Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

BLUE EAGLE MANAGEMENT, INC., MA. AMELIA S. BONOAN, and CARMELITA S. DELA RAMA, Petitioners,	**G.R. No. 192488**
	Present:
	SERENO, *CJ.*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN,
- versus-	PERLAS-BERNABE, and CAGUIOA, *JJ.*
	Promulgated:
JOCELYN L. NAVAL, Respondent.	APR 19 2016

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D E C I S I O N

LEONARDO-DE CASTRO, *J.*:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court filed by petitioners Blue Eagle Management, Inc. (BEMI), Ma. Amelia S. Bonoan (Bonoan), and Ma. Carmelita S. Dela Rama (Dela Rama), assailing the Decision[1] dated March 11, 2010 of the Court of Appeals in CA-G.R. SP No. 106037. The appellate court annulled and set aside the Decision[2] dated May 31, 2007 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 051363-07 and reinstated the Labor Arbiter's Decision[3] dated October 12, 2006 in NLRC-NCR Case No. 00-03-01845-06 finding that respondent Jocelyn L. Naval was illegally dismissed.

Petitioners and respondent presented two varying accounts of the circumstances that gave rise to this case.

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1 *Rollo*, pp. 26-39; penned by Associate Justice Romeo F. Barza with Associate Justices Magdangal M. de Leon and Ruben C. Ayson concurring.

2 Id. at 40-46; penned by Commissioner Romeo L. Go with Presiding Commissioner Gerardo C. Nograles and Commissioner Perlita B. Velasco concurring.

3 Id. at 136-145; penned by Labor Arbiter Virginia T. Luyas-Azarraga.

Petitioners' Account

Petitioner BEMI is a domestic corporation registered with the Philippine Securities and Exchange Commission in 2004, with the primary purpose of establishing, owning, operating, or managing a sports complex, and performing any and all acts necessary and incidental to carrying out the same. It had an authorized capital stock of ₱100,000.00, divided into 100,000 shares with ₱1.00 par value per share; of which 25,000 shares worth ₱25,000.00 were subscribed and fully paid for as of December 31, 2005. It commenced operation on January 2, 2005.

By virtue of a Memorandum of Agreement (MOA), finalized on September 29, 2006, Ateneo de Manila University (ADMU), owner of the Moro Lorenzo Sports Center (MLSC) located within the ADMU compound, gave petitioner BEMI the authority to manage and operate the following businesses at MLSC: (a) sports clinic; (b) fitness gym; (c) coffee shop; and (d) lease of basketball courts, badminton courts, locker rooms/storage facilities, weight training room, track oval, martial arts deck, and office spaces. Under the MOA, ADMU and petitioner BEMI agreed, among other terms and conditions, that (a) petitioner BEMI would operate the businesses on its own account and employ its own employees, secure the necessary business licenses and permits under its name, and pay all taxes related to its operations under its name; (b) profits or losses from operations would be for the account of petitioner BEMI; (c) petitioner BEMI would be responsible for the costs of maintaining MLSC in the same condition as it was when turned over by ADMU excluding ordinary wear and tear; (d) petitioner BEMI would reimburse ADMU the costs of electrical, water, telephone, and other utility charges, including the cost of installation fees and deposits related thereto, which had been separately and exclusively used and consumed by petitioner BEMI within MLSC; and (e) the agreement would be valid for a period of three years commencing on October 1, 2006. Petitioner BEMI was able to conduct its businesses at MLSC from January 2, 2005 to September 30, 2006 under a draft MOA, which was basically the same as the final MOA.[4] When petitioner BEMI took over the operations of MLSC on January 2, 2005, it also agreed to absorb all the employees of the previous operator.

Petitioners Bonoan and Dela Rama were then the General Manager[5] and Human Resources (HR) Manager, respectively, of petitioner BEMI.

Respondent was hired on January 15, 2005 by petitioner BEMI as a member of its maintenance staff.

During its first year of operation in 2005, petitioner BEMI suffered financial losses in the total amount of ₱5,067,409.44. In an attempt to reduce its financial losses, the Management of petitioner BEMI

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4 Id. at 62-63.

5 Petitioner Bonoan eventually became the Vice President for Operations of petitioner BEMI.

(Management) resolved sometime in January 2006 to decrease the operational expenses of the company. Since the gross income of petitioner BEMI was not even enough to cover the costs of the salaries, wages, and other benefits of its employees, one of the measures the Management intended to implement was the downsizing of its workforce. Pursuant to such decision of the Management, petitioners Bonoan and Dela Rama evaluated and identified several employees who could be the subject of retrenchment proceedings, taking into consideration the employees' positions and tenures at petitioner BEMI. After their evaluation, petitioners Bonoan and Dela Rama identified five employees for retrenchment, namely, Arvin A. Aluad, Alghie B. Domdom, Randell S. Esureña, Edmund T. Tugay, and respondent. Respondent was included in the list because she was one of the employees with the shortest tenures.

Before actually commencing retrenchment proceedings (scheduled to be completed not later than March 31, 2006), petitioner Dela Rama separately met with each of the five aforementioned employees between February 16 and 24, 2006 and presented to them the option of resigning instead. The employees who would choose to resign would no longer be required to report for work after their resignation but would still be paid their full salary for February 2006 and their pro-rated 13th month pay, plus financial assistance in the amount of one month salary for every year of service at petitioner BEMI. This option would also give the employees free time to seek other employment while still receiving salary from petitioner BEMI.

Petitioner Dela Rama, together with Ferdinand Chiongson (Chiongson), the officer-in-charge of the maintenance staff, spoke to respondent on the morning of February 20, 2006. Petitioner Dela Rama and Chiongson presented to respondent her options and gave her time to decide. Just several hours after the meeting, respondent returned to petitioner Dela Rama's office and informed petitioner Dela Rama that she would voluntarily resign. In petitioner Dela Rama's presence, respondent then executed a resignation letter in her own handwriting. Respondent's resignation letter was forwarded to and approved by petitioner Bonoan on the same day. The other four employees identified for retrenchment similarly opted to voluntarily resign and executed their respective resignation letters.

Since all the five employees identified for retrenchment decided to voluntarily resign instead and avail themselves of the financial package offered by petitioner BEMI, there was no more need for the company to initiate retrenchment proceedings. The five employees were instructed to return on February 28, 2006 to comply with the exit procedure of petitioner BEMI and receive the amounts due them by reason of their voluntary resignation.

On February 28, 2006, the resigned employees, except for respondent, appeared at the premises of petitioner BEMI, completed their exit

procedures, received the amounts due them, and executed release waivers and quitclaims in favor of petitioner BEMI. Respondent's non-appearance on February 28, 2006 prompted petitioner Bonoan to write her a letter dated March 1, 2006 stating that in connection with respondent's voluntary resignation, she must comply with the exit procedures of petitioner BEMI; and upon her completion thereof, she would receive her separation pay, but less her ₱4,500.00 outstanding financial obligation[6] to the company. The said letter was mailed to respondent on March 2, 2006.

Respondent appeared at petitioner Bonoan's office on March 3, 2006. Because respondent was finding it difficult to find new employment, she asked if it was possible for her to return to work for petitioner BEMI. However, petitioner Bonoan replied that respondent's resignation had long been approved and that petitioner BEMI would not be able to rehire respondent given the difficult financial position of the company. Petitioner Bonoan advised respondent to just receive the amount she was entitled to by reason of her voluntary resignation. Petitioner Bonoan also attempted to furnish respondent with a copy of the letter dated March 1, 2006 but after reading the contents of said letter, respondent refused to receive the same. On the afternoon of March 3, 2006, respondent filed a complaint for illegal dismissal against petitioners before the NLRC.

Respondent's Account

According to respondent, she was employed by petitioner BEMI on January 17, 2005 as maintenance staff. Respondent was assigned to the Gym Department with the primary function of giving assistance to customers who were working-out or performing aerobic exercises.

In December 2005, one Dr. Florendo, a regular customer, visited the gym to exercise. As Dr. Florendo made her way to her favorite spot, she said to her companion, "*Andyan na naman yung mga referee.*" Dr. Florendo was referring to a group of referees who were exercising on the other side of the gym and whose presence apparently irked the doctor. As Dr. Florendo was working-out, someone from the group of referees raised the volume of the television in the middle of the gym. Irritated by the noise, Dr. Florendo ordered respondent to lower the volume of the television, angrily uttering, "*Ano ba yan? Bakit hindi nyo binabantayan.*" Dr. Florendo then immediately complained to the gym manager.

Meanwhile, Mr. Ilagan, who headed the group of referees, approached respondent to ask what was going on. Respondent relayed Dr. Florendo's complaint to Mr. Ilagan. Mr. Ilagan wanted to know who among his group raised the volume of the television, and upon respondent's suggestion, Mr. Ilagan directly approached Dr. Florendo. Unfortunately, an argument erupted between Mr. Ilagan and Dr. Florendo. Following the argument

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[6] A loan extended to respondent by petitioner BEMI but remained unpaid as of respondent's resignation.

between the two customers, Dr. Florendo confronted respondent and demanded to know why respondent divulged to Mr. Ilagan the doctor's complaints against the group of referees. Dr. Florendo continued to berate and insult respondent. Shocked by how Dr. Florendo was treating her, respondent was unable to defend herself and could only cry. Dr. Florendo's parting words to respondent were, "*Ipatatanggal kita!*"

Soon after, respondent was summoned before petitioner Dela Rama, the HR Manager. Petitioner Dela Rama purportedly received a complaint from a customer that respondent was not doing her work well, so petitioner Dela Rama would be issuing a memorandum suspending respondent for three days starting January 3, 2006. Yet, after respondent served just one day of suspension on January 3, 2006, petitioner Dela Rama already ordered respondent to return to work on January 4, 2006. Respondent was made to sign a document attesting that she was suspended for only one day, and was also instructed to tell her co-employees that she was not suspended and she merely took a leave of absence. Ever since respondent was allowed to return to work, though, petitioner Dela Rama's attitude towards her had completely become unpleasant. Petitioner Dela Rama was always critical of respondent's work.

On February 20, 2006, respondent was called to a meeting with petitioner Dela Rama and Ferdinand Tiongson (Tiongson).[7] During said meeting, Tiongson informed respondent that petitioner BEMI needed to reduce its manpower as part of the cost-cutting measures of the company, and respondent was a candidate for termination. Respondent inquired if the reduction in manpower was legitimate, and Tiongson, without directly answering respondent's question, warned respondent against filing a complaint with the NLRC, lest she also put in jeopardy her husband's employment, which happened to be connected with petitioner BEMI as well.

Respondent was then required to submit a handwritten resignation letter. Petitioner Dela Rama gave respondent a piece of paper and dictated to the latter the contents of her resignation letter, but respondent had her resignation letter typed on a computer and printed. Petitioner Dela Rama insisted on a handwritten resignation letter and refused to accept respondent's printed letter. Petitioner Dela Rama additionally advised respondent to just do as she was instructed or she would not receive anything from petitioner BEMI. Since respondent was already pregnant at that time and afraid that her husband might also lose his job, respondent was compelled to prepare the handwritten resignation letter as it was dictated by petitioner Dela Rama and sign the said letter in petitioner Dela Rama's presence. After respondent submitted her resignation letter, she was told that she still needed to secure clearance before she could receive any amount from petitioner BEMI. Because respondent really had no intention of resigning, she did not secure clearance and claim any amount from petitioner

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7 Presumably the same Ferdinand Chiongson referred to by the petitioners, there being a difference only in the spelling of the person's surname.

BEMI, and instead, she filed with the NLRC a complaint for illegal dismissal with prayer for reinstatement and payment of backwages, damages, and attorney's fees.

Antecedent Proceedings

When conciliatory conferences were unsuccessful, the parties were directed to submit their respective position papers.

The Labor Arbiter rendered a Decision on October 12, 2006 finding that respondent was illegally dismissed. According to the Labor Arbiter, petitioners were not able to prove that petitioner BEMI was suffering from serious business losses that would have justified retrenchment of its employees. The Financial Statement of petitioner BEMI for 2005 by itself was not sufficient and convincing proof of substantial losses for it did not show whether the losses of the company increased or decreased compared to previous years. Although petitioner BEMI posted a loss for 2005, it could also be possible that such loss was considerably less than those previously incurred, thereby indicating the improving condition of the company. As a result, the Labor Arbiter held that respondent did not resign voluntarily. There was no factual or legal basis for giving respondent the option to resign in lieu of the alleged retrenchment to be implemented by petitioners. Respondent was obviously misled into believing that there was ground for retrenchment. Respondent's resignation letter also did not deserve much weight. The resignation letter of respondent had uniform content as those of her four other co-employees. The assurances of payment of salaries, separation pay, and 13th month pay at a given date were words obviously coming from an employer. It was more of a quitclaim rather than a resignation letter. And the mere fact that respondent protested her act of signing a resignation letter by immediately filing a complaint for illegal dismissal against petitioners negated the allegation that respondent voluntarily resigned. Thus, the Labor Arbiter decreed:

> WHEREFORE, the foregoing premises considered, judgment is hereby rendered, declaring the dismissal of the [respondent] illegal and holding [petitioners] jointly and severally liable for the following:
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> 1. To reinstate the [respondent] to her former position without loss of seniority rights and other benefits;
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> 2. To pay [respondent's] full backwages from the time of her dismissal until actual reinstatement which up to this time has amounted to Php76,972.33[;]
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> 3. To pay [respondent's] moral and exemplary damages in the amount Ten Thousand Pesos (P10,000.00)[; and]
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> 4. To pay [respondent's] attorney's fee equivalent to 10% of the total monetary award.[8]

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8 *Rollo*, pp. 144-145.

Petitioners appealed before the NLRC. In its Decision dated May 31, 2007, the NLRC found merit in petitioners' appeal for the following reasons:

> In the case at bar, [petitioners] succeeded in persuading this Commission by presenting its income tax return for the year 2005 and financial statements that the company had incurred a net loss of three million two hundred ninety-three thousand eight hundred sixteen pesos and 14/100 (₱3,293,816.14) for the said year. Such amount of loss is likewise indicated in the company's Balance Sheet which was prepared by an independent auditor in September 2006. More specifically, the Balance Sheet would show that the company's gross profit (revenue less direct costs) in the amount of two million three hundred nineteen thousand eight hundred thirty-two pesos and 39/100 (₱2,319,832.39) was not even enough to cover the amount of salaries, wages and other benefits of the employees in the total amount of two million nine hundred sixty-nine thousand nine hundred eighty-six pesos and 15/100 (₱2,969,986.15). It must be noted that such amount corresponding to salaries, wages and other benefits constitutes only an item in the administrative expenses which need to be further deducted from the gross profit. Thus, after deducting the administrative expenses from the gross profit, the company showed a loss of more than ₱5,000,000.00.
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> While the company enjoys a tax benefit of more than one million pesos and its actual net loss was reduced to ₱3,293,816.14, such amount is still considered as substantial loss. In this regard, it was noted that the company has only one hundred thousand (100,000.00) shares as its authorized capital stock with a par value of one peso (₱1.00) per share.
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> In connection herewith, [petitioners] correctly noted as baseless the Labor Arbiter's pronouncement that the company's financial statement for [the] year 2005 does not sufficiently prove that it already suffered actual serious losses since it failed to present financial statements for the previous years. According to the Labor Arbiter, such past statements may show an improvement in its condition. As justified however by the company, its failure to present such financial statements for the previous years was brought by the fact that it went on its first year of commercial operations only in year 2005.
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> Considering the company's financial condition, We find good faith on its part when it decided to implement a retrenchment program and see no basis to hold that it was merely intended to defeat or circumvent the employees' right to security of tenure. Such finding is further supported by the criterion of shortest tenure in service which was used by the [petitioners] in determining the employees to be included in the program.
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> The company could have implemented a valid retrenchment program had the five (5) employees not opted to resign. Thus, [respondent] was neither deceived nor coerced when she was offered to voluntarily resign instead of being included in the program.[9]

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9 Id. at 43-44.

Given its foregoing findings, the NLRC deemed the other issues in the case moot and academic, *viz.*:

> 1. the suspension of the [respondent] which took place prior to the information that the company is implementing a retrenchment program;
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> 2. the similarity in the tenor of the resignation letters by the [respondent] and some other resigned employees; and
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> 3. it was only herein [respondent], among the five employees who opted to resign, who filed a complaint against the [petitioners].[10]

In the end, the NLRC adjudged:

> The reversal of the assailed Decision is without prejudice to the right of the [respondent] to claim her reinstatement wages as granted by the Labor Arbiter.
>
> WHEREFORE, premises considered, [petitioners'] appeal is hereby **GRANTED**. Accordingly, the assailed Decision is hereby **SET ASIDE** and A **NEW ONE ENTERED** declaring [respondent] to have voluntarily resigned from her employment.[11]

Respondent filed a Partial Motion for Reconsideration of the foregoing Decision but said Motion was denied for lack of merit by the NLRC in a Resolution dated April 30, 2008.

This prompted respondent to file a Petition for *Certiorari* with the Court of Appeals, averring grave abuse of discretion on the part of the NLRC when it reversed the Labor Arbiter's Decision and declared that respondent voluntarily resigned. Petitioners sought the dismissal of respondent's Petition for *Certiorari*, insisting that respondent voluntarily opted to resign instead of being retrenched, as well as raising procedural defects of the Petition, to wit: (a) respondent failed to indicate the material dates that would show the timeliness of the Petition; (b) respondent should have served a copy of the Petition on petitioners directly, not on petitioners' counsel, because a special civil action under Rule 65 is an original action and not a mere continuation of the proceedings before the NLRC; and (c) the Verification and Certification of Non-Forum Shopping attached to the Petition was defective because respondent's BEMI identification card (ID) was already invalid given that she was no longer connected with the company, and it was also not a competent evidence of identity as it was not issued by an official agency.

The Court of Appeals, in a Decision dated March 11, 2010, favored respondent.

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10 Id. at 44-45.

11 Id. at 45.

To the Court of Appeals, the procedural defects of respondent's Petition for *Certiorari* were not sufficient to warrant the dismissal of said Petition. Respondent's failure to state the material dates under "Timeliness of the Petition" could be excused considering that after perusal of the records of the case, the dates of respondent's filing of her Partial Motion for Reconsideration of the NLRC Decision (*i.e.*, July 13, 2007) and receipt of the NLRC Resolution denying said Motion (*i.e.*, June 11, 2008) could be respectively found under the "Nature of the Petition" and paragraph 14 of the Petition. In addition, it was already well-settled in jurisprudence that the application of technical rules of procedure may be relaxed to serve the demands of substantial justice, particularly in labor cases. Further, respondent had substantially complied with the requirement for competent evidence of identity by using her Social Security System (SSS) ID in executing the Verification and Certification of Non-Forum Shopping which she attached to her Reply.

The Court of Appeals proceeded to rule on the substantive issues of the case, as follows:

> Evidently in this case, the [respondent] had no intention to resign from office had she not been made to choose to resign or be one of the candidates for the planned retrenchment program of the company. There could not be any reason for the [respondent] to resign despite her allegation that she had not been treated well by her superiors after the incident at the gym where she was suspended for one (1) day, considering that the said employment was her only source of income and that at that time, she was already 2 months pregnant. In fact, it is quite unbelievable that [respondent] would voluntarily resign from work, knowing fully well that she was only a candidate for the planned retrenchment and in such an event, would eventually legally receive benefits thereunder.
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> Also, the fact that the [respondent] was forced to prepare a handwritten resignation letter, with the words having been dictated to her by the HR Manager, casts doubt on the voluntariness of the resignation. It bears stressing that whether it be by redundancy or retrenchment or any of the other authorized causes, no employee may be dismissed without observance of the fundamentals of good faith. Further, even though the employer interposed the defense of resignation, it is still incumbent upon the [petitioners] to prove that the employee voluntarily resigned.
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> As held in the earlier case of *SMC v. NLRC*:
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> > "Even if private respondents were given the option to retire, be retrenched or dismissed, they were made to understand that they had no choice but to leave the company. More bluntly stated, they were forced to swallow the bitter pill of dismissal but afforded a chance to sweeten their separation from employment. They either had to voluntarily retire, be retrenched with benefits, or be dismissed without receiving any benefit at all."
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> Similarly in this case, the [respondent] was given no choice but to relinquish her employment, negating voluntariness in her act.

> Moreover, as aptly argued by [respondent], her act of filing of a complaint for illegal dismissal negates voluntary resignation. Well-entrenched is the rule that resignation is inconsistent with the filing of a complaint for illegal dismissal. To be valid, the resignation must be unconditional, with the intent to operate as such; there must be a clear intention to relinquish the position. In this case, respondent actively pursued her illegal dismissal case against [petitioners], such that she cannot be said to have voluntarily resigned from her job.
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> Given the above disquisition, We hold that the Labor Arbiter correctly found the [respondent] to have been illegally dismissed and her monetary claims must be upheld.[12] (Citations omitted.)

The dispositive portion of the Court of Appeals Decision reads:

> **WHEREFORE**, the petition is **GRANTED** and the assailed decision is hereby **ANNULLED** and **SET ASIDE**. Accordingly, the Labor Arbiter's decision is hereby **REINSTATED**.[13]

In a Resolution dated June 2, 2010, the Court of Appeals denied the Motion for Reconsideration of petitioners.

Petitioners now come before the Court via the instant Petition for Review on *Certiorari* based on the following assignment of errors:

> THE HONORABLE COURT OF APPEALS ERRED IN NOT DISMISSING THE PETITION OF RESPONDENT DESPITE ITS FAILURE TO COMPLY WITH RULES OF PROCEDURE.
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> THE HONORABLE COURT OF APPEALS ERRED IN GRANTING THE PETITION OF RESPONDENT DESPITE THE ABSENCE OF ANY FINDING OF GRAVE ABUSE OF DISCRETION ON THE PART OF THE NATIONAL LABOR RELATIONS COMMISSION.[14]

Ruling of the Court

There is merit in the present Petition.

On the matter of procedure, the Court of Appeals should have, at the outset, dismissed respondent's Petition for *Certiorari* in CA-G.R. SP No. 106037 for failure to state material dates.

A petition for *certiorari* must be filed within the prescribed periods under Section 4, Rule 65 of the Rules of Court, as amended:

> Section 4. *When and where to file the petition.* – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or

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12 Id. at 36-38.
13 Id. at 38-39.
14 Id. at 11.

> resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion.

For the purpose of determining whether or not a petition for *certiorari* was timely filed, Section 3, Rule 46 of the Rules of Court, as amended, requires the petition itself to state the material dates:

> SEC. 3. *Contents and filing of petition; effect of non-compliance with requirements.* – x x x
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> In actions filed under Rule 65, the petition shall further indicate the **material dates** showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.
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> 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**. (Emphases supplied.)

The Court, in *Vinuya v. Romulo*,[15] expounded on the importance of stating the material dates in a petition for *certiorari*:

> As the rule indicates, the 60-day period starts to run from the date petitioner receives the assailed judgment, final order or resolution, or the denial of the motion for reconsideration or new trial timely filed, whether such motion is required or not. To establish the timeliness of the petition for *certiorari*, the date of receipt of the assailed judgment, final order or resolution or the denial of the motion for reconsideration or new trial must be stated in the petition; otherwise, the petition for *certiorari* must be dismissed. The importance of the dates cannot be understated, for such dates determine the timeliness of the filing of the petition for *certiorari*. As the Court has emphasized in *Tambong v. R. Jorge Development Corporation*:
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> > There are three essential dates that must be stated in a petition for *certiorari* brought under Rule 65. *First*, the date when notice of the judgment or final order or resolution was received; *second*, when a motion for new trial or reconsideration was filed; and *third*, when notice of the denial thereof was received. **Failure of petitioner to comply with this requirement shall be sufficient ground for the dismissal of the petition. Substantial compliance will not suffice in a matter involving strict observance with the Rules.** (Emphasis supplied)
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> The Court has further said in *Santos v. Court of Appeals*:

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15 G.R. No. 162230, August 12, 2014, 732 SCRA 595, 605-606.

> The requirement of setting forth the three (3) dates in a petition for *certiorari* under Rule 65 is for the purpose of determining its timeliness. Such a petition is required to be filed not later than sixty (60) days from notice of the judgment, order or *Resolution* sought to be assailed. Therefore, that the petition for *certiorari* was filed forty-one (41) days from receipt of the denial of the motion for reconsideration is hardly relevant. The Court of Appeals was not in any position to determine when this period commenced to run and whether the motion for reconsideration itself was filed on time since the material dates were not stated. It should not be assumed that in no event would the motion be filed later than fifteen (15) days. Technical rules of procedure are not designed to frustrate the ends of justice. These are provided to effect the proper and orderly disposition of cases and thus effectively prevent the clogging of court dockets. Utter disregard of the Rules cannot justly be rationalized by harking on the policy of liberal construction. (Citations omitted.)

In respondent's Petition for *Certiorari* before the Court of Appeals, there was only one paragraph under the heading of "Timeliness of the Petition," which alleged:

> The undersigned counsel received a copy of the decision of the Honorable Commission denying the [respondent's] Motion for Reconsideration on April 30, 2008. Hence, [respondent had] 60 days from notice of the judgment within which to file a petition for certiorari pursuant to Sec. 4 of Rule 65.[16]

The aforequoted paragraph in respondent's Petition for *Certiorari* not only failed to state all the material dates required by the Rules, but it also erroneously claimed that April 30, 2008 was the date respondent received the NLRC Resolution denying her Motion for Partial Reconsideration, when actually, it was the date said Resolution was issued. Respondent's Petition for *Certiorari* was totally silent as to the date when respondent received a copy of the NLRC Decision dated May 31, 2007; while it could be culled from other parts of the Petition that respondent filed her Motion for Partial Reconsideration of the NLRC Decision on July 13, 2007 and received the NLRC Resolution dated April 30, 2008 denying said Motion on June 11, 2008.

Absent the date when respondent received the NLRC Decision dated May 31, 2007, there is no way to determine whether respondent's Motion for Partial Reconsideration of the same was timely filed. A late motion for reconsideration would render the decision or resolution subject thereof already final and executory. Still, respondent argues that her receipt of the NLRC Decision dated May 31, 2007 on July 4, 2007 was stated in her Partial Motion for Reconsideration, which was attached to her Petition for *Certiorari*.

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16 CA *rollo*, p. 3.

It is true that in a number of cases, the Court relaxed the application of procedural rules in the interest of substantial justice. Nevertheless, the Court is also guided accordingly in this case by its declarations in *Sebastian v. Morales*[17]:

> Under Rule 1, Section 6 of the 1997 Rules of Civil Procedure, liberal construction of the rules is the controlling principle to effect substantial justice. Thus, litigations should, as much as possible, be decided on their merits and not on technicalities. This does not mean, however, that procedural rules are to be ignored or disdained at will to suit the convenience of a party. Procedural law has its own rationale in the orderly administration of justice, namely, to ensure the effective enforcement of substantive rights by providing for a system that obviates arbitrariness, caprice, despotism, or whimsicality in the settlement of disputes. Hence, it is a mistake to suppose that substantive law and procedural law are contradictory to each other, or as often suggested, that enforcement of procedural rules should never be permitted if it would result in prejudice to the substantive rights of the litigants.
>
> Litigation is not a game of technicalities, but every case must be prosecuted in accordance with the prescribed procedure so that issues may be properly presented and justly resolved. Hence, rules of procedure must be faithfully followed except only when for persuasive reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to explain his failure to abide by the rules. (Citations omitted.)

Respondent herein made no effort at all to explain her failure to state all the material dates in her Petition for *Certiorari* before the Court of Appeals. The bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel the Court to suspend procedural rules.[18] Absent compelling reason to disregard the Rules, the Court of Appeals should have had no other choice but to enforce the same by dismissing the noncompliant Petition.

There is also basis for granting the Petition at bar on substantive grounds.

The pivotal substantive issue in this case is whether or not respondent was illegally dismissed; which depends on the question of whether or not respondent's resignation was voluntary.

The Labor Arbiter held (and the Court of Appeals subsequently affirmed) that respondent's resignation was involuntary as she only resigned after being deceived into believing that her removal through retrenchment was inevitable, as well as after being threatened that her husband's

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17 445 Phil. 595, 605 (2003).

18 *Bergonia v. Court of Appeals*, 680 Phil. 334, 343 (2012).

employment would also be at risk if she did not submit her handwritten resignation letter. The NLRC though found that respondent, faced with retrenchment, opted to voluntarily resign and avail herself of the financial package petitioners offered.

Evidently, the instant Petition involves questions of fact that require the Court to review and re-examine the evidence on record. Generally, the Court does not review errors that raise factual questions. However, when there is conflict among the factual findings of the antecedent deciding bodies like the Labor Arbiter, the NLRC, and the Court of Appeals, it is proper, in the exercise of the equity jurisdiction of the Court, to review and re-evaluate the factual issues and to look into the records of the case and re-examine the questioned findings.[19]

The Court defined "resignation" in *Chiang Kai Shek College v. Torres,*[20] thus:

> Resignation is the voluntary act of an employee who is in a situation where one believes that personal reasons cannot be sacrificed for the favor of employment, and opts to leave rather than stay employed. It is a formal pronouncement or relinquishment of an office, with the intention of relinquishing the office accompanied by the act of relinquishment. As the intent to relinquish must concur with the overt act of relinquishment, the acts of the employee before and after the alleged resignation must be considered in determining whether, he or she, in fact, intended to sever his or her employment. (Citation omitted.)

For the resignation of an employee to be a viable defense in an action for illegal dismissal, an employer must prove that the resignation was voluntary, and its evidence thereon must be clear, positive, and convincing. The employer cannot rely on the weakness of the employee's evidence.[21]

In this case, petitioners, as employers, were able to present sufficient evidence to establish that respondent's resignation was voluntary.

As borne out by the Financial Statements for 2005 of petitioner BEMI, there was ground for the company to implement a retrenchment of its employees at the time respondent resigned.

Under Article 283[22] of Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended, retrenchment is one of the

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19 *Javier v. Fly Ace Corporation/Flordelyn Castillo*, 682 Phil. 359, 371 (2012).

20 G.R. No. 189456, April 2, 2014, 720 SCRA 424, 434.

21 *D.M. Consunji Corporation v. Bello*, G.R. No. 159371, July 29, 2013, 702 SCRA 347, 358.

22 ART. 283. *Closure of establishment and reduction of personnel.* – The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the worker and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to

authorized causes for termination of employment which the law accords an employer who is not making good in its operations in order to cut back on expenses for salaries and wages by laying off some employees. The purpose of retrenchment is to save a financially ailing business establishment from eventually collapsing.[23] The requirements for a valid retrenchment were laid down in *Asian Alcohol Corporation v. National Labor Relations Commission*[24]:

> The requirements for valid retrenchment which must be proved by clear and convincing evidence are: (1) that the retrenchment is reasonably necessary and likely to prevent business losses which, if already incurred, are not merely *de minimis*, but substantial, serious, actual and real, or if only expected, are reasonably imminent as perceived objectively and in good faith by the employer; (2) that the employer served written notice both to the employees and to the Department of Labor and Employment at least one month prior to the intended date of retrenchment; (3) that the employer pays the retrenched employees separation pay equivalent to one month pay or at least 1/2 month pay for every year of service, whichever is higher; (4) that the employer exercises its prerogative to retrench employees in good faith for the advancement of its interest and not to defeat or circumvent the employees' right to security of tenure; and (5) that the employer used fair and reasonable criteria in ascertaining who would be dismissed and who would be retained among the employees, such as status (*i.e.*, whether they are temporary, casual, regular or managerial employees), efficiency, seniority, physical fitness, age, and financial hardship for certain workers. (Citations omitted.)

Proof of financial losses becomes the determining factor in proving the legitimacy of retrenchment. In establishing a unilateral claim of actual or potential losses, financial statements audited by independent external auditors constitute the normal method of proof of profit and loss performance of a company. The condition of business losses justifying retrenchment is normally shown by audited financial documents like yearly balance sheets and profit and loss statements as well as annual income tax returns.[25] In *Hotel Enterprises of the Philippines, Inc., owner of Hyatt Regency Manila v. Samahan ng mga Manggagawa sa Hyatt-National Union of Workers in the Hotel and Restaurant and Allied Industries (SAMASAH-NUWHRAIN)*,[26] the Court affirmed the credence and weight accorded to audited financial statements as proof of the financial standing of a corporation:

> Losses or gains of a business entity cannot be fully and satisfactorily assessed by isolating or highlighting only a particular part of

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a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

23 *J.A.T. General Services v. National Labor Relations Commission,* 465 Phil. 785, 794 (2004).

24 364 Phil. 912, 926-927 (1999).

25 *Waterfront Cebu City Hotel v. Jimenez*, 687 Phil. 171, 182 (2012).

26 606 Phil. 490, 506-507 (2009).

> its financial report. There are recognized accounting principles and methods by which a company's performance can be objectively and thoroughly evaluated at the end of every fiscal or calendar year. What is important is that the assessment is accurately reported, free from any manipulation of figures to suit the company's needs, so that the company's actual financial condition may be impartially and accurately gauged.
>
> The audit of financial reports by independent external auditors is strictly governed by national and international standards and regulations for the accounting profession. It bears emphasis that the financial statements submitted by petitioner were audited by a reputable auditing firm and are clear and substantial enough to prove that the company was in a precarious financial condition. (Citation omitted.)

Petitioners submitted the Annual Income Tax Return and Financial Statements for 2005 of petitioner BEMI. Said Financial Statements of petitioner BEMI were audited by Armando J. Jimenez, a Certified Public Accountant (CPA) and independent auditor, whose credibility was never contested by respondent.

That petitioners were not able to present financial statements for years prior to 2005 should not be automatically taken against them. Petitioner BEMI was organized and registered as a corporation in 2004 and started business operations in 2005 only. While financial statements for previous years may be material in establishing the financial trend for an employer, these are not indispensable in all cases of retrenchment. The evidence required for each case of retrenchment will still depend on its particular circumstances. In fact, in *Revidad v. National Labor Relations Commission*,[27] the Court declared that "proof of actual financial losses incurred by the company is not a condition *sine qua non* for retrenchment," and retrenchment may be undertaken by the employer to prevent even future losses:

> In its ordinary connotation, the phrase "to prevent losses" means that retrenchment or termination of the services of some employees is authorized to be undertaken by the employer sometime before the anticipated losses are actually sustained or realized. It is not, in other words, the intention of the lawmaker to compel the employer to stay his hand and keep all his employees until after losses shall have in fact materialized. If such an intent were expressly written into the law, that law may well be vulnerable to constitutional attack as unduly taking property from one man to be given to another.

The Statement of Income[28] of petitioner BEMI for 2005 showed net loss in the amount of ₱3,293,816.14, computed as follows:

REVENUES	₱	13,109,653.19
DIRECT COSTS		10,789,820.80

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27 315 Phil. 372, 390 (1995).

28 *Rollo*, p. 59.

GROSS PROFIT		2,319,832.39
ADMINISTRATIVE EXPENSES		7,387,241.83
LOSS BEFORE TAX		(5,067,409.44)
TAX BENEFIT – NOLCO		1,773,593.30
NET LOSS	₱	(3,293,816.14)

Irrefragably, such loss was actual and substantial for a newly-established corporation during its first year of operation, and there is no showing that such loss would abate in the near future. By year end of 2005, the stockholders of petitioner BEMI had to infuse cash advances amounting to ₱7,361,743.30 to cover the deficit of ₱3,293,816.14 just so the company could continue its operations.[29] Actually, petitioner BEMI continued to suffer loss in 2006 which compelled it to close its coffee shop at MLSC by August 31, 2006.[30]

Petitioner BEMI had to act swiftly and decisively to avert its loss since its MOA with ADMU for the conduct of its business at MLSC was for a period of only a little over three years. The retrenchment of employees appears to be a practical course of action for petitioner BEMI to prevent more losses considering that: (1) among the direct costs of the company in 2005, the salaries of its coffee shop and gym employees was the highest item, totaling ₱3,791,671.81; and (2) as the NLRC pointed out, the gross profit of the company amounting to ₱2,319,832.39 was not even sufficient to cover its administrative employees' salaries and wages in the amount of ₱2,969,986.15, not to mention other administrative expenses. The Court also bears in mind that petitioner BEMI had to absorb all the employees of the previous operator when it took over the business.

The evaluation and identification of the employees to be retrenched were jointly undertaken by petitioners Bonoan and Dela Rama, as the General Manager and HR Manager, respectively, of petitioner BEMI, based on fair and reasonable criteria, *i.e.*, the employees' positions and tenures at the company. Respondent was included in the final list of five employees to be retrenched because she was one of the employees with the shortest tenures. That there were four other employees of petitioner BEMI who were to be retrenched and similarly offered the option of resigning in exchange for a more favorable financial package refutes respondent's insinuation of a scheme by petitioners to remove her because of Dr. Florendo's complaint against her for the incident that took place in December 2005.

Because the five employees to be retrenched opted to voluntarily resign instead and avail themselves of the financial package offered, there

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29 Id. at 63.

30 Id. at 71.

was no more need for petitioner BEMI to comply with the notice requirement to the Department of Labor and Employment. Said five employees were to receive more benefits than what the law prescribed in case of retrenchment, particularly: (a) full salary for February 2006 although they were no longer required to report to work after submission of their resignation letters in mid-February 2006; (b) pro-rated 13th month pay; and (c) financial assistance equivalent to one-month salary for every year of service.

The foregoing circumstances persuade the Court that no fraud or deception was employed upon respondent to resign because petitioner BEMI was indeed about to implement in good faith a retrenchment of its employees in order to advance its interest and not merely to defeat or circumvent the respondent's right to security of tenure.

Petitioners, moreover, were able to present respondent's resignation letter, written and signed in her own hand, the material portion of which is reproduced below:

> *Ako ay magbibitiw sa aking position bilang maintenance personnel sa Feb. 28, 2006. Makukuha ko ang aking huling sweldo sa Feb. 28, 2006. At makukuha ko ang aking separation pay at pro-rated 13th month pay sa Marso 2006.*[31]

Both the Labor Arbiter and the Court of Appeals invoked the oft-repeated ruling of the Court that resignation is inconsistent with the filing of the complaint for illegal dismissal.[32] However, the employee's filing of the complaint for illegal dismissal by itself is not sufficient to disprove that said employee voluntarily resigned. There must be other attendant circumstances and/or submitted evidence which would raise a cloud of doubt as to the voluntariness of the resignation.

In the present case, respondent's actions were more consistent with an intentional relinquishment of her position pursuant to an agreement reached with petitioners. After respondent submitted her resignation letter on February 20, 2006, she no longer reported for work. There is no showing that respondent, before March 3, 2006, made any attempt to contest her resignation, or to report for work but was prevented from doing so by petitioners. Respondent appeared at the premises of petitioner BEMI on March 3, 2006 when, as stated in her resignation letter, her salary for February 2006 and other benefits would have already been available for release. Respondent, unable to find new employment, merely took the chance of requesting to be rehired by petitioner BEMI and when she was refused, belatedly decried illegal dismissal.

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31 Id. at 73.

32 *Magis Young Achievers' Learning Center v. Manalo*, 598 Phil. 886, 905 (2009).

According to respondent, during her meeting with petitioner Dela Rama and Chiongson/Tiongson on February 20, 2006, she was threatened that if she did not follow instructions and execute a handwritten resignation letter, her husband's employment would also be in jeopardy.

The Court is not swayed.

Aside from respondent's bare allegations, there is no proof of such threat ever being made. While respondent claimed that her husband's employment was also connected with petitioner BEMI, she did not provide any other details. Without such details, there is no basis for determining the extent of control or influence petitioners actually had over the employment of respondent's husband as to make said threat plausible. Therefore, it could not be said that respondent's consent to execute the resignation letter was vitiated by coercion or intimidation. Pertinent herein are the findings made by the Court in *Gan v. Galderma Philippines, Inc.*[33] that:

> Gan could not have been coerced. Coercion exists when there is a reasonable or well-grounded fear of an imminent evil upon a person or his property or upon the person or property of his spouse, descendants or ascendants. Neither do the facts of this case disclose that Gan was intimidated. In *St. Michael Academy v. NLRC*, we enumerated the requisites for intimidation to vitiate one's consent, thus:
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> > x x x (1) that the intimidation caused the consent to be given; (2) that the threatened act be unjust or unlawful; (3) that the threat be real or serious, there being evident disproportion between the evil and the resistance which all men can offer, leading to the choice of doing the act which is forced on the person to do as the lesser evil; and (4) that it produces a well-grounded fear from the fact that the person from whom it comes has the necessary means or ability to inflict the threatened injury to his person or property x x x.
>
> The instances of "harassment" alleged by Gan are more apparent than real. Aside from the need to treat his accusations with caution for being self-serving due to lack of substantial documentary or testimonial evidence to corroborate the same, the acts of "harassment," if true, do not suffice to be considered as "peculiar circumstances" material to the execution of the subject resignation letter. (Citations omitted.)

It is inconsequential that the contents of respondent's resignation letter was dictated by petitioner Dela Rama and, per the Labor Arbiter's observation, reads more of a quitclaim rather than a resignation letter, for as long as respondent wrote down and signed said letter by her own volition. In *Samaniego v. National Labor Relations Commission,*[34] the Court accorded weight to the resignation letters of the employees because although said letters were prepared by the company, the employees signed the same

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33 701 Phil. 612, 640-641 (2013).

34 275 Phil. 126, 134 (1991).

voluntarily. Granted that the employees in *Samaniego* were managerial employees, while respondent in the present case was a rank and file employee, the financial situation of petitioner BEMI, the need for retrenchment, and the option to voluntarily resign and the financial package which respondent could avail herself of were duly explained to respondent during the meeting on February 20, 2006; and respondent's resignation letter was in Filipino, using simple terms which could be easily understood.

Furthermore, even if said resignation letter also constituted a quitclaim, respondent cannot simply renege on the same. The Court once more quotes from *Asian Alcohol Corporation*:

> Finally, private respondents now claim that they signed the quitclaims, waivers and voluntary resignation letters only to get their separation package. They maintain that in principle, they did not believe that their dismissal was valid.
>
> It is true that this Court has generally held that quitclaims and releases are contrary to public policy and therefore, void. Nonetheless, voluntary agreements that represent a reasonable settlement are binding on the parties and should not later be disowned. It is only where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or the terms of the settlement are unconscionable, that the law will step in to bail out the employee. While it is our duty to prevent the exploitation of employees, it also behooves us to protect the sanctity of contracts that do not contravene our laws.
>
> In the case at bar, there is no showing that the quitclaims, waivers and voluntary resignation letters were executed by the private respondents under force or duress. In truth, the documents embodied separation benefits that were well beyond what the company was legally required to give private respondents. We note that out of more than one hundred workers that were retrenched by Asian Alcohol, only these six (6) private respondents were not impressed by the generosity of their employer. Their late complaints have no basis and deserve our scant consideration.[35]

As a final note in this case, it is worthy to reiterate the following pronouncements of the Court in *Solidbank Corporation v. National Labor Relations Commission*[36]:

> Withal, the law, in protecting the rights of the laborers, authorizes neither oppression nor self-destruction of the employer. While the Constitution is committed to the policy of social justice and the protection of the working class, it should not be supposed that every labor dispute will be automatically decided in favor of labor. The management also has its own rights, as such, are entitled to respect and enforcement in the interest of simple fair play. Out of its concern for those with less privileges in life, the Supreme Court has inclined more often than not toward the worker and upheld his cause in his conflicts with the employer. Such

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35 *Asian Alcohol Corporation v. National Labor Relations Commission*, supra note 24 at 933-934.

36 631 Phil. 158, 174 (2010).

> favoritism, however, has not blinded the Court to the rule that justice is in every case for the deserving, to be dispensed in the light of the established facts and applicable law and doctrine. (Citation omitted.)

WHEREFORE, premises considered, the instant Petition for Review on *Certiorari* is **GRANTED**. The Decision dated March 11, 2010 and Resolution dated June 2, 2010 of the Court of Appeals in CA-G.R. SP No. 106037 are **REVERSED and SET ASIDE**. The Decision dated May 31, 2007 of the National Labor Relations Commission in NLRC NCR CA No. 051363-07 is **REINSTATED**.

SO ORDERED.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

ESTELA M. PERLAS-BERNABE
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