

TWELFTH DIVISION

[CA–G.R. SP NO. 133178, June 30, 2014]

**REX VILLARAZO AND RONALD GOMEZ, PETITIONERS, VS.
NATIONAL LABOR RELATIONS COMMISSION (FOURTH
DIVISION) AND N.S. MANGIO CONSTRUCTION AND
DEVELOPMENT CORPORATION/NESTOR S. MANGIO,
RESPONDENTS.**

D E C I S I O N

DICDICAN, J.:

Before us is a Petition for Certiorari^[1] filed by Rex Villarazo and Ronald Gomez ("petitioners"), pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to reverse and set aside the Decision^[2] of the Fourth Division of the National Labor Relations Commission ("NLRC") dated September 13, 2013 in NLRC NCR Case No. 11-16929-12 (NLRC LAC No. 07-002103-13) as well as the Resolution^[3] promulgated on November 11, 2013 denying the Motion for Reconsideration thereof.

The material and relevant facts of the case, as culled from the record, are as follows:

The herein petitioners are employees of N.S. Mangio Construction and Development Corporation. Petitioner Villarazo was employed by the company as a finishing carpenter from August 3, 2008 up to January 3, 2012 with a salary of Three Hundred Sixty Pesos (P360.00) per day, while petitioner Gomez was employed as laborer with a salary of Two Hundred Seventy Pesos (P270.00) per day sometime in 2007 to December 23, 2011.

N.S. Mangio Construction and Development Corporation ("respondent Corporation") is a domestic corporation, duly registered, organized and existing under the laws of the Republic of the Philippines which is engaged in the business of construction of buildings. It is represented by its President, Mr. Nestor Mangio ("private respondent").

On January 20, 2012, the herein petitioners filed a Complaint before the Labor Arbiter for constructive illegal dismissal, non-payment of salaries/wages, holiday premium, overtime premium, service incentive leave pay, 13th month pay and night shift differentials against the private respondents.

On February 20, 2012, the petitioners amended their Complaint and dropped the illegal dismissal as one of their causes of action against the private respondents.

In their position paper^[4], petitioners claimed that 'all rank and file employees are entitled to a 13th month pay regardless of the amount of basic salary that they receive in a month and regardless of their employment status', thus, they are entitled to their 13th month pay as well. According to them, they are also entitled to

claim their service incentive leave pay having rendered their services to the private respondents for one (1) year.

They further argued that they are entitled to night shift differentials for having worked between 10 p.m. and 6 a.m. pursuant to Article 86 of the Labor Code.

Thereafter, private respondents filed their Motion to Dismiss dated December 18, 2012. In their Motion to Dismiss, private respondents asseverated that:

"On December 6, 2012, the respondents were surprised to learn that complainants have filed another complaint against them for illegal dismissal.

"It appears that the complainants have deliberately split their cause of action by initially filing a case for money claims and then subsequently filing a case of illegal dismissal after the first case has been submitted for decision."

Eventually, on June 18, 2013, Labor Arbiter Patricio Libo-on issued an Order^[5] in favor of the herein private respondents. The pertinent portion of the said Order reads:

"WHEREFORE, premises considered, the complaint is dismissed due to forum shopping.

"SO ORDERED."

Unsatisfied with the Labor Arbiter's disposition, petitioners appealed from the former's Order to the NLRC. On September 13, 2013, the Fourth Division of the NLRC promulgated the herein Decision which dismissed petitioners' appeal for lack of cause of action. The decretal portion of the NLRC Decision reads:

"WHEREFORE, premises considered, the appeal is hereby dismissed for lack of merit. A new decision is, however, entered dismissing the complaint for lack of cause of action.

"SO ORDERED."

Petitioners then filed a Motion for Reconsideration^[6] of the said Resolution of the NLRC. On November 11, 2013, the NLRC issued the herein assailed Resolution^[7] denying petitioners' Motion for Reconsideration.

Unperturbed, petitioners filed the present petition before this Court assigning the lone act of grave abuse of discretion purportedly committed by the NLRC, to wit:

THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT DISMISSED THE APPEAL FOR LACK OF CAUSE OF ACTION.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the present petition to be devoid of merit.

Prefatorily, a petition for the writ of *certiorari* does not deal with errors of judgment nor does it include a mistake in the appreciation of the contending parties'