



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**JOLO'S KIDDIE CARTS/
FUN4KIDS/ MARLO U.
CABILI,**

Petitioners,

- versus -

**EVELYN A. CABALLA and
ANTHONY M. BAUTISTA,**
Respondents.

G.R. No. 230682

Present:

CARPIO, *J.*, Chairperson,
PERALTA,
BERSAMIN,*
PERLAS-BERNABE, and
CAGUIOA, *JJ.*

Promulgated:

29 NOV 2017

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D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*¹ are the Resolutions dated July 28, 2016² and February 22, 2017³ of the Court of Appeals (CA) in CA-G.R. SP No. 146460 which dismissed the petition for *certiorari*⁴ filed by petitioners Jolo's Kiddie Carts/Fun4Kids/Marlo U. Cabili (petitioners), due to a technical ground, *i.e.*, non-filing of a motion for reconsideration before filing a petition for *certiorari*.

* Designated additional member per raffle dated September 20, 2017.

¹ *Rollo*, pp. 12-43.

² *Id.* at 56-60. Penned by Associate Justice Romeo F. Barza with Presiding Justice Andres B. Reyes, Jr. (now a member of the Court) and Associate Justice Agnes Reyes-Carpio concurring.

³ *Id.* at 46-55.

⁴ See Petition for Review with Urgent Motion for the Immediate Issuance of a Temporary Restraining Order and/or Injunction dated July 4, 2011; *CA rollo*, pp. 3-23A.

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The Facts

The instant case stemmed from a complaint⁵ for illegal dismissal, underpayment of salaries/wages and 13th month pay, non-payment of overtime pay, holiday pay, and separation pay, damages, and attorney's fees filed by Evelyn A. Caballa (Caballa), Anthony M. Bautista (Bautista; collectively, respondents), and one Jocelyn⁶ S. Colisao (Colisao) against petitioners before the National Labor Relations Commission (NLRC). Respondents and Colisao alleged that petitioners hired them as staff members in the latter's business; Caballa and Bautista were assigned to man petitioners' stalls in SM Bacoor and SM Rosario in Cavite, respectively, while Colisao was assigned in several SM branches, the most recent of which was in SM North EDSA.⁷ They were paid a daily salary that reached ₱330.00 for a six (6)-day work week from 9:45 in the morning until 9:00 o'clock in the evening.⁸ They claimed that they were never paid the monetary value of their unused service incentive leaves, 13th month pay, overtime pay, and premium pay for work during holidays; and that when petitioners found out that they inquired from the Department of Labor and Employment about the prevailing minimum wage rates, they were prohibited from reporting to their work assignment without any justification.⁹

For their part,¹⁰ petitioners denied dismissing respondents and Colisao, and maintained that they were the ones who abandoned their work.¹¹ They likewise maintained that they paid respondents and Colisao their wages and other benefits in accordance with the law and that their money claims were bereft of factual and legal bases.¹²

The Labor Arbiter's (LA) Ruling

In a Decision¹³ dated November 27, 2015, the LA dismissed the case insofar as Colisao is concerned for failure to prosecute.¹⁴ However, the LA ruled in favor of respondents, and accordingly, ordered petitioners to solidarily pay them the following, plus attorney's fees equivalent to ten percent (10%) of the total monetary awards:

⁵ Id. at 208-209.

⁶ Jocely in some parts of the record.

⁷ See id. at 57 and 68. See also *rollo*, p. 25.

⁸ Id. at 130-131.

⁹ Id. at 131.

¹⁰ See Position Paper dated March 4, 2015; id. at 55-69.

¹¹ See id. at 61-62.

¹² See id. at 64-66.

¹³ *Rollo*, pp. 78-86. Penned by Labor Arbiter Zosima C. Lameyra.

¹⁴ Id. at 86.

	Separation Pay	Back- wages	Wage Di- fferential	13 th month pay	Moral damages	Exemplary damages	Total
Caballa	60,580.00	109,870.80	75,156.12	10,608.00	10,000.00	5,000.00	₱271,214.92
Bautista	60,580.00	112,294.00	74,480.12	10,608.00	10,000.00	5,000.00	<u>272,962.12</u>
							544,177.04
							Plus 10% Attorney's Fees
							<u>54,417.70</u>
							GRAND TOTAL
							₱598,594.74 ¹⁵

The LA found that respondents' adequate substantiation of their claim that they were no longer given any work assignment and were not allowed to go anywhere near their respective workstations, coupled with petitioners' failure to prove abandonment, justifies the finding that respondents were indeed dismissed without just cause nor due process.¹⁶

Aggrieved, petitioners appealed¹⁷ to the NLRC.

The NLRC Ruling

In a Decision¹⁸ dated April 28, 2016, the NLRC modified the LA ruling, finding no illegal dismissal nor abandonment of work. Accordingly, the NLRC ordered petitioners to reinstate respondents to their former or substantially equivalent positions without loss of seniority rights and privileges; deleted the awards for payment of backwages, separation pay, and moral and exemplary damages; and affirmed the rest of the awards.¹⁹ For this purpose, the NLRC attached a Computation of Monetary Award²⁰ detailing the monetary awards due to respondents, as follows: (a) for Caballa, ₱15,623.00 as holiday pay, ₱109,870.80 as wage differential, and ₱75,156.12 as 13th month pay; (b) for Bautista, ₱15,623.00 as holiday pay, ₱112,294.00 as wage differential, and ₱74,480.12 as 13th month pay; and (c) attorney's fees amounting to ten percent (10%) of the total monetary value awarded.²¹

Anent the procedural matters raised by petitioners, the NLRC ruled that: (a) petitioners waived the issue of improper venue when they failed to raise the same before the filing of position papers; and (b) respondents substantially complied with the requirement of verifying their position papers, and thus, the same is not fatal to their complaint.²² As to the merits, while the NLRC agreed with the LA's finding that there was no abandonment on the part of respondents, the latter were unable to adduce any proof that petitioners indeed committed any overt or positive act

¹⁵ Id.

¹⁶ See id. at 84.

¹⁷ See Memorandum of Appeal dated February 5, 2016; CA *rollo*, pp. 180-204.

¹⁸ *Rollo*, pp. 62-75. Penned by Presiding Commissioner Grace E. Maniquiz-Tan with Commissioners Dolores M. Peralta-Beley and Mercedes R. Posada-Lacap concurring.

¹⁹ Id. at 74.

²⁰ Id. at 76. Computed by Administrative Assistant V Madelaine F. Basilio.

²¹ Id.

²² See id. at 69-70.

operative of their dismissal.²³ In view of the finding that there was neither dismissal on the part of petitioners nor abandonment on the part of respondents, the NLRC ordered the latter's reinstatement but without backwages. Finally, the NLRC held that respondents should be entitled to their holiday pay as it is a statutory benefit which petitioners failed to prove.²⁴

Dissatisfied, petitioners directly filed a petition for *certiorari*²⁵ before the CA, without moving for reconsideration before the NLRC.

The CA Ruling

In a Resolution²⁶ dated July 28, 2016, the CA denied the petition due to petitioners' failure to file a motion for reconsideration before the NLRC prior to the filing of a petition for *certiorari* before the CA. It held that the prior filing of such motion before the lower tribunal is an indispensable requisite in elevating the case to the CA via *certiorari*, and that petitioners' failure to do so resulted in the NLRC ruling attaining finality.²⁷

Petitioners moved for reconsideration,²⁸ but the same was denied in a Resolution²⁹ dated February 22, 2017; hence, this petition.³⁰

The Issue Before the Court

The issues for the Court's resolution are whether or not the CA was correct in: (a) dismissing the petition for *certiorari* before it due to petitioners' non-filing of a prior motion for reconsideration before the NLRC; and (b) effectively affirming the NLRC ruling, which not only increased respondents' awards of wage differential and 13th month pay, but also awarded an additional monetary award as holiday pay.

The Court's Ruling

The petition is partly meritorious.

²³ See *id.* at 71-72.

²⁴ *Id.* at 73.

²⁵ CA *rollo*, pp. 3-23A

²⁶ *Rollo*, pp. 56-60.

²⁷ See *id.* at 58-60.

²⁸ See Motion for Reconsideration with Urgent Motion for the Immediate Issuance of a Temporary Restraining Order and/or Injunction dated September 13, 2016; CA *rollo*, pp. 151-177.

²⁹ *Rollo*, pp. 46-55.

³⁰ *Id.* at 12-43.

I.

As a rule, the filing of a motion for reconsideration is a condition *sine qua non* to the filing of a petition for *certiorari*.³¹ The rationale for this requirement is that “the law intends to afford the tribunal, board or office an opportunity to rectify the errors and mistakes it may have lapsed into before resort to the courts of justice can be had.”³² Notably, however, there are several recognized exceptions to the rule, one of which is when the order is a patent nullity.³³

In this case, records show that the LA ruled in favor of respondents, and accordingly, ordered petitioners to pay them the following monetary awards:

	Separation Pay	Back- wages	Wage Di- fferential	13 th month pay	Moral damages	Exemplary damages	Total
Caballa	60,580.00	109,870.80	75,156.12	10,608.00	10,000.00	5,000.00	₱271,214.92
Bautista	60,580.00	112,294.00	74,480.12	10,608.00	10,000.00	5,000.00	<u>272,962.12</u>
							544,177.04
							Plus 10% Attorney’s Fees
							<u>54,417.70</u>
							GRAND TOTAL
							₱598,594.74

Upon petitioners’ appeal to the NLRC, the LA ruling was modified, deleting the awards for separation pay, backwages, moral damages, and exemplary damages, while affirming the awards for wage differential and 13th month pay. In the Computation of Monetary Award³⁴ attached to the NLRC ruling – which according to the NLRC itself, shall form part of its decision³⁵ – it was indicated that Caballa’s awards for wage differential and 13th month pay are in the amounts of ₱109,870.80 and ₱75,156.12, respectively; while the awards in Bautista’s favor were pegged at ₱112,294.00 and ₱74,480.12, respectively. However, a simple counterchecking of the NLRC’s computation with the LA ruling readily reveals that: (a) the amounts of ₱109,870.80 and ₱112,294.00 clearly pertain to the awards of backwages, which were already deleted in the NLRC ruling; (b) the amounts of ₱75,156.12 and ₱74,480.12 pertain to the awards of wage differential; and (c) the amount of ₱10,608.00 which pertain to the awards of 13th month pay for both respondents, were no longer reflected in the NLRC computation. While this is obviously just an oversight on the part of the NLRC, it is not without any implications as such oversight resulted in an unwarranted increase in the monetary awards due to respondents. Clearly, such an increase is a patent nullity as it is bereft of any factual and/or legal basis.

³¹ *Republic of the Philippines v. Bayao*, 710 Phil. 279, 287 (2013), citing *Commissioner of Internal Revenue v. Court of Tax Appeals*, 695 Phil. 55, 61 (2012).

³² *Olores v. Manila Doctors College*, 731 Phil. 45, 58 (2014), citing *Alcosero v. NLRC*, 351 Phil. 368, 378 (1998).

³³ See *id.*, citing *Abraham v. NLRC*, 406 Phil. 310, 316 (2001).

³⁴ *Rollo*, p. 76.

³⁵ *Id.* at 74.

Verily, the CA erred in dismissing the petition for *certiorari* filed before it based on the aforesaid technical ground, as petitioners were justified in pursuing a direct recourse to the CA even without first moving for reconsideration before the NLRC. In such instance, court procedure dictates that the case be remanded to the CA for a resolution on the merits. However, when there is already enough basis on which a proper evaluation of the merits may be had, as in this case, the Court may dispense with the time-consuming procedure of remand in order to prevent further delays in the disposition of the case and to better serve the ends of justice.³⁶ In view of the foregoing – as well as the fact that petitioners pray for a resolution on the merits³⁷ – the Court finds it appropriate to exhaustively resolve the instant case.

II.

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.³⁸

In 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.³⁹

Guided by the foregoing considerations and as will be explained hereunder, the Court finds that the NLRC did not gravely abuse its discretion in ruling that: (a) petitioners are barred from raising improper venue and that the verification requirement in respondents' position paper was substantially complied with; and (b) respondents were neither dismissed by petitioners nor considered to have abandoned their jobs. However and as already discussed, the NLRC committed grave abuse of discretion amounting to lack

³⁶ See *Sy-Vargas v. The Estate of Rolando Ogsos, Sr.*, G.R. No. 221062, October 5, 2016, citing *Gonzales v. Marmaine Realty Corporation*, G.R. No. 214241, January 13, 2016, 781 SCRA 63, 71.

³⁷ See *rollo*, p. 41.

³⁸ *Gadia v. Sykes Asia, Inc.*, 752 Phil. 413, 420 (2015), citing *Omni Hauling Services, Inc. v. Bon*, 742 Phil. 335, 342 (2014).

³⁹ *University of Santo Tomas (UST) v. Samahang Manggagawa ng UST*, G.R. No. 184262, April 24, 2017, citing *Quebral v. Angbus Construction, Inc.*, G.R. No. 221897, November 7, 2016.

or excess of jurisdiction when it awarded respondents increased monetary benefits without any factual and/or legal bases.

III.

Anent the first procedural issue, petitioners insist that since respondents worked in Cavite, they should have filed their complaint before the Regional Arbitration Branch IV of the NLRC and not in Manila, pursuant to Section 1, Rule IV of the 2011 NLRC Rules of Procedure. As such, the LA in Manila where the complaint was filed had no jurisdiction to rule on the same.⁴⁰ However, such insistence is misplaced as the aforesaid provision of the 2011 Rules of Procedure clearly speaks of venue and not jurisdiction. Moreover, paragraph (c) of the same provision explicitly provides that “[w]hen venue is not objected to before the first scheduled mandatory conference, such issue shall be deemed waived.” Here, the NLRC aptly pointed out that petitioners only raised improper venue for the first time in their position paper,⁴¹ and as such, they are deemed to have waived the same.

In this relation, Article 224 (formerly Article 217)⁴² of the Labor Code, as amended, clearly provides that the LAs shall have exclusive and original jurisdiction to hear and decide, *inter alia*, termination disputes and money claims arising from employer-employee relations, as in this case. As such, the LA clearly had jurisdiction to resolve respondents’ complaint.

Another procedural issue raised by petitioners is that respondents signed the Verification and Affidavit of Non-Forum Shopping attached to their Position Paper a day earlier than the date such pleading was filed by their counsel. In this regard, petitioners assert that such is a fatal infirmity that necessitates the dismissal of respondents’ complaint.⁴³ However, the NLRC correctly ruled that respondents’ substantial compliance with the requirement, coupled with their meritorious claims against petitioners, necessitates dispensation with the strict compliance with the rules on verification and certification against forum shopping in order to better serve the ends of justice. In *Fernandez v. Villegas*,⁴⁴ the Court held:

⁴⁰ See *rollo*, pp. 25-26.

⁴¹ See *id.* at 69.

⁴² As renumbered pursuant to Section 5 of Republic Act No. 10151, entitled "AN ACT ALLOWING THE EMPLOYMENT OF NIGHT WORKERS, THEREBY REPEALING ARTICLES 130 AND 131 OF PRESIDENTIAL DECREE NUMBER FOUR HUNDRED FORTY-TWO, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES," approved on June 21, 2011. See also Department Advisory No. 01, Series of 2015 of the Department of Labor and Employment entitled "RENUMBERING OF THE LABOR CODE OF THE PHILIPPINES, AS AMENDED."

⁴³ See *rollo*, pp. 26-28.

⁴⁴ G.R. No. 200191, August 20, 2014, 733 SCRA 548.

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The Court laid down the following guidelines with respect to non-compliance with the requirements on or submission of a defective verification and certification against forum shopping, 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 involve 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.

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Besides, it is settled that **the verification of a pleading is only a formal, not a jurisdictional requirement intended to secure the assurance that the matters alleged in a pleading are true and correct. Therefore, the courts may simply order the correction of the pleadings or act on them and waive strict compliance with the rules,** as in this case.

x x x x

Similar to the rules on verification, **the rules on forum shopping are designed to promote and facilitate the orderly administration of justice; hence, it should not be interpreted with such absolute**

literalness as to subvert its own ultimate and legitimate objectives. The requirement of strict compliance with the provisions on certification against forum shopping merely underscores its mandatory nature to the effect that the certification cannot altogether be dispensed with or its requirements completely disregarded. **It does not prohibit substantial compliance with the rules under justifiable circumstances**, as also in this case.⁴⁵ (Emphases and underscoring supplied)

IV.

In *Claudia's Kitchen, Inc. v. Tanguin*,⁴⁶ the Court was faced with a situation where, on the one hand, the employee claimed she was illegally dismissed by her employer; on the other, the employer denied ever dismissing such employee and even accused the latter of abandoning her job, as in this case. In resolving the matter, the Court extensively discussed:

In cases of illegal dismissal, the employer bears the burden of proof to prove that the termination was for a valid or authorized cause. **But before the employer must bear the burden of proving that the dismissal was legal, the employees must first establish by substantial evidence that indeed they were dismissed. If there is no dismissal, then there can be no question as to the legality or illegality thereof.** In *Machica v. Roosevelt Services Center, Inc.*, the Court enunciated:

The rule is that one who alleges a fact has the burden of proving it; thus, petitioners were burdened to prove their allegation that respondents dismissed them from their employment. It must be stressed that the evidence to prove this fact must be clear, positive and convincing. The rule that the employer bears the burden of proof in illegal dismissal cases finds no application here because the respondents deny having dismissed the petitioners.

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The Court further agrees with the findings of the LA, the NLRC[,] and the CA that Tanguin was not guilty of abandonment. *Tan Brothers Corporation of Basilan City v. Escudero* extensively discussed abandonment in labor cases:

As defined under established jurisprudence, abandonment is the deliberate and unjustified refusal of an employee to resume his employment. It constitutes neglect of duty and is a just cause for termination of employment under paragraph (b) of Article 282 [now Article 296] of the Labor Code. **To constitute abandonment, however, there must be a clear and deliberate intent to discontinue one's employment without any intention of returning. In this regard, two elements must concur: (1) failure to**

⁴⁵ Id. at 556-560; citations omitted.

⁴⁶ See G.R. No. 221096, June 28, 2017.

report for work or absence without valid or justifiable reason; and (2) a clear intention to sever the employer-employee relationship, with the second element as the more determinative factor and being manifested by some overt acts. Otherwise stated, absence must be accompanied by overt acts unerringly pointing to the fact that the employee simply does not want to work anymore. It has been ruled that the employer has the burden of proof to show a deliberate and unjustified refusal of the employee to resume his employment without any intention of returning.⁴⁷ (Emphases and underscoring supplied)

As aptly ruled by the NLRC, respondents failed to prove their allegation that petitioners dismissed them from work, as there was no indication as to how the latter prevented them from reporting to their work stations; or that the petitioners made any overt act that would suggest that they indeed terminated respondents' employment.⁴⁸ In the same vein, petitioners failed to prove that respondents committed unequivocal acts that would clearly constitute intent to abandon their employment. It may even be said that respondents' failure to report for work may have been a direct result of their belief, albeit misplaced, that they had already been dismissed by petitioners. Such mistaken belief on the part of the employee should not lead to a drastic conclusion that he has chosen to abandon his work.⁴⁹ More importantly, respondents' filing of a complaint for illegal dismissal negates any intention on their part to sever their employment relations with petitioners.⁵⁰ To reiterate, abandonment of position is a matter of intention and cannot be lightly inferred, much less legally presumed, from certain equivocal acts.⁵¹

In light of the finding that respondents neither abandoned their employment nor were illegally dismissed by petitioners, it is only proper for the former to report back to work and for the latter to reinstate them to their former positions or a substantially-equivalent one in their stead. In this regard, jurisprudence provides that in instances where there was neither dismissal by the employer nor abandonment by the employee, the proper remedy is to reinstate the employee to his former position but without the award of backwages.⁵²

As for respondents' money claims for holiday pay, wage differential, and 13th month pay, the NLRC properly observed that petitioners failed to show that payment has been made. As such, they must be held liable for the same. It is well-settled that "with respect to labor cases, the burden of

⁴⁷ See id.; citations omitted.

⁴⁸ See *rollo*, p. 71.

⁴⁹ See *Uniwide Sales Warehouse Club v. NLRC*, 570 Phil. 535, 552-553 (2008), citing *Lemery Savings & Loan Bank v. NLRC*, G.R. No. 96439, January 27, 1992, 205 SCRA 492, 499.

⁵⁰ *Mallo v. Southeast Asian College, Inc.*, 771 Phil. 410, 421 (2015), citing *Fianza v. NLRC*, 712 Phil. 275, 283 (2013).

⁵¹ Id., citing *Macahilig v. NLRC*, 563 Phil. 683, 693 (2007).

⁵² Id. at 432, citing *MZR Industries v. Colambot*, 716 Phil. 617, 628 (2013).

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proving payment of monetary claims rests on the employer, the rationale being that the pertinent personnel files, payrolls, records, remittances and other similar documents – which will show that overtime, differentials, service incentive leave and other claims of workers have been paid – are not in the possession of the worker but in the custody and absolute control of the employer.”⁵³ However and as already adverted to earlier, the awards of wage differential and 13th month pay due to respondents must be adjusted to properly reflect the computation made by the LA, in that: (a) Caballa is entitled to wage differential and 13th month pay in the amounts of ₱75,156.12 and ₱10,608.00, respectively; while (b) Bautista’s entitlement to such claims are in the amounts of ₱74,480.12 and ₱10,608.00, respectively.

In the same manner, the NLRC correctly awarded attorney’s fees to respondents, in light of Article 111(a) of the Labor Code which states that: “[i]n cases of unlawful withholding of wages, the culpable party may be assessed attorney’s fees equivalent to ten percent (10%) of the amount of wages recovered,” as in this case.

Finally, all monetary awards due to respondents shall earn legal interest at the rate of six percent (6%) per annum from the finality of this Decision until fully paid, pursuant to prevailing jurisprudence.⁵⁴

WHEREFORE, the petition is **PARTLY GRANTED**. The Resolutions dated July 28, 2016 and February 22, 2017 of the Court of Appeals in CA-G.R. SP No. 146460 are hereby **SET ASIDE**. Accordingly, the Decision dated April 28, 2016 of the National Labor Relations Commission is **AFFIRMED** with **MODIFICATION**, ordering petitioners Jolo’s Kiddie Carts/Fun4Kids/Marlo U. Cabili to pay:

- a) Respondent Evelyn A. Caballa the amounts of ₱15,623.00 as holiday pay, ₱75,156.12 as wage differential, and ₱10,608.00 as 13th month pay, plus attorney’s fees amounting to ten percent (10%) of the aforesaid monetary awards. Further, said amounts shall then earn legal interest at the rate of six percent (6%) per annum from the finality of the Decision until fully paid; and
- b) Respondent Anthony M. Bautista the amounts of ₱15,623.00 as holiday pay, ₱74,480.12 as wage differential, and ₱10,608.00 as 13th month pay, plus attorney’s fees amounting to ten percent (10%) of the aforesaid monetary awards. Further, said amounts shall then earn legal interest at the rate of six percent (6%) per annum from the finality of the Decision until fully paid.

⁵³ *G & M (Phil.), Inc. v. Batomalaque*, 499 Phil. 724, 729-730 (2005), citing *Villar v. NLRC*, 387 Phil. 706, 716 (2000).

⁵⁴ See *Nacar v. Gallery Frames*, 716 Phil. 267, 279-283 (2013).

Finally, the Temporary Restraining Order dated May 26, 2017 issued in relation to this case is hereby **LIFTED**. The Decision dated April 28, 2016 of the National Labor Relations Commission in NLRC NCR Case No. 03-03168-15 (NLRC LAC No. 02-000701-16), as modified, shall be implemented in accordance with this Decision.

SO ORDERED.

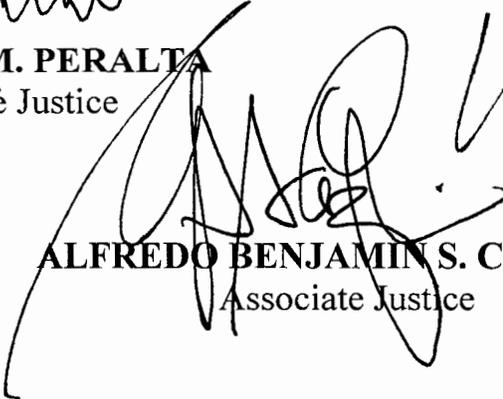

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

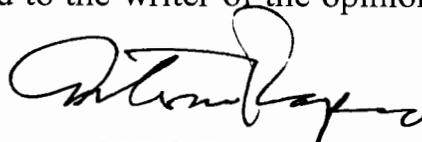

DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

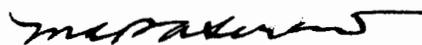
ATTESTATION

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.


ANTONIO T. CARPIO
Associate Justice
Chairperson

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.



MARIA LOURDES P. A. SERENO
Chief Justice