "the non-signing petitioners (as to the certification against forum shopping) are dropped as parties to the case."[57] However, the petition itself survives and not rendered invalid, especially as to the petitioners who signed, who would remain as parties therein. As for those petitioners who are not deceased but who signed through representatives, they, too, remain as parties, because the acts of such representatives may be ratified by these petitioners or the representatives may belatedly submit proof of their authority to act on the petitioners' behalf.[58] As for LFUC's allegation that the deceased employees were not properly substituted, this Court already had

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54 *Id.*

55 In its petition for *certiorari* filed before the Court of Appeals, LFUC claimed that "most of the complaining truck drivers (except for two) were validly dismissed from employment" as found under a Decision of the Labor Arbiter and the NLRC. (*Rollo*, pp. 55-56)

56 *Supra* note 51.

57 *Supra* note 49.

58 *Benguet Corporation v. Cordillera Caraballo Mission, Inc*., 506 Phil 366, 370 (2005); *Swedish Match Philippines, Inc. v. Treasurer of the City of Manila*, G.R. No. 181277, July 3, 2013, 700 SCRA 428, 437; *Gordoland Development Corp. v. Republic of the Philippines*, 563 Phil. 732, 741 (2007); *Chinese Young Men's Christian Association v. Remington Steel Corporation*, 573 Phil. 320, 331-333 (2008); *Republic of the Philippines v. Coalbrine International Philippines, Inc*., 631 Phil. 487, 496-497 (2010).

occasion to rule that the formal substitution of a deceased worker is not necessary when his heir already had voluntarily appeared and participated in the proceedings before the labor tribunals.[59] The Court held further that the rule on substitution by heirs is not a matter of jurisdiction, but a requirement of due process; it is only when there is a denial of due process, as when the deceased is not represented by any legal representative or heir, that the court nullifies the trial proceedings and the resulting judgment therein.[60] In the case at bar, there is no such denial of due process as the heirs of the six (6) deceased workers are considered to have voluntarily appeared before this Court by signing the SPA authorizing the filing of this petition. Presumably, they will likewise do the same voluntary appearance or formal substitution in all the succeeding proceedings of the case, including execution. This Court has already ruled that formal substitution of parties is not necessary when the heirs themselves voluntarily appeared, participated, and presented evidence during the proceedings.[61]

Lastly, We find as false LFUC's allegation that copies of the assailed decision and resolution of the Court of Appeals (dated September 13, 2011 and May 24, 2012, respectively) that were attached in the instant petition were mere “machine copies” and not certified true copies as required by the rules. We examined the *rollo* and contrary to what respondent LFUC alleges, We found that the concerned decision and resolution were properly and duly marked as “certified true copies” by the clerk of court of the appellate court. In sum, the procedural requirements have been duly complied with.

We now discuss the case's substantive aspects.

The contention of petitioners is that the petition for *certiorari* and injunction filed by LFUC before the Court of Appeals to assail the writ of execution issued by the DOLE-VI Regional Director was rendered moot and academic by LFUC's subsequent filing of a motion for reconsideration of the same Regional Director’s Order dated August 28, 2006. In addition, petitioners allege that *certiorari* was improper as there was another adequate remedy available to LFUC. The latter's acts, allegedly, amount to forum shopping. Petitioners also assail the finding that LFUC was denied due process, as the latter was, according to petitioners, adequately required to produce its own evidence such as employment records.

Respondent LFUC disagrees with petitioners. It contends that it did not commit forum shopping and that the motion for reconsideration it filed did not render as moot and academic its petition for *certiorari* before the

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[59] *Sy, et al. v. Fairland Knitcraft Co. Inc.*, 678 Phil. 265, 294 (2011), citing *Regional Agrarian Reform Adjudication Board, et al. v. Court of Appeals, et al.*, 632 Phil. 191, 212-213 (2010).

[60] *Id.*, citing *Atty. Sarsaba v. Vda. de Te*, 611 Phil. 794, 812-813 (2009).

[61] *Id.*, citing *Regional Agrarian Reform Adjudication Board, et al. v. Court of Appeals, et al., supra* note 59, at 213.

Court of Appeals. It claims that there is no "identity of relief" between the two and that the elements of *litis pendentia* are not present and that a judgment in one case would not amount to *res judicata* in the other.

We find for petitioners.

LFUC's petition for *certiorari* filed with the Court of Appeals assailed the writ of execution dated July 15, 2008, as well as the letter dated August 1, 2008 of the DOLE-VI Regional Director (which "noted without action" LFUC's Motion to Recall Writ of Execution) and, in the process, made the following arguments and allegations:

> 1) that writ of execution was issued in grave abuse of discretion because it was *issued while there was not yet a "compliance order"* as specified in the Rules on the Disposition of Labor Standards Cases;[62]
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> 2) that the issuance of the writ amounts to a denial of LFUC's right to due process, as the *issuance was made without hearing* LFUC's side on the computation of the correct amount due and without a compliance order; then, the DOLE-VI Regional Director merely "noted without action" LFUC's Motion to Recall Writ of Execution;[63] and
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> 3) that most of the petitioners who are *employees-truck drivers have been declared validly dismissed* by the Labor Arbiter.[64]

However, shortly after the filing of the petition with the Court of Appeals, LFUC went to the DOLE-VI Regional Director and filed a Motion for Reconsideration of that office's Order dated August 28, 2006. In that motion, which was treated as an appeal by the said Regional Director, LFUC complained:

> 1) that the *computation contained in the August 28, 2006 order* of Three Million Three Hundred Forty Five Thousand Six Hundred Fifty Seven Pesos and Ninety Four Centavos (Php3,345,657.94) due to all workers, or Eighty Eight Thousand Forty Three Pesos and Sixty Three Centavos (Php88,043.63) per worker, *was "wrong" and "characterized by grave abuse of discretion" because LFUC was allegedly "deprived of due process"* when it was *not allowed to adduce evidence* to refute the employees' claims;[65]
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> 2) that the employees *as piece-rate truck drivers were not entitled to overtime, holiday and rest day pay as well as wage differentials*, and that some already had executed waivers and quitclaims;[66] and

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62 *Rollo*, pp. 52-53.
63 *Id.* at 54-55.
64 *Id.* at 55.
65 *Id.* at 67-68.
66 *Id.* at 68-70.

> 3) that the *Order of August 28, 2006 was a "Compliance Order"* that was "baseless" and "void *ab initio*" and which should be vacated by the said office.[67]

As previously stated, the Court of Appeals granted the above petition for *certiorari* of LFUC,[68] a decision which is now being assailed in this petition before Us. Meanwhile, the DOLE-VI Regional Director denied LFUC's motion for reconsideration of the Order dated August 28, 2006, a denial which was affirmed on appeal by the DOLE Secretary.[69]

We agree with petitioners and find that respondent LFUC's filing of a motion for reconsideration before the DOLE-VI Regional Director rendered moot and academic its petition for *certiorari* then pending with the Court of Appeals; as such, LFUC's failure to withdraw the petition or to even notify the appellate court of the motion for reconsideration filed before the DOLE amounts to a violation of the rules against forum shopping.

There is no question that as a result of LFUC's pursuit of the two simultaneous remedies, the rulings of the Court of Appeals on the petition for *certiorari* and the DOLE Secretary on LFUC's motion for reconsideration are now essentially conflicting, as the former bars any execution and instead directs a further hearing of certain evidence, while the latter states that such evidence had the chance to be heard and execution should now proceed as a matter of course. Such conflict is exactly the scenario that the rules against forum shopping try to avert.

Forum shopping is the act of a litigant who "repetitively avails 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 to increase his chances of obtaining a favorable decision if not in one court, then in another.[70] It is a practice currently prohibited by Section 5, Rule 7 of the Rules of Court.[71] Forum shopping exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in the other.[72] We have repeatedly maintained that forum shopping is an act of malpractice, as the litigants who commit such trifle with the courts and abuse their processes.[73] It degrades the administration of

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67 *Id.* at 66-70.
68 *Id.* at 29-33, 35-38.
69 *Id.* at 8-10, 73-79, 110-118, 119-124, 126-130.
70 *Atty. Briones v. Henson-Cruz, et al.*, 585 Phil. 63, 80 (2008).
71 *Rudecon Management Corporation v. Singson*, 494 Phil. 581, 599 (2005).
72 *Buan v. Lopez*, 229 Phil. 65, 68-70 (1986).
73 *Air Materiel Wing Savings and Loan Association, Inc. v. Manay*, 575 Phil. 591, 605 (2008).

justice and adds to the already congested court dockets.[74] Acts of willful and deliberate forum shopping shall be a ground for summary dismissal of the case with prejudice.[75]

In numerous cases, this Court has defined what constitutes *litis pendentia*. The essential elements of *litis pendentia* are as follows: (1) identity of parties or representation in both cases; (2) identity of rights asserted and reliefs prayed for; (3) reliefs founded on the same facts and the same basis; and (4) identity of the two preceding particulars should be such that any judgment, which may be rendered in the other action, will, regardless of which party is successful, amount to *res judicata* in the action under consideration.[76]

Forum shopping is considered anathema to the orderly administration of justice due to the vexation it causes to the courts and the parties-litigants when a person who asks appellate courts and/or administrative entities to rule on the *same related causes* and/or to *grant the same or substantially* the same relief, in the process creating the possibility of conflicting decisions by the different courts or fora on the same issues.[77] This is clearly exemplified in the case at bar where, as one court stops execution and instead remands the case for the "reception of evidence for all the parties …. and a re-computation of monetary awards," another tribunal orders execution since, according to it, reception of evidence had been performed and consummated and the only thing left to be done is the payment of the already computed monetary awards to the winning parties. The two rulings are clearly inconsistent and cannot be performed at the same time.

Therefore, it can be clearly derived from the above that LFUC and its counsel clearly committed the abhorrent practice of forum shopping when they availed of two remedies before two courts or tribunals by raising the same causes and praying for substantially the same relief, against the same opponent, thus causing the likelihood and eventual issuance of two conflicting rulings. It can be observed in the two cases that LFUC concurrently pursued what it essentially pleaded as "deprivation of due process" in not being allowed to "present its own evidence" in two simultaneous fora. Also, its ultimate objective behind both acts was to stop the execution of the Regional Director's final order and have that office hear the evidence of the parties anew and re-compute the monetary sums awarded. Such an act should not be allowed, however. This Court has previously and emphatically held that, along with identical or closely identical causes of action, one of the keys to determining whether forum shopping exists is whether the "ultimate objective" of the party filing the

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74 *J and N Shipping Lines, Inc. v. Technomarine Co., Ltd.*, 547 Phil. 611, 618 (2007).
75 RULES OF COURT, Rule 7, Sec. 5.
76 *Forbes Park Association, Inc. v. Pagrel, Inc., et al.*, 568 Phil. 603, 614 (2008).
77 *La Campana Development Corporation v. See*, 525 Phil. 652, 656 (2006).

actions is the same, although the relief prayed for in the said actions were differently worded.[78]

In sum, the elements of *litis pendentia,* are present in the case at bar since, in both the petition with the Court of Appeals as well as in the motion filed with the DOLE-VI Regional Director, the parties are inarguably the same, the causes of action and the reliefs prayed for are essentially the same, the factual scenarios under which the reliefs are prayed for are the same and the identity of these is such that a decision in one case would amount to *res judicata* in the other action, the elements of *res judicata* being: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action.[79] Truly, in the case at bar, the disposition of the Court of Appeals in the petition for *certiorari* would bar any pending resolution of the subject motion by the DOLE-VI Regional Director, or vice-versa, as they both delve with the same parties, the same cause of action, and essentially the same relief, so that the two remedies can not co-exist and only the appropriate one should remain.

As previously stated, LFUC's filing of a motion for reconsideration with the DOLE-VI Regional Director rendered as moot and academic the petition for *certiorari* that LFUC earlier filed with the Court of Appeals, an act which should have led to the dismissal of the said petition. It must be noted that the petition largely bewailed the issuance of a writ of execution by the DOLE Region VI despite the alleged lack of a "compliance order" issued beforehand. However, LFUC later itself acknowledged, in the motion for reconsideration it filed with the DOLE-VI Regional Director, that the Order dated August 28, 2006 was a "compliance order," a statement that clearly contradicts its key argument in the petition pending with the Court of Appeals. The said petition has been rendered moot and academic and, thus, subject to dismissal. In addition, LFUC also had been able to raise its concerns over due process and its alleged inability to present its own evidence (as it raised with the appellate court) in the more suitable forum of the DOLE Region VI office. Therefore, the petition for *certiorari* before the Court of Appeals was reduced into an empty, duplicate exercise.

Hence, with the filing of the said motion before DOLE Region VI, the pending petition for *certiorari* in the appellate court served no more valid purpose, and should have been dismissed, if not withdrawn by the petitioner therefrom as it had become moot and there evidently was already a better, plain, speedier and adequate remedy available to LFUC. The requirements

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[78] *Phil. Pharmawealth, Inc. v. Pfizer, Inc*., G.R. No. 167715, November 17, 2010, 635 SCRA 140, 156.

[79] *Spouses Villanueva v. Court of Appeals*, 671 Phil. 467, 475 (2011).

for a valid petition for *certiorari* were no longer being met and it was, in fact, LFUC's obligation as written in its certification against forum shopping filed with the appellate court to report to the said court within five (5) days of knowing that it had filed the same or similar remedy with the DOLE. LFUC did not comply with such an obligation and must be penalized therefor by the dismissal of its petition.

LFUC's acts of forum shopping are willfull and deliberate and the penalty therefor is that both its petition with the Court of Appeals and motion for reconsideration before the DOLE-VI Regional Director should face dismissal or denial.[80] But even if there were no such "willfulness and deliberateness" on LFUC's part, the penalty for forum shopping is still dismissal of one of the actions but not necessarily of the newer one. In the case at bar, although the motion for reconsideration with the Regional Director came later than the petition for *certiorari* filed with the Court of Appeals, We have previously held that in such a situation, it is the earlier action – the petition for *certiorari* -- that must be dismissed. We have ruled that the petition for *certiorari* is, in fact, an act of forum shopping that must yield to the motion for reconsideration (treated by DOLE-VI Regional Director as an appeal) which is the appropriate and adequate remedy.[81] The Court held further that:

> Section 1, Rule 65 of the Rules of Court, clearly provides that a petition for *certiorari* is available only when "there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law." A petition for *certiorari* cannot co-exist with an appeal or any other adequate remedy. The existence and the availability of the right to appeal are antithetical to the availment of the special civil action for *certiorari*. As the Court has held, these two remedies are "mutually exclusive."
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> It has been held that "what is determinative of the propriety of *certiorari* is the danger of failure of justice without the writ, not the mere absence of all other legal remedies." The Court is satisfied that the denial of the Petition for *Certiorari* by the Court of Appeals will not result in a failure of justice, for petitioner's rights are adequately and, in fact, more appropriately addressed in the appeal.[82]

What is more, as previously discussed, the resulting rulings of the Court of Appeals in the petition for *certiorari* and that of DOLE Region VI in the motion for reconsideration are contradictory, so that only one of them can be legally correct and enforceable. They may not co-exist. Such conflicting rulings are precisely what the rules against forum shopping seek to prevent. In such a situation, We choose to uphold the ruling of DOLE Region VI

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80 *Phil Pharmawealth, Inc. v. Pfizer Inc., supra* note 78.

81 *Espiritu, et al. v. Tankiansee, et al.*, 667 Phil. 19, 31 (2011).

82 *Id.* at 29-30, quoting *Ley Construction and Development Corporation v. Hyatt Industrial Manufacturing Corporation*, 393 Phil. 633, 640-641 (2000).

because it is issued by the proper and primary agency to rule on the same,[83] because it is the adequate remedy in the ordinary course of law,[84] because *certiorari* is an extraordinary remedy that must be availed of only if there is manifest grave abuse of discretion,[85] and because declaring otherwise will amount to rewarding LFUC's own disobedience to the rules against forum shopping.

As for LFUC's allegation that the petitioners never before raised the issue of forum shopping and did so for the first time only after the adverse decision of the Court of Appeals came out, We find the same to be without merit. Both the herein petitioners, as well as then DOLE-VI Regional Director Aida M. Estabillo, the respondents in the petition for *certiorari* before the Court of Appeals, filed their respective comments thereto raising the issue of mootness and forum shopping as a result of LFUC's filing of a motion for reconsideration of the Order dated August 28, 2006 before the DOLE Region VI.[86] Both comments prayed for the immediate dismissal of the petition for *certiorari* on such grounds. Hence, the allegation that the issue of forum shopping was raised only for the first time after the adverse decision of the appellate court is simply untrue.

We likewise examined the reasoning of the Court of Appeals in granting LFUC's petition for *certiorari* and found the same to be completely not in agreement with what is on record. Its factual findings contradict those of the DOLE and DOLE Region VI and, upon Our examination, We find that the latter finds greater support from the evidence presented. It is also established that except when there are cogent reasons, this Court will not alter, modify or reverse the factual findings of the Secretary of Labor (or her subordinates) because, by reason of her official position, she is considered to have acquired expertise as her jurisdiction is confined to specific matters.[87] For the same reason, We likewise find LFUC's contentions in the case at bar as regards the alleged denial of its right to due process to be without merit.

First, the appellate court ruled that “no evidence was submitted by the parties prior to the issuance of the Order dated August 28, 2006 by then (DOLE-VI) Regional Director Carlos Boteros.” However, the court only precipitately arrived at this conclusion, while failing to note and omitting to discuss the explanations made by the DOLE and DOLE-VI Regional Director on the issue.

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83 *Holy Child Catholic School v. Sto. Tomas*, G.R. No. 179146, July 23, 2013, 701 SCRA 589; Brion, J., concurring.

84 *Bordemeo v. Court of Appeals*, G.R. No. 161596, February 20, 2013, 691 SCRA 269, 285.

85 *La Tondeña Distillers, Inc., v. Judge Ponferrada*, 332 Phil. 593, 597 (1996).

86 *Rollo*, pp. 100-108.

87 *Capitol Wireless, Inc., v. Sec. Confesor,* 332 Phil. 78, 89-90 (1996); *Caurdanetaan Piece Workers Union v. Laguesma*, 350 Phil. 35, 57 (1998).

For example, the Court of Appeals sustained wholesale LFUC's allegations that it was not given the opportunity to present evidence to refute the monetary claims of the complaining workers; that the employees were piece-rate truck drivers so that there was no legal basis for them to claim underpayment of wages, non-payment of holiday pay, rest day pay and overtime pay; and that many of the employees have executed waivers and quitclaims which makes them no longer entitled to their claims. However, in its Decision dated December 15, 2008,[88] the DOLE-VI Regional Director already had adequately addressed the same, stating that LFUC had its "several opportunities to submit evidence …. that the workers were given their minimum wage," during the numerous times that the case was heard in its various stages with the DOLE Region VI all the way to the appeal to the DOLE Secretary.[89] LFUC could have presented its evidence in those fora, at any stage of the proceedings, but it did not. Then, as for the piece-rate workers, the Regional Director explained that the DOLE Secretary had already ruled in her Order dated September 18, 2003 that even piece-rate workers are still entitled to payment of holiday pay, rest day pay and overtime pay because they are "supervised workers" and ply their routes "upon clear instructions," otherwise, they are subject to disciplinary actions. This order by the DOLE Secretary was among those that was already affirmed with finality by this Court in the previous case of *Iloilo La Filipina Uygongco Corporation v. Court of Appeals*[90] and, thus, is no longer open to disputation or revision. As for the waivers and quitclaims, the Regional Director likewise explained that such may not be given credence as they were executed in violation of Administrative Order No. 105, series of 1995, which requires such waivers or quitclaims to be executed, among others, in the presence of the Regional Director or his duly authorized representatives. The waivers and quitclaims were not so executed.[91] Such were simply not taken account of and disregarded without valid explanation by the Court of Appeals.

Also, the DOLE Secretary, in her Order dated August 2, 2010 noted that a *Subpoena Duces Tecum* dated August 5, 2004 was in fact served on LFUC directing it to produce copies of the payrolls and daily time records for the years 1996 to 1998 on August 5, 2004, which LFUC did not comply with.[92] In the same Order, the DOLE Secretary stated that the DOLE-VI Regional Director wrote LFUC on September 1, 2004 to warn the latter that computation of the employees' wages and monetary benefits would be based on available records absent LFUC's submission of the required documents. LFUC, however, still did not heed the warning. Consequently, the Order dated August 28, 2006 of DOLE-VI Regional Director Boteros came out which LFUC assailed in its Motion for Reconsideration of the same. Still, LFUC's motion for reconsideration did not contain such documents. Neither

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88 *Rollo*, pp. 73-75.
89 *Id.* at 73-74.
90 *Supra* note 6.
91 *Rollo*, p. 74.
92 *Id.* at 114.

did its appeal before the DOLE Secretary after the denial of its motion for reconsideration contain the said documents.

As for the allegation by LFUC that six (6) of the employees have been declared validly dismissed by the Labor Arbiter, the petitioners sufficiently explained in their Comment to the petition for *certiorari* before the Court of Appeals that the Labor Arbiter's ruling had been reversed by the appellate court itself, which reversal was effectively upheld by the Supreme Court when it denied with finality the appeal of LFUC.[93] In addition, We see no reason how such dismissal is relevant to the case at bar, as the money claims that were heard before the DOLE-VI Regional Director involved unpaid wages and other pays incurred *prior* to such dismissal.

The appellate court's failure to address these factual narrations and findings of the labor tribunals put its own ruling on a dubious footing, as it now rests on nothing but "assumptions, conjectures and suppositions" as the petition alleges. We have no reason to depart from the presumption that the labor officials performed their official duties in a regular manner, absent any evidence from respondent that this was not the case. We have also previously recognized the Secretary of Labor's distinct expertise in the study and settlement of labor disputes falling under his power of compulsory arbitration and that the factual findings of labor administrative officials, if supported by substantial evidence, are entitled not only to great respect but even to finality.[94] Therefore, as between the bare conclusions of the appellate court, and the findings of the labor offices, which are supported by substantial evidence, We are inclined to uphold the latter.

WHEREFORE, the petition is **GRANTED.** The Court of Appeals' Decision dated September 13, 2011 and Resolution dated May 24, 2012 in CA-G.R. SP No. 03690 are **REVERSED** and **SET ASIDE**. The Department of Labor and Employment and DOLE Region VI are **ORDERED TO PROCEED WITH DISPATCH IN THE ENFORCEMENT** of the Writ(s) of Execution subject of this case.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

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93 *Id.* at 104.

94 *Manila Electric Company v. Secretary Quisumbing*, 361 Phil. 845, 867-868 (1999).

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice