Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

JULES KING M. PAITON, JAMES C. ADRIATICO, ISAGANI M. UBALDE, ROLAND A. AGUSTIN, MARIO S. MANAHAN, JR., and JESROME C. SIEGA, *Petitioners,* - versus - **ARMSCOR GLOBAL DEFENSE, INC. [Formerly, ARMS CORPORATION OF THE PHILIPPINES], MARTIN TUASON (Owner/President), ATTY. ERMILANDO O. VILLAFUERTE (HR-Head/In-House Counsel), MANPOWER OUTSOURCING SERVICES, INC., and DIOGENES JAURIQUE (President/Owner*),** *Respondents.*	**G.R. No. 255656** LEONEN, *J.*, Chairperson, LAZARO-JAVIER,** LOPEZ, M. LOPEZ, J., and KHO, JR., *JJ.* **Promulgated:** April 25, 2022 MisPDCBath

x----------x

DECISION

KHO, JR., *J.*:

---

* See *rollo*, p. 67.
** On official business.

Assailed in this Petition for Review on *Certiorari*[1] are the Decision[2] dated June 30, 2020 and the Resolution[3] dated January 8, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 160018, which affirmed the Decision[4] dated October 22, 2018 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 08-002932-18, which, in turn, affirmed the Decision[5] dated May 18, 2018 of the Labor Arbiter (LA) in NLRC NCR Case No. 07-09884-17 dismissing petitioners' complaint for Illegal Constructive Dismissal **on the ground of *litis pendentia* or forum shopping**.

The Facts

Jules King M. Paiton (Paiton), James C. Adriatico (Adriatico), Isagani M. Ubalde (Ubalde), Roland A. Agustin (Agustin), Mario S. Manahan, Jr. (Manahan), and Jesrome C. Siega (Siega; collectively, petitioners) were employed as Machine Operators by respondent Armscor Global Defense, Inc. (Armscor). On separate dates between 2016 and 2017, petitioners filed separate complaints[6] for regularization and payment of benefits against Armscor and respondent Manpower Outsourcing Services, Inc. (MOSI) with the Arbitration Branch of the NLRC alleging that: (*a*) they are regular employees of Armscor by operation of law after having performed work that is necessary and desirable to Armscor's business for over one (1) year; (*b*) to prevent them from attaining regular status, Armscor transferred their employment to different manpower agencies, including MOSI, which is a labor-only contractor; and (*c*) their true employer is Armscor which hired them and paid their salaries, further pointing out that they are performing work under the direct control and supervision of Armscor's managers and supervisors.[7]

Based on the records, petitioners filed the following cases before the NLRC, praying to be declared regular employees of Armscor as respondents Armscor, Martin Tuason (Tuason), Atty. Ermilando O. Villafuerte (Villafuerte), MOSI, and Diogenes Jaurique were alleged to be engaged in illegal labor-only contracting, as follows: (*a*) Paiton and Adriatico filed NCR Case No. NCR-12-14953-16; (*b*) Siega filed NCR Case No. NCR-11-14762-16; (*c*) Ubalde filed NCR Case No. NCR-12-14906-16; and (*d*) Agustin and Manahan filed NLRC Case No. NCR-03-03052-17 (collectively referred to as the regularization cases).[8] At the time the present petition was filed, these regularization cases were on their respective appeals with the CA, with the

---

1 Dated March 4, 2021; id. at 66–82.

2 Id. at 88–95. Penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Ronaldo Roberto B. Martin and Walter S. Ong.

3 Id. at 97–98.

4 Id. at 114–126. Penned by Commissioner Agnes Alexis A. Lucero-De Grano and concurred in by Presiding Commissioner Joseph Gerard E. Mabilog and Commissioner Isabel G. Panganiban-Ortiguerra.

5 Id. at 131–139. Penned by Labor Arbiter Andrew N. Baysa.

6 Id. at 569–587.

7 Id. at 89.

8 Id. at 51 and 83.

exception of petitioners Paiton and Adriatico's regularization case which is already pending before the Court.[9]

During the pendency of the regularization cases, petitioners alleged that on June 16, 2017, Armscor refused to allow them entry in the work premises as MOSI had pulled them out from the company after the expiration and non-renewal of the service contract between Arsmcor and MOSI. Thus, on July 6, 2017, petitioners filed **the instant illegal constructive dismissal case**, NCR Case No. NCR-07-09884-17, with a claim for damages and attorney's fees against respondents before the NLRC. In their complaint, petitioners reiterated their allegation that they are regular employees of Armscor who enjoy security of tenure, and as such, they cannot be terminated without any just or authorized cause.[10]

For their part, Armscor and its officers, Tuason and Villafuerte, asserted that petitioners were employed by MOSI, and not by Armscor and that they are not liable to petitioners for their claims of illegal constructive dismissal. They also alleged that the service contract between Armscor and MOSI expired and petitioners were validly pulled out by MOSI.[11]

Meanwhile, MOSI prayed for the dismissal of the complaint ***due to forum shopping***, considering that the earlier filed regularization cases with the NLRC shared similar facts, issues, and arguments as that of the illegal constructive dismissal case. It also asserted that it was a legitimate contractor and that petitioners' dismissal was due to redundancy.[12]

The LA Ruling

In a Decision[13] dated May 8, 2018, the LA ruled in favor of respondents, and accordingly, dismissed the instant illegal constructive dismissal case on the ground of *litis pendentia* or forum shopping.[14] The LA ruled that the regularization cases and the illegal constructive dismissal case filed by petitioners are similar in parties, issues, and causes of action, such that the judgment in either case would be determinative of the other. In this regard, the LA opined that in resolving the issue of whether or not petitioners were indeed constructively dismissed, there is a need to determine whether they are regular employees of Armscor which, in turn, is the matter in inquiry in the regularization cases and would preempt the regularization cases which, to date, have not attained finality.[15] **It must be noted that since the LA dismissed petitioners' complaint on the aforesaid grounds, it no longer delved on the merits thereof.**

---

9 Id. at 83.
10 Id. at 90.
11 Id.
12 Id. at 90–91.
13 Id. at 131–139.
14 Id. at 139.
15 See id. at 137–139.

Aggrieved, petitioners appealed to the NLRC.

The NLRC Ruling

In a Decision[16] dated October 22, 2018, the NLRC affirmed the LA's dismissal of the complaint.[17] Having found that both parties had pending cases for regularization before the NLRC's Division, as admitted in their respective pleadings, the NLRC held that it cannot discuss or resolve in the present appeal the issue of employer-employee relationship between petitioners and Armscor.[18] **Thus, the NLRC no longer deemed it necessary to traverse the merits of petitioners' complaint.**

Dissatisfied, petitioners moved for reconsideration,[19] which was denied in a Resolution[20] dated December 27, 2018. Hence, the matter was elevated to the CA via a petition for *certiorari*.[21]

The CA Ruling

In a Decision[22] dated June 30, 2020, the CA denied the petition for *certiorari*, finding that there was no grave abuse of discretion on the part of the NLRC in affirming the LA's dismissal.[23] It found petitioners guilty of *litis pendentia* since petitioners already filed complaints with the NLRC involving essentially the same parties, issues, and causes of action, and there is a need to resolve first the issue of regularization.[24] **Similar to the Labor Tribunals, the CA did not resolve the substantial issues of the complaint.**

Undaunted, petitioners filed a motion[25] for reconsideration, which was, however, denied in a Resolution[26] dated January 8, 2021; hence, this petition.

The Issue before the Court

The issue for the Court's resolution is whether the CA correctly held that the NLRC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when it affirmed the LA's dismissal of the instant illegal constructive dismissal case due to *litis pendentia* or forum shopping.

---

16 Id. at 114–126.
17 Id. at 126.
18 See id. at 123–126.
19 Id. at 774–781.
20 Id. at 127–130.
21 Id. at 99–109.
22 Id. at 88–95.
23 Id. at 95.
24 Id. at 92–94.
25 Id. at 897–907.
26 Id. at 96–98.

The Court's Ruling

The petition is meritorious.

It must be stressed that to justify the grant of the extraordinary remedy of *certiorari*, petitioners must satisfactorily show that the court or quasi-judicial authority gravely abused the discretion conferred upon it. Grave abuse of discretion connotes judgment exercised in a capricious and whimsical manner that is tantamount to lack of jurisdiction. To be considered "grave," discretion must be exercised in a despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.[27]

Thus, case law instructs that "[i]n labor cases, grave abuse of discretion may be ascribed to the NLRC when its findings and conclusions are not supported by substantial evidence, which refers to that amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion. Thus, if the NLRC's ruling has basis in the evidence and the applicable law and jurisprudence, then no grave abuse of discretion exists and the CA should so declare and, accordingly, dismiss the petition."[28]

Guided by the foregoing considerations, the Court finds that the CA erred in not ascribing grave abuse of discretion on the part of the Labor Tribunals when they dismissed the instant illegal constructive dismissal case on ground of *litis pendentia* or forum shopping as the same contravenes settled case law on the matter.

Forum shopping exists "when one party repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely, by some other court." What is truly important to consider in determining whether it exists or not is the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by different *fora* upon the same issues.[29]

---

[27] *Jolo's Kiddie Carts v. Caballa*, 821 Phil. 1101, 1109 (2017), citing *Gadia v. Sykes Asia, Inc.*, 752 Phil. 413, 420 (2015).

[28] Id., citing *University of Santo Tomas (UST) v. Samahang Manggagawa ng UST*, 809 Phil. 212, 220 (2017).

[29] *Kapisanang Pangkaunlaran ng Kababaihang Potrero, Inc. v. Barreno*, 710 Phil. 654, 660 (2013).

Thus, case law instructs that forum shopping exists where the elements of *litis pendentia* are present, namely: (*a*) identity of parties, or at least such parties who represent the same interests in both actions; (*b*) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (*c*) the identity with respect to the two preceding particulars in the two (2) cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.[30] Verily, the test to determine whether the causes of action are identical is to ascertain whether the same evidence would support both actions, or whether there is an identity in the facts essential to the maintenance of the two actions. If the same facts or evidence would support both actions, then they are considered the same; a judgment in the first case would be a bar to the subsequent action.[31]

In this regard, the Court takes particular note of the case of *Del Rosario v. ABS-CBN Broadcasting Corporation* (*Del Rosario*),[32] which involved a group of employees who filed an illegal dismissal case against their employer during the pendency of a regularization case which they earlier filed against the latter. In ruling that the employees are not guilty of forum shopping, the Court explained that **the reliefs sought and the causes of action, as well as the evidence to be presented, in the earlier filed regularization case is different from the illegal dismissal case which was filed at a later time**, *viz.*:

> ABS-CBN seeks the dismissal of the petitions, claiming that the workers are guilty of forum shopping for filing their complaint for illegal dismissal during the pendency of their regularization case.
>
> The Court is not persuaded.
>
> Forum shopping exists when one party repetitively avails of several judicial remedies in different courts, simultaneously or successively. The remedies stem from the same transactions, are founded on identical facts and circumstances, and raise substantially similar issues, which are either pending in, or have been resolved adversely by another court. Through forum shopping, unscrupulous litigants trifle with court processes by taking advantage of a variety of competent tribunals, repeatedly trying their luck in several different fora until they obtain a favorable result. Because of this, forum shopping is condemned, as it unnecessarily burdens the courts with heavy caseloads, unduly taxes the manpower and financial resources of the judiciary, and permits a mockery of the judicial processes. Absent safeguards against forum shopping, two competent tribunals may render contradictory decisions, thereby disrupting the efficient administration of justice.
>
> **Here, although it is true that the parties in the regularization and the illegal dismissal cases are identical, the reliefs sought and the**

---

30 See *Abbott Laboratories, Phils. v. Alcaraz*, 714 Phil. 510, 530–531 (2013).

31 See *Del Rosario v. ABS-CBN Broadcasting Corporation*, G.R. No. 202481, September 8, 2020.

32 See id.

> **causes of action are different. There is no identity of causes of action between the first set of cases and the second set of cases.**
>
> The test to determine whether the causes of action are identical is to ascertain whether the same evidence would support both actions, or whether there is an identity in the facts essential to the maintenance of the two actions. If the same facts or evidence would support both actions, then they are considered the same; a judgment in the first case would be a bar to the subsequent action. This is absent here. The facts or the pieces of evidence that would determine whether the workers were illegally dismissed are not the same as those that would support their clamor for regularization.
>
> Besides, it must be remembered that **the circumstances obtaining at the time the workers filed the regularization cases were different from when they subsequently filed the illegal dismissal cases. Before their illegal dismissal, the workers were simply clamoring for their recognition as regular employees, and their right to receive benefits concomitant with regular employment. However, during the pendency of the regularization cases, the workers were summarily terminated from their employment. This supervening event gave rise to a cause of action for illegal dismissal, distinct from that in the regularization case. This time, the workers were not only praying for regularization, but also for reinstatement by questioning the legality of their dismissal.** The issue turned into whether or not ABS-CBN had just or authorized cause to terminate their employment. Clearly, it was ABS-CBN's action of dismissing the workers that gave rise to the illegal dismissal cases. And it is absurd for it to now ask the Court to fault the workers for questioning ABS-CBN's actions, which were done while the regularization cases were pending. The Court cannot allow this.
>
> **Simply stated, in a regularization case, the question is whether the employees are entitled to the benefits enjoyed by regular employees even as they are treated as talents by ABS-CBN. On the other hand, in the illegal dismissal case, the workers likewise need to prove the existence of employer-employee relationship, but ABS-CBN must likewise prove the validity of the termination of the employment. Clearly, the evidence that will be submitted in the regularization case will be different from that in the illegal dismissal case.**[33] (emphases and underscoring supplied)

Applying *Del Rosario*, which is on all fours to the instant case, then the Court reaches the conclusion that petitioners did not commit forum shopping in filing the instant illegal constructive dismissal case despite the pendency of the regularization cases which they filed earlier. Pursuant to *Del Rosario*, there is no identity of causes of action between petitioners' regularization cases and the instant illegal constructive dismissal case, considering that the regularization cases involved a determination of whether petitioners are regular employees of Armscor as respondents were alleged to be engaged in labor-only contracting, and as such, petitioners prayed for the award of payment of benefits from the first day of engagement with Armscor. On the other hand, the instant illegal constructive dismissal case questioned the propriety of petitioners' dismissal and prays for their reinstatement with

---

[33] See id.; citations omitted.

Armscor. Notably, while the latter case will also inevitably touch upon the issue of whether or not petitioners are indeed regular employees of Armscor, the issue it ultimately seeks to address is whether or not petitioners were constructively dismissed without any just or authorized cause under the law. Otherwise stated, the issue in the regularization cases is merely limited to whether or not petitioners should be deemed as regular employees of Armscor, and hence, entitled to the benefits accorded to regular employees; whereas in the instant illegal constructive dismissal case, the issue is whether or not Armscor constructively dismissed petitioners without any just or authorized causes. It is apparent that the evidence to be presented in these two (2) cases are distinct even if they may overlap in certain points.

More importantly, at the time the regularization cases were initiated, the facts which spawned the instant illegal constructive dismissal case have not yet occurred, and therefore, petitioners' only existing cause of action during that time was their entitlement to benefits enjoyed by regular employees. It was only after Armscor refused to allow them entry into the work premises as MOSI had pulled them out from the company after the expiration and non-renewal of the service contract between Arsmcor and MOSI that petitioners were constrained to file the instant illegal constructive dismissal case. Under the foregoing circumstances, petitioners had no choice but to avail of different *fora*.

In fine, the Court finds that the NLRC's ruling affirming the LA's dismissal of the instant illegal constructive dismissal case on the ground of *litis pendentia* or forum shopping is tainted with grave abuse of discretion; and hence, the CA erred in affirming the same. At this point, the Court recognizes that since the Labor Tribunals and the CA merely dismissed the said case only on the aforementioned procedural ground, there are no factual findings in relation to the substantive merits of the case from which the Court may source any legal conclusions. In this light and further considering that the Court is not a trier of facts,[34] the Court is constrained to remand the case to the Tribunal of origin, *i.e.*, the LA, for a resolution on the merits.

A final note. As much as possible, labor cases should always be resolved expeditiously and with reasonable dispatch. This is because needless delays would almost always result in the wearing out of the efforts and meager resources of the worker to the point that the latter is constrained to settle for less what is due them.[35]

WHEREFORE, the petition is **GRANTED**. The Decision dated June 30, 2020 and the Resolution dated January 8, 2021 of the Court of Appeals in CA-G.R. SP No. 160018 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Illegal Constructive Dismissal case is **REMANDED** to the Labor Arbiter *a quo* for a resolution on the merits with reasonable dispatch.

---

[34] See *Gatan v. Vinarao*, 820 Phil. 257, 273 (2017).
[35] See *Opinaldo v. Ravina*, 719 Phil. 584, 597 (2013).

SO ORDERED.

ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson, Third Division

On official business
AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
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.

MARVIC M.V.F. LEONEN
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.

ALEXANDER G. GESMUNDO
Chief Justice