



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**FELIX MARTOS, JIMMY
ECLANA, RODEL PILONES,
RONALDO NOVAL, JONATHAN
PAILAGO, ERNESTO MONTANO,
DOYONG JOSE, DEO
MAMALATEO, ROSELO MAGNO,
BONNIE SANTILLAN, ARSENIO
GONZALES, ALEX EDRADAN,
MICHAEL ERASCA, MARLON
MONTANO, VICENTE OLIVEROS,
REYNALDO LAMBOSON,
DOMINGO ROTA, EDDIE ROTA,
ZALDY OLIVEROS, ANTONIO
NATIL, HERMIE BUISON, ROGER
BUISON, MARIANO LAZATE,
JUAN VILLABER, LIMUEL
LLANETA, LITO BANTILO,
TERSO GARAY, ROWEL
BESTOLO, JERRY YORTAS,
PASTOR PANTIG, GAVINO
NICOLAS, RAFAEL VILLA, FELIX
YORTAS, MELVIN GARAY, NEIL
DOMINGUEZ REYNALDO
EVANGELISTA, JR., JOSE
RAMOS, ELVIN ROSALES, JUN
GRANEHO, DANNY ASPARES,
SALVEDOR TONLOC, ROLANDO
EVANGELISTA, RICKY M.
FRANCISCO, EDUARDO
ALEGRIA, SALVADOR SANTOS,
GREG BISONIA, RUFO
CARBILLO, MARVIN MONTERO,
DANILO BESSIRE, ALLAN
CABALLERO, ORLANDO LIMOS,
EDGARDO BICLAR, MANDY
MAMALATEO, ALFRED GAJO,**

G.R. No. 192650

Present:

VELASCO, JR., *J.*, *Chairperson*,
LEONARDO-DE CASTRO,*
BRION,**
PERALTA, and
MENDOZA, *JJ.*

* Designated acting member, per Special Order No. 1343, dated October 9, 2012.

** Designated additional member, per Special Order No. 1332, dated October 9, 2012.

ERIC CASTRENCE, ANTHONY
MOLINA, JAIME SALIM ROY
SILVA, DANILO BEGORIE,
PEPING CELISANA, ERIC
RONDA, RUFO CARBANILLO,
ROWEL BATA, RICARDO
TOLENTINO, ARNEL ARDINEZ,
FERDINAND R. ARANDIA,
ROMEO R. GARBO, ANTONIO
ROTA, REYNIELANDRE
QUINTANILLA, JOSELITO
HILARIO, JIMMY CAMPANA,
DANILO LIDO-AN, EMERSON
PENAFLO, CESAR PABALINAS,
JONATHAN MELCHOR, ALEX
DAVID, EUTQUIO ALCALA,
MICHAEL CARANDANG,
EDUARDO MANUEL, RAMON
EVANGELISTA, RUBEN
MENDOZA, ERNESTO MENDOZA,
RICKY RAMOS, ROBERTO
NOVELLA, RUBEN CONDE,
DANILO POLISTICO, DOMINGO
MENDOZA, FERNANDO SAN
GABRIEL, AND DOMINGO ROTO,
Petitioners,

- versus -

NEW SAN JOSE BUILDERS, INC.,
Respondent.

Promulgated:

24 October 2012

X

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DECISION

MENDOZA, J.:

Questioned in this Petition for Review is the July 31, 2009 Decision¹ of the Court of Appeals (CA) and its June 17, 2010 Resolution,² which

¹ *Rollo*, pp. 66-84 (Penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justice Celia C. Librea-I eagogo and Associate Justice Antonio L. Villamor).

² *Id.* at 87-88.

reversed and *set aside* the July 30, 2008 Decision³ and October 28, 2008, Resolution⁴ of the National Labor Relations Commission (*NLRC*); and *reinstated* the May 23, 2003 Decision⁵ of the Labor Arbiter (*LA*). The dispositive portion of the CA Decision reads:

WHEREFORE, decision is hereby rendered, as follows:

1. Declaring the complainant Felix Martos was illegally dismissed and ordering respondent New San Jose Builders, Inc. to pay him his separation pay, backwages, salary differentials, 13th month pay, service incentive leave pay, and attorney’s fees in the total amount of TWO HUNDRED SIXTY THOUSAND SIX HUNDRED SIXTY ONE PESOS and 50/1000 (₱260, 661.50).
- The awards for separation pay, backwages and the corresponding attorney’s fees are subject to further computation until the decision in this case becomes final and executory; and
2. Dismissing the complaints/claim of the other complainants without prejudice.

SO ORDERED.⁶

The Facts

The factual and procedural antecedents were succinctly summarized by the CA as follows:

New San Jose Builders, Inc. (hereafter petitioner) is a domestic corporation duly organized and existing under the laws of the Philippines and is engaged in the construction of road, bridges, buildings, and low cost houses primarily for the government. One of the projects of petitioner is the San Jose Plains Project (hereafter SJPP), located in Montalban, Rizal. SJPP, which is also known as the “Erap City” calls for the construction of low cost housing, which are being turned over to the National Housing Authority to be awarded to deserving poor families.

Private respondents alleged that, on various dates, petitioner hired them on different positions, hereunder specified:

	Names	Date Employed	Date Dismissed
1.	Felix Martos	October 5, 1998	February 25, 2002
2.	Jimmy Eclana	1999	July 2001

³ Id. at 125-132.
⁴ Id. at 123-124.
⁵ Id. at 304-315.
⁶ Id. at 314-315.

3.	Rodel Pilonos	February 1999	July 2001
4.	Ronaldo Noval		
5.	Jonathan Pailago		
6.	Ernesto Montaña	1998	2000
7.	Doyong Jose	1996	July 2001
8.	Deo Mamalateo	1999	July 2001
9.	Roselo Magno	1994	November 2000
10.	Bonnie Santillan	1998	July 2001
11.	Arsenio Gonzales	1998	July 2001
12.	Alex Edradan	1998	November 2001
13.	Michael Erasca	1999	July 2001
14.	Marlon Montaña	1998	July 2001
15.	Vicente Oliveros	April 5, 1998	July 2001
16.	Reynaldo Lamboson	1999	July 2001
17.	Domingo Rota	1998	
18.	Eddie Rota	1998	
19.	Zaldy Oliveros	1999	July 2001
20.	Antonio Natel	1998	July 2001
21.	Hermie Buison	1998	July 2001
22.	Roger Buison	1998	2000
23.	Mariano Lazate	February 19, 1995	
24.	Juan Villaber	January 10, 1997	
25.	Limuel Llaneta	March 5, 1994	
26.	Lito Bantilo	May 1987	
27.	Terso Garay	October 3, 1986	
28.	Rowel Bestolo	February 6, 1999	
29.	Jerry Yortas	May 1994	
30.	Pastor Pantig	April 11, 1998	
31.	Gavino Nicolas	June 20, 1997	
32.	Rafael Villa	March 9, 1998	
33.	Felix Yortas	1992	
34.	Melvin Garay	February 2, 1994	
35.	Neil Dominguez	February 16, 1998	
36.	Reynaldo Evangelista, Jr.	October 10, 1998	
37.	Jose Ramos	October 10, 1998	
38.	Elvis Rosales	June 14, 1998	
39.	Jun Graneho	January 15, 1998	
40.	Danny Espares	April 1999	
41.	Salvador Tonloc	January 8, 1998	
42.	Rolando Evangelista	March 15, 1998	
43.	Ricky M. Francisco	September 28, 1991	
44.	Eduardo Alegria	May 2001	
45.	Salvador Santos	September 22, 2000	
46.	Greg Bisonia	March 28, 1993	
47.	Rufo Carbillo	March 28, 1993	
48.	Marvin Montero	1997	January 2001
49.	Danilo Bessiri	1997	2002
50.	Allan Caballero	1997	2002
51.	Orlando Limos	1997	July 2001
52.	Edgardo Bicular	1997	July 2001
53.	Mandy Mamalatco	1989	2002
54.	Alfred Gajo	1998	July 2001
55.	Eric Castrence	1988	2002
56.	Anthony Molina	1997	2002
57.	Jaime Salin		
58.	Roy Silva	1997	2002
59.	Danilo V. Begorie	1994	January 2001
60.	Peping Celisana	1999	July 2001
61.	Eric Ronda	1998	July 2001
62.	Rufo Carbanillo	1998	July 2001
63.	Rowel Batta	1999	July 2001
64.	Ricardo Tolentino	1997	July 2001
65.	Arnel Ardinez	1998	July 2001
66.	Ferdinand P. Arandia	1998	1999
67.	Romeo R. Garbo	1998	2000

68.	Antonio Rota	1998	July 2001
69.	Reynielande Quintanilla	February 28, 1998	2002
70.	Joselito Hilario	1998	2002
71.	Jimmy Campana	August 15, 1998	August 2001
72.	Danilo Lido-An	September 8, 1998	
73.	Emerson Peñaflor	August 8, 1998	
74.	Cesar Pabalinas		
75.	Jonathan Melchor	November 1998	
76.	Alex David	1998	
77.	Eutiquio Alcala	December 1999	
78.	Michael Carandang	June 2000	
79.	Eduardo Nanuel	October 1999	
80.	Ramon Evangelista	February 15, 1998	
81.	Ruben Mendoza	1999	July 2001
82.	Ernesto A. Mendoza	1998	July 2001
83.	Ricky Ramos	1999	July 2001
84.	Roberto Novella	1998	July 2001
85.	Ruben Conde	1998	July 2001
86.	Ramon Evangelista	1997	July 2001
87.	Danilo Polistico	1999	July 2001
88.	Domingo Mendoza	1999	July 2001
89.	Fernando San Gabriel	1999	July 2001
90.	Domingo Roto	1994	July 2001

Sometime in 2000, petitioner was constrained to slow down and suspend most of the works on the SJPP project due to lack of funds of the National Housing Authority. Thus, the workers were informed that many of them [would] be laid off and the rest would be reassigned to other projects. Juan Villaber, Terso Garay, Rowell Batta, Pastor Pantig, Rafael Villa, and Melvin Garay were laid off. While on the other hand, Felix Martos, Ariel Dominguez, Greg Bisionia, Allan Caballera, Orlando Limos, Mandy Mamalateo, Eric Castrence, Anthony Molina, and Roy Silva were among those who were retained and were issued new appointment papers to their respective assignments, indicating therein that they are project employees. However, they refused to sign the appointment papers as project employees and subsequently refused to continue to work.

On different dates, three (3) Complaints for Illegal Dismissal and for money claims were filed before the NLRC against petitioner and Jose Acuzar, by private respondents who claimed to be the former employees of petitioner, to wit:

1. Complaint dated March 11, 2002, entitled "Felix Martos, et al. vs. NSJBI", docketed as NLRC-NCR Case No. 03-01639-2002;
2. Complaint dated July 9, 2002, entitled "Jimmy Campana, et al. vs. NSJBI," docketed as NLRC-NCR Case No. 07-04969-2002;
3. Complaint dated July 4, 2002, entitled "Greg Bisionia, et al. vs. NSJBI", docketed as NLRC-NCR Case No. 07-02888-2002.

Petitioner denies that private respondents were illegally dismissed, and alleged that they were project employees, whose

employments were automatically terminated upon completion of the project for which they were hired. On the other hand, private respondents claim that petitioner hired them as regular employees, continuously and without interruption, until their dismissal on February 28, 2002.

Subsequently, the three Complaints were consolidated and assigned to Labor Arbiter Facundo Leda.⁷

Ruling of the Labor Arbiter

As earlier stated, on May 23, 2003, the LA handed down a decision declaring, among others, that petitioner Felix Martos (*Martos*) was illegally dismissed and entitled to separation pay, backwages and other monetary benefits; and dismissing, without prejudice, the complaints/claims of the other complainants (*petitioners*).

Ruling of The NLRC

Both parties appealed the LA decision to the NLRC. Petitioners appealed that part which dismissed all the complaints, without prejudice, except that of Martos. On the other hand, New San Jose Builders, Inc. (*respondent*) appealed that part which held that Martos was its regular employee and that he was illegally dismissed.

On July 30, 2008, the NLRC resolved the appeal by dismissing the one filed by respondent and partially granting that of the other petitioners. The dispositive portion of the NLRC decision reads as follows:

WHEREFORE, premises considered, respondent's appeal is DISMISSED for lack of merit. The appeal of the complainants is, however, PARTIALLY GRANTED by modifying the 23 May 2003 Decision of the Labor Arbiter Facundo L. Leda, in that, respondents are ordered to reinstate all the complainants to their former positions, without loss of seniority rights and with full backwages, counted from the time their compensation was withheld from them until actual reinstatement.

⁷ Id. at 68-72.

Respondents are likewise ordered to pay complainants their salary differentials, service incentive leave pay, and 13th month pay, using, as basis, the computation made on the claims of complainant Felix Martos.

In all other aspects, the Decision is AFFIRMED.

SO ORDERED.⁸

Ruling Of The CA

After the denial of its motion for reconsideration, respondent filed before the CA a petition for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure, as amended, raising the following issues:

- I) The public respondent has committed grave abuse of discretion in holding that the private respondents were regular employees and, thus, have been illegally dismissed.
- II) The public respondent has committed grave abuse of discretion in reviving the complaints of the other private respondents despite their failure to verify the same.
- III) The public respondent has committed grave abuse of discretion when it upheld the findings of the Labor Arbiter granting relief in favor of those supposed complainants who did not even render service to the petitioner and, hence, are not on its payroll.

On July 31, 2009, the CA rendered a decision *reversing* and *setting aside* the July 30, 2008 Decision and the October 28, 2008 Resolution of the NLRC and *reinstating* the May 23, 2003 Decision of the LA. The dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the present petition is hereby GRANTED. Accordingly, the assailed Resolution dated October 28, 2008 of public respondent National Labor Relations Commission is REVERSED and SET ASIDE, and the Decision dated May 23, 2003 of Labor Arbiter Facundo L. Leda, is hereby ordered reinstated.

SO ORDERED.⁹

⁸ Id. at 132.

⁹ Id. at 83.

The CA explained that the NLRC committed grave abuse of discretion in reviving the complaints of petitioners despite their failure to verify the same. Out of the 102 complainants, only Martos verified the position paper and his counsel never offered any explanation for his failure to secure the verification of the others. The CA also held that the NLRC gravely abused its discretion when it took cognizance of petitioners' appeal because Rule 41, Section 1(h) of the 1997 Rules of Civil Procedure, as amended, which is supplementary, provides that no appeal may be taken from an order dismissing an action without prejudice.

Nevertheless, the CA stated that the factual circumstances of Martos' employment and his dismissal from work could not equally apply to petitioners because they were not similarly situated. The NLRC did not even bother to look at the evidence on record and inappropriately granted monetary awards to petitioners who had either denied having filed a case or withdrawn the case against respondent. According to the CA, the position papers should have covered only those claims and causes of action raised in the complaint excluding those that might have been amicably settled.

With respect to Martos, the CA ruled that he was a regular employee of respondent and his termination was illegal. It explained that Martos should have been considered a regular employee because there was no indication that he was merely a project employee when he was hired. To show otherwise, respondent should have presented his employment contract for the alleged specific project and the successive employment contracts for the different projects or phases for which he was hired. In the absence of such document, he could not be considered such an employee because his work was necessary and desirable to the respondent's usual business and that he was not required to sign any employment contract fixing a definite period or duration of his engagement. Thus, Martos already attained the status of a regular employee. Moreover, the CA noted that respondent did not report the

termination of Martos' supposed project employment to the Department of Labor and Employment (DOLE), as required under Department Order No. 19.

Being a regular employee, the CA concluded that he was constructively dismissed when he was asked to sign a new appointment paper indicating therein that he was a project employee and that his appointment would be co-terminus with the project.

Not in conformity with the CA decision, petitioners filed this petition anchored on the following

ASSIGNMENT OF ERRORS

A

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS AND THE LABOR ARBITER BELOW GRAVELY ERRED IN DISMISSING THE COMPLAINTS OF THE NINETY NINE (99) PETITIONERS DUE TO FAILURE OF THE LATTER TO VERIFY THEIR POSITION PAPER WHEN, OBVIOUSLY, SUCH TECHNICALITY SHOULD NOT HAVE BEEN RESORTED TO BY THEM AS IT WILL DEPRIVE THESE PETITIONERS OF THEIR PROPERTY RIGHT TO WORK.

B

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS AND THE LABOR ARBITER BELOW GRAVELY ERRED IN NOT ORDERING THE REINSTATEMENT OF PETITIONER MARTOS AND THE OTHER 99 PETITIONERS WHEN, OBVIOUSLY, AND AS FOUND BY THEM, THE DISMISSAL OF MARTOS IS ILLEGAL WHICH WOULD WARRANT HIS REINSTATEMENT AND THE GRANT TO HIM OF FULL BACKWAGES AND OTHER EMPLOYEES' BENEFITS.

C

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT ORDERING THE RESPONDENTS TO PAY THE PETITIONERS ACTUAL, MORAL AND EXEMPLARY DAMAGES.

Position of Petitioners

Petitioners basically argue that the CA was wrong in affirming the dismissal of their complaints due to their failure to verify their position paper. They insist that the lack of verification of a position paper is only a formal and not a jurisdictional defect. Hence, it was not fatal to their cause of action considering that the CA could have required them to submit the needed verification.

The CA overlooked the fact that all of them verified their complaints by declaring under oath relevant and material facts such as their names, addresses, employment status, salary rates, facts, causes of action, and reliefs common to all of them. The information supplied in their complaints is sufficient to prove their status of employment and entitlement of their monetary claims. In the adjudication of labor cases, the adherence to stringent technical rules may be relaxed in the interest of the working man. Moreover, respondent failed to adduce evidence of payment of their money claims.

Finally, petitioners argue that they and Martos were similarly situated. The award of separation pay instead of reinstatement to an illegally dismissed employee was improper because the strained relations between the parties was not clearly established. Moreover, they are entitled to actual, moral and exemplary damages for respondent's illegal act of violating labor standard laws, the minimum wage law and the 13th month pay law.

Position of Respondents

On the other hand, respondent principally counters that the CA and the LA 1) did not err in dismissing the complaints of the 88 petitioners who failed to verify their position paper, without prejudice; 2) correctly ruled that Martos and the 88 petitioners concerned were not entitled to reinstatement;

and 3) correctly ruled that petitioners were not entitled to an award of actual, moral and exemplary damages.

Petitioners have the propensity to disregard the mandatory provisions of the 2005 Revised Rules of Procedure of the NLRC (*NLRC Rules*) which require the parties to submit simultaneously their verified position papers with supporting documents and affidavits. In the proceedings before the LA, the complaints of the 99 workers were dismissed because they failed to verify or affix their signatures to the position paper filed with the LA.

While it is true that the NLRC Rules must be liberally construed and that the NLRC is not bound by the technicalities of law and procedure, it should not be the first to arbitrarily disregard specific provisions of the rules which are precisely intended to assist the parties in obtaining just, expeditious and inexpensive settlement of labor disputes. It was only Felix Martos who verified their position paper and their memorandum of appeal. It was only he alone who was vigilant in looking after his interest and enforcing his rights. Petitioners should be considered to have waived their rights and interests in the case for their consistent neglect and passive attitude.

Moreover, Martos was never authorized by any of his fellow complainants through a special power of attorney or other document in the proceedings to represent them before the LA and the NLRC. His acts and verifications were made only in his own personal capacity and did not bind or benefit petitioners. There is only one logical reason why a majority of them failed to verify their position paper, their appeal and now their petition: they were not in any way employees of the respondent. They were total strangers to the respondent. They even refused to identify themselves during the proceedings by their failure to appear thereat. Hence, it is too late for the others to participate in the fruits, if any, of this litigation.

Finally, the reinstatement being sought by Martos and the others was no longer practicable because of the strained relation between the parties. Petitioners can no longer question this fact. This issue was never raised or taken up on appeal before the NLRC. It was only when the petitioners lost in the appeal in the CA that they first raised the issue of strained relation. Moreover, no proof of actual damages was presented by the petitioners. There is no clear and convincing evidence on record showing that the termination of an employee's services had been carried out in an arbitrary, capricious or malicious manner.

The Court's Ruling

The Court is basically asked to resolve two (2) issues: 1] whether or not the CA was correct in dismissing the complaints filed by those petitioners who failed to verify their position papers; and 2] whether or not Martos should be reinstated.

Regarding the first issue, the Court agrees with the respondent.

Sections 4 and 5 of Rule 7 of the 1997 Rules of Civil Procedure provide:

SEC. 4. Verification. – Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleadings and that the allegations therein are true and correct of his personal knowledge or based on authentic records.

A pleading required to be verified which contains a verification based on "information and belief" or upon "knowledge, information and belief" or lacks a proper verification, shall be treated as an unsigned pleading.

SEC. 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. x x x. [Emphases supplied]

The verification requirement is significant, as it is intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith.¹⁰ Verification is deemed substantially complied with when, as in this case, 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.¹¹

The absence of a proper verification is cause to treat the pleading as unsigned and dismissible.¹²

The lone signature of Martos would have been sufficient if he was authorized by his co-petitioners to sign for them. Unfortunately, petitioners failed to adduce proof that he was so authorized. The complaints of the

¹⁰ *Christine Chua v. Jorge Torres & Antonio Beltran*, 505 Phil. 455, 461 (2005).

¹¹ *Georgia T. Estel v. Recaredo P. Diego, Sr.*, G.R. No. 174082, January 16, 2012, 663 SCRA 17, 27, citing *Nellie Vda. de Formoso v. Philippine National Bank*, G.R. No. 154704, June 1, 2011, 650 SCRA 35.

¹² *Christine Chua v. Jorge Torres & Antonio Beltran*, supra note 10.

other parties in the case of *Nellie Vda. De Formoso v. v. PNB*¹³ suffered a similar fate. Thus:

Admittedly, among the seven (7) petitioners mentioned, only Malcaba signed the verification and certification of non-forum shopping in the subject petition. There was no proof that Malcaba was authorized by his co-petitioners to sign for them. There was no special power of attorney shown by the Formosos authorizing Malcaba as their attorney-in-fact in filing a petition for review on certiorari. Neither could the petitioners give at least a reasonable explanation as to why only he signed the verification and certification of non-forum shopping.

The liberal construction of the rules may be invoked in situations where there may be some excusable formal deficiency or error in a pleading, provided that the same does not subvert the essence of the proceeding and it at least connotes a reasonable attempt at compliance with the rules. Besides, fundamental is the precept that rules of procedure are meant not to thwart but to facilitate the attainment of justice; hence, their rigid application may, for deserving reasons, be subordinated by the need for an apt dispensation of substantial justice in the normal course. They ought to be relaxed when there is subsequent or even substantial compliance, consistent with the policy of liberality espoused by Rule 1, Section 6.¹⁴ Not being inflexible, the rule on verification allows for such liberality.¹⁵

Considering that the dismissal of the other complaints by the LA was without prejudice, the other complainants should have taken the necessary steps to rectify their procedural mistake after the decision of the LA was rendered. They should have corrected this procedural flaw by immediately filing another complaint with the correct verification this time. Surprisingly, they did not even attempt to correct this technical blunder. Worse, they

¹³ G.R. No. 154704, June 1, 2011, 650 SCRA 35, 45.

¹⁴ SEC. 6. Construction. — These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.

¹⁵ *Edito Pagadora v. Julieta S. Ilao*, G.R. No. 165769, December 12, 2011, 662 SCRA 14, 25.

committed the same procedural error when they filed their appeal¹⁶ with the NLRC.

Under the circumstances, the Court agrees with the CA that the dismissal of the other complaints were brought about by the own negligence and passive attitude of the complainants themselves. In *Formoso*, the Court further wrote:

The petitioners were given a chance by the CA to comply with the Rules when they filed their motion for reconsideration, but they refused to do so. Despite the opportunity given to them to make all of them sign the verification and certification of non-forum shopping, they still failed to comply. Thus, the CA was constrained to deny their motion and affirm the earlier resolution.

The Court can only do so much for them.

Most probably, as the list¹⁷ submitted is not complete with the information as to when each started and when each was dismissed there must be some truth in the claim of respondent that those complainants who failed to affix their signatures in the verification were either not employees of respondent at all or they simply refused to prosecute their complaints. In its position paper,¹⁸ respondent alleged that, aside from the four (4) complainants who withdrew their complaints, only 17 out of the more or less 104 complainants appeared on its records as its former project employees or at least known by it to have worked in one of its construction projects. From the sworn statements executed by Felix Yortas,¹⁹ Marvin Batta,²⁰ Lito Bantillo,²¹ Gavino Felix Nicolas,²² and Romeo Pangacian Martos,²³ they already withdrew their complaints against respondent. Their status and cause

¹⁶ *Rollo*, pp. 263-281

¹⁷ *Id.* at 139-140-147.

¹⁸ *Id.* at 148-174.

¹⁹ *Id.* at 236.

²⁰ *Id.* at 237.

²¹ *Id.* at 238.

²² *Id.* at 239.

²³ *Id.* at 240.

of action not being clear and proven, it is just not right that these complainants be considered as similarly situated as Martos and entitled to the same benefits.

As to Martos, the Court agrees that the reinstatement being sought by him was no longer practicable because of strained relation between the parties. Indeed, he can no longer question this fact. This issue was never raised or taken up on appeal before the NLRC. It was only after he lost the appeal in the CA that he raised it.

Thus, the Court deems it fair to award separation pay in lieu of reinstatement. In addition to his separation pay, Martos is also entitled to payment of full backwages, 13th month pay, service incentive leave pay, and attorney's fees.

The accepted doctrine is that separation pay may avail in lieu of reinstatement if reinstatement is no longer practical or in the best interest of the parties. Separation pay in lieu of reinstatement may likewise be awarded if the employee decides not to be reinstated.

Under the doctrine of strained relations, the payment of separation pay is considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable. On one hand, such payment liberates the employee from what could be a highly oppressive work environment. On the other hand, it releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker it could no longer trust.²⁴

WHEREFORE, the petition is DENIED.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

²⁴ *Golden Ace Builders and Arnold U. Azul v. Jose A. Talde*, G.R. No. 187200, May 5, 2010, 620 SCRA 283, 289-290.

WE CONCUR:

PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson

Terésita Leonardo de Castro
TERESITA J. LEONARDO DE CASTRO
Associate Justice

Arturo D. Brion
ARTURO D. BRION
Associate Justice

Diosdado M. Peralta
DIOSDADO M. PERALTA
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
MARIA LOURDES P. A. SERENO
Chief Justice