DANILO ANGELES, REPRESENTED BY MARIO L. MANUEL, PETITIONER, VS. HON. PRIMO G. SIO, JR., PRESIDING JUDGE OF REGIONAL TRIAL COURT (RTC), BRANCH 23, CABANATUAN CITY, SPOUSES EVANGE...

Ponente: CRUZ, R.A. J.

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CRUZ, R.A. J.:

THE CASE

This is a Petition for Certiorari under Rule 65 of the Rules of Court which seeks to reverse and set aside the (i) Order dated November 14, 2011[1] of the Regional Trial Court (RTC), Branch 23 of Cabanatuan City in Civil Case No. 5799-AF and the (ii) subsequent Order dated April 2, 2012,[2] which denied petitioner's motion for reconsideration. The dispositive portion of the Order dated Novermber 14, 2011 reads:

" xxx xxx xx

> WHEREFORE, defendants-movants "Motion to Set Case for Preliminary Hearing on the Special and Affirmative Defenses with Prayer for Dismissal dated May 22, 2011 is GRANTED. The Complaint dated March 27, 2009 is hereby ordered DISMISSED.
>
> SO ORDERED.

xxx xxx xxx "

THE ANTECEDENTS

The case stemmed from a complaint for annulment of deed of sale, cancellation of title, reconveyance and damages filed by Danilo Angeles represented by Cecille Santos, as plaintiff, before the Regional Trial Court (RTC), Branch 23 of Cabanatuan City against Spouses Evangeline Reguyal-Liwag and Winthrop Liwag and Corazon Reguyal and the Registry of Deeds of Cabanatuan City, as defendants. The case was docketed as Civil Case No. 5799-AF.[3]

Subsequent to the filing of their answer, defendants filed a Motion to Set Case for Preliminary Hearing on the Special and Affirmative Defenses with Payer for Dismissal[4] alleging that the complaint must be dismissed on the following grounds: failure of the plaintiff to implead his spouse as a party-plaintiff; the complaint is not supported by the required certification against forum-shopping, has prescribed, is barred by the statute of limitations and plaintiff has no cause of action against them.

Plaintiff opposed the motion arguing that misjoinder or non-joinder of parties is not a ground for dismissal; defendants' claim of prescription is without basis; there is a certification against forum shopping duly executed by his authorized representative which includes the authority to sign any and all necessary documents incidental to the filing the action. Moreover, he has ratified his representative's act of signing the certification against forum

shopping as evidenced by the Special Power of Attorney (SPA) dated July 12, 2011.[5]

On November 14, 2011, the RTC issued an Ordervi dismissing the complaint on the ground of non-compliance with the rules on certification against forum shopping. It ruled that the Special Power of Attorney dated March 10, 2009 issued by the plaintiff in favor of his representative, Cecille Santos, failed to include the authority to sign the verification and certification against forum shopping. Moreover, the submission of a second Special Power of Attorney dated July 12, 2011 did not cure the defect. Hence, the RTC decreed:

" xxx xxx xx

> WHEREFORE, defendants-movants "Motion to Set Case for Preliminary Hearing on the Special and Affirmative Defenses with Prayer for Dismissal" dated May 22, 2011 is GRANTED. The Complaint dated March 27, 2009 is hereby ordered DISMISSED.
>
> SO ORDERED.

xxx xxx xxx "

Plaintiff filed a motion for reconsideration[7] asserting that the Special Power of Attorney dated March 10, 2009 authorizing Cecille Santos to represent him necessarily includes or carries with it the authority to execute a certification against forum shopping, however, the same was denied by the RTC in the Order dated April 2, 2012.[8]

Hence, this petition.

THE ISSUE BEFORE US

Plaintiff, as petitioner before Us, submits this lone but all-embracing issue, that:

> PUBLIC RESPONDENT RTC ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ORDERING THE DISMISSAL OF THE CIVIL CASE NO. 5799-AF ON THE GROUND THAT THE COMPLAINT WAS NOT SUPPORTED BY A CERTIFICATION AGAINST FORUM-SHOPPING BECAUSE HIS REPRESENTATIVE HAD NO AUTHORITY TO SIGN THE SAME.

Petitioner asserts that he has complied with the requirements for the execution of the verification and certification against forum shopping which accompanied the complaint. First, a verification and certification of non-pendency of similar suit duly executed by his authorized representative, Cecille Santos, was simultaneously filed with complaint. Second, Cecille Santos was clothe with a Special Power of Attorney dated March 10, 2009 authorizing her to represent him in the case. And finally, he subsequently ratified the acts of Cecille Santos which includes the authority to execute and sign the certificate against forum shopping as shown in the Special Power of Attorney dated July 12, 2011.[9]

Even assuming the lapses he may have committed in compliance with the rules on certification against forum shopping, he cites several jurisprudence wherein the courts has allowed substantial compliance and relaxed the rules on certification against forum shopping, hence, the RTC should not have dismissed the complaint.[10]

Private respondents, on the other hand, argue that while the Special Power of Attorney dated March 10, 2009 authorizes Cecille Santos to represent petitioner in the case, she is not however authorized to execute and sign the required certification against forum shopping. A certification against forum shopping, which is mandatory under the rules, must be simultaneously filed with the complaint and non-compliance therewith is sufficient cause for its dismissal. Moreover, the submission of a second Special Power of Attorney dated July 12, 2011 does not in any

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way correct the defect and only shows that petitioner has impliedly acknowledged the defect in the Special Power of Attorney dated March 10, 2009.[11]

They further argue that petitioner availed of the wrong remedy. The dismissal of the complaint was due to the fault of the petitioner and shall have the effect of adjudication on the merits. Hence, the remedy is an appeal and not a Petition for Certiorari.[12]

OUR RULING

Section 5, Rule 7 of the Rules of Court governs the rule on certification against forum shopping. It provides that:

" xxx xxx xxx

> Sec. 5. Certification against forum shopping. — The plaintiff or principal party shall specify 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 ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

xxx xxx xxx "

In a string cite of cases,xiii the certification of non-forum shopping should be executed and signed by the plaintiff or the principal. The reason for this rule is that the principal party has actual knowledge whether a petition has previously been filed involving the same case or substantially the same issues. If, for any reason, the principal party cannot sign the petition, the one signing on his behalf must have been duly authorized.

Here, the Verification and Certification of Non-Pendency of Similar Suit[14] was signed by Cecille Santos by virtue of a Special Power of Attorney (SPA) dated March 10, 2009[15] attached to the complaint. The SPA dated March 10, 2009 signed by the petitioner reads:

" xxx xxx xxx

SPECIAL POWER OF ATTORNEY

> KNOW ALL MEN BY THESE PRESENTS:
>
> I, DANILO A. ANGELES, of legal age, Filipino citizen, presently residing at Chicago, Illinois, U.S.A., do hereby name, constitute, and appoint CECILLE S. SANTOS, of legal age, Filipino, and with residence at 31 Kuala Lumpur Street, BF Homes, Parañaque City, to be my true and lawful attorney-in-fact for me and in my name, place and stead to represent me in the action to be filed in Court against Corazon R. Reguyal and the Spouses Evangeline Reguyal-Liwag and Winthrop Liwag for the vindication of my rights and protection of my interests as lawful buyer of that real property covered by T.C.T. No. 50045 which I bought from the late

> Damaso Gonzales on 22 January 1997.
>
> HEREBY GIVING AND GRANTING unto said attorney-in-fact full powers and authority to do and perform all and every act requisite or necessary to effect the above action, as fully to all intents and purposes as I might or could lawfully do is personally present, including the authority represent me in the pre-trial of the action and enter into a compromise agreement with the defendants, and represent me in all stages of the proceedings in court, with full power of substitution and revocation, and hereby ratifying and confirming all that my attorney-in-fact or her substitute shall lawfully do or cause to be done by virtue hereof. (Underscoring ours)

xxx xxx xxx "

A perusal of the foregoing SPA reveals that petitioner, a resident of Chicago, Illinois, U.S.A, appointed Cecille Santos as his attorney-in-fact. He explicitly authorized Cecille Santos to vindicate his rights and protect his interests, represent him in all stages of the proceedings of the case, enter into compromise agreements and do and perform all and every act requisite or necessary for the accomplishment of the said purpose. Under Section 3, Rule 3 of the Rules of Court,[16] where the action is allowed to be prosecuted by a representative, s/he shall be deemed a party.

The records also show that petitioner subsequently submitted a Special Power of Attorney dated July 12, 2011,[17] ratifying all the acts of Cecille Santos including the execution and signing of the verification and certification against forum shopping. Pertinent portion thereof reads:

" xxx xxx xxx

SPECIAL POWER OF ATTORNEY

> KNOW ALL MEN BY THESE PRESENTS:
>
> I, DANILO ANGELES, of legal age, married and a resident of 1722 W FOSTER CHGO IL 60640, do hereby ratify and affirm all the acts of my attorney-in-fact, Cecille S. Santos in Civil Case No. 5799-AF, "Danilo Angeles v. Evangeline Reguyal-Liwag, et.al,, which includes her authority to sign the Verification and Certification of Non-Forum Shopping in the said case. (Emphasis supplied).
>
> HEREBY GRANTING unto my representative full power and authority to execute and perform every act necessary to render effective the foregoing authority, as though I myself have performed it and hereby approving all that she may do by virtue hereof with full right of substitution of her person and revocation of this instrument.

xxx xxx xxx "

In Our view, these circumstances justify the relaxation of the rule and constitute reasonable cause to allow Cecille Santos as attorney-in-fact to personally sign the certification against forum shopping.

The case of Wee vs. Galvez[18] is apt. There, petitioner was already a resident of the United States and it was held that signing of the certification by the daughter, who is an authorized representative, was deemed sufficient compliance with the rules, thus:

" xxx xxx xxx

> Noteworthy, respondent in the instant case is already a resident of the United States, and not of the Philippines. Hence, it was proper for her to appoint her daughter, Grace Galvez, to act as her attorney-in-fact in the Philippines.

xxx xxx xxx

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> From the foregoing, it is indisputable that Grace Galvez, as attorney-in-fact of the respondent, was duly authorized and empowered not just to initiate complaints, whether criminal or civil, to enforce and protect the respondent's rights, claims, and interests in this jurisdiction, but is specifically authorized to sign all "papers, documents, and pleadings" necessarily connected with the filing of a complaint. Pursuant to Administrative Circular No. 04-94, which extended the requirement of a certification on non-forum shopping to all initiatory pleadings filed in all courts and quasi-judicial agencies, as well as Rule 7, Section 5 of the 1997 Rules of Civil procedure, the aforementioned papers and documents, which Grace Galvez was authorized and empowered to sign, must necessarily include the certification on non-forum shopping. To conclude otherwise would render nugatory the Special Power of Attorney and also render respondent's constitution of an attorney-in-fact inutile. (Underscoring ours).

xxx xxx xxx "

The same leniency is applied in the case of Orbeta vs. Sendiong.[19] It was held that the certification against forum shopping signed by the representative by virtue of a General Power of Attorney was deemed sufficient compliance with the rules, viz:

" xxx xxx xxx

> The remainder of petitioners' arguments are similarly without merit. Petitioners assert that respondent submitted a "false certification" on non-forum shopping, primarily on the ground that the said certification was signed not by respondent, but by his daughter, Mae Sendiong, by authority of a General Power of Attorney, which petitioners claim was not specified for the purpose of filing the petition. However, a perusal of the General Power of Attorney shows that Mae Sendiong is empowered, among others, "to execute, sign, authenticate, and enter into any and all contracts and agreements for me and in my name with any person or entity," and "to bring suit, defend and enter into compromises in my name and stead, in connection with actions brought for or against me, of whatever nature and kind."
>
> The signing of the verification and certification of non-forum shopping are covered under the said provisions of the General Power of Attorney. A special power of attorney simply refers to a clear mandate specifically authorizing the performance of a specific power and of express acts subsumed therein, and there is a specific authority given to Mae Sendiong to sign her name in behalf of Paul Sendiong in contracts and agreements and to institute suits in behalf of her father. Neither would the fact that the document is captioned "General Power of Attorney" militate against its construction as granting specific powers to the agent pertaining to the petition for annulment of judgment she instituted in behalf of her father. As Justice Paras has noted, a general power of attorney may include a special power if such special power is mentioned or referred to in the general power. (Underscoring ours)

xxx xxx xxx "

Withal, there is proper compliance by petitioner with the rules on certification against forum-shopping.

A writ of certiorari is an extraordinary remedy designed for the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack of jurisdiction and does not include errors of judgment.[20] Grave abuse of discretion implies a capricious, arbitrary and whimsical exercise of power. The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law, as not to act at all in contemplation of law or where power is exercised in an arbitrary and despotic manner by reason of passion or hostility.[21]

Here, the RTC, in dismissing the complaint, placed a premium on technicalities at the expense of a just resolution of the case. It must be stressed that the rules of procedure are mere tools intended to facilitate the attainment of justice, rather than frustrate it. When technicality deserts its function of being an aid to justice, We are justified in

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exempting from its operations a particular case.[22] The rule requiring a certification against forum shopping to accompany every complaint or initiatory pleading should not be interpreted with such absolute literalness as to subvert the ultimate and legitimate objective or the goal of the rules of procedure, which is to achieve substantial justice as expeditiously as possible.[23] The RTC should have refrained from hastily dismissing the complaint on procedural flaws. Such error is correctable by a writ of certiorari.

WHEREFORE, premises considered, the petition is DISMISSED. The assailed (i) Order dated November 14, 2011 of the Regional Trial Court (RTC), Branch 23 of Cabanatuan City in Civil Case No. 5799-AF and the (ii) subsequent Order dated April 2, 2012 are REVERSED and SET ASIDE. The complaint for annulment of deed of sale, cancellation of title, reconveyance and damages is REINSTATED. The RTC is directed to act with dispatch in disposing this case.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Abdulwahid, H.S., Chairperson and [**]Inting, S.B., JJ., concur.

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[*] Acting Senior Member per Office Order No. 238-14-ABR dated May 23, 2014.

[**] Acting Junior Member per Office Order No. 238-14-ABR dated May 23, 2014.

[1]Penned by Honorable Judge Primo G. Sio, Jr.; Rollo, pp. 22-28.

[2] Ibid., pp. 29-33.

[3] Complaint, Id., pp. 55-63.

[4] Id., pp. 44-51.

[5] Comment/Opposition to the Motion to Set Case for Preliminary Hearing on the Special and Affirmative Defenses with Prayer for Dismissal; Id., pp. 52-54.

[6] Supra, Note 1.

[7] Motion for Reconsideration, Id., pp. 34-43.

[8] Supra, Note 2.

[9] Petition for Certiorari, Id., pp. 3-19.

[10] Ibid.,

[11] Comment, Id., pp. 109-124.

[12] Id.

[13] Cosco Philippines Shipping, Inc. vs Kemper Insurance Co. G.R. No. 179488, April 23, 2012. citing Athena Computers, Inc. v. Reyes, G.R. No. 156905, September 5, 2007, 532 SCRA 343, 351; Development Bank of the

Philippines v. Court of Appeals, G.R. No. 147217, October 7, 2004, 440 SCRA 200, 205.Eagle Ridge Golf & Country Club v. Court of Appeals, G.R. No. 178989, March 18, 2010, 616 SCRA 116, 132. See also Fuentebella vs. Castro, G.R. No. 150865, June 30, 2006. citing Eslaban, Jr. vs. Vda. De Onorio, G.R. No. 146062, June 28, 2001, 360 SCRA 230. See also Mariveles Shipyard Corp., vs. Court of Appeals, G.R. No. 14413, November 11, 2003. citing Condo Suite Club Travel, Inc. vs. NLRC, G.R. No. 125671, January 28, 2000, 323 SCRA 679, 687.

[14] Rollo, p. 62.

[15] Ibid., pp. 64-65.

[16] Section 3, Rule 3 of the Rules of Court provides:

" xxx xxx xxx

> SEC.3. Representatives as parties. Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the titile of the case and shall be deemed to be a real party in interest. A reperesentative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. xxx xxx"

[17] Ibid., 74-75.

[18] G.R. No. 147394, August 11, 2004. citing The Circular is entitled "Additional Requisites for Civil Complaints, Petitions and Other Initiatory Pleadings Filed In All Courts and Agencies, Other Than the Supreme Court and the Court of Appeals, To Prevent Forum Shopping or Multiple Filing of Such Pleadings." Benguet Electric Cooperative, Inc. v. Flores, A.C. No. 4058, 12 March 1998, 287 SCRA 449, 456.

[19] G.R. No. 155236, August 8, 2005. citing Bacaltos Coal Mines, Inc. v. Court of Appeals, 315 Phil. 506 (1995). See also Strong v. Repide, 6 Phil. 680 (1906). Paras, V Civil Code of the Philippines Annotated (Fifth ed., 1990), at 675.

[20] Julie's Franchise Corporation vs. Ruiz, G.R. No. 180988, August 28, 2009. citing People v. Romualdez, G.R. No. 166510, 23 July 2008, 559 SCRA 492; People v. Terrado, G.R. No. 148226, 14 July 2008, 558 SCRA 84. see also Microsoft Corp. vs. Best Deal Computer Center Corp., et.al., G.R. No. 148029, September 24, 2002. citing Ampeloquio, Sr. v. Court of Appeals, G.R. No. 124243, 15 June 2000, 333 SCRA 465.

[21] Francisco, Jr. vs. UEM-MARA Philippines Corp. G.R. No. 135688-89, October 18, 2007. citing G & S Transport vs. Court of Appeals, 432 Phil. 7, 22 (2002).

[22] Donato vs. Court of Appeals, G.R. No. 129638, December 8, 2003. citing PHHC vs. Tiongco, 12 SCRA 471, 475-476 (1964). Twin Towers Condominium Corporation vs. Court of Appeals, G.R. No. 123552, February 27, 2003; Shipside Incorporated vs. Court of Appeals, 352 SCRA 334, 347 (2001).

[23] Wee vs. Galvez, Supra, Note 18. citing Dar v. Alonzo-Legasto, G.R. No. 143016, 30 August 2000, 339 SCRA 306, 309 citing Gabionza v. Court of Appeals, G.R. No. 112547, 18 July 1994, 234 SCRA 192, 198.

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