

Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

WILLIAM GO QUE
CONSTRUCTION and/or
WILLIAM GO QUE,
Petitioner,

- versus -

COURT OF APPEALS and
DANNY SINGSON, RODOLFO
PASAQUI,¹ LENDO LOMINIQUI,²
and JUN ANDALES,
Respondents.

G.R. No. 191699

Present:

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, JJ.

Promulgated:

APR 19 2016

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*³ are the Resolutions dated November 12, 2009⁴ and February 5, 2010⁵ of the Court of Appeals (CA) in CA-G.R. SP No. 109427, holding that the photocopies of the identification cards (ID) submitted by private respondents Danny Singson (Singson), Rodolfo Pasaqui (Pasaqui), and Lendo Lominiqui (Lominiqui), as well as their Joint Affidavit⁶ attesting to the identity of private respondent Jun Andales (Andales) and the fact that he was a co-petitioner in the case, served as competent evidence of private respondents' identities and, thus, cured the

¹ "Sumagui" or "Pasagui" in some parts of the records.

² "Glendo Lominoque," "Lindo Lominoque," "Lominoque," "Lindo Lomeneque," or "Lominaqui" in some parts of the records.

³ Erroneously titled as "Petition for Review on *Certiorari*." *Rollo*, pp. 3-20.

⁴ Id. at 24-25. Penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justices Jose L. Sabio, Jr. and Sixto C. Marella, Jr. concurring.

⁵ Id. at 27-28. Penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justices Arturo G. Tayag and Amy C. Lazaro-Javier concurring.

⁶ Dated September 8, 2009. Id. at 194-195.

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defect in the Verification/Certification of Non-Forum Shopping of their petition for *certiorari* before the CA.

The Facts

Private respondents filed complaints⁷ for illegal dismissal against petitioner William Go Que Construction and/or William Go Que (petitioner) before the National Labor Relations Commission (NLRC), National Capital Region-North Sector Arbitration Branch, claiming that they were hired as steelmen on various dates, and were regular employees of petitioner until their illegal dismissal on June 3, 2006. Moreover, they alleged that petitioner failed to pay their monetary benefits, such as service incentive leave pay, holiday pay, and 13th month pay.⁸

For his part, petitioner averred that private respondents were hired as project employees, and were informed of the specific period or phase of construction wherein their services were needed. Sometime in May 2006, petitioner learned that some workers were getting excess and cutting unused steel bars, and selling them to junk shops, prompting him to announce that he will bring the matter to the proper authorities. Thereafter, private respondents no longer reported for work, and were identified by the other workers as the thieves.⁹

Meanwhile, petitioner filed a complaint for theft against private respondents and a certain Jimmy Dulman before the Office of the City Prosecutor, Quezon City.¹⁰ After preliminary investigation, the investigating prosecutor found probable cause against them¹¹ and filed the corresponding Information¹² before the Regional Trial Court of Quezon City, docketed as Criminal Case No. Q-07-149245.

The LA Ruling

In a Decision¹³ dated March 23, 2007, the Labor Arbiter (LA) found petitioner to have illegally dismissed private respondents, and declared them to be regular employees entitled to reinstatement to their former positions without loss of seniority rights and backwages.¹⁴

⁷ See Complaint of Singson, Pasaqui, Lominiqui, and a certain Frederick A. Dulman dated September 18, 2006 (NLRC records, Vol. I, p. 2, including dorsal portion); and Complaint of Andales dated October 5, 2006 (NLRC records, Vol. II, p. 2, including dorsal portion).

⁸ See *rollo*, pp. 56 and 111-112.

⁹ See *id.* at 57-58.

¹⁰ *Id.* at 58.

¹¹ See *id.* at 62-63.

¹² *Id.* at 138-139.

¹³ *Id.* at 111-118. Penned by LA Felipe P. Pati.

¹⁴ See *id.* at 117-118.

The LA rejected petitioner's claim that private respondents were contractual or project employees, considering that petitioner: (a) failed to present any written contract duly signed by private respondents containing details such as the work or service to be rendered, the place of work, the wage rate, and the term or duration of employment; (b) continuously employed private respondents to perform the same tasks for a period of two (2) to eight (8) years; and (c) failed to comply with the mandatory requirement of submitting termination reports to the appropriate Department of Labor and Employment (DOLE). The LA likewise rejected petitioner's claim that private respondents have abandoned their jobs in the absence of written notice requiring them to explain why they should not be dismissed on the ground of abandonment.¹⁵

On the other hand, the LA denied private respondents' monetary claims for lack of factual basis.¹⁶

Aggrieved, petitioner appealed¹⁷ to the NLRC, arguing, among others, that Andales should not have been included as party litigant, considering the apparent falsification of his signature in the complaint and Verification¹⁸ attached to their Position Paper,¹⁹ and the fact that he could not be contacted.²⁰

The NLRC Ruling

In a Decision²¹ dated December 8, 2008 (December 8, 2008 Decision), the NLRC reversed and set aside the LA ruling, holding that private respondents were validly dismissed as they stole from petitioner. It noted the Resolution of the Quezon City Prosecutor's Office finding probable cause for theft against the private respondents and that the latter abandoned their employment after they were identified by their former co-workers as the thieves. However, considering petitioner's failure to accord them procedural due process, the NLRC ordered him to pay each of the private respondents the amount of ₱5,000.00 as nominal damages.²²

Dissatisfied, private respondents moved for reconsideration,²³ which the NLRC denied in a Resolution²⁴ dated March 31, 2009, prompting them

¹⁵ See id. at 115-117.

¹⁶ See id. at 117.

¹⁷ See Memorandum of Appeal dated April 30, 2007; id. at 119-132.

¹⁸ Id. at 85.

¹⁹ Dated November 28, 2006. Id. at 80-85.

²⁰ See id. at 120 and 126-127.

²¹ Id. at 55-65. Penned by Presiding Commissioner Raul T. Aquino with Commissioner Victoriano R. Calaycay concurring. Commissioner Angelita A. Gacutan took no part.

²² See id. at 60-64.

²³ See motion for reconsideration dated January 23, 2009; id. at 69-78.

²⁴ Id. at 67-68. Penned by Presiding Commissioner Raul T. Aquino with Commissioner Angelita A. Gacutan concurring.

to elevate their case to the CA *via* a petition for *certiorari*,²⁵ docketed as CA-G.R. SP No. 109427,²⁶ with Motion to Litigate as Pauper²⁷ (motion).

The CA Proceedings

In a Resolution²⁸ dated July 3, 2009, the CA granted private respondents' motion but noted that the Affidavit of Service²⁹ and the Verification/Certification of Non-Forum Shopping³⁰ contained a defective *jurat*. Thus, private respondents were directed to cure the defects within five (5) days from notice.³¹

Meanwhile, the NLRC issued an entry of judgment³² in the case on July 15, 2009.

Petitioner filed an Urgent Manifestation³³ before the CA pointing out the variance and dissimilarities in the signatures of private respondents as appearing in the annexes to their petition for *certiorari*.³⁴

Private respondents submitted their Manifestation and Compliance³⁵ dated July 21, 2009, wherein they admitted that Andales could not be located as he was purportedly on vacation in Samar,³⁶ but they attached (a) a verification³⁷ dated December 7, 2006 bearing their signatures including Andales's; (b) a photocopy³⁸ of private subdivision IDs of Singson, Pasaqui, and Lominiqui; and (c) a photocopy of the driver's license³⁹ of the affiant in the Affidavit of Service.

In a Resolution⁴⁰ dated August 13, 2009, the CA required private respondents anew to submit a Verification/Certification of Non-Forum Shopping with a properly accomplished *jurat* indicating competent evidence of their identities.

²⁵ Dated June 15, 2009. Id. at 29-53.

²⁶ Formerly CA-G.R. SP-UDK No. 6231. See id. at 150.

²⁷ Id. at 143-145.

²⁸ Id. at 150-151. Penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justices Josefina Guevara-Salonga and Romeo F. Barza concurring.

²⁹ CA *rollo*, p. 35.

³⁰ *Rollo*, p. 53.

³¹ Id. at 151.

³² NLRC records, Vol. I, p. 384.

³³ Dated July 15, 2009. *Rollo*, pp. 154-156.

³⁴ See id. at 155.

³⁵ Id. at 168-169.

³⁶ Id. at 168.

³⁷ Id. at 170.

³⁸ Id. at 171.

³⁹ Id. at 172.

⁴⁰ Id. at 173.

On September 10, 2009, private respondents submitted a Manifestation and Compliance and Submission of Joint Affidavit⁴¹ wherein Singson, Pasaqui, and Lominiqui stated that: (a) they personally knew Andales who used to be their co-worker⁴² and one of the original complainants in the illegal dismissal case; (b) Andales is in the province and is not in a position to submit his ID; (c) despite Andales's absence and failure to submit his ID, he should be maintained as a petitioner before the CA; and (d) they had already submitted their IDs.⁴³

Thereafter, in a Resolution⁴⁴ dated November 12, 2009, the CA held that the photocopies of the IDs submitted by Singson, Pasaqui, and Lominiqui, as well as their Joint-Affidavit⁴⁵ attesting to the identity of Andales who was unable to submit his ID, served as competent evidence of private respondents' identities and cured the defect in the Affidavit of Service, and Verification/Certification of Non-Forum Shopping. Without giving due course to the petition, the CA directed petitioner to submit his Comment within ten (10) days from receipt of the Resolution, and private respondents to file their Reply within five (5) days from receipt of the said Comment.⁴⁶

Unperturbed, petitioner moved for reconsideration,⁴⁷ which the CA denied in a Resolution⁴⁸ dated February 5, 2010; hence, the instant petition.

On June 15, 2010, Singson and Pasaqui, assisted by their counsel, Atty. Ricardo M. Perez (Atty. Perez), amicably settled with petitioner, and executed a Satisfaction of Judgment/Release of Claim⁴⁹ in the latter's favor, and, thereafter, filed the corresponding Motion to Withdraw Petition⁵⁰ (motion to withdraw) before the CA. On the other hand, the adjudged amount in favor of Lominiqui and Andales were deposited with the NLRC⁵¹ because of their inability to show up and receive the amounts.

In a Resolution⁵² dated July 15, 2010, the CA partially granted the motion to withdraw and dismissed the petition insofar as Singson and Pasaqui are concerned.

⁴¹ Dated September 8, 2009. Id. at 176-178.

⁴² See Joint Affidavit dated September 8, 2009; id. at 194.

⁴³ See id. at 176-177.

⁴⁴ Id. at 24-25.

⁴⁵ Id. at 194-195.

⁴⁶ Id.

⁴⁷ See motion for reconsideration dated November 26, 2009; CA *rollo*, pp. 195-200.

⁴⁸ *Rollo*, pp. 27-28.

⁴⁹ CA *rollo*, pp. 226-227.

⁵⁰ Dated June 16, 2010. Id. at 224-225.

⁵¹ See Official Receipt No. 7516048; NLRC records, Vol. I, p. 466.

⁵² CA *rollo*, p. 229. Penned by Associate Justice Samuel H. Gaerlan with Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario concurring.

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On the other hand, the NLRC issued an Order⁵³ dated July 20, 2010 directing the release of the surety bond posted by petitioner.

Subsequently, the CA issued a Resolution⁵⁴ dated November 4, 2010 suspending the proceedings in view of the pendency of the petition for *certiorari* before the Court.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA acted with grave abuse of discretion in refusing to dismiss the petition for *certiorari* before it on the ground of non-compliance with the requirements of verification and certification against forum shopping.

The Court's Ruling

The petition is meritorious.

At the outset, it should be pointed out that in a Resolution⁵⁵ dated July 15, 2010, the CA had already dismissed the petition for *certiorari* in CA-G.R. SP No. 109427 with respect to private respondents Singson and Pasaqui on account of the Satisfaction of Judgment/Release of Claim⁵⁶ they executed in petitioner's favor subsequent to the filing of the instant case. Notably, Singson and Pasaqui, thru their counsel, Atty. Perez, moved that the instant petition be dismissed, without prejudice to the claims of the other private respondents, Lominiqui and Andales, who are "on the run."⁵⁷ The settled rule is that legitimate waivers resulting from voluntary settlements of laborers' claims should be treated and upheld as the law between the parties.⁵⁸ In view of the foregoing developments, there is no longer any justiciable controversy between petitioner and private respondents Singson and Pasaqui, rendering the instant case moot and academic, and dismissible⁵⁹ with respect to them.

On the other hand, private respondents Lominiqui and Andales do not appear to have any proper representation before the Court in view of Atty. Perez's denial of any subsisting lawyer-client relationship with them. In fact, it was disclosed that they were reportedly in hiding for fear of being

⁵³ NLRC records, Vol. I, pp. 392-394.

⁵⁴ CA *rollo*, pp. 439-440. Penned by Associate Justice Samuel H. Gaerlan with Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario concurring.

⁵⁵ Id. at 229.

⁵⁶ Id. at 226-227.

⁵⁷ See Manifestation and Motion dated May 20, 2011; *rollo*, pp. 228-230.

⁵⁸ *Suarez, Jr. v. National Steel Corporation*, 590 Phil. 352, 368 (2008).

⁵⁹ See *Phil. Savings Bank v. Senate Impeachment Court*, 699 Phil. 34, 36 (2012).

arrested.⁶⁰ Thus, in a Resolution⁶¹ dated July 24, 2013, they were deemed to have waived the filing of their comment to the instant petition since the notices addressed to them were returned unserved.

The foregoing circumstances notwithstanding, the Court delved on the merits of the instant petition, and found the same to be well taken.

The instant controversy revolves on whether or not the CA gravely abused its discretion in holding that private respondents substantially complied with the requirements of a valid verification and certification against forum shopping.

Section 4, Rule 7 of the Rules of Civil Procedure states that “[a] pleading is **verified by an affidavit** that the affiant has read the pleading 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 x x x lacks a proper verification, shall be treated as an unsigned pleading.”

On the other hand, Section 5, Rule 7 of the Rules of Civil Procedure provides that “[t]he 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 x x x.”

In this case, it is undisputed that the Verification/Certification against Forum Shopping⁶² attached to the petition for *certiorari* in CA-G.R. SP No. 109427 was not accompanied with a valid affidavit/properly certified under oath. This was because the *jurat* thereof was defective in that it did not indicate the pertinent details regarding the affiants’ (*i.e.*, private respondents) competent evidence of identities.

⁶⁰ See *rollo*, pp. 229.

⁶¹ Id. at 260-261. Signed by Deputy Division Clerk of Court Teresita Aquino Tuazon in behalf of Division Clerk of Court Ma. Lourdes C. Perfecto.

⁶² Id. at 53.

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Under Section 6, Rule II of A.M. No. 02-8-13-SC⁶³ dated July 6, 2004, entitled the “2004 Rules on Notarial Practice” (2004 Rules on Notarial Practice), a *jurat* refers to an act in which an individual on a single occasion:

- (a) appears in person before the notary public and presents an instrument or document;
- (b) is personally known to the notary public or **identified by the notary public through competent evidence of identity as defined by these Rules**;
- (c) signs the instrument or document in the presence of the notary; and
- (d) takes an oath or affirmation before the notary public as to such instrument or document.

Under Section 12, Rule II of the 2004 Rules on Notarial Practice, “competent evidence of identity” as used in the foregoing provision refers to the identification of an individual based on:

- (a) **at least one current identification document issued by an official agency bearing the photograph and signature of the individual**, such as but not limited to, passport, driver’s license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter’s ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman’s book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disabled Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; or
- (b) **the oath or affirmation of one credible witness not privy to the instrument, document or transaction** who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification.

⁶³ Effective August 1, 2004.

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Evidently, not being documents of identification issued by an official agency, the photocopies of the IDs⁶⁴ of private respondents Singson, Pasaqui, and Lominiqui from La Vista Association, Inc., R.O. Barra Builders & Electrical Services, and St. Charbel Executive Village, respectively, do not constitute competent evidence of their identities under Section 12 (a), Rule II of the 2004 Rules on Notarial Practice. In the same vein, their Joint-Affidavit⁶⁵ identifying Andales and assuring the CA that he was a party-litigant is not competent evidence of Andales's identity under Section 12 (b), Rule II of the same rules, considering that they (*i.e.*, Singson, Pasaqui, and Lominiqui) themselves are privy to the instrument, *i.e.*, the Verification/Certification of Non-Forum Shopping, in which Andales's participation is sought to be proven. To note, it cannot be presumed that an affiant is personally known to the notary public; the *jurat* must contain a statement to that effect.⁶⁶ Tellingly, the notarial certificate of the Verification/Certification of Non-Forum Shopping⁶⁷ attached to private respondents' petition before the CA did not state whether they presented competent evidence of their identities, or that they were personally known to the notary public, and, thus, runs afoul of the requirements of verification and certification against forum shopping under Section 1,⁶⁸ Rule 65, in relation to Section 3,⁶⁹ Rule 46, of the Rules of Court.

In *Fernandez v. Villegas*⁷⁰ (*Fernandez*), the Court pronounced that non-compliance with the verification requirement 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

⁶⁴ *Rollo*, p. 171.

⁶⁵ Dated September 8, 2009. *Id.* at 194-195.

⁶⁶ See *Kilosbayan Foundation v. Janolo, Jr.*, 640 Phil. 33, 46 (2010).

⁶⁷ *Rollo*, p. 53.

⁶⁸ Section 1. *Petition for certiorari*. – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a **verified petition** in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a **sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46**. (Emphases supplied)

⁶⁹ Section 3. *Contents and filing of petition; effect of noncompliance with requirements*. – x x x.

x x x x

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)

⁷⁰ G.R. No. 200191, August 20, 2014, 733 SCRA 548.

circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.”⁷¹ “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.”⁷² Here, there was no substantial compliance with the verification requirement as it cannot be ascertained that any of the private respondents actually swore to the truth of the allegations in the petition for *certiorari* in CA-G.R. SP No. 109427 given the lack of competent evidence of any of their identities. Because of this, the fact that even one of the private respondents swore that the allegations in the pleading are true and correct of his knowledge and belief is shrouded in doubt.

For the same reason, neither was there substantial compliance with the certification against forum shopping requirement. In *Fernandez*, the Court explained that “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.’”⁷³ Here, the CA did not mention – nor does there exist – any perceivable special circumstance or compelling reason which justifies the rules’ relaxation. At all events, it is uncertain if any of the private respondents certified under oath that no similar action has been filed or is pending in another forum.

In fact, on both procedural aspects, the CA failed to address the evident variance in the signatures⁷⁴ of the remaining private respondents, *i.e.*, Lominiqui and Andales, in their petition for *certiorari* and their previous pleadings. Earlier, petitioner had already questioned Andales’s participation in the case as he was already missing when the complaint was filed, and his signature in the Verification attached to private respondents’ Position Paper did not match those in the payroll documents.⁷⁵ In sum, the authenticity of the signatures of Lominiqui and Andales, and their participation in the instant case were seriously put into question.

Case law states that “[v]erification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative.”⁷⁶ On the other hand, “[t]he certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in

⁷¹ Id. at 556.

⁷² Id. at 556-557.

⁷³ Id. at 557.

⁷⁴ See *rollo*, pp. 53, 85, and 135-136.

⁷⁵ See id. at 120 and 126-127.

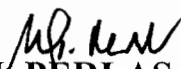
⁷⁶ *Sps. Lim v. CA*, 702 Phil. 634, 642 (2013).

different *fora*.”⁷⁷ The important purposes behind these requirements cannot be simply brushed aside absent any sustainable explanation justifying their relaxation. In this case, proper justification is especially called for in light of the serious allegations of forgery as to the signatures of the remaining private respondents, *i.e.*, Lominiqui and Andales. Thus, by simply treating the insufficient submissions before it as compliance with its Resolution⁷⁸ dated August 13, 2009 requiring anew the submission of a proper verification/certification against forum shopping, the CA patently and grossly ignored settled procedural rules and, hence, gravely abused its discretion. All things considered, the proper course of action was for it to dismiss the petition.

As a final word, it is well to stress that “procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party. x x x. Justice has to be administered according to the Rules in order to obviate arbitrariness, caprice, or whimsicality.”⁷⁹ Resort to the liberal application of procedural rules remains the exception rather than the rule; it cannot be made without any valid reasons underpinning the said course of action. To merit liberality, the one seeking such treatment must show reasonable cause justifying its non-compliance with the Rules, and must establish that the outright dismissal of the petition would defeat the administration of substantial justice.⁸⁰ Procedural rules must, at all times, be followed, save for instances when a litigant must be rescued from an injustice far graver than the degree of his carelessness in not complying with the prescribed procedure.⁸¹ The limited exception does not obtain in this case.

WHEREFORE, the petition is **GRANTED**. The Resolutions dated November 12, 2009 and February 5, 2010 of the Court of Appeals in CA-G.R. SP No. 109427 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the petition for *certiorari* in CA-G.R. SP No. 109427 is **DISMISSED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

⁷⁷ Id. at 643.


⁷⁸ *Rollo*, p. 173.


⁷⁹ See *Abadilla v. Spouses Obrero*, G.R. No. 210855, December 9, 2015, citing *Bank of the Philippine Islands v. CA*, 646 Phil. 617, 627 (2010).

⁸⁰ See *Building Care Corp./Leopard Security & Investigation Agency v. Macaraeg*, 700 Phil. 749, 755 (2012), citing *Daikoku Electronics Phils., Inc. v. Raza*, 606 Phil. 796, 803-804 (2009).

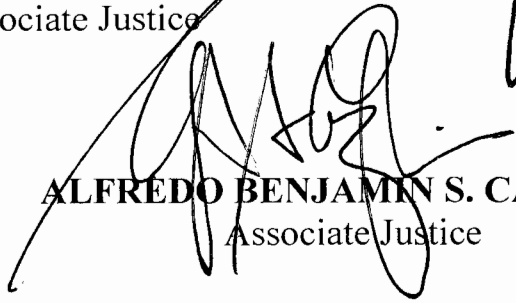
⁸¹ See *Sps. Dycoco v. CA*, 715 Phil. 550, 568 (2013), citing *Republic v. Kenrick Development Corporation*, 529 Phil. 876, 885-886 (2006).

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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