



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MARY LOUISE R. ANDERSON,
Petitioner.

G.R. No. 172590

Present:

- versus -

CARPIO, *Chairperson,*
DEL CASTILLO,
PEREZ,
REYES,* *and*
PERLAS-BERNABE, *JJ.*

ENRIQUE HO,
Respondent.

Promulgated:

JAN 07 2013

HM Cabalag Perfecto

DECISION

DEL CASTILLO, *J.:*

As her petition for review was dismissed by the Court of Appeals (CA) on a technical ground, petitioner now invokes the liberal application of the rules of procedure.

Assailed in this Petition for Review on *Certiorari*¹ is the July 14, 2005 Resolution² of the CA in CA-G.R. SP No. 89793 which dismissed the petition for review of petitioner Mary Louise R. Anderson (Anderson) because the certification against forum shopping attached thereto was signed by counsel on her behalf without the proper authority. Likewise assailed is the CA's May 4, 2006 Resolution³ denying the motion for reconsideration thereof. *McM*

Per raffle dated December 10, 2012.

Rolla, pp. 12-36.

CA *rollo*, p. 221; penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Delilah Vidallon-Magtolis and Jose C. Mendoza (now a member of this Court).

Id. at 246; penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Lucas P. Bersamin (now a member of this Court) and Jose C. Mendoza (now a member of this Court).

Factual Antecedents

On June 5, 2003, Anderson filed a Complaint⁴ for Ejectment against respondent Enrique Ho (Ho) before the Metropolitan Trial Court (MeTC) of Quezon City.⁵ She alleged that through her mere tolerance, Ho is in possession of her parcel of land at Roosevelt Avenue, Quezon City covered by Transfer Certificate of Title No. N-193368⁶ (Roosevelt property). As she was already in need of the said property, Anderson served upon Ho a Demand Letter to Vacate but despite receipt thereof, Ho refused. Because of this, Anderson prayed that the MeTC order Ho to vacate the Roosevelt property and pay her damages and attorney's fees.

In his Answer with Compulsory Counterclaim,⁷ Ho denied that his occupation of the Roosevelt property is through Anderson's mere tolerance. He claimed that since Anderson is an American citizen, he managed her affairs in the Philippines and administered her properties in Quezon City and Cebu. When Anderson sought his assistance in ejecting her relatives from the Roosevelt property and in demolishing the St. Anthony de Padua Church built thereon, Ho (1) secured the services of a lawyer to file an ejectment case against the occupants of the property; (2) dutifully appeared in court on Anderson's behalf who was then in the United States of America (U.S.A.); and (3) was able to secure a judgment from the court in favor of Anderson. For all these, Anderson did not pay Ho a single centavo and instead executed a written document dated January 14, 1999⁸ which states that as partial payment for Ho's services, Anderson is authorizing him "to make use of the Roosevelt property as his residence free of charge provided he vacates [it] if there is a buyer for the lot" and "that the balance of Ho's compensation shall consist of 10% of the proceeds [of the sale of any or all of her

⁴ Id. at 55-59.

⁵ The case was raffled to Branch 32 of said court and docketed as Civil Case No. 30840.

⁶ CA *rollo*, pp. 60-61.

⁷ Id. at 62-69.

⁸ Id. at 70.

properties located in Roosevelt Avenue, M.H. del Pilar Street and Ana Maria Street, all in Quezon City; Cebu City; and Cebu province]”. In view of this, Ho averred that he possesses the property not through mere tolerance but as part of his compensation for services rendered to Anderson. Hence, he is entitled to the continued possession thereof until such time that the property is sold and he is paid the 10% of the proceeds of its sale.

Ruling of the Metropolitan Trial Court

On June 25, 2004, the MeTC rendered a Decision⁹ dismissing the case for lack of cause of action. It gave much weight to the written document executed by Anderson wherein she gave her consent for Ho to occupy the Roosevelt property provided that the latter shall vacate the same if there is already a buyer for the lot. There being no allegation that the said property already has a buyer, she could not eject Ho therefrom.

Ruling of the Regional Trial Court

On appeal, the Regional Trial Court (RTC) in its Decision¹⁰ of January 21, 2005 ruled as follows:

The evidence of the parties thus stands upon an equipoise. With the equiponderance of evidence, the Court is inclined to consider the dismissal of the complaint as without prejudice depending on the outcome of the determination in the proper forum whether or not the [written document dated January 14, 1999] x x x was falsified.

WHEREFORE, the Court modifies the Decision dated June 25, 2004 of the Metropolitan Trial Court of Quezon City in Civil Case No. 30840 by dismissing the complaint without prejudice.

SO ORDERED.¹¹

⁹ Id. at 158-162; penned by Judge Angelene Mary W. Quimpo Sale.

¹⁰ Id. at 37-47; penned by Judge Thelma A. Ponferrada.

¹¹ Id. at 47.

Anderson moved for reconsideration,¹² but the same was denied by the RTC in an Order¹³ dated April 1, 2005, a copy of which was received by her counsel on May 5, 2005.¹⁴

Ruling of the Court of Appeals

Intending to file with the CA a Petition for Review under Rule 42 of the Rules of Court, Anderson's counsel, Atty. Rommel V. Oliva (Atty. Oliva), filed a Motion for Extension of Time of 15 days from May 20, 2005 or until June 4, 2005 within which to file a petition¹⁵ allegedly due to the revisions required in the initial draft and on account of heavy pressure of work. This was granted by the CA in a Minute Resolution¹⁶ dated May 31, 2005. Subsequently, said counsel sought another extension of 15 days or until June 19, 2005,¹⁷ this time claiming that the petition had already been finalized and sent to Anderson in Hawaii, U.S.A. for her to read as well as sign the certification and verification portion thereof. However, as of the last day of the extended period on June 4, 2005, the petition has not yet been sent back, hence, the additional extension being sought. In the interest of justice, the CA once again granted the said motion for extension.¹⁸ On June 20, 2005,¹⁹ Atty. Oliva was finally able to file the Petition for Review²⁰ but the certification against forum shopping attached thereto was signed by him on Anderson's behalf without any accompanying authority to do so. Hence, the CA issued a Resolution²¹ on July 14, 2005, viz:

The Court resolves to DISMISS herein Petition for Review as the certification against forum shopping was executed not by the petitioner herself

¹² See Motion for Reconsideration, id. at 210-216.

¹³ Id. at 48-54.

¹⁴ See allegation in the Motion for Extension of Time to File Petition for Review, id. at 2.

¹⁵ Id. at 2-6.

¹⁶ Id. at 7.

¹⁷ Id. at 8-12.

¹⁸ See Minute Resolution dated June 23, 2005, id. at 13.

¹⁹ The petition was filed on time since June 19, 2005 or the last day of the extended time to file the same was a Sunday.

²⁰ CA *rollo*, pp. 18-36.

²¹ Id. at 221.

but [by] her counsel without attaching therewith any special authority to sign [on] her behalf.

SO ORDERED.²²

Anderson filed a Motion for Reconsideration.²³ During its pendency, she also filed a Manifestation²⁴ to which was attached an Affidavit²⁵ and a Special Power of Attorney (SPA)²⁶ authorizing her counsel to cause the preparation and filing of the Petition for Review and to sign and execute the verification and certification against forum shopping on her behalf. She explained in the Affidavit that at the time the petition was filed, her health condition hindered her from going to the proper authority to execute the necessary SPA so she just verbally instructed her lawyer to draft the petition and cause the filing of the same. Nevertheless, upon learning of the dismissal of her case, she returned to the Philippines even against her doctor's advice and executed an SPA in favor of her counsel. She thus prayed that the subsequently submitted documents be considered in resolving her pending Motion for Reconsideration.

The CA, however, remained unswayed and denied the Motion for Reconsideration in a Resolution²⁷ dated May 4, 2006.

Hence, this Petition for Review on *Certiorari*.

The Parties' Arguments

Anderson prays for the relaxation of the rules on certification against forum shopping and cites a number of jurisprudence wherein the Court considered the subsequent submission or correction of a certificate of non-forum shopping as

²² Id.

²³ Id. at 222-227.

²⁴ Id. at 236-237.

²⁵ Id. at 238-239.

²⁶ Id. at 242-243.

²⁷ Id. at 246.

substantial compliance. One in particular is *Donato v. Court of Appeals*²⁸ which she claims to be on all fours with the present case. Moreover, Anderson stresses that the merits of the case should at all times prevail over the rigid application of technical rules. She then proceeds to discuss her arguments relating to the substantial merits of her petition.

On the other hand, Ho points out that despite the extensions granted by the CA within which to file the Petition for Review, Anderson still failed to sign the certification against forum shopping. This, he avers, demonstrates Anderson's brazen disregard of technical rules. Anent the argument of substantial compliance, Ho cites *Mendigorin v. Cabantog*²⁹ where the Court reiterated its earlier pronouncement that substantial compliance will not suffice in a matter involving strict observance of the rule regarding a certificate of non-forum shopping.³⁰ At any rate, Ho insists that Anderson has no sufficient cause of action for ejectment and damages against him.

Our Ruling

The petition has no merit.

*No justifiable reason exists in this case
as to relax the rule on certification
against forum shopping.*

The need to abide by the Rules of Court and the procedural requirements it imposes has been constantly underscored by this Court. One of these procedural requirements is the certificate of non-forum shopping which, time and again, has been declared as basic, necessary and mandatory for procedural orderliness.³¹

²⁸ 426 Phil. 676 (2003).

²⁹ 436 Phil. 483 (2002).

³⁰ Id. at 491.

³¹ *Bank of the Philippine Islands v. Court of Appeals*, G.R. No. 168313, October 6, 2010, 632 SCRA 322, 331.

In *Vda. De Formoso v. Philippine National Bank*,³² the Court reiterated the guidelines respecting non-compliance with or submission of a defective certificate of non-forum shopping, the relevant portions of which are as follows:

4) As to certification against forum shopping, non-compliance therewith or a defect therein, x x x, 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’.

x x x x

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.³³ (Emphasis supplied)

The requirement that it is the petitioner, not her counsel, who should sign the certificate of non-forum shopping is due to the fact that a “certification is a peculiar personal representation on the part of the principal party, an assurance given to the court or other tribunal that there are no other pending cases involving basically the same parties, issues and causes of action.”³⁴ “Obviously, it is the petitioner, and not always the counsel whose professional services have been retained for a particular case, who is in the best position to know whether [she] actually filed or caused the filing of a petition in that case.”³⁵ Per the above guidelines, however, if a petitioner is unable to sign a certification for reasonable or justifiable reasons, she must execute an SPA designating her counsel of record to sign on her behalf. “[A] certification which had been signed by counsel without the proper authorization is defective and constitutes a valid cause for the dismissal of the petition.”³⁶

³² G.R. No. 154704, June 1, 2011, 650 SCRA 35.

³³ Id. at 44-45.

³⁴ *Gutierrez v. Secretary of Labor and Employment*, 488 Phil.110, 121 (2004).

³⁵ Id. citing *Far Eastern Shipping Company v. Court of Appeals*, 357 Phil. 703, 720 (1998).

³⁶ *Fuentebella v. Castro*, G.R. No. 150865, June 30, 2006, 494 SCRA 183, 191.

In this light, the Court finds that the CA correctly dismissed Anderson's Petition for Review on the ground that the certificate of non-forum shopping attached thereto was signed by Atty. Oliva on her behalf *sans* any authority to do so. While the Court notes that Anderson tried to correct this error by later submitting an SPA and by explaining her failure to execute one prior to the filing of the petition, this does not automatically denote substantial compliance. It must be remembered that a defective certification is generally not curable by its subsequent correction. And while it is true that in some cases the Court considered such a belated submission as substantial compliance, it "did so only on sufficient and justifiable grounds that compelled a liberal approach while avoiding the effective negation of the intent of the rule on non-forum shopping."³⁷

Unlike in *Donato*³⁸ and the other cases cited by Anderson, no sufficient and justifiable grounds exist in this case as to relax the rules on certification against forum shopping.

In *Donato*, the CA dismissed therein petitioner's Petition for Review on the ground, among others, that the certification against forum shopping was signed by his counsel. In filing a motion for reconsideration, petitioner submitted a certification duly signed by himself. However, the CA ruled that his subsequent compliance did not cure the defect of the instant petition and denied his Motion for Reconsideration. When the case reached this Court, it was held, *viz*:

The petition for review filed before the CA contains a certification against forum shopping but said certification was signed by petitioner's counsel. In submitting the certification of non-forum shopping duly signed by himself in his motion for reconsideration, petitioner has aptly drawn the Court's attention to the physical impossibility of filing the petition for review within the 15-day reglementary period to appeal considering that he is a resident of 1125 South Jefferson Street, Roanoke, Virginia, U.S.A. where he [needs] to personally accomplish and sign the verification.

We fully agree with petitioner that it was physically impossible for the petition to have been prepared and sent to the petitioner in the United States, for

³⁷ *Bank of the Philippine Islands v. Court of Appeals*, supra note 31.

³⁸ Supra note 28.

him to travel from Virginia, U.S.A. to the nearest Philippine Consulate in Washington, D.C., U.S.A. in order to sign the certification before the Philippine Consul, and for him to send back the petition to the Philippines within the 15-day reglementary period. Thus, we find that petitioner has adequately explained his failure to personally sign the certification which justifies relaxation of the rule.

We have stressed that the rules on forum shopping, which were precisely designed to promote and facilitate the orderly administration of justice, should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective which is simply to prohibit and penalize the evils of forum-shopping. The subsequent filing of the certification duly signed by the petitioner himself should thus be deemed substantial compliance, *pro hac vice*.³⁹

While at first blush *Donato* appears to be similar with the case at bench, a deeper and meticulous comparison of the two cases reveals essential differences. In *Donato*, the Court held that it was impossible for the petition to have been prepared and sent to the therein petitioner in the USA; for him to travel from Virginia to the nearest Philippine Consulate in Washington D.C.; and for the petition to be sent back to the Philippines *within the 15-day reglementary period*. The same could not, however, be said in this case. It must be remembered that on top of the 15-day reglementary period to file the petition, Atty. Oliva sought and was granted a total extension of 30 days to file the same. Hence, Anderson had a total of 45 days to comply with the requirements of a Petition for Review as against the 15 days afforded to the petitioner in *Donato*. To this Court, the said period is more than enough time for Anderson to execute an SPA before the nearest Philippine Consulate, which again unlike in *Donato*, was located in the same state where Anderson was (Hawaii), and thereafter to send it to the Philippines. Anent her allegation that her health condition at that time hindered her from going to the proper authorities to execute an SPA, the same deserves scant consideration as no medical certificate was submitted to support this. “Indeed, the age-old but familiar rule is that he who alleges must prove his allegations.”⁴⁰

³⁹ Id. at 690.

⁴⁰ *Samson v. Judge Daway*, 478 Phil. 784, 794 (2004).

Moreover, simultaneous with the filing of a Motion for Reconsideration, the proper certificate of non-forum shopping was submitted by the petitioner in *Donato*. Notably in this case, the SPA was submitted two months *after* the filing of Anderson's Motion for Reconsideration. It took that long because instead of executing an SPA before the proper authorities in Hawaii and sending the same to the Philippines, Anderson still waited until she came back to the country and only then did she execute one. It thus puzzles the Court why Anderson opted not to immediately submit the SPA despite her awareness that the same should have been submitted simultaneously with the Petition for Review. Hence, it cannot help but conclude that the delay in the submission of the SPA is nothing but a product of Anderson's sheer laxity and indifference in complying with the rules. It is well to stress that "[r]ules are laid down for the benefit of all and should not be made dependent upon a suitor's sweet time and own bidding."⁴¹ They should be faithfully complied with⁴² and may not simply be ignored to suit the convenience of a party.⁴³ Although they are liberally construed in some situations, there must, however, be a showing of justifiable reasons and at least a reasonable attempt at compliance therewith,⁴⁴ which unfortunately are not obtaining in this case.

In view of the foregoing, this Court affirms the CA's dismissal of Anderson's Petition for Review.

As a final note, the Court reiterates that:

x x x procedural rules are designed to facilitate the adjudication of cases. Courts and litigants alike are enjoined to abide strictly by the rules. While in certain instances, we allow a relaxation in the application of the rules, we never intend to forge a weapon for erring litigants to violate the rules with impunity. The liberal interpretation and application of rules apply only in proper cases of demonstrable merit and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an

⁴¹ *Philippine National Bank v. Deang Marketing Corporation*, G.R. No. 177931, December 8, 2008, 573 SCRA 312, 323.

⁴² *Bolos v. Bolos*, G.R. No. 186400, October 20, 2010, 634 SCRA 429, 437.

⁴³ *Iloilo La Filipina Uygongco Corporation v. Court of Appeals*, G.R. No. 170244, November 28, 2007, 539 SCRA 178, 191.

⁴⁴ *Mediserv, Inc. v. Court of Appeals*, G.R. No. 161368, April 5, 2010, 617 SCRA 284, 296-297.

orderly and speedy administration of justice. Party litigants and their counsels are well advised to abide by, rather than flaunt, procedural rules for these rules illumine the path of the law and rationalize the pursuit of justice.⁴⁵

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The assailed Resolutions dated July 14, 2005 and May 4, 2006 of the Court of Appeals in CA-G.R. SP No. 89793 are **AFFIRMED**.

SO ORDERED.



MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

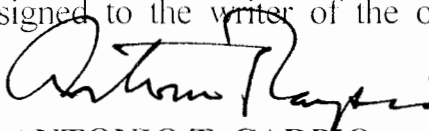

JOSE PORTUGAL PEREZ
Associate Justice


BEINVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
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

⁴⁵ *Land Bank of the Philippines v. Hon. Natividad*, 497 Phil. 738, 744-745 (2005).

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

