



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

DIGITEL EMPLOYEES UNION,
 Petitioner,

G.R. No. 217529

Present:

PERALTA, *J.*,
Chairperson,
 LEONEN,
 REYES, A., JR.,
 HERNANDO, and
 INTING, *JJ.*

- versus -

**DIGITAL TELECOMS
 PHILIPPINES, INC.,**
 Respondent.

Promulgated:

July 3, 2019

[Signature]

X-----X

DECISION

REYES, A., JR., J.:

This is a petition for review¹ under Rule 45 of the Revised Rules of Court dated April 21, 2015. The petition assails the Resolutions dated January 26, 2015² and March 11, 2015³ of the Court of Appeals (CA) in CA-G.R. SP No. 137645, which declared Digitel Employees Union (DEU)'s petition for *certiorari* abandoned and dismissed.

The Facts

The present petition is a continuation of the protracted collective bargaining dispute within Digital Telecommunications Philippines, Inc. (DIGITEL), which has previously come before this Court in 2012.⁴ To

¹ *Rollo*, pp. 3-15.

² Penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a member of this Court) concurring; *id.* at 29-31.

³ *Id.* at 50.

⁴ *Digital Telecommunications Philippines, Inc. v. Digitel Employees Union (DEU), et al.*, 697 Phil. 132 (2012).

Reyes

properly contextualize this petition, the Court hereby quotes from the aforementioned decision in G.R. Nos. 184903-04, dated October 10, 2012, viz.:

By virtue of a certification election, [DEU] became the exclusive bargaining agent of all rank and file employees of [DIGITEL] in 1994. [DEU] and [DIGITEL] then commenced collective bargaining negotiations which resulted in a bargaining deadlock. [DEU] threatened to go on strike, but then Acting Labor Secretary Bienvenido E. Laguesma assumed jurisdiction over the dispute and eventually directed the parties to execute a CBA.

However, no CBA was forged between [DIGITEL] and [DEU]. Some [DEU] members abandoned their employment with [DIGITEL]. [DEU] later became dormant.

Ten (10) years thereafter or on 28 September 2004, [DIGITEL] received from Arceo Rafael A. Esplana (Esplana), who identified himself as President of [DEU], a letter containing the list of officers, CBA proposals and ground rules. The officers were respondents Esplana, Alan D. Licando (Vice-President), Felicito C. Romero, Jr. (Secretary), Arnold D. Gonzales (Treasurer), Reynel Francisco B. Garcia (Auditor), Zosimo B. Peralta (PRO), Regino T. Unidad (Sgt. at Arms), and Jim L. Javier (Sgt. at Arms).

[DIGITEL] was reluctant to negotiate with [DEU] and demanded that the latter show compliance with the provisions of [DEU]'s Constitution and By-laws on union membership and election of officers.

On 4 November 2004, Esplana and his group filed a case for Preventive Mediation before the National Conciliation and Mediation Board based on [DIGITEL]'s violation of the duty to bargain. On 25 November 2004, Esplana filed a notice of strike.

On 10 March 2005, then Labor Secretary Patricia A. Sto. Tomas issued an Order assuming jurisdiction over the labor dispute.

During the pendency of the controversy, Digitel Service, Inc. (Digiserv), a non-profit enterprise engaged in call center servicing, filed with the Department of Labor and Employment (DOLE) an Establishment Termination Report stating that it will cease its business operation. The closure affected at least 100 employees, 42 of whom are members of [DEU].

Alleging that the affected employees are its members and in reaction to Digiserv's action, Esplana and his group filed another Notice of Strike for union busting, illegal lock-out, and violation of the assumption order.

On 23 May 2005, the Secretary of Labor ordered the second notice of strike subsumed by the previous Assumption Order.

Meanwhile, on 14 March 2005, [DIGITEL] filed a petition with the Bureau of Labor Relations (BLR) seeking cancellation of [DEU]'s registration on the following grounds: 1) failure to file the required reports from 1994-2004; 2) misrepresentation of its alleged officers; 3)

Meyer

membership of [DEU] is composed of rank and file, supervisory and managerial employees; and 4) substantial number of [DEU] members are not [DIGITEL] employees.

In a Decision dated 11 May 2005, the Regional Director of the DOLE dismissed the petition for cancellation of union registration for lack of merit. The Regional Director ruled that it does not have jurisdiction over the issue of non-compliance with the reportorial requirements. He also held that [DIGITEL] failed to adduce substantial evidence to prove misrepresentation and the mixing of non-[DIGITEL] employees with [DEU]. Finally, he declared that the inclusion of supervisory and managerial employees with the rank and file employees is no longer a ground for cancellation of [DEU]'s certificate of registration.

The appeal filed by [DIGITEL] with the BLR was eventually dismissed for lack of merit in a Resolution dated 9 March 2007, thereby affirming the 11 May 2005 Decision of the Regional Director.

CA-G.R. SP No. 91719

In an Order dated 13 July 2005, the Secretary of Labor directed [DIGITEL] to commence the CBA negotiation with [DEU]. Thus:

WHEREFORE, all the foregoing premises considered, this Office hereby orders:

1. DIGITEL to commence collective bargaining negotiation with DEU without further delay; and,
2. The issue of unfair labor practice, consisting of union-busting, illegal termination/lockout and violation of the assumption of jurisdiction, specifically the return-to-work aspect of the 10 March 2005 and 03 June 2005 orders, be CERTIFIED for compulsory arbitration to the NLRC.

[DIGITEL] moved for reconsideration on the contention that the pendency of the petition for cancellation of [DEU]'s certificate of registration is a prejudicial question that should first be settled before the DOLE could order the parties to bargain collectively. On 19 August 2005, then Acting Secretary Manuel G. Imson of DOLE denied the motion for reconsideration, affirmed the 13 July 2005 Order and reiterated the order directing parties to commence collective bargaining negotiations.

On 14 October 2005, [DIGITEL] filed a petition, docketed as CA-G.R. SP No. 91719, before the [CA] assailing the 13 July and 19 August 2005 Orders of the DOLE Secretary and attributing grave abuse of discretion on the part of the DOLE Secretary for ordering [DIGITEL] to commence bargaining negotiations with [DEU] despite the pendency of the issue of union legitimacy.

CA-G.R. SP No. 94825

In accordance with the 13 July 2005 Order of the Secretary of Labor, the unfair labor practice issue was certified for compulsory arbitration before the NLRC, which, on 31 January 2006, rendered a Decision dismissing the unfair labor practice charge against [DIGITEL]

Meyer

but declaring the dismissal of the 13 employees of Digiserv as illegal and ordering their reinstatement. [DEU] manifested that out of 42 employees, only 13 remained, as most had already accepted separation pay. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the charge of unfair labor practice is hereby **DISMISSED** for lack of merit. However, the dismissal of the remaining thirteen (13) affected employees is hereby declared illegal and DIGITEL is hereby **ORDERED** to reinstate them to their former position with full backwages up to the time they are reinstated, computed as follows:

X X X X

Upon motion for reconsideration filed by [DIGITEL], four (4) affected employees, namely Ma. Loreta Eser, Marites Jereza, Leonore Tuliao and Aline G. Quillopras, were removed from entitlement to the awards pursuant to the deed of quitclaim and release which they all signed.

In view of this unfavorable decision, [DIGITEL] filed another petition on 9 June 2006 in CA-G.R. SP No. 94825 before the Court of Appeals, challenging the above NLRC Decision and Resolution and arguing mainly that Digiserv employees are not employees of [DIGITEL].

Ruling of the [CA]

On 18 June 2008, the Tenth Division of the [CA] consolidated the two petitions in CA-G.R. SP No. 91719 and CA-G.R. SP No. 94825, and disposed as follows:

WHEREFORE, the petition in CA-G.R. SP No. 91719 is **DISMISSED**. The July 13, 2005 **Order** and the August 19, 2005 Resolution of the DOLE Secretary are **AFFIRMED in toto**. With costs.

The petition in CA-G.R. SP No. 94825 is partially **GRANTED**, with the effect that the assailed dispositions must be **MODIFIED**, as follows:

1) In addition to the order directing reinstatement and payment of full backwages to the nine (9) affected employees, Digital Telecommunications Philippines, Inc. is furthered **ORDERED**, should reinstatement is no longer feasible, to pay separation pay equivalent to one (1) month pay, or one-half (1/2) month pay for every year of service, whichever is higher.

2) The one hundred thousand (PhP100,000.00) peso-fine imposed on Digital Telecommunications Philippines, Inc. is **DELETED**. No costs.

Meyer

The [CA] upheld the Secretary of Labor's Order for [DIGITEL] to commence CBA negotiations with [DEU] and emphasized that the pendency of a petition for the cancellation of a union's registration does not bar the holding of negotiations for a CBA. The [CA] sustained the finding that Digiserv is engaged in labor-only contracting and that its employees are actually employees of [DIGITEL].

[DIGITEL] filed a motion for reconsideration but was denied in a Resolution dated 9 October 2008.

Hence, this petition for review on *certiorari*.

x x x x

WHEREFORE, the Petition is **DENIED**. The Decision of the [CA] in CA-G.R. SP No. 91719 is **AFFIRMED**, while the Decision in CA-G.R. SP No. 94825 declaring the dismissal of affected union member-employees as illegal is **MODIFIED** to include the payment of moral and exemplary damages in amount of P10,000.00 and P5,000.00, respectively, to each of the thirteen (13) illegally dismissed union-member employees.

Petitioner [DIGITEL] is **ORDERED** to pay the affected employees backwages and separation pay equivalent to one (1) month salary, or one-half (1/2) month pay for every year of service, whichever is higher.

Let this case be **REMANDED** to the Labor Arbiter for the computation of monetary claims due to the affected employees.

SO ORDERED.⁵ (Citations omitted and emphases in the original)

*Redundancy declaration and
termination of DIGITEL employees*

In a Resolution dated January 21, 2013, the Court affirmed its decision in G.R. Nos. 184903-04. On January 28, 2013, DIGITEL announced that it was terminating all of its employees on the ground of redundancy arising from the acquisition by the Philippine Long Distance Telephone Company (PLDT) of DIGITEL's telecommunications network. In response, on February 7, 2013, DEU filed a Request for Preventive Mediation with the National Conciliation and Mediation Board (NCMB). DEU also filed with the Secretary of Labor and Employment (SOLE) an Urgent Motion to Prevent/Suspend PLDT/DIGITEL's Mass Termination, dated February 19, 2013. On February 22, 2013, DIGITEL filed its Opposition and Comment *Ad Cautelam* to DEU's February 19, 2013 motion, arguing in the main that the SOLE has no jurisdiction over the termination dispute because the SOLE's previous Assumption of Jurisdiction only covers the DIGITEL-DEU collective bargaining dispute; and because the redundancy program is legal and made in *bona fide*.⁶

⁵ Id. at 138-142; 156-157.

⁶ Comment of DIGITEL, *rollo*, p. 65.

Meyer

On March 13, 2013, DEU moved for a writ of execution to compel DIGITEL to commence collective bargaining agreement (CBA) negotiations with DEU. Meanwhile, the termination of DIGITEL's employees took effect on the same day that the Court's decision in G.R. Nos. 184903-04 became final and executory: March 15, 2013. It is alleged that most of DIGITEL's rank-and-file employees accepted DIGITEL's redundancy benefit package⁷ and were re-hired as PLDT contractuales working on DIGITEL's network and performing essentially the same functions they had as regular employees of DIGITEL.⁸ 86 DEU members refused to be re-hired as PLDT contractuales.⁹

On March 19, 2013, SOLE Rosalinda Dimapilis-Baldoz (Baldoz) granted DEU's motion for execution. In response, DIGITEL filed a Manifestation on March 26, 2013 stating that it can no longer initiate CBA negotiations because all of the employees in the bargaining unit represented by DEU, *i.e.*, the rank-and-file employees of DIGITEL, have been terminated as of March 15, 2013.¹⁰

After conciliation proceedings, on May 27, 2013, DIGITEL and DEU made a preliminary agreement to lift DEU's picket on the PLDT main office and to allow 88 former DIGITEL workers to apply for jobs with PLDT. However, DIGITEL alleged that PLDT was forced to back out of its commitment to interview the former DIGITEL workers because on June 11, 2013, DEU members joined by militant elements staged lightning pickets in PLDT facilities in San Fernando, Pampanga and Cebu City.¹¹

On July 17, 2013, DEU filed a Manifestation and Motion praying for the suspension of the termination of the DIGITEL workers, the implementation of the Court's decision in G.R. Nos. 184903-04, and the reinstatement of DIGITEL workers in the payroll pending the implementation of the aforementioned decision.¹² On July 24, 2013, DIGITEL filed its Manifestation and Motion praying that the SOLE resolve DEU's motions either by denying them on the ground of the supervening event of redundancy declaration or by certifying the matter to the National Labor Relations Commission (NLRC) to resolve the issue of whether or not the redundancy declaration was valid.¹³

⁷ Manifestation of DIGITEL dated August 15, 2016, *id.* at 579-781.

⁸ Reply of DEU, *id.* at 543.

⁹ *Id.*

¹⁰ *Id.* at 66

¹¹ *Id.* at 66-67.

¹² *Id.* at 67.

¹³ *Id.*

Meyer

NLRC Decision on redundancy issue

In an Order dated July 30, 2013, SOLE Baldoz certified the matter to the NLRC to resolve the issue of whether or not the redundancy declaration was valid and ordered the 86 remaining DIGITEL employees to return to work. After due proceedings, the NLRC issued a Decision¹⁴ dated March 18, 2014 upholding DIGITEL's redundancy declaration, *viz.*:

WHEREFORE, IN VIEW OF THE FOREGOING PREMISES, the redundancy program undertaken by [DIGITEL] which resulted in the termination of the herein eighty-six (86) union members, subject of the instant certified case, is hereby declared Valid.

Accordingly, [DIGITEL] is hereby ordered to pay the separation pay package of the herein eighty-six (86) complainants-union members corresponding to the benefits under the second phase of the Redundancy Program. They are also entitled to be paid their backwages from March 16 to July 30, 2013.

The claims for moral and exemplary damages and attorney's fees are hereby ordered dismissed for lack of merit.

SO ORDERED.¹⁵

Both parties moved for reconsideration, which the NLRC denied in its Resolution¹⁶ dated August 18, 2014.

Proceedings before the CA and the Supreme Court

On October 20, 2014, DEU filed a petition for *certiorari* with the CA, assailing the NLRC Decision and Resolution which upheld DIGITEL's redundancy program.

In its Resolution dated November 15, 2014, the CA ordered the submission of DEU's and DIGITEL's addresses, as well as the resolution authorizing the DEU President to sign and file the petition for *certiorari* on behalf of DEU.¹⁷

On January 26, 2015, the CA issued the first assailed Resolution¹⁸ which dismissed DEU's petition. The Resolution reads:

¹⁴ Penned by Presiding Commissioner Raul T. Aquino, with Commissioners Teresita D. Castillon-Lora, and Erlinda T. Agus concurring; *id.* at 468-494.

¹⁵ *Id.* at 493.

¹⁶ Penned by Commissioner Gregorio O. Bilog III, with Presiding Commissioner Herminio V. Suelo and Commissioner Erlinda T. Agus concurring; *id.* at 496-503.

¹⁷ *Id.* at 6.

¹⁸ *Id.* at 29-31.



On November 25, 2014, We issued a resolution requiring petitioner to submit the following, within five (5) days from notice: a.) petitioner's and private respondent's respective addresses; and b.) the authority of Allan D. Licardo¹⁹ to sign the verification/certification against Forum Shopping on behalf of petitioner Union.

On January 7, 2015, the Case Management Information System (CMIS) reported that as of even date, no Compliance has been filed by petitioner.

Rule 46, Section 3 of the Rules of Court partly states:

Section 3. Contents and filing of petition; effect of non-compliance with requirements. — The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

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.

x x x x

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

x x x x

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

In view of the said CMIS report, the instant petition is considered **ABANDONED** hence dismissed.

SO ORDERED.²⁰ (Emphases and italics in the original)

¹⁹ Also referred to as Alan D. Licardo in other parts of the record.
²⁰ *Rollo*, pp. 29-30.

Meyer

DEU received the first assailed CA Resolution on February 12, 2015.²¹ On February 27, 2015, DEU filed a motion for reconsideration, alleging that it submitted its compliance on December 15, 2014, as shown by the certificates of dispatch of the Mandaluyong and Manila post offices.²² On March 11, 2015, the CA issued the second assailed Resolution²³ noting without action DEU's Compliance in view of the Resolution dated January 26, 2015, which DEU received on April 6, 2015.²⁴

Treating the CA's Resolution dated March 11, 2015 as a denial of its motion for reconsideration, DEU filed on April 21, 2015 a petition for review on *certiorari* with this Court, which was docketed as G.R. No. 217529. On April 22, 2015, DEU, through counsel, filed a Manifestation/Submission (of Verification/Certification Page) stating that it inadvertently left out the verification/certification page as the petition was being sorted out, hence, the same was submitted and is now sought to be admitted to form part of the petition. On July 13, 2015, the CA issued a Resolution which deemed abandoned DEU's motion for reconsideration, pursuant to Rule VI, Section 15, of the 2009 Internal Rules of the CA.²⁵ On September 23, 2015, the Court issued a Resolution,²⁶ which, *inter alia*, noted DEU's Manifestation/Submission (of Verification/Certification Page) and ordered DIGITEL to comment on the petition. DIGITEL filed its comment on November 27, 2015,²⁷ while DEU filed a reply on May 2, 2016.²⁸

The Issues

DEU's petition raises the following issues:

- I. WHETHER OR NOT THE CA SERIOUSLY AND MANIFESTLY ERRED IN DISMISSING DEU'S PETITION FOR *CERTIORARI* ON THE BASIS OF MISTAKEN ASSUMPTION THAT THE DEU ALLEGEDLY FAILED TO COMPLY WITH ITS RESOLUTION DATED NOVEMBER 25, 2014 REQUIRING DEU TO SUBMIT ITS RESOLUTION AND THE ADDRESS OF DEU AND DIGITEL.
- II. WHETHER OR NOT THE CA GRAVELY ABUSED ITS DISCRETION IN NOT FINDING THAT DEU ACTUALLY COMPLIED WITH THE AFORESAID

²¹ Id. at 7.
²² Id. at 32-35.
²³ Id. at 8.
²⁴ Id.
²⁵ Comment of DIGITEL, id. at 70.
²⁶ Id. at 58-59.
²⁷ Id. at 64.
²⁸ Id. at 522.

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ORDER AND SUBMITTED ITS COMPLIANCE ON DECEMBER 15, 2014.

- III. WHETHER OR NOT THE CA COMMITTED GRAVE ABUSE OF DISCRETION IN SUMMARILY DISMISSING DEU'S MOTION FOR RECONSIDERATION DESPITE DEU'S SUBMISSION OF THE PROOF OF COMPLIANCE SUCH AS THE COMPLIANCE ITSELF AND THE CERTIFICATION OF MANDALUYONG, MANILA, AND MAKATI POST OFFICES.
- IV. WHETHER OR NOT THE CA COMMITTED MANIFEST AND SERIOUS ERROR AND GRAVELY ABUSED ITS DISCRETION IN DISMISSING THE PETITION WHICH IF NOT CORRECTED WOULD CAUSE IRREPARABLE DAMAGE TO DEU AND THE WORKERS.²⁹

Two major issues are discussed in the parties' pleadings: *first*, the threshold procedural issue regarding the propriety of the CA's dismissal of DEU's petition for *certiorari* for failure to submit the addresses of the parties and the DEU's resolution authorizing its president to sign the verification and certification of non-forum shopping; and *second*, the substantive issue regarding the validity of DIGITEL's redundancy program, which the company used as basis for the termination of its entire workforce. However, it must be emphasized that the CA had no opportunity to resolve the substantive issues of the case, for it refused to admit DEU's petition on *purely procedural* grounds. Furthermore, the substantive issue raised by this petition, *i.e.*, the existence of a valid redundancy sufficient to constitute a basis for termination of employees, is a question of fact that is not within the province of this Court to resolve, moreso when the appellate court has not had the opportunity to rule on the matter. Therefore, the sole issue for this Court's resolution is the propriety of the appellate court's dismissal of DEU's petition for *certiorari* for failure to submit the addresses of the parties and the DEU's resolution authorizing its president to sign the verification and certification of non-forum shopping.

Ruling of the Court

The petition is meritorious.

²⁹

Id. at 3-4.

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Timely filing of DEU's Compliance

In denying the petition for failure to submit the data required in its Resolution dated November 15, 2014, the CA relied merely on the Case Management Information System report to the effect that the data have not yet been submitted as of January 7, 2015. However, it cannot be denied that the appellate court received DEU's Compliance, for it noted the same without action in its Resolution dated March 11, 2015. To prove that the said Compliance was submitted on time, DEU submitted a copy thereof, which includes an Affidavit of Service executed by Jemarie S. Concepcion, which states that she filed and served the said Compliance on December 15, 2014, through registered mail. The same Affidavit of Service also indicates the registry receipt numbers of the mail sent to the following recipients, thus:

Recipient	Registry Receipt Number
SIGUION REYNA MONTECILLO & ONGSIAKO <i>Counsel for Digitel-Respondents</i> 4 th and 6 th Floors, Citibank Center, 8741 Paseo de Roxas, Makati City	Registry Receipt # 12887 Issued in Mandaluyong CPO on December 15, 2014
NLRC (Second Division) PPSTA Building., Banaue cor. P. Florentino Streets, Quezon City	Registry Receipt # 12888 Issued in Mandaluyong CPO on December 15, 2014
OFFICE OF THE SOLICITOR GENERAL 134 Amorsolo Street, Legaspi Village, Makati City	Registry Receipt # 12889 Issued in Mandaluyong CPO on December 15, 2014
COURT OF APPEALS Special Fourteenth Division Ma. Orosa Street, Ermita, Manila	Registry Receipt # 12890 Issued in Mandaluyong CPO on December 15, 2014 ³⁰

As further proof that the Compliance was filed through registered mail on December 15, 2014, DEU submitted the following documents:

- 1) Certification dated February 23, 2015, signed by Noel V. Dacasin, Postmaster, Mandaluyong Central Post Office, stating that the registered letter numbers 12887 and 12890 were posted at Mandaluyong Post Office and dispatched, respectively, to Makati CPO Bill No. 112, page 1, line 7, col. 1 on 12/16/14, and to Manila CPO Bill No. 108, page 1, line 4, col. 1 on 12/16/14,³¹

³⁰ Affidavit of Service by Jemarie S. Concepcion, id. at 44.

³¹ Id. at 45.

Reyes

- 2) Certification dated February 25, 2015, signed by Rodrigo SP. Romero, Head, Records Unit, Philippine Postal Corporation, National Capital Region stating that Registered Mail Mo. 12890 was delivered by postman and duly received by Timothy N. Gomez on January 5, 2015;³² and
- 3) Certification dated February 26, 2015, signed by Divina G. Madeja, Chief, Records Unit, Makati Central Post Office, stating that Registered Mail Mo. 12887 was delivered and duly received by Wilfredo Lontoc, Jr. on January 6, 2015.³³

Given the foregoing, it is clearly evident that the balance of the evidence, as required by Rule 13, Section 12 of the Rules of Court, tilts in favor of DEU, which submitted a notarized affidavit of the person who did the mailing, along with certifications issued by competent authorities attesting to the fact of postage, mailing and delivery of the registered mails as required by the appellate court. Since DEU received the Resolution dated November 15, 2014 on December 10, 2014, it had five days from December 10, 2014, or until December 15, 2014, to file a compliance. This DEU was able to accomplish, by the filing and service of its Compliance through registered mail on December 15, 2014.

Validity of union resolution and its effect on the petition

DIGITEL asseverates that the verification and certification of non-forum shopping in DEU's petition for *certiorari* is defective, because the board resolution it submitted in its Compliance before the CA is dated December 15, 2014, while the verification and certification of non-forum shopping in DEU's petition for *certiorari* was executed on October 20, 2014. According to DIGITEL, this could only mean that the signatory of the verification and certification of non-forum shopping had no authority to sign the same in behalf of DEU at the time the petition was filed. Since the verification and certification of non-forum shopping in DEU's petition for *certiorari* was defective, the petition should be dismissed per Rule 45, Sections 1 and 4, and Rule 7, Section 5 of the Rules of Court.

DEU's petition for *certiorari* was filed on October 20, 2014. The verification and certification of non-forum shopping included therein was signed by Alan D. Licardo (Licardo) as president of DEU. The board resolution it submitted in its Compliance, designating and authorizing Licardo to represent DEU in the suit, was issued only on December 15, 2014.

³² Id. at 47.

³³ Id. at 49.

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The jurisprudential rules governing the submission and contents of the verification and certification of non-forum shopping were summarized in *Altres, et al. v. Empleo, et al.*,³⁴ viz.:

- 1) A distinction must be made between non-compliance with the requirement on or submission of defective verification, and non-compliance with the requirement on or submission of defective certification against forum shopping.
- 2) As to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.
- 3) Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.
- 4) As to **certification against forum shopping, non-compliance therewith or a defect therein**, unlike in verification, **is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."**
- 5) **The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case**; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.
- 6) Finally, **the certification against forum shopping must be executed by the party-pleader**, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his behalf.³⁵ (Emphases Ours)

Tested against these parameters, the Court finds the verification and certification of non-forum shopping in DEU's petition for *certiorari* to be substantially compliant with the Rules of Court. The petition was signed by Licardo as President of DEU. In *Cagayan Valley Drug Corp. v. Commissioner of Internal Revenue*,³⁶ the Court recognized the authority of the President of a corporation to sign a verification and certification of non-forum shopping without authority from the board of directors. This recognition was extended to union presidents in *PNCC*

³⁴ 594 Phil. 246 (2008).

³⁵ Id. at 248-249.

³⁶ 568 Phil. 572 (2008).

Meyer

Skyway Traffic Mgm't. and Security Div. Workers Org. v. PNCC Skyway Corp.,³⁷ where the Court gave further consideration to the fact that the board of therein petitioner union subsequently passed a resolution authorizing the president to file the suit. The Court deemed this a ratification of the president's act of signing the verification and certification. Nevertheless, the recognition of the authority of the president of a juridical entity (whether a corporation or a union) to sign verifications and certifications without prior board approval is based on the role and function of a president within the juridical entity, such that the president is in a position to verify the truthfulness and correctness of the allegations in the petition.³⁸ Furthermore, like in the *PNCC* case, Licardo's authority to sign the verification and certification was also given after the petition had been filed. It cannot therefore be said that Licardo was absolutely bereft of authority to sign the petition, considering that he is the president of DEU and the DEU board subsequently ratified his act. The substantive issues raised in this case, and the implications they have for the livelihood of DIGITEL's workers, compel this Court, in the name of justice, to relax the rules and allow DEU's petition to be tried on the merits. If justice is to be done to the workers of DIGITEL, they must be afforded the amplest opportunity for the proper and just determination of their cause, free from the constraints of technicalities. For, it is far better to dispose of a case on the merits which is a primordial end rather than on a technicality, if it be the case that may result in injustice.³⁹ On the other hand, if DIGITEL is fully confident that the facts and the law are on its side, it should not have any qualms in presenting its case before the appellate court.

WHEREFORE, premises considered, the instant petition is **GRANTED**. The Resolutions dated January 26, 2015 and March 11, 2015 of the Court of Appeals in CA-G.R. SP No. 137645 are hereby **REVERSED** and **SET ASIDE**. The Court of Appeals is ordered to **REINSTATE** and **ADMIT** the petition for *certiorari* filed by Digitel Employees Union in CA-G.R. SP No. 137645 and to proceed with the case as soon as possible.

SO ORDERED.


ANDRES B. REYES, JR.
Associate Justice

³⁷ 626 Phil. 700 (2010).

³⁸ *Cagayan Valley Drug Corp. v. Commissioner of Internal Revenue*, supra, at 581-582; *PNCC Skyway Traffic Mgm't. and Security Div. Workers Org. v. PNCC Skyway Corp.*, supra, at 710.

³⁹ *Bacarra v. National Labor Relations Commission and Ledesma*, 510 Phil. 353, 361 (2005).

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice
Chairperson



MARVIC M.V.F. LEONEN
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

ATTESTATION

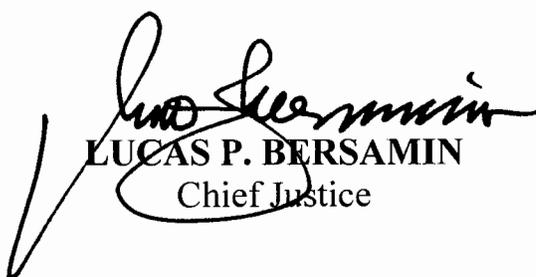
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

peyer