



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**KAPISANANG
PANGKAUNLARAN NG
KABABAIHANG POTRERO,
INC. and MILAGROS H. REYES,**
Petitioners,

- versus -

**REMEDIOS BARRENO,
LILIBETH AMETIN, DRANREV
F. NONAY, FREDERICK D.
DIONISIO and MARITES,
CASIO,**
Respondents.

G.R. No. 175900

Present:

BRION, J., Acting Chairperson,*
DEL CASTILLO,
PEREZ,
PERLAS-BERNABE, and
LEONEN,** JJ.

Promulgated:

JUN 10 2013

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DECISION

PERLAS-BERNABE, J.:

Assailed in this Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court is the July 31, 2006 Decision² and December 18, 2006 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 81585, which affirmed with modification the June 30, 2003 Decision⁴ of the National Labor Relations Commission (NLRC), finding respondents herein to have committed forum shopping but ordered the remand of NLRC NCR Case Nos. 00-10-05213-2001 and 00-10-05526-2001 to the NLRC for further

* Designated Acting Chairperson in lieu of Justice Antonio T. Carpio per Special Order No. 1460 dated May 29, 2013.

** Designated Acting Member per Special Order No. 1461 dated May 29, 2013.

¹ *Rollo*, pp. 3-14.

² *Id.* at 15-21. Penned by Associate Justice Edgardo P. Cruz, with Associate Justices Monina Arevalo Zenarosa and Ramon M. Bato, Jr., concurring.

³ *Id.* at 22-23.

⁴ *Id.* at 24-28. Penned by Presiding Commissioner Raul T. Aquino, with Commissioners Victoriano R. Calaycay and Angelita A. Gacutan, concurring.

proceedings on the matters of illegal dismissal, separation pay, damages, and attorney’s fees.

The Facts

Petitioner Kapisanang Pangkaunlaran ng Kababaihang Potrero, Inc. (KPKPI) is a non-stock, non-profit, social service oriented corporation. Sometime in November 1997, the Technology and Livelihood Resource Center (TLRC) tapped KPKPI to participate in its microlending program and was granted a loan for microfinance or re-lending for the poor. As such, KPKPI hired respondents for its KPKPI Mile Program as follows:

<u>Name</u>	<u>Date Hired</u>	<u>Position</u>
1. Remedios Barreno	November, 1997	Training Officer
2. Lilibeth Ametin	January, 1999	Coordinator
3. Drandrev F. Nonay	June, 1997	Encoder
4. Frederick Dionisio	February 15, 1997	Officer-In-Charge
5. Marites Casio	June 26, 2001	Collector Motivator ⁵

On September 20, 2001, respondents filed a Complaint⁶ before the Department of Labor and Employment-National Capital Region (DOLE-NCR) for underpayment of wages, non-payment of labor standard benefits, namely, legal/special holiday pay, 13th month pay and service incentive leave pay, and non-coverage with the Social Security System and Home Development Mutual Fund against KPKPI and its Program Manager, petitioner Milagros H. Reyes (Reyes), docketed as LSED-0109-IS-029 (DOLE CASE). During its pendency, however, respondent Barreno was served a memo signed by petitioner Reyes terminating her from employment effective October 1, 2001. On even date, respondent Barreno filed another Complaint⁷ against petitioners, this time for illegal dismissal with prayer for reinstatement and payment of their money claims before the NLRC, docketed as NLRC-NCR North Sector Case No. 00-10-05213-2001.

Respondents Ametin, Nonay, Dionisio and Casio were also verbally informed by petitioner Reyes of their termination effective October 9, 2001, but they still reported for work until disallowed on October 15, 2001. This prompted the filing of their Complaint⁸ dated October 16, 2001 with the NLRC, docketed as NLRC-NCR North Sector Case No. 10-05526-2001, which was subsequently consolidated with Barreno’s Case No. 00-10-053-5213-2001 (NLRC CASE).

⁵ CA *rollo*, pp. 24-26.
⁶ Id. at 60.
⁷ Id. at 62.
⁸ Id. at 63-64.

In petitioners' Position Paper⁹ dated November 29, 2001, they claimed that respondents were not employees but mere volunteers who received allowances and reimbursements for their expenses. Hence, they are not entitled to recover their money claims. Further, petitioners averred that respondents committed forum shopping when they filed the NLRC CASE during the pendency of the DOLE CASE.

In respondents' Reply¹⁰ dated December 19, 2001, they insisted that they were employees under the control of KPKPI, submitting in support thereof a copy of an office memorandum issued by petitioner Reyes respecting the rules on absences of all its employees. Respondents likewise denied having committed forum shopping, explaining that the DOLE CASE referred only to money claims and that it had already been withdrawn while the NLRC CASE involves the complaint for illegal dismissal with money claims.

Meanwhile, respondents filed a Motion to Withdraw Complaint¹¹ dated December 18, 2001 with regard to the DOLE CASE after having instituted the NLRC CASE. Records, however, show that the said motion was left unresolved.

The Ruling of the Labor Arbiter

In its Decision¹² dated June 28, 2002, the Labor Arbiter (LA) found no forum shopping, holding that the subsequent dismissal of the respondents affected the jurisdiction of the DOLE-NCR since illegal dismissal cases are beyond the latter's jurisdiction. Necessarily therefore, the case for money claims pending before the DOLE-NCR had to be consolidated with the illegal dismissal case before the NLRC.

Further, the LA found that respondents were employees of KPKPI and not mere volunteer members. Consequently, for failure to justify their dismissal and to observe the twin notice requirement under the Labor Code, the LA held petitioners jointly and severally liable to pay respondents their backwages reckoned from the date of their dismissal on October 1, 2001 for respondent Barreno and October 9, 2001 for the remaining respondents which, as of June 1, 2002, had already accumulated in the amount of ₱54,639.00 each as well as separation pay for one (1) month for every year of service. Respondents were also awarded their claim for underpayment of their salaries limited to a period of three (3) years reckoned from the filing of their complaints, and attorney's fees equivalent to ten percent (10%) of

⁹ Id. at 80-84.

¹⁰ Id. at 87-89.

¹¹ Id. at 85-86.

¹² *Rollo*, pp. 50-67. Penned by Labor Arbiter Melquiades Sol D. Del Rosario.

the total monetary award. The rest of the money claims were denied for lack of factual and legal bases.

Aggrieved, petitioners filed a Memorandum of Appeal¹³ dated September 5, 2002 with the NLRC and posted a surety bond in the amount of ₱559,000.00.¹⁴ In turn, respondents filed their Opposition with Motion to Dismiss¹⁵ dated November 20, 2002 questioning the sufficiency of the bond posted which, as required, was not equivalent to the total monetary award of ₱832,195.00 as computed by the NLRC's Computation Unit, exclusive of ten percent (10%) attorney's fees. Accordingly, respondents prayed for the dismissal of the appeal for failure to perfect the same.

The Ruling of the NLRC

In its Decision¹⁶ dated June 30, 2003, the NLRC set aside the LA's ruling and dismissed respondents' complaints. Contrary to the LA's findings, it found respondents guilty of forum shopping in filing the same complaint against petitioners in two (2) *fora*, namely the DOLE and the NLRC.

Respondents filed a Motion for Reconsideration¹⁷ dated August 19, 2003 questioning the aforementioned decision but the same was denied in the NLRC's Resolution¹⁸ dated October 30, 2003.

Ruling of the CA

In its Decision¹⁹ dated July 31, 2006, the CA found no grave abuse of discretion to have been committed by the NLRC in giving due course to the appeal and in setting aside the LA's ruling. The CA agreed with the NLRC that respondents committed forum shopping in seeking their money claims before the DOLE and the NLRC. Nonetheless, it declared that the ends of justice would be better served if respondents would be given the opportunity to be heard on their complaint for illegal dismissal.

Anent the issue on insufficiency of the appeal bond, the CA accorded a liberal interpretation to the Labor Code provisions relating thereto and thus, deemed the same as not fatal. Accordingly, the CA ordered the remand of the case to the NLRC for further proceedings on the matter of illegal dismissal, separation pay, damages, and attorney's fees.

¹³ CA *rollo*, pp. 39-43.

¹⁴ Id. at 121.

¹⁵ Id. at 113-120.

¹⁶ *Rollo*, pp. 24-28.

¹⁷ CA *rollo*, pp. 49-55.

¹⁸ Id. at 58-59.

¹⁹ *Rollo*, pp. 15-21.

Both parties moved for reconsideration which the CA denied in its Resolution²⁰ dated December 18, 2006. Hence, petitioners KPKPI and Reyes filed the instant petition.

Issue Before the Court

The core issue raised for the Court's resolution is whether the CA erred in ordering the reinstatement and remand of the NLRC CASE to the NLRC despite its finding of forum shopping.

The Court's Ruling

The petition is bereft of merit.

At the outset, the Court finds that contrary to the findings of both the NLRC and the CA, respondents are not guilty of forum shopping. Thus, considering that the NLRC did not resolve the appeal on the merits but instead dismissed the case based on a finding of forum shopping, the Court concurs in the result arrived at by the CA in remanding the cases for illegal dismissal to the NLRC for resolution of the appeal.

Forum shopping exists "when one party 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."²¹ What is truly important to consider in determining whether it exists or not is the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by different *fora* upon the same issues.²²

Applying the foregoing principles to the case at bar, respondents did not commit forum shopping. Clearly, there is no identity of causes of action between the cases pending with the DOLE and the NLRC. The DOLE CASE involved violations of labor standard provisions where an employer-employee relationship exists. On the other hand, the NLRC CASE

²⁰ Id. at 22-23.

²¹ *Coca-Cola Bottlers (Phils.), Inc. v. Social Security Commission*, G.R. No. 159323, July 31, 2008, 560 SCRA 719, 734, citing *Maricalum Mining Corp. v. Brion*, G.R. Nos. 157696-97, February 9, 2006, 482 SCRA 87, 105-106.

²² *Municipality of Taguig v. CA*, G.R. No. 142619, September 13, 2005, 469 SCRA 588, 595. (Citations omitted)


questioned the propriety of respondents' dismissal. No less than the Labor Code provides for these two (2) separate remedies for distinct causes of action. More importantly, at the time the DOLE CASE was initiated, respondents' only cause of action was petitioners' violation of labor standard laws which falls within the jurisdiction of the DOLE. It was only after the same was filed that respondents were dismissed from employment, prompting the filing of the NLRC CASE, which is within the mantle of the NLRC's jurisdiction. Under the foregoing circumstances, respondents had no choice but to avail of different *fora*.

Nevertheless, records reveal that respondents withdrew the DOLE CASE after they had instituted the NLRC CASE. Pertinent on this point is the Court's pronouncement in *Consolidated Broadcasting System v. Oberio*,²³ to wit:

Under Article 217 of the Labor Code, termination cases fall under the jurisdiction of Labor Arbiters. Whereas, Article 128 of the same Code vests the Secretary of Labor or his duly authorized representatives with the power to inspect the employer's records to determine and compel compliance with labor standard laws. The exercise of the said power by the Secretary or his duly authorized representatives is exclusive to cases where [the] employer-employee relationship still exists. Thus, in cases where the complaint for violation of labor standard laws preceded the termination of the employee and the filing of the illegal dismissal case, it would not be in consonance with justice to charge the complainants with engaging in forum shopping when the remedy available to them at the time their causes of action arose was to file separate cases before different *fora*. x x x (Emphasis and underscoring supplied)

WHEREFORE, premises considered, the July 31, 2006 Decision and December 18, 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 81585 are hereby **AFFIRMED**, with modification finding respondents not guilty of committing forum shopping. The National Labor Relations Commission is **DIRECTED** to resolve the appeal with reasonable dispatch.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice


²³ G.R. No. 168424, June 8, 2007, 524 SCRA 365, 372-373.


WE CONCUR:


ARTURO D. BRION

Associate Justice
Acting Chairperson



MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
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.


ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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