Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

OASIS PARK HOTEL,
Petitioner,

- *versus* -

LESLEE G. NAVALUNA, AMIE M. TUBELLEJA, JOAN REODIQUE, JOCELYN ORENCIADA, ELLAINE B. VILLAGOMEZ, OLIVIA E. AMASOLA and JONA MAE COSTELO,
Respondents.

G.R. No. 197191

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PERLAS-BERNABE,* and
CAGUIOA, *JJ.*

Promulgated:

NOV 2 1 2016

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DECISION

LEONARDO-DE CASTRO, *J.*:

In this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, petitioner Oasis Park Hotel assails the Resolutions dated January 26, 2011[1] and June 6, 2011[2] of the Court of Appeals in CA-G.R. SP No. 117663 which, respectively, dismissed the Petition for *Certiorari* under Rule 65 of the Revised Rules of Court due to procedural infirmities and denied the Motion for Reconsideration of petitioner. The appellate court effectively affirmed the Decision[3] dated August 31, 2010 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 11-003089-09 which (a) reversed the Decision[4] of the Labor Arbiter (LA) in NLRC NCR Case Nos. 11-15936-08, 11-16353-08, and 01-01669-09, finding the dismissal of respondents Leslee G. Navaluna, Amie M. Tubelleja, Joan Reodique, Jocelyn Orenciada, Jona Mae Costelo, Olivia E. Amasola, and Ellaine B. Villagomez valid; (b) declared that respondents were illegally dismissed; and (c) ordered petitioner to immediately reinstate respondents to their

* On official leave.
1 *Rollo*, pp. 75-77; penned by Associate Justice Ramon R. Garcia with Associate Justices Rosmari D. Carandang and Manuel M. Barrios concurring.
2 Id. at 79-83.
3 Id. at 57-65; penned by Commissioner Perlita B. Velasco with Commissioner Romeo L. Go concurring, Presiding Commissioner Gerardo C. Nograles took no part.
4 Id. at 49-54; penned by Labor Arbiter Arthur L. Amansec.

former positions, pay respondents full backwages, wage differentials, and proportionate 13th month pay.

Respondents were variously employed by petitioner as food attendant, cashier, or front desk clerk since 2003 to 2004.

Respondents, believing that they were not being accorded the labor standard benefits for regular employees, filed on August 28, 2008 a complaint for violation of labor standard laws against petitioner and/or the spouses Jean and William Victor (also called Bill) Percy, President and Vice President, respectively, of petitioner, before the Department of Labor and Employment (DOLE), docketed as NCROO-MFO-0809-IS-004. Respondents, though, continued reporting for work, confident that they were merely exercising their constitutional rights.

On September 17, 2008, petitioner issued a similarly worded Notice to Explain and Preventive Suspension[5] to each respondent. The Notice required respondents to submit within five days from notice their written explanation on why they should not be subject to disciplinary action or their services terminated for the following alleged offenses:

> a. Serious Misconduct and Willful Breach of the trust reposed upon you by management, specifically when you, together with [names of the other co-respondents], conspired among yourselves to sabotage the operations of the hotel by committing the following acts:
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> 1 By being moody and miserable in dealing with the hotel's customers;
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> 2 By intentional "slowdown" in the performance of your duties;
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> b. Serious Misconduct, specifically by breeding contempt and fostering discontent among your co-workers through rumor mongering, discourtesy and crude attitude towards management.

The Notice also summoned respondents, assisted by their counsel, if they so desired, to attend the investigation/conference as regards their administrative cases on September 24, 2008 at the office of petitioner's counsel. Respondents' failure to submit their written explanation within the prescribed period or to attend the scheduled hearing would be deemed as a waiver of the same. The Notice further placed respondents on preventive suspension effective immediately and during the course of the investigation as their continued presence at the hotel "will pose a meaningful disruption in the productive operations."

Respondents individually submitted their written explanations to refute the charges against them,[6] but did not attend the administrative

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5 Id. at 114-120.

6 Id. at 121-128.

hearing. On October 16, 2008, petitioner issued to each respondent a written Notice of Termination,[7] all identically stating that:

> Based on your written explanation and your refusal and failure to attend the administrative hearing, you failed to present reasonable justification and sufficient evidence to counter the charges against you.
>
> After a thorough and careful deliberation of the evidence presented and investigation, management hereby finds that there exists substantial evidence establishing that you had committed all the said offenses charged against you. The offenses that you had committed constitute serious misconduct, willful disobedience of lawful orders of management and willful breach of the trust reposed on you by management, which are just causes of termination of employment according to Article 282 of the Labor Code of the Philippines.
>
> Considering the gravity of the offenses that you had committed, your failure to dutifully perform your functions, and your previous offenses against the company, your employment is hereby terminated effective immediately from the date of this Notice.

Consequently, respondents filed before the NLRC three separate complaints for illegal dismissal, underpayment of wages and labor standard benefits, damages, and attorney's fees, against petitioner and the spouses Percy, docketed as NLRC NCR Case Nos. 11-15936-08, 11-16353-08, and 01-01669-09.

In their Position Papers, respondents averred that the acts imputed against them by petitioner were not substantiated and did not constitute serious misconduct. Hence, there was no valid ground for their termination. Respondents asserted that they were dismissed as retaliation for their prior complaint against petitioner and the spouses Percy filed before the DOLE, *i.e.*, NCROO-MFO-0809-IS-004. After receiving notice of NCROO-MFO-0809-IS-004, the spouses Percy verbally and emotionally maltreated respondents even more. Bill, in particular, became more vicious when he was drunk, throwing ice cubes and empty bottles, and uttering offensive remarks at respondents, such as "fuck you," "take off your pants," "do you want to have sex with a fat old guy," "you're fucking stupid," or "fucking idiot." During those moments, respondents would just reply to Bill "I love you, sir," to avoid further trouble. Subsequently, respondents were strictly prohibited from entering the main restaurant and transferred to the newly reopened sports bar, which was located at what used to be a stock area. Jean reportedly commented about respondents' transfer that, "*mabuti yan, para lamukin sila*."

Petitioner and the spouses Percy maintained that respondents were terminated for intentionally slowing down the performance of their duties; being rude, moody, and miserable towards the patrons of the hotel; and breeding contempt and fostering discontent among other employees, which

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[7] Id. at 129-142.

amount to serious misconduct and wilful breach of trust punishable by termination. Petitioner and the spouses Percy also argued that they had fully complied with labor standard laws, and that respondents were dismissed only after compliance with the twin requirements of notice and hearing.

On September 10, 2009, the Labor Arbiter rendered a Decision favoring petitioner and the spouses Percy. According to the Labor Arbiter:

> [Respondents'] acts, established by substantial evidence, notably, by the verified Position Paper and its Annexes, coupled with Affidavits of witnesses (Annexes A, B, and C of [petitioner and the spouses Percy's] Sur-Rejoinder) submitted by the [petitioner and the spouses Percy], constitute serious misconduct that justified the [petitioner] hotel into validly dismissing them from employment under Article 282 of the Labor Code. Maintaining them in its employ would further ruin the reputation of the hotel and ultimately destroy its business altogether.
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> As the [petitioner and the spouses Percy's] Position Paper validly argues: *It is respectfully submitted that the acts of [respondents] fall within the purview of what is serious misconduct which is a just cause for termination under the Labor Code. [Respondents] were food attendants for [petitioner] Oasis Park Hotel ("Hotel" for brevity). As food attendants, their primary responsibility is to attend to the customers of the [petitioner] Hotel. As food attendants, they were supposed to show the [petitioner] hotel's customers that they were very much happy and willing to accommodate them. They were supposed to answer the legitimate needs of the [petitioner] hotel's customers. When they have shown their lack of interests in serving the [petitioner] hotel's customers, when they were intentionally slow in answering the orders of the said customers, when they worked very sluggish in the performance of their primary duties, these acts constitute dereliction of duty and, thus, qualify as a misconduct. Such acts of misconduct are of grave and aggravated character considering that to serve with gusto and eagerness the [petitioner] hotel's customers are their primary duty and the fact that these acts were done intentionally completely make it serious misconduct.*
>
> *Indeed, with a mental make-up and disposition that would drive away our country's tourists, the [respondents] do not deserve a place in the hotel industry.*[8]

The Labor Arbiter, while denying respondents' claims for overtime pay, night shift differential pay, premium pay for holiday and rest day work, and damages, granted respondents' claims for proportionate 13th month pay for October 2008 and wage differentials due to underpayment of wages.

The dispositive portion of the Labor Arbiter's Decision reads:

> WHEREFORE, judgment is hereby made dismissing as wanting in merit the charge of illegal dismissal but ordering the [petitioner] hotel to pay each [respondent] a proportionate 13th month pay for the year 2008.

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8 Id. at 52-53.

> The [petitioner] hotel is also ordered to pay each [respondent] wage differentials arising from underpayment of wages but subject to the usual three years prescriptive period on money claims.
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> Other claims are dismissed for lack of merit[9].

Respondents filed an appeal before the NLRC, docketed as NLRC LAC No. 11-003089-09. In its Decision dated August 31, 2010, the NLRC found:

> At the outset, it bears stressing the well-entrenched rule in dismissal cases that the *onus* of proving that the employee was not dismissed or if dismissed, that the dismissal was not illegal, rests on the employer and failure to discharge the same would mean that the dismissal is not justified and therefore illegal. Thus, the employer must not only rely on the weakness of the employees' evidence but must stand on the merits of their own defense. A party alleging a critical fact must support his allegation with substantial evidence for any decision based on unsubstantiated allegation cannot stand as it will offend due process. (*Dina Abad et al., vs. Roselle Cinema Silverscreen Corp. and Vermy Trinidad*, G.R. No. 141371, March 24, 2006)
>
> In the case at bar, We find that [petitioner and the spouses Percy] failed to hurdle the aforesaid duties. By relying alone on the affidavits attached to Sur-Rejoinder, [petitioner and the spouses Percy], in effect, put the cart before the horse when they dismissed the [respondents] on account of the alleged offenses. In other words, [petitioner and the spouses Percy] failed to present substantial evidence to support their accusations against [respondents] at the time they were dismissed from employment. As correctly pointed out by the [respondents], the belated execution of the questioned affidavits a year after the alleged infractions only tend to show that their dismissals were not supported by any evidence, much less substantial evidence, since the likelihood being that they were non-existing evidence at the time of the alleged investigation conducted by [petitioner]. This likelihood was further bolstered by the fact that [petitioner and the spouses Percy] considered the belated submission of the said affidavits of witnesses in their Sur-Rejoinder as newly discovered evidence, an implied admission that they were non-existing evidence at the very time [petitioner and the spouses Percy] supposedly deliberated on the dismissal of the [respondents].
>
> The same is true anent the Position Paper filed by [petitioner and the spouses Percy]. Contrary to the Labor Arbiter's finding, such can never partake of an evidence nor carries evidentiary weight, unless substantiated with the quantum of evidence required in this proceedings. For it is an elementary rule that mere allegations are not evidence.
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> Moreover, We note the proximity of the complaint filed by [respondents] against the [petitioner] for violation of labor laws, in one hand, and the date [petitioner and the spouses Percy] subsequently effected their dismissals, on the other. The lapse of the short period of time between the two inextricably related incidents further lends strong credence upon the [respondents'] stance that their dismissal was in retaliation to their filing of said complaint.

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9 Id. at 54.

The foregoing disquisitions are in accord with the settled rule in termination cases enunciated in *Acebedo Optical vs. NLRC*, G.R. No. 150171, July 17, 2007, thus:

> *"From the preceding discussion, the dearth of reliable evidence on record constitutes serious doubt as to the factual basis of the charge of violation of company policy filed against private respondent. This doubt shall be resolved in her favor in line with the policy under the Labor Code to afford protection to labor and construe doubts in favor of labor. The consistent rule is that if doubts exist between the evidence presented by the employer and the employee, the scales of justice must be tilted in favor of the latter. The employer must affirmatively show rationally adequate evidence that the dismissal was for a justifiable cause. Having failed to satisfy this burden of proof, we find that petitioners dismissed private respondent without just cause. Consequently, the termination of her employment was illegal."* x x x.[10]

The NLRC decreed in the end:

> **WHEREFORE**, the appeal is hereby GRANTED and the appealed decision of the Labor Arbiter is SET ASIDE in so far as it upheld as valid the termination of [respondents]. A new one is issued finding all [respondents] to have been illegally dismissed from employment. Accordingly, [petitioner] Oasis Park Hotel owned by Perth, Incorporated is hereby ordered to immediately reinstate [respondents] to their former positions without loss of seniority rights and pay them full backwages computed from date of their dismissal up to their actual reinstatement. The monetary award as of the date of this Decision is appended as Annex "A".
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> The grant of wage differentials and proportionate 13th month pay is AFFIRMED.[11]

The NLRC, in a Resolution[12] dated November 30, 2010, denied the Motion for Reconsideration of petitioner and the spouses Percy.

Aggrieved, petitioner filed before the Court of Appeals a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court, docketed as CA-G.R. SP No. 117663.

The Court of Appeals issued a Resolution dated January 26, 2011 dismissing the Petition in CA-G.R. SP No. 117663 due to the following procedural infirmities:

> 1) Incomplete verified statement of material dates as to the date of receipt of the assailed Decision dated August 31, 2010 of public respondent NLRC and the date of filing of the motion for

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10 Id. at 61-63.
11 Id. at 63-64.
12 Id. at 70-73.

reconsideration thereof in violation of Section 3, Rule 46 of the Revised Rules of Court;

2) Defective Verification and Certificate of Non-Forum Shopping and Affidavit of Service dated January 17, 2011 in that the same were not accompanied by duly accomplished *jurat* indicating the respective affiants' competent evidence of identity pursuant to A.M. 02-8-13-SC dated February 19, 2008, which amended Section 12(a), Rule II of the 2004 Rules on Notarial Practice, for failure to attach photocopies of their valid identification cards showing their photographs thereon;

3) The petition was not accompanied by other material supporting documents which were filed before the Labor Arbiter such as certified true copies of the respective complaints for illegal dismissal filed by private respondents in violation of Section 3, Rule 46 of the Revised Rules of Court;

4) The Affidavit of Fact dated September 8, 2008, marked as Annex "2" of petitioners' Position Paper filed before the Labor Arbiter, which in turn is marked as Annex "F" of the instant petition, is not a clear and legible copy thereof;

5) There was no proof of service of the petition upon private respondents in violation of Section 3, Rule 46 of the Revised Rules of Court in relation to Section[s] 2 and 13, Rule 13 of the same Rules; and

6) The petition's caption is defective for failure to implead the complete names of all private respondents pursuant to Section 1, Rule 7 of the Revised Rules of Court.[13]

Consequently, the Court of Appeals resolved:

WHEREFORE, premises considered, the instant petition is hereby **DISMISSED**. This case is considered **CLOSED** and **TERMINATED**.[14]

Petitioner filed a Motion for Reconsideration, to which respondents filed a Comment. In its Resolution dated June 6, 2011, the Court of Appeals denied the Motion for Reconsideration of petitioner. On procedural matters, the appellate court adjudged:

After going over the grounds raised in the said Motion for Reconsideration, *vis-vis* the Comment filed by private respondents, We find that petitioner still failed to substantially rectify all the infirmities cited in the Resolution dated January 26, 2011.

First, petitioner failed to sufficiently comply with the requirement of a *verified petition* which shall indicate the *material dates* to show the timeliness of its filing in accordance with Section 3, Rule 46, in relation to Section 1, Rule 65 of the Rules of Court. Contrary to petitioner's asseveration that its failure to state the date of receipt of the assailed NLRC Decision dated August 31, 2010 is not a fatal defect, it bears to

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13 Id. at 76.

14 Id. at 77.

> stress the well-settled rule that there are three (3) material dates that must be stated in a petition for certiorari under Rule 65, *i.e.* (1) the date when notice of the judgment or final order or resolution was received; (2) the date when a motion for new trial or reconsideration was filed; and (3) the date when notice of the denial thereof was received.
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> Second, We find no sufficient justification for petitioner's failure to attach the other pertinent and relevant portions of the records of the case such as the respective complaints for illegal dismissal filed by private respondents before the Labor Arbiter. Also, the attached affidavit of fact which is a material part of the records of the case was not clear and legible. These documents are relevant and pertinent for proper appreciation of the antecedent facts and the complete disposition of the case pursuant to Section 3, Rule 46 of the Rules of Court.
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> Third, petitioner's reason of inadvertence does not constitute justifiable circumstance that could excuse non-compliance with the rule requiring that all the names of the parties be indicated in the petition pursuant to Section 1, Rule 7 of the Rules of Court.
>
> Verily, Section 3, Rule 46 of the Rules of Court is explicit that the failure of petitioner to comply with any of the requirements set forth therein shall be a sufficient ground for the dismissal of the petition. The rules of procedure are tools designed to promote efficiency and orderliness, as well as, to facilitate attainment of justice, such that strict adherence thereto is required. Their application may be relaxed only when rigidity would result in a defeat of equity and substantial justice, which is not present in the case at bar.[15]

The Court of Appeals also did not find merit in the substantive grounds argued by petitioner:

> After considering the records, We find that petitioner failed to adduce sufficient evidence to prove that private respondents committed serious misconduct and willful disobedience warranting their dismissal from employment.
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> To prove the charges of serious misconduct and willful disobedience, petitioner relied on the affidavits of its alleged witnesses executed a year after the alleged infractions were committed by private respondents. Petitioner also labeled these as newly-discovered evidence when the same were presented before the Labor Arbiter. However, a perusal of the aforesaid affidavits readily reveals that these are clearly self-serving and mere afterthought. They could not be given evidentiary weight considering that they were executed a year after the alleged infraction were committed by private respondents and sans any explanation as to their unavailability at the time of the supposed investigation conducted by petitioner prior to private respondents' termination. Hence, We agree with the NLRC in holding that the belated execution of the questioned affidavits which were considered by petitioner as newly-discovered evidence clearly shows that the dismissal of private respondents were not supported by substantial evidence.
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> Any allegation constituting serious misconduct or willful disobedience that warrants the dismissal of an employee must be proven

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15 Id. at 80-81.

> by facts and substantial evidence, or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Thus, when there is no showing of a clear, valid and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal.
>
> In fine, for a writ of certiorari to issue, it is a condition *sine qua non* that there be grave abuse of discretion or such capricious and whimsical exercise of judgment, or is equated to lack of jurisdiction. It must be shown that the discretion was exercised arbitrarily, or despotically, or whimsically. We find neither lack of jurisdiction nor grave abuse of discretion on the part of the NLRC in rendering the assailed Decision dated August 31, 2010.[16]

Hence, petitioner comes before the Court *via* the instant Petition which raises the following assignment of errors:

> THE COURT OF APPEALS COMMITTED GRAVE ERROR OF LAW IN SUSTAINING THE NATIONAL LABOR RELATIONS COMMISSION'S FINDING THAT THE RESPONDENTS WERE ILLEGALLY DISMISSED, DEPARTING FROM APPLICABLE DECISIONS OF THIS HONORABLE TRIBUNAL.
>
> THE COURT OF APPEALS OVERLOOKED MATERIAL CIRCUMSTANCES AND FACTS WHICH WERE NOT DISPUTED AND IF TAKEN INTO ACCOUNT WOULD SIGNIFICANTLY ALTER THE COURT'S RESOLUTION.
>
> THE COURT OF APPEALS COMMITTED GRAVE ERROR OF LAW IN DISMISSING PETITIONER'S PETITION FOR CERTIORARI ON ALLEGED PROCEDURAL INFIRMITIES.[17]

The Court determines that the issues for its resolution are (1) substantive, whether or not respondents were illegally dismissed; and (2) procedural, whether or not the Petition for *Certiorari* of petitioner in CA-G.R. SP No. 117663 was dismissible for its procedural infirmities.

The Court addresses the procedural issue first and rules that the Court of Appeals did not commit any reversible error for dismissing the Petition for *Certiorari* of petitioner in CA-G.R. SP No. 117663 for failing to state the material dates as required by Rule 46, Section 3 of the Revised Rules of Court.

It is settled that the mode of judicial review over decisions of the NLRC is by a petition for *certiorari* under Rule 65 of the Revised Rules of Court filed before the Court of Appeals. This special original action is limited to the resolution of jurisdictional issues, that is, lack or excess of jurisdiction and grave abuse of discretion amounting to lack of jurisdiction.[18]

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16 Id. at 82-83.

17 Id. at 20.

18 *St. Martin Funeral Home v. National Labor Relations Commission*, 356 Phil. 811, 819 (1998).

To recall, the Court of Appeals identified in its Resolution dated January 26, 2011 six procedural infirmities as grounds for the dismissal of the Petition for *Certiorari* in CA-G.R. SP No. 117663. Out of the six procedural infirmities, though, five are without basis or are not fatal to the Petition, *viz.*:

(a) The Verification and Certificate of Non-Forum Shopping and Affidavit of Service attached to the Petition were accompanied by a duly accomplished *jurat* indicating the respective affiants' competent evidence of identity, particularly, their Social Security System Card and Voter's ID, respectively.[19] The Court already pointed out in *Heirs of Amada Zaulda v. Isaac Zaulda*,[20] that dismissal by the Court of Appeals of the petition for lack of competent evidence on the affiant's identity on the attached verification and certification against forum shopping was without clear basis. The 2004 Rules on Notarial Practice does not require the attachment of a photocopy of the identification card in the document. Even A.M. No. 02-8-13-SC, amending Section 12 thereof, is silent on it.

(b) When service is done by registered mail, proof of service shall consist of the affidavit of the person effecting the mailing and the registry receipt,[21] both of which are present in this case. The notarized Affidavit of Service attached to the Petition stated that a copy of said Petition was served by registered mail upon Atty. Nicolas B. Medenilla, respondents' counsel, and indicated as well the corresponding registry receipt number and date and place the mail was posted. The registry receipt was attached to the Affidavit of Service. Service upon Atty. Medenilla is sufficient as the Court had previously declared that if a party to a case has appeared by counsel, service of pleadings and judgments shall be made upon said counsel, unless service upon the party is specifically ordered by the court.[22]

(c) The failure of petitioner to implead the complete names of all private respondents in the caption of the Petition did not warrant the dismissal of said Petition, especially when all the names and circumstances of the parties were stated in the body of the Petition, under "PARTIES." As the Court held in *Genato v. Viola*:[23] "It is not the caption of the pleading but the allegations therein that are controlling. The inclusion of the names of all

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19 Rule II, Section 12 of the 2004 Rules on Notarial Practice, as amended, reads:

Sec. 12. *Competent Evidence of Identity.* – The phrase "competent evidence of identity" 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 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, certificate from the National Council for the Welfare of Disabled Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification[.] (Emphases supplied.)

20 729 Phil. 639, 649-650 (2014).

21 *Lisondra v. Megacraft International Corp.*, G.R. No. 204275, December 9, 2015.

22 *Mojar v. Agro Commercial Security Service Agency, Inc.*, 689 Phil. 589, 599 (2012).

23 625 Phil. 514, 525 (2010).

the parties in the title of a complaint is a formal requirement under Section [1], Rule 7 of the Rules of Court. However, the rules of pleadings require courts to pierce the form and go into the substance. The non-inclusion of one or some of the names of all the complainants in the title of a complaint, is not fatal to the case, provided there is a statement in the body of the complaint indicating that such complainant/s was/were made party to such action."

(d) The failure of petitioner to attach to the Petition respondents' complaints before the NLRC, as well as a clear and legible copy of the Affidavit of Fact dated September 8, 2008, likewise did not justify the dismissal of said Petition. In *Gutierrez v. Valiente*,[24] the Court described what constitutes relevant or pertinent documents under Rule 65, Section 1 of the Revised Rules of Court:

> With regard to the failure to attach material portions of the record in support of the petition, Section 1 of Rule 65 of the Rules of Court requires that petition for *certiorari* shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the records as are referred to therein, and other documents relevant or pertinent thereto; and failure of compliance shall be sufficient ground for the dismissal of the petition.
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> x x x x
>
> These documents, however, are not at all relevant to the petition for *certiorari*. Since the issue of whether the RTC committed grave abuse of discretion pertained only to the Orders dated May 15, 2000, June 23, 2003, June 9, 2004 and September 9, 2004, copies of said Orders would have sufficed as basis for the CA to resolve the issue. It was in these Orders that the RTC supposedly made questionable rulings. Thus, the attachment of these Orders to the petition was already sufficient even without the other pleadings and portions of the case record. Moreover, Spouses Gutierrez corrected the purported deficiency by submitting the required documents in their Motion for Reconsideration.
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> In *Air Philippines Corporation v. Zamora*, the Court clarified that not all pleadings and parts of case records are required to be attached to the petition; only those pleadings, parts of case records and documents which are material and pertinent, in that they may provide the basis for a determination of a *prima facie* case for abuse of discretion, are required to be attached to a petition for *certiorari*, and omission to attach such documents may be rectified by the subsequent submission of the documents required. (Citations omitted.)

Based on the foregoing, copies of the NLRC Decision dated August 31, 2010 and Resolution dated November 30, 2010 attached to the Petition would have sufficed. Even if respondents' complaints before the NLRC and the Affidavit of Fact dated September 8, 2008 were arguably "relevant and

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[24] 579 Phil. 486, 496-497 (2008).

pertinent for proper appreciation of the antecedent facts and the complete disposition of the case x x x," then the Court of Appeals could have simply required their subsequent submission.

Nonetheless, the Petition for *Certiorari* in CA-G.R. SP No. 117663 did fail to comply with one requirement which cannot be excused, *i.e.*, the statement of material dates, specifically, the date petitioner received a copy of the NLRC Decision dated August 31, 2010.

Petitioner insists that the date they received the NLRC Decision dated August 31, 2010 is immaterial, as the 60-day period for filing its Petition for *Certiorari* in CA-G.R. SP No. 117663 is reckoned from the date it received the NLRC Resolution dated November 30, 2010 denying its Motion for Reconsideration.

Petitioner's argument is without merit.

Apropos herein is the following disquisition of the Court on the matter in *Blue Eagle Management, Inc. v. Naval*[25]:

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

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25 G.R. No. 192488, April 19, 2016.

> The failure of the petitioner to comply with any of the foregoing requirements shall be **sufficient ground for the dismissal of the petition**. x x x.

The Court, in *Vinuya v. Romulo*, 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*:
>
> > 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.** x x x.

The Court has further said in *Santos v. Court of Appeals*:

> > 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. x x x.
>
> x x x x

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. x x x

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*:

> 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. x x x. (Citations omitted.)

Based on the rules and jurisprudence, the Court of Appeals correctly dismissed the Petition for *Certiorari* in CA-G.R. SP No. 117663 for failure to state material dates.

The Court, furthermore, finds no persuasive reason to relax or liberally apply the rules of procedure in the instant Petition for the sake of substantive justice, as the finding of the NLRC, sustained by the Court of Appeals, that respondents were illegally dismissed by petitioner is supported by the evidence or record.

Article 277 of the Labor Code guarantees the right of an employee to security of tenure, thus –

> (b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment. Any decision taken by the employer shall be without prejudice to the right of the worker to contest the validity or legality of his dismissal by filing a complaint with the regional branch of the National Labor Relations Commission. The burden of proving that the termination was for a valid or authorized cause shall rest on the employer.
> x x x.

It is clear from the above provision that the dismissal of respondents may be sustained only if shown to have been made for a just and authorized cause and with due process; and that the burden of proving that the termination was for a valid or authorized cause rests upon the employer.

Time and again, the Court has ruled that in illegal dismissal cases, the *onus* of proving that the employee was not dismissed or if dismissed, that the dismissal was not illegal, rests on the employer, and failure to discharge the same would mean that the dismissal is not justified and, therefore, illegal. The petitioner must not only rely on the weakness of the respondents' evidence, but must stand on the merits of its own defense. A party alleging a critical fact must support his allegation with substantial evidence, for any decision based on unsubstantiated allegation and unreliable documentary evidence cannot stand, as it will offend due process.[26]

Petitioner was unable to submit substantial evidence that respondents actually committed serious misconduct and wilful breach of trust to justify the respondents' dismissal from employment. Initially, there were only the self-serving and unsubstantiated allegations of petitioner and the spouses Percy. Subsequently, petitioner and the spouses Percy attached to the Sur-Rejoinder they submitted to the Labor Arbiter on August 18, 2009 "newly discovered evidence," *i.e.*, the affidavits of other hotel employees to establish respondents' guilt. The Court agrees with the observation of the

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[26] *Carlos v. Court of Appeals*, 558 Phil. 209, 220-221 (2007).

NLRC that such affidavits, belatedly executed by the hotel employees almost a year after respondents' dismissal on October 16, 2008, deserve little weight and credence for these were non-existent at the time petitioner conducted its alleged investigation of the charges against respondents and could not have been the basis for respondents' dismissal. Moreover, the Court cannot turn a blind eye to the very short period between respondents' filing of their complaint before the DOLE on August 28, 2008 and the issuance by petitioner to respondents of the Notices to Explain and Preventive Suspension on September 17, 2008 and Notices of Termination on October 16, 2008, giving rise to the reasonable belief that petitioner administratively charged and dismissed respondents as retaliation for respondents' filing of their complaint before the DOLE.

WHEREFORE, finding no reversible error in the herein assailed Resolutions dated January 26, 2011 and June 6, 2011 of the Court of Appeals in CA-G.R. SP No. 117663, the instant Petition for Review is hereby **DENIED**.

SO ORDERED.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

On Official Leave
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