ANTHONY V. BARAOIDAN, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), DSL MANUFACTURING IND., INC., AND DANILO LABAO, PRESIDENT AND MANAGER OF DSL MANU...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Before Us is petitioner's Petition for Certiorari[1] (“Petition” for brevity) under Rule 65 of the Rules of Court.

To begin with, a perusal of the Petition[2] at bench reveals that it suffers from the following infirmities:

First, petitioner failed to comply with the requirement of submitting the Proof of Service required under Section 13, Rule 13 of the Rules of Court, which states:

> “Section 13. Proof of Service. — Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with section 7 of this Rule. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.” (Emphasis and underscoring supplied)

Petitioner's failure to comply with the mandatory requirement of submitting a Proof of Service is a fatal defect[3] which is a sufficient ground for the dismissal of his Petition.[4] This being the consequence is in accordance with the following pronouncement of the Supreme Court in Salvador O. Mojar, et al. vs. Agro Commercial Security Service Agency, Inc., et al., G.R. No. 187188, June 27, 2012:

> “Section 3, Rule 46 provides that the petition for certiorari should be filed together with the proof of service thereof on the respondent. Under Section 13, Rule 13 of the Rules of Court, if service is made by registered mail, as in this case, proof shall be made by an affidavit of the person mailing and the registry receipt issued by the mailing office. Section 3, Rule 46 further provides that the failure to comply with any of the requirements shall be sufficient ground for the dismissal of the petition.

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> In Ferrer v. Villanueva, petitioner therein failed to append the proof of service to his Petition for Certiorari. Holding that this failure was a fatal defect, the Court stated:
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> There is no question that petitioner herein was remiss in complying with the foregoing Rule. In Cruz v. Court of Appeals, we ruled that with respect to motions, proof of service is a mandatory requirement. We find no cogent reason why this dictum should not apply and with more reason to a petition for certiorari, in view of Section 3, Rule 46 which requires that the petition shall be filed 'together with proof of service thereof.' We agree with the Court of Appeals that the lack of proof of service is a fatal defect. The utter disregard of the

> Rule cannot be justified by harking to substantial justice and the policy of liberal construction of the Rules. Technical rules of procedure are not meant to frustrate the ends of justice. Rather, they serve to effect the proper and orderly disposition of cases and thus effectively prevent the clogging of court dockets. xxx" (Emphasis supplied)

Second, the jurat of the Verification and Certification of Non-Forum Shopping[5] signed by petitioner did not have any competent evidence of the affiant's identity. This is in violation of Section 12, Rule II of the 2004 Rules on Notarial Practice, as amended by A.M. 02-08-13SC, which provides:

> "Sec. 12. Competent Evidence of Identity. The phrase 'competent evidence of identity' refers to the identification of an individual based on:
>
> (a)
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> at least one current identification document issued by an official agency bearing the photograph and signature of the individual, such as but not limited to, passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter's ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman's book, alien certificate of registration/ immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disable Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; or (b) the oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification." (Emphasis supplied)

Third, material portions of the record as well as other supporting documents pertinent to the Petition[6] were not attached. These were: the Position Papers of both petitioner and private respondents[7], the Memorandum on Appeal[8] of private respondents, and; a certified true copy of the Labor Arbiter's Decision dated September 30, 2010.[9]

Considering that these documents were referred to in the Petition[10], petitioner's failure to attach them to the Petition[11] at bench was in contravention of Section 3 of Rule 46 of the Rules of Court, which violation warrants the dismissal of the Petition[12] under the same Rule, to wit:

> "Section 3. Contents and filing of petition; effect of noncompliance with requirements. — The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

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> It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

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> The failure of the petitioner to comply with any of the requirements shall be sufficient ground for the dismissal of the petition." (Emphasis supplied)

That petitioner's failure to attach the material portions of the record as well as other supporting documents pertinent to the Petition[13] renders his petition dismissible is in accordance with the pronouncement of the Supreme Court in Manila Hotel Corporation vs. Court of Appeals and Samuel Alcordo, G.R. No. 143574, July 11, 2002:

> "The Court of Appeals outrightly dismissed petitioner's action on the ground that the petition was not accompanied with the required board resolution authorizing Atty. Martin B. Isidro to institute the petition; as well as copies of the Labor Arbiter's decision and the position paper of the parties. The issue posed before the Court of Appeals is the validity of the termination of private respondent's employment. Hence, the need to append copies of the Labor Arbiter's decision and the position papers of the parties. Under the circumstances, there was a necessity for the appellate court to review the facts and the law on which the conclusions were based, considering the conflicting findings of the NLRC and the Labor Arbiter.
>
> Liberal construction of the rule has been allowed by this Court in the following cases: (1) where a rigid application will result in manifest failure or miscarriage of justice, especially if a party successfully shows that the alleged defect in the questioned final and executory judgment is not apparent on its face or from the recitals contained therein; (2) where the interest of substantial justice will be served; (3) where the resolution of the motion is addressed solely to the sound and judicious discretion of the court; and (4) where the injustice to the adverse party is not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.
>
> Petitioner contends that the omission of the required documents is due to "oversight" or "inadvertence." In Sea Power Shipping Enterprises, Inc. v. Court of Appeals, et al., however, the Court held that "oversight" and "excusable negligence" have become an all too familiar and ready excuse on the part of lawyers remiss in their bounden duty to comply with established rules. Rules of procedure are tools designed to promote efficiency and orderliness as well as to facilitate attainment of justice, such that strict adherence thereto is required. The application of the Rules may be relaxed only when rigidity would result in a defeat of equity and substantial justice.
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> In the case at bar, petitioner has not shown any cogent reason for the Court to be liberal in the application of the rules. Hence, the dismissal of its petition by the Court of Appeals on technical grounds must be sustained." (Emphasis supplied)

Indeed, the rule is settled that procedural rules are designed to provide order to, and enhance the efficiency of, our judicial system[14]. Consequently, procedural rules must be strictly observed, especially in Petitions for Certiorari such as the instant case, as is pursuant to the following declaration of the Supreme Court in Marcelino Domingo vs. Court of Appeals, et. al.[15]:

> "In petitions for certiorari, procedural rules must be strictly observed. In Athena Computers, Inc. v. Reyes, the Court held that:
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> Certiorari, being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law.

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> The acceptance of a petition for certiorari as well as the grant of due course thereto is, in general, addressed to the sound discretion of the court. Although the court has absolute discretion to reject and dismiss a petition for certiorari, it does so only x x x when there are procedural errors, like violations of the Rules of Court." (Emphasis Supplied; Italics was made in the original)

IN VIEW OF ALL THESE, the Petition for Certiorari is DISMISSED.

SO ORDERED.

Dicdican (Chairman) and Paredes, JJ., concur.

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[1] Rollo, pp. 7-25

[2] Rollo, pp. 7-25

[3] Merliza A. Muñoz vs. People of the Philippines, G.R. No. 162772, March 14, 2008

[4] Rollo, pp. 7-25

[5] Rollo, p. 25

[6] Rollo, pp. 7-25.

[7] Rollo, p. 8

[8] Rollo, p. 9

[9] Rollo, pp. 28-32

[10] Rollo, pp. 7-25

[11] Rollo, pp. 7-25

[12] Rollo, pp. 7-25

[13] Rollo, pp. 7-25.

[14] Francisco A. Labao vs. Lolito N. Flores, et. al., G.R. No. 187984, November 15, 2010; Saint Louis University Inc. vs. Evangeline C. Cobarrubias, G.R. No. 187104, August 3, 2010; Bonifacio M. Mejillano vs. Enrique Lucillo, et. al., G.R. No. 154717, June 19, 2009

[15] G.R. No. 169122, February 2, 2010

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