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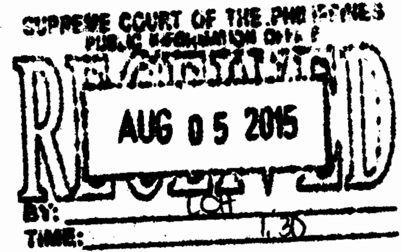
Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **June 17, 2015** *which reads as follows:*

"G.R. No. 156816 - *TERESITA P. PATAWARAN, ALEJANDRO MORILLA, JR., MARIO S. LOYOLA, MA. EVELYN S. NOFUENTE, REBECCA B. MANALO, JESUS F. FORTES, MARCELINA C. BERNARTE, LEONIDA B. HERNANDEZ, SUSANA L. CORRERA, CERELINA C. ESPINELI, MARIETA N. MACABATO, CECILIA J. TRINIDAD, TERESITA S. VELUZ, EMILIA P. BOTE, SOL T. AGONOY, LOLINDA E. PANALIGAN, MILAGROS P. ACBAY, SOLEDAD T. ANDRES, LILIA M. MALTO; CRISELDA M. ROCO, EVELYN B. OFIANA, GLORIA A. ARINGO, PERPETUA C. NAVARRO, CONRADO M. GERONIMO, MERCEDES L. GARCIA, BRICCIO P. EGAR and VICTORIANO S. LATORIA, Petitioners, v. AMKOR/ANAM PILIPINAS, INC., Respondent.-*

The petitioners assail the resolution promulgated on October 30, 2002,[1] whereby the Court of Appeals (CA) dismissed their petition for *certiorari* for their non-compliance with the requirement for the certification of non-forum shopping; and the resolution promulgated on January 16, 2003,[2] whereby the CA denied their motion for reconsideration.

- over - eight (8) pages ……
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[1] *Rollo*, pp. 26-27; penned by Associate Justice Bienvenido L. Reyes (now a Member of the Court), with Associate Justice Romeo A. Brawner (later Presiding Justice/deceased) and Associate Justice Danilo B. Pine (retired) concurring.
[2] Id. at 20-22.

The Labor Arbiter summed up the factual antecedents in this wise:

> Amkor, in its desire to maximize profits, decided to cut on labor costs by terminating employees receiving high wages and replacing them with new ones whom (sic) will receive much lower salaries. Accordingly, the plan was to terminate around 200 direct and 100 indirect labor employees with an estimated net cost of US$1,160,000.00 which shall be recouped in a period of ten (10) months where Amkor will realize net savings in salaries at a rate of US$120,000.00 per month and where the separated employees may be replaced at a lower salary or their task may be done on a sub-contract basis.
>
> To initiate the said plan, fifty (50) indirect labor employees and one [hundred] (100) direct labor employees or a total of one hundred fifty (150) employees shall be terminated to serve as initial test case, and a special separation package of one month per year of service, tax free, plus three months shall be provided to each terminated employee. The plan shall be initiated in the third quarter of 1999.
>
> Respondent Antonio Ng immediately came up with a Rightsizing Program effected on August 31, 1999 and January 30, 2000.
>
> Without entirely at odds with the facts alleged by the complainants, respondents claimed that sometime before July 1999, a productivity council was created to study and recommend productivity improvement activities. In the course of the study of the said council senior employees of Amkor expressed their desire to retire early in order to pursue their personal goals.
>
> In response to that desire, Amkor adopted a so-called Rightsizing Program where some one-hundred fifty (150) employees will be allowed to retire early pursuant to the existing Retirement Plan of Amkor. These employees shall file their application for early retirement, and when approved, they shall receive a more generous retirement benefit.
>
> Respondents also alleged that prior to the implementation of the program, DOLE-NCR Regional Director Maximo wrote [an] opinion on the validity of the said program.
>
> On 29 August 1999 and 31 January 2000, the early retirement of the first and second batches, respectively, of employees who have rendered at least ten (10) years of service took effect. These employees received the following benefits:
>
> - One (1) month pay per year of service;
> - Additional three (3) months pay;
> - One-time additional one half (1/2)month pay for year of service for those who rendered 20 or more years of service;

- Encashment of all unused Vacation Leave/Sick Leave Credits;
- Pro-rated 13th month pay; and
- All the benefits received were tax-free as Amkor has paid directly to the BIR.

Upon receipt of these benefits, these employees executed "Release Waiver and Quitclaim" where they claimed that they have released and discharged Amkor, its officers and successors from all claims and demands.

Sometime in April 2000, respondent Ng received a letter dated April 24, 2000 from several employees who availed of the Rightsizing Program, claiming the benefits allegedly due them under retirement plan.

Respondent Ng then set a conference with the retired employees where he explained to them that they have already received what were due them under the retirement plan. However, said conference proved futile.

Subsequently, the complainants filed the instant consolidated cases alleging that they were illegally dismissed and praying for reinstatement, payment of backwages and other monetary claims.[3]

In the decision rendered on December 15, 2000,[4] the Labor Arbiter ruled in favor of the respondent by finding that the petitioners had not been dismissed from the service but had voluntarily retired. The Labor Arbiter observed that the petitioners had filed their application for early retirement and had received the corresponding benefits without any force, duress, intimidation or undue influence having been applied to coerce them to file the applications and to receive the benefits; that they had been given the choice whether or not to avail themselves of early retirement; that, in fact, there were other employees who had failed to file their applications within the prescribed period and had even requested to be allowed to avail of the program; that another employee had even retracted her decision to avail herself of the early retirement, and had been allowed to continue her employment; that the law did not prohibit early retirement of an employee before reaching the age of 60 or after having rendered a certain length of service; and that their severance from employment had been due to the mutual agreement entered into with the respondent.

3 CA *rollo*, pp. 16-19.
4 Id. at 14-29.

On appeal, the National Labor Relations Commission (NLRC) found in its decision promulgated on February 12, 2002 that there was no compelling basis to reverse the Labor Arbiter's decision.[5] It upheld the right of the respondent to adopt measures intended to pursue higher profit, including the Rightsizing Program.

The NLRC later denied the petitioners' motion for reconsideration.[6]

The petitioners then brought a petition for *certiorari* in the CA, asserting grave abuse of discretion on the part of the NLRC in affirming the ruling of the Labor Arbiter. However, the CA dismissed the petition for *certiorari* on October 30, 2002 on the ground that the certification against forum shopping had been signed by their counsel instead of by the petitioners themselves as required by Section 1, Rule 65 in relation to Section 3, Rule 46 of the *Rules of Court*.[7]

The petitioners sought reconsideration praying for the relaxation of the procedural rules, [8] explaining that their counsel had inadvertently signed the certification of non-forum shopping; but stating that their counsel had attached an amended certification signed by some of the petitioners.

The CA denied the motion for reconsideration on January 16, 2003.[9]

Only Teresita P. Patawaran (Patawaran) moved for extension of the period to file the petition for review on *certiorari*.[10] The Court granted her motion and allowed her another 30 days to file the petition.[11]

On February 21, 2003, Patawaran filed the petition for review on *certiorari* [12] purportedly for and in behalf of herself and the other petitioners. She attached to the petition for review a special power of attorney (SPA) dated February 19, 2003[13] allegedly executed by the other petitioners giving her the authority to file the petition for review in their behalf.

[5] Id. at 30-46.
[6] Id. at 65-66.
[7] *Rollo*, pp. 3-5.
[8] Id. at 6.
[9] Supra note 2.
[10] *Rollo*, pp. 3-5.
[11] Id. at 6.
[12] Id. at 8-15.
[13] Id. at 28-32.

Issues

The grounds relied upon to assail the CA resolution are that: (a) considering the special circumstances of the petitioners, substantial justice and equity required that the petition for *certiorari* be resolved on its merit instead of being summarily dismissed on procedural grounds; and (b) the Rightsizing Program was a redundancy program, not an early retirement program.

Ruling

The petition for review is devoid of merit.

First of all, the extension of time to file the petition for review the Court granted upon motion of Patawaran did not redound to the benefit of the other petitioners. It does not appear that Patawaran filed the motion for extension of time for or in behalf of the other petitioners, or that she had been specially authorized by them to do so in their behalf. With the extension sought being intended only for Patawaran, the petition for review she filed could benefit only her as the filer. It is axiomatic that pleadings, as well as motions, are deemed filed only by the party who files them unless the filing party has been expressly given the written authority to do so for another.

We stress that the perfection of an appeal in the manner and within the period prescribed by law is both mandatory and jurisdictional. The failure to comply with the rules on appeal renders the decision final and executory.[14] As such, the decision of the CA, by virtue of its having attained finality, could no longer be reviewed for the benefit of the other petitioners.

Secondly, under Section 3 of Rule 46, *Rules of Court*, the relevant portions of which follow:

> Section 3. *Contents and filing of petition; effect of non-compliance with requirements.* — x x x.
>
> x x x x

[14] *Sapitan v. JB Line Bicol Express, Inc.*, G.R. No. 163775, October 19, 2007, 537 SCRA 230, 243.

> **The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.**
>
> x x x x
>
> **The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.** (Emphasis supplied)

The petition for *certiorari* filed in the CA should have included the sworn certification on non-forum shopping duly executed by all the petitioners, including Patawaran. The requirement was not complied with however, because the certification was signed by the counsel of the petitioners.

As a general rule, the certification to be attached to an initiatory pleading involving several plaintiffs or petitioners must be signed by all of them. The signature of only one of them would be insufficient. Strict compliance with the requirement regarding the certification merely underscores its mandatory nature, in that the certification cannot be altogether dispensed with, or that its requirements cannot be completely disregarded. Nonetheless, the mandatory nature of the requirement does not interdict substantial compliance with the requirement under justifiable circumstances.[15] That said, it is emphasized that a certification signed by the petitioners' counsel cannot be deemed substantial compliance.

The CA observed that the signing of the certification by the counsel, albeit allegedly due to the counsel's inadvertence, was not a justifiable reason to suspend the mandatory nature of the requirement. Such observation was valid and incontestable. Concomitant to the policy on the liberal interpretation of the rules of procedure should be the effort on the part of the party invoking the policy of liberality to at least render a justifiable reason for the failure to comply with the rules. Furthermore,

[15] *San Miguel Corporation v. Aballa*, G.R. No. 149011, June 28, 2005, 461 SCRA 392, 411.

when the petitioners attempted to cure the defect by submitting the amended certification, not all the petitioners signed the amended certification. No explanation was tendered to explain why the others had failed to sign the same. Such actuation of the petitioners only manifested their disinterest in pursuing the case. We need to remind that the time of the courts is too short and cannot be wasted in bending over backwards to favor the unworthy, nay, disinterested litigant. Verily, the courts of justice would only devote their precious time to those who are vigilant in protecting their rights.

The rule on the certification on non-forum shopping is intended to ensure the orderly administration of justice, and the effective enforcement of substantive rights. It eliminates multiplicity of suits and prevents vexatious litigations. By virtue of the authority expressly granted under Section 3, Rule 46 of the *Rules of Court*, the dismissal by the CA of the petition for *certiorari* because of the failure to include the duly accomplished certification on non-forum shopping was fully warranted.

Lastly, whether or not the Rightsizing Program was a redundancy program instead of an early retirement program was an issue of fact that cannot be considered by the Court which is not a trier of facts. This appeal on *certiorari* is confined only to questions of law. The resolution of factual issues is the function of the lower courts whose findings on them are received with respect and are in fact binding on the Court subject only to certain exceptions.[16] In labor adjudication, the factual findings of the Labor Arbiter and the NLRC are generally respected and accorded finality when supported by substantial evidence.[17] Considering that the question of whether or not the Rightsizing Program was really an early retirement program or a redundancy program was already addressed and determined by the Labor Arbiter and the NLRC, their conclusions should be upheld because they adhered to the pertinent laws and jurisprudence. Moreover, the petitioners did not advance any justification why the Court should treat the issue as proper for its review, or give any reason to call for a departure or divergence from such conclusions.

WHEREFORE, the Court **AFFIRMS** the resolution promulgated on October 30, 2002, and **ORDERS** the petitioners to pay the costs of suit.

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[16] *FNCB Finance v. Estavillo*, G.R. No. 93394, December 20, 1990, 192 SCRA 514, 517; *Universal Motors v. Court of Appeals*, G.R. No. 47432, January 27, 1992, 205 SCRA 448, 455.
[17] *Globe Telecom v. Crisologo*, G.R. No. 174644, August 10, 2007, 529 SCRA 811, 817.

SO ORDERED."

Very truly yours,

EDGAR O. ARICHETA
Division Clerk of Court
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Ms. Teresita P. Patawaran
Petitioner and in behalf of
other petitioners
8705 Diamante Street
Phase V, Marcelo Green Village
1700 Parañaque City

Court of Appeals (x)
Manila
(CA-G.R. SP No. 73179)

CRUZ ENVERGA & LUCERO
Counsel for Respondent
25th Flr., Cityland 10, Tower 1
6815 Ayala Ave. North
1200 Makati City

NATIONAL LABOR RELATIONS
COMMISSION
PPSTA Bldg., Banawe St.
1100 Quezon Cit
(NLRC NCR Case Nos. 30-07-02758-00;
30-07-02853-00 and 30-08-03053-00;
NLRC CA No. 027493-01)

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