



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JAROSLAV DOBES,
BARBORA PLASKOVA, and
BONO LUKAS PLASEK
(MINOR),

Petitioners,

- versus -

THE HONORABLE COURT OF
APPEALS [FORMER THIRD
DIVISION], OFFICE OF THE
PRESIDENT, through Salvador
C. Medialdea, in his capacity as
Executive Secretary, THE
DEPARTMENT OF JUSTICE,
through Chief State Counsel,
Honorable Ricardo V. Paras III,
and BUREAU OF
IMMIGRATION, through
Commissioner Jaime H. Morente,

Respondents.

G.R. No. 261610

Present:

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.
LOPEZ, J., and
KHO, JR., JJ.

Promulgated:
AUG 09 2023

x-----x

DECISION

KHO, JR., J.:

For the Court's resolution is a Petition for *Certiorari*¹ under Rule 65 of the Rules of Court assailing the Resolutions dated December 13, 2021² and

¹ With Application for the Issuance of a Temporary Restraining Order and or Writ of Preliminary Injunction; *rollo*, pp. 3-43.

² *Id.* at 81-88. Penned by Associate Justice Maria Filomena D. Singh (now a Member of this Court) and concurred in by Associate Justices Mariflor P. Punzalan-Castillo and Bonifacio S. Pascua of the Former Third Division of the Court of Appeals, Manila.

May 11, 2022³ of the Court of Appeals (CA) in CA-G.R. SP No. 169694, which dismissed the Petition for Review⁴ under Rule 43 filed by petitioners Jaroslav Dobes (Dobes), Barbora Plaskova (Plaskova), and Bono Lukas Plasek (Plasek; collectively, petitioners) against the Decision⁵ dated August 1, 2017 and the Resolution⁶ dated June 4, 2021 of the Office of the President (OP) for failure to comply with the requirements of a certification against forum shopping.

The Facts

The case stemmed from the applications for recognition as refugees, pursuant to Department of Justice (DOJ) Circular No. 058, Series of 2012⁷ (DOJ Circular No. 058), filed by petitioners before the DOJ on the ground of a well-founded fear of persecution for reason of their religion and membership in a spiritual group if deported to their home country.⁸

Dobes and Plaskova are both Czech citizens and of legal age, while Plasek is a minor child of Plaskova born in the Philippines.⁹ Dobes, also known as “Guru Jara” to his followers, alleged that he is the spiritual leader of a religion known as “Guru Jara Path” or “The Path of Guru Jara.” He claimed to have authored and published numerous books.¹⁰ On the other hand, Plaskova claimed to be the 2nd highest member of the spiritual group.¹¹

According to Dobes, he fled communist Czechoslovakia (now Czech Republic) to pursue a spiritual life and to study holy Catholic texts. In 1992, after praying hard and applying his knowledge in spiritual healing, his comatose brother regained consciousness. This experience drove Dobes to deepen his faith and to pursue studies in spiritual and tantric healing. He travelled around the world learning and harnessing the powers of energy, yoga, meditation, faith healing, and feng shui. In 1996, after the communist regime collapsed, Dobes returned to the Czech Republic and started to have a small group of followers. Over the next few years until 2004, his spiritual group allegedly experienced growth and expansion as its membership grew. They established a monastery and the Poetrie School where they practiced meditation, yoga, feng shui, astrology, acupuncture, telepathy, auric-healing, and other spiritual rituals. They also conducted seminars and trainings and embarked on spiritual pilgrimages.¹²

³ *Id.* at 90–95.

⁴ Not attached to the *rollo*. See *rollo*, p. 7.

⁵ *Id.* at 45–63. Signed by Executive Secretary Salvador C. Medialdea.

⁶ *Id.* at 64–69.

⁷ Entitled “ESTABLISHING THE REFUGEE AND STATELESS STATUS DETERMINATION PROCEDURE,” dated October 18, 2012, issued by then Secretary Lella M. De Lima.

⁸ *Rollo*, pp. 71–73.

⁹ *Id.* at 6.

¹⁰ *Id.* at 9–10.

¹¹ *Id.* at 11.

¹² *Id.* at 46.

Thereafter, Dobes's group allegedly experienced waves of persecution perpetrated by Czech authorities. Its monastery was set on fire by unknown persons believed to be connected with the elite police and their application for registration as a religious foundation was rejected. In 2005, the police purportedly interrogated and harassed some of the members of the group, and the media allegedly started to sow false information to discredit them. The seeming persecution and threats to his life allegedly forced Dobes to leave the Czech Republic in 2007.¹³

Meanwhile, petitioners claimed that repression against Dobes's spiritual group continued to intensify in the Czech Republic. In 2008, the group was forced to close the Poetrie School due to its severe persecution. In 2009, Dobes and Plaskova arrived in the Philippines. In 2010, the Czech police allegedly unleashed a major crackdown on the spiritual group by subjecting the group members to long hours of interrogation, harassment, blackmail, and manipulation, as well as allegedly seizing some of their personal properties.¹⁴

Sometime in 2011, Dobes and Plaskova started developing an isolated and uninhabited area in Siargao, Surigao del Norte where they constructed an assembly hall, meditation pool, and prayer house. In the same year in the Czech Republic, they were criminally charged with multiple counts of rape and defamation. Dobes and Plaskova allegedly repetitively committed rape while the former were the spiritual leaders of the group known as "Christian Yoga Tantra" or "Esoteric School of Poetry." In the late 2014 or early 2015, Dobes became the subject of an international arrest warrant for having been found guilty of the crime of multiple counts of rape by the Regional Court of Brno (Zlin) in the Czech Republic.¹⁵

On March 6, 2015, the Embassy of the Czech Republic in Manila, through Third Secretary and Consul Jakub Cerny, informed the Bureau of Immigration (BI) that Dobes and Plaskova are fugitives from the Czech Republic; Dobes has no valid travel document; and Plaskova's passport should be considered invalid and will be physically cancelled by the issuing authority upon its delivery.¹⁶

On March 10, 2015, BI Special Prosecutor Homer R. Arellano charged Dobes and Plaskova with deportation for being undocumented aliens under Section 37(a)(7) of Commonwealth Act No. 613¹⁷ and for posing a risk to public interest by being fugitives under Section 69 of Act No. 2711.¹⁸ Two

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 47.

¹⁶ *Id.*

¹⁷ Entitled AN ACT TO CONTROL AND REGULATE THE IMMIGRATION OF ALIENS INTO THE PHILIPPINES," otherwise known as "THE PHILIPPINE IMMIGRATION ACT OF 1940," approved on August 26, 1940.

¹⁸ Entitled "AN ACT AMENDING THE ADMINISTRATIVE CODE." approved on March 10, 1917.

days after, the BI Board of Commissioners issued a Summary Deportation Order¹⁹ against them.²⁰

On April 14, 2015, Plaskova was arrested in Surigao City by the BI, while she was trying to renew her immigration visa.²¹ On April 17, 2015, Plaskova applied for recognition as refugee, together with her minor child, Plasek, before the DOJ. She is detained at the Immigration Detention Center in Camp Bagong Diwa, Taguig City,²² while Plasek is in the care of Plaskova's friend in Barangay Union, Dapa, Surigao del Norte.²³

On May 15, 2015, Dobes was arrested and was told that his passport was already cancelled after he was tried and convicted *in absentia*, together with Plaskova, for multiple counts of rape in his country.²⁴ On May 18, 2015, Dobes applied for recognition as refugee before the DOJ.²⁵ He is also detained at the Immigration Detention Center in Camp Bagong Diwa, Taguig City.²⁶

In view of their applications for recognition as refugees, the deportation proceedings against them were suspended pursuant to Section 7 of DOJ Circular No. 058.²⁷

Meanwhile, in May 2015, the judgment of conviction for multiple counts of rape against Dobes and Plaskova in Czech Republic was annulled, and the case was returned to the court of first instance for reception of additional evidence and drafting of a new decision.²⁸

The DOJ Ruling

In a Decision²⁹ dated June 15, 2015, the DOJ Secretary denied Dobes's application for recognition as refugee after finding that he is not a refugee under the 1951 United Nations Convention Relating to the Status of Refugees

¹⁹ Not attached to the *rollo*.

²⁰ *Rollo*, p. 47.

²¹ *Id.* at 15.

²² *Id.* at 15-16.

²³ *Id.* at 45.

²⁴ *Id.* at 16.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 47. Section 7 of DOJ Circular No. 058, entitled "ESTABLISHING THE REFUGEE AND STATELESS STATUS DETERMINATION PROCEDURE, published on October 18, 2012, provides:

SECTION 7. *Suspensive Effect of the Application.* – The RSPPU [Refugees and Stateless Protection Unit] shall notify the Commissioner of the receipt of the application. Following receipt of the notice, any proceeding for the deportation or exclusion of the Applicant and/or his or her dependents shall be suspended. If the Applicant and/or his or her dependents is/are in detention, the Secretary, subject to the conditions that he or she may impose, may direct the Commissioner to order his or her and/or their release. The Commissioner shall furnish the RSPPU a copy of the Release Order.

²⁸ *Id.* at 48.

²⁹ Not attached to the *rollo*.

File

(1951 Convention) and 1967 Protocol Relating to the Status of Refugees (1967 Protocol) as implemented under DOJ Circular No. 058. Consequently, in a Decision³⁰ dated June 16, 2015, Plaskova and Plasek's applications for recognition as refugees were likewise denied.³¹

Petitioners filed their respective motions for reconsideration, and in addition, Dobes and Plaskova filed for a Motion for Bail.³²

In a Joint Decision³³ dated December 15, 2015, the DOJ denied the motions for reconsideration, as well as the Motion for Bail, and accordingly ordered the BI to continue with the deportation proceedings against petitioners.³⁴ The DOJ maintained that petitioners cannot be considered as refugees. It explained that there are five elements to be considered as refugees: *first*, the applicants must be outside of their country of nationality; *second*, there must be persecution; *third*, the applicants' fear of persecution must be well-founded; *fourth*, the persecution is for reason of race, religion, nationality, membership of a particular social group or political opinion; and *fifth*, the applicants are unable or unwilling to avail of the protection of, or to return to, their country of origin due to such fear.³⁵ The DOJ elaborated that for such fear to be well-founded, the same must be established by objective facts to show that there is a reasonable likelihood that the applicants will experience harm of persecution if they are to return to their country of origin; and that it must be established through objective and independent information that is available to the applicants' country of origin. Here, the DOJ found that petitioners miserably failed to establish any reasonable possibility that such persecution exists, considering that the documents submitted by them mostly came from the members/supporters of their spiritual group attesting to the character of petitioners which is not the issue when it comes to refugee status determination.³⁶

Further, the DOJ, citing USDOS-US Department of State: 2014 Report on International Religious Freedom-Czech Republic, 14 October 2015, and the published Freedom House: Freedom in the World 2015-Czech Republic, 28 January 2015, concluded that religious freedom in Czech Republic is respected and even supported.³⁷

Moreover, the DOJ found that the Decision of the High Court of Olomouc dated May 23, 2015, which annulled and revoked the judgment of conviction of Dobes and Plaskova for multiple counts of rape did not amount

³⁰ Not attached to the *rollo*.

³¹ *Rollo*, p. 48.

³² *Id.*

³³ *Id.* at 70-79.

³⁴ *Id.* at 78-79.

³⁵ *Id.* at 73.

³⁶ *Id.*

³⁷ *Id.* at 74-77.

Arli

to an acquittal but was merely remanded to the court of first instance to try the case again. Therefore, the petitioners are still subject to criminal prosecution before the proper court in Czech Republic, which is part of according them due process. The DOJ added that it will not allow individuals to use the system of refugee status determination in order to evade lawful prosecution under the guise of claiming to be refugees.³⁸

As to the denial of the Motion for Bail, the DOJ ruled that Dobes and Plaskova are in the custody of the BI by virtue of a deportation order, hence, they should lodge their request with the BI.³⁹

Aggrieved, they appealed before the OP.

The OP's Ruling

In a Decision⁴⁰ dated August 1, 2017, the OP denied the appeal and related Motions, *i.e.*, Motion to Stay Execution of the DOJ Joint Decision dated December 15, 2015 and the Respectful Reiterative Motion (For the Issuance of an Order to Stay the Execution of the DOJ Joint Decision dated December 15, 2015).⁴¹

The OP ruled that Dobes and Plaskova fall within the group to which the 1951 Convention does not apply as there are serious reasons for considering that they have committed serious non-political crimes outside the Philippines prior to their admission, pursuant to Article 1(F)⁴² of the 1951 Convention, after finding that Dobes and Plaskova were charged with multiple counts of rape in their country of origin.⁴³ The OP added that the gravity of the offense which Dobes and Plaskova remain charged with and for which they stand trial weighs heavier than the consequence of them being excluded from the application of the 1951 Convention.⁴⁴

³⁸ *Id.* at 73–74.

³⁹ *Id.* at 78.

⁴⁰ *Id.* at 45–63.

⁴¹ *Id.* at 62.

⁴² *Id.* at 52. Article 1(F) of the 1951 Convention provides:

The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

⁴³ *Id.* at 50–52.

⁴⁴ *Id.* at 53.

Moreover, the OP ruled that even if Dobes and Plaskova are not excluded under Article 1(F) of the 1951 Convention, the OP agreed with the DOJ that petitioners are not qualified as refugees,⁴⁵ as they failed to establish a well-founded fear of persecution on account of their religion or membership in a spiritual group, in light of the following circumstances:

First, as the DOJ held, the constitution, laws, and policies of Czech Republic appear to afford protection to religious freedom. Likewise, the Czech government generally seems to respect religious freedom as members of both registered and nonregistered religious groups are free to worship without government interference.⁴⁶

Second, Dobes and Plaskova failed to demonstrate that the Czech government's interest in them is on account of their religious belief and/or membership in a particular group. The OP noted that the circumstances and timelines of events leading to Dobes and Plaskova's respective departures from the Czech Republic up to the time they filed their applications for refugee status in 2015 belied their claim that they were persecuted. For one, when Dobes left the Czech Republic in 2007, the Czech police thereafter wanted him for preliminary investigation in relation to events that transpired during tantric treatment. Another, Dobes and Plaskova claimed continued oppression of their group, yet it was only in 2015 that they sought to be recognized as refugees. Worse, the applications for recognition as refugees were filed only after the issuance of an international arrest warrant, the commencement of summary deportation proceedings, and after they were arrested and then detained by Philippine authorities.⁴⁷ As such, the OP found that their unwillingness to return to Czech Republic is not due to a serious threat to their personal safety on account of their spiritual practices but their refusal to stand trial therein.⁴⁸

Lastly, the OP agreed with the DOJ's denial of the Motion for Bail as it should be lodged with the BI, and sustained the DOJ's order to the BI to continue with the deportation proceedings after the same was suspended with the petitioners' applications for recognition as refugees.⁴⁹

⁴⁵ *Id.* at 54.

⁴⁶ *Id.* at 55.

⁴⁷ *Id.* at 55-56.

⁴⁸ *Id.* at 57.

⁴⁹ *Id.* at 62.

File

Petitioners filed a Motion for Reconsideration,⁵⁰ Supplemental Motion for Reconsideration,⁵¹ a Second Supplemental Motion for Reconsideration,⁵² and a Third Supplemental Motion for Reconsideration,⁵³ which were all denied in a Resolution⁵⁴ dated June 4, 2021.

Undaunted, petitioners filed a Petition for Review under Rule 43 with application for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction against the OP before the CA, docketed as CA-G.R. SP No. 169694.⁵⁵

The CA Proceedings

On October 11, 2021, the CA issued a TRO⁵⁶ enjoining the BI from executing the Summary Deportation Order for a period of 60 days from notice. The CA also required petitioners and the OP to notify it within five days from notice of the filing and/or pendency of other cases or proceedings involving the same parties and issues pending before the CA or in any other court pursuant to A.M. No. CA-13-51-J⁵⁷ dated July 2, 2013.⁵⁸

On December 7, 2021, the CA heard the Petition for Review. Therein, the CA took particular notice of the Comment⁵⁹ submitted by the OP, as represented by the Office of the Solicitor General (OSG), that there are some cases deemed connected with the issue pending before it, *i.e.*:

- (1) Petition for *Habeas Corpus* before the Court of Appeals (SPL. PROC. No. 143686), dismissed by the Eighth Division in a Decision dated March 28, 2016;
- (2) Petition for *Certiorari* and Prohibition before the Supreme Court (G.R. No. 233855), dismissed by the said Court in a Resolution dated October 2, 2017, and the corresponding Motion for Reconsideration likewise denied in a Resolution dated February 21, 2018; and

⁵⁰ *Id.* at 96–133.

⁵¹ Not attached to the *rollo*.

⁵² *Rollo*, pp. 175–179.

⁵³ *Id.* at 180–188.

⁵⁴ *Id.* at 64–69.

⁵⁵ *Id.* at 81.

⁵⁶ Not attached to the *rollo*. See *rollo*, p. 7.

⁵⁷ See *Re: Letter Complaint of Fabiana Against Presiding Justice Reyes, Jr.*, 713 Phil. 161 (2013).

⁵⁸ *Rollo*, p. 83.

⁵⁹ Not attached to the *rollo*.

ATL

- (3) Petition for Writ of *Amparo* before the Supreme Court (G.R. No. 235272), which is still pending.⁶⁰

During the hearing, counsel for petitioners explained that he only took over the case at the level of appeal before the OP and that he was not informed by petitioners regarding the related cases because in their view the requirement only pertained to pending cases and not to those that had already been dismissed.⁶¹

In light of the foregoing, the CA issued a Resolution⁶² dated December 13, 2021, dismissing the Petition for Review for failure to comply with the requirements of a certification against forum shopping. The CA ruled that petitioners are guilty of filing a false certification against forum shopping when they failed to disclose the existence of the three cases mentioned above that are intimately related to the case before the CA and arose from the same facts pleaded in the Petition therein.⁶³

Petitioners sought reconsideration, which the CA denied in a Resolution⁶⁴ dated May 11, 2022. The CA rejected the claim of inadvertence. It explained that even if petitioners changed counsel, they are not excused from informing their new counsel of the status of all cases. The CA added that petitioners are guilty of forum shopping when they filed *Habeas Corpus* and *Amparo* petitions during the pendency of the appeal to the OP. It reasoned that resort to Rule 43 to question the OP Decision dated August 1, 2017 was patently aimed at thwarting their deportation, despite repeated identical attempts through the different cases filed.⁶⁵

Hence, this Petition for *Certiorari* with prayer for issuance of a TRO and/or Writ of Preliminary Injunction.⁶⁶

Petitioners argue that the CA gravely abused its discretion when it dismissed the case on pure technical and procedural grounds,⁶⁷ and pray that the case be remanded to the CA for further proceedings.⁶⁸ They allege that at the time CA-G.R. SP No. 169694 was filed on July 8, 2021, there are no pending cases which could cause vexation to the courts.⁶⁹

⁶⁰ *Rollo*, p. 84.

⁶¹ *Id.* at 84–85.

⁶² *Id.* at 81–83.

⁶³ *Id.* at 87.

⁶⁴ *Id.* at 90–95.

⁶⁵ *Id.* at 94–95.

⁶⁶ *Id.* at 3–43.

⁶⁷ *Id.* at 21.

⁶⁸ *Id.* at 41.

⁶⁹ *Id.* at 26.

Atty.

The public respondents, represented by the OSG, filed their Comment.⁷⁰ They argue that the undated Petition must be dismissed as it amounts to a re-litigation of issues already decided by the Supreme Court⁷¹ in G.R. No. 233855.⁷² They likewise claim that the CA did not gravely abuse its discretion, considering that petitioners failed to comply with the rule on non-forum shopping when they did not disclose the related cases.⁷³ For good measure, they added that the OP correctly affirmed the DOJ in denying petitioners' applications for refugee status. Finally, the OSG maintains that petitioners are not entitled to an injunctive writ, considering that they do not have a clear and unmistakable right as the DOJ and OP have determined that petitioners are not entitled to be granted refugee status and that their passports have been cancelled by their own government.⁷⁴

In the same Comment, the OSG elaborated some of the cases mentioned by the CA, as follows:

1. The Petition for *Habeas Corpus* dated January 18, 2016 was filed before the CA (raffled to Eighth Division) and was docketed as SPL. PROC. No. 143686. This Petition was dismissed by the CA (Eighth Division) in a Decision dated March 28, 2016 and its reconsideration was denied in a Resolution dated August 25, 2016.⁷⁵

2. A Petition for *Certiorari* and Prohibition with prayer for issuance of a temporary restraining order and preliminary injunction dated September 18, 2017 was filed by Dobes and Plaskova against Executive Secretary Salvador Medialdea, DOJ Chief State Counsel Ricardo Paras III, and the BI Commissioner before this Court, docketed as G.R. No. 233855. In this Petition, Dobes and Plaskova assailed the OP Decision dated August 1, 2017. The Court (Second Division) dismissed the said Petition in a Resolution dated October 2, 2017 for failure to sufficiently show that the assailed decision was tainted with grave abuse of discretion.⁷⁶ The Court also denied the Motion for Reconsideration in a Resolution dated February 21, 2018.⁷⁷

⁷⁰ *Id.* at 240–268.

⁷¹ *See* Notice of Resolution dated October 2, 2017 issued by then Deputy Division Clerk of Court Teresita Aquino Tuazon.

⁷² *Rollo*, p. 249.

⁷³ *Id.* at 254–257.

⁷⁴ *Id.* at 264–265.

⁷⁵ *Id.* at 243.

⁷⁶ *Id.* at 244–245.

⁷⁷ *Id.*

3. Petitioners filed a Petition for Writ of *Amparo* dated November 10, 2017 against the President of the Philippines, Secretary of Justice, Commissioner of Immigration, and the Warden of Camp Bagong Diwa before this Court (*En Banc*), docketed as G.R. No. 235272.⁷⁸

In this regard, the Court takes judicial notice, and as pointed out by petitioners, that G.R. No. 235272 has been denied by the Court (*En Banc*) in a Resolution dated December 3, 2019 for lack of merit because the issuance of writ of *amparo* is confined only to cases of extrajudicial killings and enforced disappearance or threats thereof. It was explained therein that petitioners were arrested and detained by the BI in view of the warrants of deportation and summary deportation orders. Hence, there was no enforced or involuntary disappearance or any threat thereof. The Motion for Reconsideration was also denied in a Resolution dated June 9, 2020.

The Issue Before the Court

The issue for the Court's resolution is whether the CA erred in finding that petitioners are guilty of forum shopping.

The Court's Ruling

The Petition is dismissed.

I.

Preliminarily, the Court observes that there are various procedural infirmities in the instant petition which renders the same already dismissible.

First, the instant Petition failed to strictly comply with the requirements for filing a petition for *certiorari* as it: (1) lacks a verified declaration that the petition submitted electronically is complete, and lacks true copies of the printed document filed with the Supreme Court, as required in the Guidelines on Submission and Processing of Soft Copies of Supreme Court-bound Papers Pursuant to the Efficient Use of Paper Rule;⁷⁹ (2) contains improper verification and certification of non-forum shopping in accordance with Rule 65, Section 1, in relation to Rule 7, Sections 4 and 5 of the Rules of Court (Rules), there being no properly accomplished *jurat* showing that the affiants exhibited before the notary public at least one of the affiants' identification documents issued by an official agency bearing the photographs and

⁷⁸ *Id.*

⁷⁹ A.M. No. 10-3-7-SC (RE: PROPOSED RULES ON E-FILING), September 10, 2013 and A.M. NO. 11-9-4-SC (RE: PROPOSED RULE FOR THE EFFICIENT USE OF PAPER). See also *Fortune Life Insurance Co., Inc. v. Commission on Audit Proper*, 821 Phil. 159, 162 (2017) [Per J. Bersamin, *En Banc*].

signatures of the affiants as required under Rule II, Sections 6 and 12 of the 2004 Rules on Notarial Practice, as amended by the Court *En Banc* Resolution dated February 19, 2008 in A.M. No. 02-8-13-SC;⁸⁰ and (3) lacks documents relevant and pertinent to the Petition as required in Rule 65, Section 1 of the Rules, such as the DOJ Decisions dated June 15, 2015 and June 16, 2015.

Second, petitioners erred in filing this Petition for *Certiorari* under Rule 65 as it is not the proper remedy to assail a final order of the CA,⁸¹ which is assailable through a petition for review under Rule 45⁸² of the Rules. A petition for *certiorari* under Rule 65⁸³ requires that there must be no other plain, speedy, and adequate remedy available,⁸⁴ which in this case, a petition for review under Rule 45 is available. Jurisprudence is replete with the pronouncement that where appeal is available to the aggrieved party, the special civil action of *certiorari* will not be entertained—remedies of appeal and *certiorari* are mutually exclusive, not alternative or successive.⁸⁵

II.

Even if the Court disregards the aforesaid procedural mishaps committed by petitioners, a perusal of the records would easily reveal that the CA did not gravely abuse its discretion when it dismissed the Petition for Review on the grounds that petitioners failed to strictly comply with the requirements of certification against forum shopping and when petitioners committed forum shopping, as these were clearly supported by the Rules.

Rule 7, Section 5 of the Rules states:

⁸⁰ A.M. No. 02-8-13-SC (RE: 2004 RULES ON NOTARIAL PRACTICE [ADDITIONAL GUIDELINES FOR THE IMPLEMENTATION OF THE MOA BETWEEN OCA AND OSG ON NOTARIAL REGISTERS]), February 19, 2008.

⁸¹ *Miranda v. Civil Service Commission*, 847 Phil. 232, 240 (2019) [Per J. J. Reyes, Jr., Second Division].

⁸² Section 1, Rule 45 of the Rules of Court reads:

Section 1. *Filing of Petition with Supreme Court.* — A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

⁸³ Section 1, Rule 65 of the Rules of Court reads:

Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

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

⁸⁴ See *Civil Service Commission v. Asensi*, 477 Phil. 401, 405 (2004) [Per J. Tinga, *En Banc*].

⁸⁵ *Pfleider v. CA-Cebu City*, 843 Phil. 1, 9 (2018) [Per J. Caguioa, Second Division].

SEC. 5. *Certification against forum shopping.* – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

....

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading, but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be a ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

Moreover, Section 7,⁸⁶ Rule 43 of the Rules provides that failure of petitioners to comply with the requirements, among which is the certification against forum shopping, shall be sufficient ground for the dismissal of their petition.

Hence, the CA cannot be faulted when it dismissed the case. However, petitioners are ascribing grave abuse of discretion to the CA in view of the substantial stake at issue: the life, liberty, and safety of petitioners. They argue that the CA should not have dismissed the petition on purely technical grounds.

“Procedural rules are essential in the administration of justice.”⁸⁷ “Procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party. Adjective law is important in insuring the effective enforcement of substantive rights through the orderly and speedy administration of justice. These rules are not intended to hamper litigants or complicate litigation but, indeed, to provide

⁸⁶ Section 7, Rule 43 of the Rules provides:

SEC. 7. *Effect of failure to comply with requirements.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

⁸⁷ *Malixi v. Baltazar*, 821 Phil. 423, 435 (2017) [Per J. Leonen, Third Division].

1/20

for a system under which suitors may be heard in the correct form and manner and at the prescribed time in a peaceful confrontation before a judge whose authority they acknowledge. The other alternative is the settlement of their conflict through the barrel of a gun.”⁸⁸

Relatedly, it bears stressing that the bare invocation of “the interest of substantial justice” is not a magic wand that would automatically compel the Court to suspend procedural rules.⁸⁹ “Procedural rules are not to be belittled or dismissed simply because their non-observance may have prejudiced a party’s substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.”⁹⁰ “The relaxation of procedural rules in the interest of justice was never intended to be a license for erring litigants to violate the rules with impunity. Liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances. While litigation is not a game of technicalities, every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of Justice.”⁹¹

In this case, the Court does not find a reason to excuse petitioners for failing to file a truthful certification against forum shopping, especially more that they committed the prohibited act of forum shopping.

III.

Furthermore, the Court notes that the CA initially dismissed petitioners’ case for filing a false certificate against forum shopping, and eventually denied their motion for reconsideration for having been found guilty of forum shopping. Citing *Mison v. Gallegos (Mison)*,⁹² the CA ruled that petitioners committed forum shopping after finding that petitioners filed *habeas corpus* and *amparo* petitions during the pendency of the appeal to the OP. It reasoned that the resort to Rule 43 to question the OP Decision dated August 1, 2017 is patently aimed at thwarting their deportation, despite repeated identical attempts through the different cases filed.⁹³

The Court notes that the instant case relates on the determination of petitioners’ status as refugees, and not on the deportation proceedings before the BI, which were previously suspended in view of petitioners’ application

⁸⁸ *Santos v. CA*, 275 Phil. 894, 898 (1991) [Per J. Cruz, First Division].

⁸⁹ *Philippine Savings Bank v. Papa*, 823 Phil. 725, 736 (2008) [Per J. Martires, Third Division].

⁹⁰ *Id.*; citation omitted.

⁹¹ *Id.* at 737; citation omitted.

⁹² *Mison v. Gallegos*, 761 Phil. 657 (2015) [Per J. Perez, *En Banc*].

⁹³ *Rollo*, p. 95

for refugee status. The refugee status determination is distinct and separate from the deportation proceedings. Hence, the *habeas corpus* and the *amparo* cases are considered forum shopping in so far as they relate to the BI proceedings. This is supported by the cases of *Mison*, cited by the CA and *Kiani v. BI (Kiani)*.⁹⁴

In *Mison*, the deportee sought for the issuance of *amparo* before a court, while he was the subject of a warrant of deportation and a summary deportation order from the BI. While in *Kiani*, the deportee sought *habeas corpus* before a court while he was the subject of a summary deportation order. In both cases, the Court declared that there was forum shopping.

“There is forum shopping when a 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. Forum shopping is an act of malpractice that is prohibited and condemned because it trifles with the courts and abuses their processes. It degrades the administration of justice and adds to the already congested court dockets.”⁹⁵

“Jurisprudence has recognized that forum shopping can be committed in several ways: (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).”⁹⁶

“These tests notwithstanding, what is pivotal is the vexation brought upon the courts and the litigants by a party who asks different courts to rule on the same or related causes and grant the same or substantially the same reliefs and, in the process, creates the possibility of conflicting decisions being rendered by the different fora upon the same issues.”⁹⁷

⁹⁴ 518 Phil. 501 (2006) [Per J. Callejo, Sr., First Division].

⁹⁵ *Fontana Development Corp. v. Yukasinovic*, 795 Phil. 913, 920 (2016) [Per J. Velasco, Jr., Third Division] (citations omitted).

⁹⁶ *City of Taguig v. City of Makati*, 787 Phil. 367, 387–388 (2016) [Per J. Leonen, Second Division] (citation omitted).

⁹⁷ See *Heirs of Mampo v. Morada*, G.R. No. 214526, November 3, 2020 [Per J. Caguioa, First Division].

Res judicata is defined as “a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment.”⁹⁸ According to the doctrine of *res judicata*, “a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit.”⁹⁹ It bars a subsequent case when the following requisites are satisfied: “(1) the former judgment is final; (2) it is rendered by a court having jurisdiction over the subject matter and the parties; (3) it is a judgment or an order on the merits; (4) there is — between the first and the second actions — identity of parties, of subject matter, and of causes of action.”¹⁰⁰

Here, the OSG pointed out that petitioners raised in G.R. No. 233855 the issue of whether respondents therein committed grave abuse of discretion in: *first*, considering that petitioners fall under the exclusionary clauses in Article 1 (F) of the 1951 Convention; and *second*, considering that petitioners are not refugees within the meaning of the 1951 Convention.¹⁰¹ Further, the OSG called out the attempt of petitioners to obscure the identity of the parties by adding Plasek as petitioner in the instant petition as opposed to G.R. No. 233855 wherein only Dobes and Plaskova were the petitioners. The OSG, however, argued that only the substantial identity of parties is required.

Here, the Court finds that petitioners are guilty of forum shopping in filing the present petition, because they already assailed the OP Decision dated August 1, 2017 in G.R. No. 233855, which was dismissed by the Court’s Second Division in a Resolution dated October 2, 2017 for failure to sufficiently show that the assailed decision was tainted with grave abuse of discretion, and the subsequent motion for reconsideration was likewise denied in a Resolution dated February 21, 2018 which has already attained finality.

While petitioners merely prayed in the instant Petition to remand the case to the CA for further proceedings, the Court sees that petitioners are trying to relitigate the OP Decision dated August 1, 2017 before the CA, which had already been passed upon by this Court. A remand of the case to the CA would be inutile. Again, this Court has ruled that the OP Decision dated August 1, 2017 was not issued with grave abuse of discretion.

⁹⁸ See *Municipality of Pateros v. City of Taguig*, G.R. No. 220824, April 19, 2023 [Per C.J. Gesmundo, *En Banc*], citing *Gutierrez v. CA*, 271 Phil. 463, 465 (1991) [Per J. Cruz, First Division], citing BLACK’S LAW DICTIONARY 1470 (Revised 4th ed., 1968).

⁹⁹ *Pryce Corporation v. China Banking Corporation*, 727 Phil. 1, 11 (2014) [Per J. Leonen, *En Banc*].

¹⁰⁰ *Pavlov v. Mendenilla*, 809 Phil. 24, 51 (2017) [Per J. Leonen, Second Division].

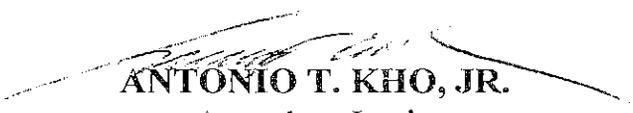
¹⁰¹ *Rollo*, p. 250.

Moreover, the identity of parties, by adding Plasek in the instant case, will not divest the instant case from the effects of *res judicata*. As correctly argued¹⁰² by the OSG, “*res judicata does not require absolute identity of parties as substantial identity is enough*. Substantial identity of parties exists [‘]when there is a community of interest between a party in the first case and a party in the second case, even if the latter was not impleaded in the first case.[’] Parties that represent the same interests in two petitions are, thus, considered substantial identity of parties for purposes of *res judicata*. Definitely, one test to determine substantial identity of interest would be to see whether the success or failure of one party materially affects the other.”¹⁰³

In any event, the determination of refugee status is left to the DOJ.¹⁰⁴ Here, the DOJ ruled that petitioners are not refugees. Moreover, the OP, after finding that Dobes and Plaskova are excluded from the application of 1951 Convention, affirmed the DOJ ruling that all petitioners are not refugees. “In this jurisdiction, courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies. By reason of the special knowledge and expertise of administrative departments over matters falling within their jurisdiction, they are in a better position to pass judgment thereon and their findings of fact in that regard are generally accorded respect, if not finality, by the courts.”¹⁰⁵ The DOJ and the OP sufficiently explained their reasons for denying petitioners the refugee status, and the Court finds no reason to deviate therefrom.

ACCORDINGLY, the instant Petition is **DISMISSED**. The Resolutions dated December 13, 2021 and May 11, 2022 rendered by the Court of Appeals in CA-G.R. SP No. 169694 are **AFFIRMED**. In light of the dismissal of the Petition, the application for the issuance of a temporary restraining order and or writ of preliminary injunction is likewise **DENIED**.

SO ORDERED.


ANTONIO T. KHO, JR.

Associate Justice

¹⁰² *Id.* at 252–254.

¹⁰³ *Pryce Corporation v. China Banking Corporation*, supra at 12; citations omitted.

¹⁰⁴ See *Sabir v. Department of Justice-Refugees and Stateless Persons Protection Unit*, G.R. No. 249387, March 8, 2023 [Per J. Zalameda, *En Banc*].

¹⁰⁵ *Go v. Bureau of Immigration*, 761 Phil. 223, 241 (2015) [Per J. Peralta, Third Division], citing *Tze Sun Wong v. Kenny Wong*, 749 Phil. 206 (2014) [Per J. Perlas-Bernabe, First Division].

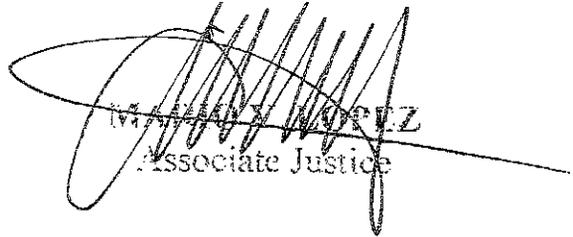
WE CONCUR:



MARVIC M.V.F. LEONEN
Senior Associate Justice
Division Chairperson



AMY C. LAZARO-JAVIER
Associate Justice



MARIANO LOPEZ
Associate Justice



JOSEP LOPEZ
Associate Justice

ATTESTATION

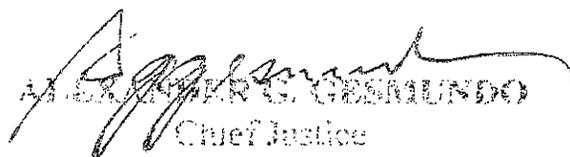
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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

