

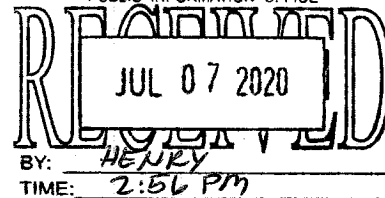


Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated February 3, 2020, which reads as follows:*

“G.R. No. 249752 (RHOBERT C. GUINTO and VINARD P. DINOLAN, *petitioners* v. PPI HOLDINGS, INC. [Formerly Philippine Pizza, Inc.], JORGE L. ARANETA [Owner], and ATALIAN GLOBAL SERVICES [Formerly Consolidated Building Maintenance Inc./CBMI], and JUAN MANOLO ORTAÑEZ, *respondent*). — Before this Court is a Petition for Review on Certiorari<sup>1</sup> assailing the Decision<sup>2</sup> and Resolution<sup>3</sup> of the Court of Appeals in CA-G.R. SP No. 154837, which upheld the Labor Arbiter’s and the National Labor Relations Commission’s finding that Atalian Global Services was a legitimate labor contractor and that the Complaint for illegal dismissal was premature.

On June 22, 2002 and in August 2003, respectively, Rhobert C. Guinto (Guinto) and Vinard P. Dinolan (Dinolan) were hired as delivery riders for Pizza Hut, a restaurant owned by PPI Holdings, Inc. (PPI Holdings).<sup>4</sup>

In January 2013, Guinto and Dinolan, together with 78 other employees, filed a Complaint against PPI Holdings for regularization and other benefits with damages. In its defense, PPI Holdings claimed that there was no employer-employee relationship between it and the complainants. This was because it had entered into a Service Agreement with Consolidated Building Maintenance, Inc., now Atalian Global Services, which supplied the personnel to PPI Holdings’ branches.<sup>5</sup>

<sup>1</sup> *Rollo*, pp. 10–26.

<sup>2</sup> *Id.* at 28–35. The Decision dated February 13, 2019 was penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Maria Elisa Sempio Diy and Pablito A. Perez of the Special Sixteenth Division of the Court of Appeals, Manila.

<sup>3</sup> *Id.* at 37–38. The Resolution dated September 18, 2019 was penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Maria Elisa Sempio Diy and Pablito A. Perez of the Former Special Sixteenth Division of the Court of Appeals, Manila.

<sup>4</sup> *Id.* at 29 and 465–466.

<sup>5</sup> *Id.* at 468.

On February 25, 2015, the Labor Arbiter dismissed the Complaint for regularization, finding that Atalian Global Services was a legitimate labor contractor, and that no employer-employee relationship between PPI Holdings and the complainants existed.<sup>6</sup>

The National Labor Relations Commission dismissed the complainants' subsequent appeal on June 15, 2015, affirming the Labor Arbiter's finding that there was no employer-employee relationship between them and PPI Holdings.<sup>7</sup>

In 2015, the complainants, including Guinto and Dinolan, filed a Petition for Certiorari before the Court of Appeals, docketed as CA-G.R. SP No. 142613. They argued that Atalian Global Services was a labor-only contractor and that their true employer was PPI Holdings.<sup>8</sup>

In August 2016, Atalian severed its Service Agreement with PPI Holdings. All employees dispatched to PPI Holdings were recalled and placed on floating status to await deployment to other clients.<sup>9</sup>

On November 8, 2016, with CA-G.R. SP No. 142613 still pending, Guinto and Dinolan filed another Complaint before the Labor Arbiter, this time for union busting, illegal dismissal, claims for 13<sup>th</sup> month pay, moral and exemplary damages, and attorney's fees against both Atalian Global Services and PPI Holdings.<sup>10</sup>

It appears that on February 28, 2017, the Court of Appeals had rendered a Decision<sup>11</sup> in CA-G.R. SP No. 142613, granting the Petition for Certiorari. It found that Atalian Global Services was a labor-only contractor. The dispositive portion of the Decision reads:

**WHEREFORE**, premises considered, the petition is **GRANTED**. The Resolutions dated 15 June 2015 and 30 July 2015 that were issued by the National Labor Relations Commission are hereby **REVERSED**. Thus,

1. Petitioners are hereby declared to be regular employees of Private Respondent Philippine Pizza Inc;
2. Petitioners Aries R. Supan, Arlen V. Sacro, Rowel A. Siena, Richard Arizanga, Raffy S. Erta, Ronald I. Oliveros, Marisa M. Rafael, Napoleon L.

<sup>6</sup> Id. at 469.

<sup>7</sup> Id. at 470.

<sup>8</sup> Id. at 470-471.

<sup>9</sup> Id. at 29.

<sup>10</sup> Id.

<sup>11</sup> Id. at 461-484. The Decision was penned by Associate Justice Jhosep Y. Lopez and concurred in by Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba of the Fifteenth Division of the Court of Appeals, Manila.

Robiso, Pacomio C. Solamillo, Jr., Sonny H. Flores, Venancio M. Policarpio, Jr., Adrian I. Colarina, Armando L. Correa, and Juan Mahusay are hereby declared **ILLEGALLY DISMISSED**. Private Respondent Philippine Pizza Inc. is hereby ordered to reinstate them without loss of seniority rights and benefits. Private respondents are hereby ordered to pay them, jointly and severally, (1) full backwages, computed from the time of their dismissal up to their actual reinstatement; (2) moral damages in the amount of Thirty Thousand Pesos (Php30,000.00); and (3) exemplary damages in the amount of Thirty Thousand Pesos (Php30,000.00).

3. Should reinstatement be no longer possible, petitioners should be paid their separation pay equivalent to at least one month pay, or one month pay for every year of service, whichever is higher.

The Labor Arbiter is hereby **ORDERED** to compute the total monetary benefits awarded and due the petitioners in accordance with this decision.

**SO ORDERED.**<sup>12</sup> (Emphasis in the original, citations omitted)

In the illegal dismissal case, however, the Labor Arbiter rendered a Decision<sup>13</sup> on July 26, 2017 dismissing Guinto and Dinolan's Complaint. The case was dismissed on the ground of forum shopping, as they failed to disclose that a similar action, the one filed before the Labor Arbiter in 2013, was still pending resolution.<sup>14</sup>

The Labor Arbiter also found that the National Labor Relations Commission had declared in that initial case that Atalian Global Services was a legitimate labor contractor, and thus, there was no employer-employee relationship with PPI Holdings.<sup>15</sup> The Labor Arbiter likewise held that the allegation of illegal dismissal was premature since Guinto and Dinolan had not been on floating status for more than six (6) months.<sup>16</sup>

Guinto and Dinolan appealed before the National Labor Relations Commission. In their Memorandum of Appeal,<sup>17</sup> they alleged that they had disclosed in paragraph 13 of their Sinumpaang Salaysay that they had a similar pending case. Moreover, for the first time, they mentioned in their appeal that the Court of Appeals had ruled that Atalian Global Services was a labor-only contractor, and that they were regular employees of PPI Holdings.<sup>18</sup>

On October 13, 2017, the National Labor Relations Commission

<sup>12</sup> Id. at 483-484.

<sup>13</sup> Id. at 76-83. The Decision was penned by Labor Arbiter Vivian Magsino-Gonzalez.

<sup>14</sup> Id. at 81.

<sup>15</sup> Id. at 80.

<sup>16</sup> Id. at 82.

<sup>17</sup> Id. at 444-459.

<sup>18</sup> Id. at 449.

rendered a Decision<sup>19</sup> affirming the Labor Arbiter's ruling. It stated that the pendency of CA-G.R. SP No. 142613 before the Court of Appeals was a bar to litigation of the present action. Nonetheless, it found that even if the issue could be litigated,<sup>20</sup> the Labor Arbiter did not err in upholding the finding that Atalian Global Services was a legitimate labor contractor.<sup>21</sup>

Guinto and Dinolan moved for reconsideration, but their Motion was denied in a November 16, 2017 Resolution.<sup>22</sup>

Aggrieved, Guinto and Dinolan filed a Petition for Certiorari<sup>23</sup> before the Court of Appeals. Among others, they mentioned that, in its February 28, 2017 Decision and November 16, 2017 Resolution in CA-G.R. SP No. 142613, the Court of Appeals had already declared them as regular employees of PPI Holdings.<sup>24</sup>

On February 13, 2019, the Court of Appeals rendered a Decision<sup>25</sup> denying the Petition.

According to the Court of Appeals, Guinto and Dinolan's failure to disclose a similar case, docketed as CA-G.R. SP No. 142613, was sufficient cause for the denial of the Petition, as the pending case was a bar to the present litigation. It also found that since there was still no final adjudication as to whether PPI Holdings was Guinto and Dinolan's true employer, the labor tribunals did not err in finding that Atalian Global Services was a legitimate labor contractor.<sup>26</sup>

As to the substantive issues, the Court of Appeals found that Guinto and Dinolan failed to present any evidence proving that there was bad faith in the termination of the service contract, or that their termination was purposely made to bust their labor union. It noted that at the time they filed their Complaint for illegal dismissal, they had only been on floating status for two (2) months, making their claim that they had been constructively dismissed premature.<sup>27</sup>

Guinto and Dinolan filed a Motion for Reconsideration, but this was

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<sup>19</sup> Id. at 56-70. The Decision was penned by Presiding Commissioner Alex A. Lopez and concurred in by Commissioners Pablo C. Espiritu, Jr. and Cecilio Alejandro C. Villanueva.

<sup>20</sup> Id. at 61.

<sup>21</sup> Id. at 63.

<sup>22</sup> Id. at 72-73. The Resolution was penned by Presiding Commissioner Alex A. Lopez and concurred in by Commissioners Pablo C. Espiritu, Jr. and Cecilio Alejandro C. Villanueva.

<sup>23</sup> Id. at 39-54.

<sup>24</sup> Id. at 43.

<sup>25</sup> Id. at 28-35.

<sup>26</sup> Id. at 33.

<sup>27</sup> Id. at 34.

denied in an October 15, 2019 Resolution.<sup>28</sup> Hence, they filed this Petition.<sup>29</sup>

Petitioners allege that there was no forum shopping since CA-G.R. SP No. 142613 was a case for regularization and the present case was for illegal dismissal and unfair labor practice.<sup>30</sup>

On their claim of illegal dismissal, petitioners insist that they were regular employees of respondent PPI Holdings and, thus, the termination of their employment contracts violated their right to security of tenure.<sup>31</sup> As to their claim of unfair labor practice, they assert that respondents were guilty of union busting as the dismissal was “wholly due to petitioners’ union activities[,]”<sup>32</sup> being active members of their labor union.<sup>33</sup>

Before this Court can resolve any of the substantive issues, the preliminary issue of forum shopping must first be addressed.

Every initiatory pleading before the courts must contain a certification against forum shopping. Under Rule 7, Section 5 of the Rules of Court:

SECTION 5. *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.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

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<sup>28</sup> Id. at 37–38.

<sup>29</sup> Id. at 10–26.

<sup>30</sup> Id. at 15.

<sup>31</sup> Id. at 16–17.

<sup>32</sup> Id. at 20.

<sup>33</sup> Id.

In *Korea Exchange Bank v. Gonzales*,<sup>34</sup> this Court explained that compliance with the certificate against forum shopping is different from avoiding the act of forum shopping:

The general rule is that compliance with the certificate of forum shopping is separate from and independent of the avoidance of the act of forum shopping itself. Forum shopping is a ground for summary dismissal of both initiatory pleadings without prejudice to the taking of appropriate action against the counsel or party concerned.<sup>35</sup>

As explained in *Top Rate Construction v. Paxton Development Corporation*,<sup>36</sup> there is forum shopping when a party:

... institutes two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes or to grant the same or substantially the same reliefs, on the supposition that one or the other court would make a favorable disposition or increase a party's chances of obtaining a favorable decision or action.<sup>37</sup>

In that same case, this Court discussed the rationale for the prohibition on forum shopping:

It is an act of malpractice for it trifles with the courts, abuses their processes, degrades the administration of justice and adds to the already congested court dockets. What is critical is the vexation brought upon the courts and the litigants by a party who asks different courts to rule on the same or related causes and grant the same or substantially the same reliefs and in the process creates the possibility of conflicting decisions being rendered by the different fora upon the same issues, regardless of whether the court in which one of the suits was brought has no jurisdiction over the action.<sup>38</sup> (Citations omitted)

In *Yap v. Chua*,<sup>39</sup> this Court stated the test for determining whether a party violated the rule on forum shopping:

To determine whether a party violated the rule against forum shopping, the most important factor to ask is whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another; otherwise stated, the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of

<sup>34</sup> 496 Phil. 127 (2005) [Per J. Calleja, Sr., Second Division].

<sup>35</sup> Id. at 145 citing *Prubankers Association v. Prudential Bank & Trust Company*, 361 Phil. 744 (1999) [Per J. Panganiban, Third Division].

<sup>36</sup> 457 Phil. 740 (2003) [Per J. Bellosillo, Second Division].

<sup>37</sup> Id. at 747-748 citing *Santos v. Commission on Elections*, 447 Phil. 760 (2003) [Per J. Ynares-Santiago, En Banc]; *Young v. Keng Seng*, 446 Phil. 823 (2003) [Per J. Panganiban, Third Division]; and *Executive Secretary v. Gordon*, 359 Phil. 266 (1998) [Per J. Mendoza, En Banc].

<sup>38</sup> Id. at 748.

<sup>39</sup> 687 Phil. 392 (2012) [Per J. Reyes, Second Division].

parties, rights or causes of action, and reliefs sought.<sup>40</sup>

In this case, the Labor Arbiter, the National Labor Relations Commission, and the Court of Appeals found that the prior regularization case constituted *litis pendencia*, and was, thus, a bar to the litigation in this case.

There is *litis pendencia* if the following requisites are present: “(1) identity of parties, or at least such as representing the same interests in both actions; (2) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (3) the identity in the two cases should be such that the judgment that may be rendered in one would, regardless of which party is successful, amount to *res [j]udicata* in the other.”<sup>41</sup>

Petitioners insist that CA-G.R. SP No. 142613 did not bar the litigation in this case since the two (2) cases had different causes of action and the reliefs prayed for. That case was for regularization, in which petitioners prayed to be declared regular employees of respondent PPI Holdings; meanwhile, the present case is for illegal dismissal, in which petitioners prayed for reinstatement from respondent PPI Holdings.

What petitioners fail to understand is that *the main issues to be resolved in both cases are the same*. Given the factual premise, in both the regularization case and this case, the issues of whether respondent Atalian Global Services engaged in labor-only contracting, and whether respondent PPI Holdings had an employee-employer relationship with petitioners, must inevitably be resolved.

According to the Court of Appeals in this case, CA-G.R. SP No. 142613 has since been elevated to this Court.<sup>42</sup>

This Court is now left in a quandary. In one Decision, the Court of Appeals declares respondent Atalian Global Services as a labor-only contractor. In another, the one being assailed here, the Court of Appeals declares respondent Atalian Global Services as a legitimate labor contractor. Our ruling in one case inevitably becomes *res judicata* in another.

To resolve the ultimate issue of illegal dismissal in this case, there is a need to first determine whether the Petition assailing the Decision in CA-G.R. SP No. 142613 is still pending before this Court. Whether respondent Atalian Global Services engaged in labor-only contracting, and whether respondent

<sup>40</sup> Id. at 400 citing *Young v. John Keng Seng*, 446 Phil. 823, 833 (2003) [Per J. Panganiban, Third Division].

<sup>41</sup> *De Olayvar v. Olayvar*, 98 Phil. 52, 54 (1955) [Per J. Bautista Angelo, First Division] citing Moran, COMMENTS ON THE RULES OF COURT, 1952 ed., Vol. I, p. 169.

<sup>42</sup> *Rollo*, p. 33.

PPI Holdings had an employee-employer relationship with petitioners, must first be determined with finality to avoid conflicting decisions.

**WHEREFORE**, petitioners Rhobert C. Guinto and Vinard P. Dinolan are **DIRECTED** to **INFORM** this Court within ten (10) days from receipt of notice the current status of the Petition assailing the Court of Appeals Decision in CA-G.R. SP No. 142613.

Atty. Leandro N. Opetina of the Legal Advocates for Worker's Interest, counsel for petitioners, is likewise ordered to **SHOW CAUSE** within ten (10) days from receipt of notice why he should not be disciplined for failing to inform this Court of the current status of the Petition assailing CA-G.R. SP No. 142613, as required by the rule on the certification of non-forum shopping under Rule 7, Section 5 of the Rules of Court.

**SO ORDERED."**

Very truly yours,

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
17/1/2020

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