

**NIDA B. RUMAY, PETITIONER, V. PHILIPPINE SAVINGS BANK AND
THE HONORABLE PRESIDING JUDGE MARIA FILOMENA D. SINGH,
OF REGIONAL TRIAL COURT, QUEZON CITY, BRANCH 219,
RESPONDENTS.**

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Before Us is petitioner's Petition for Certiorari[1] ("Petition" for brevity), and petitioner's "URGENT MOTION FOR ISSUANCE OF RESTRAINING ORDER (TRO)"[2].

To begin with, a perusal of the Petition[3] at bench reveals that it suffers from the following infirmities:

First, petitioner failed to attach a written explanation of non-personal filing of the Petition. This is in violation of Section 11, Rule 13 of the Rules of Court and the the declaration of the Supreme Court in *Alex M. Cadornigara vs. National Labor Relations Commission, et. al.*,[4], which provides:

“When we crafted Section 11, Rule 13 of the Rules of Court:

Priorities in modes of service and filing. – Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this rule may be cause to consider the paper as not filed. (Emphasis and Italics were made in the original)

we did not intend it to be just some silly rule the parties can ignore when convenient, and the courts disregard when expedient. We designed it to serve a very real purpose: to ensure that pleadings, motions and other papers reach the courts directly and promptly, so that they may be acted upon expeditiously; and to forestall the deplorable practice among some lawyers of serving or filing pleadings by mail to catch their opposing counsel off-guard. Thus, these lawyers leave the opposing counsel with little or no time to respond accordingly; or, upon receiving notice from the post office of the registered parcel containing the pleading or other papers from the adverse party, the latter may unduly procrastinate before claiming said parcel -- or, worse, not claim it at all -- and thereby cause undue delay in the disposition of such pleading or other papers.

Under said rule, personal service and filing of pleadings and other papers is a mandatory mode, especially when the peculiar circumstances of the case -- such as the proximity of the office of a party's counsel to the court or to the office of the opposing party's counsel -- make such mode practicable. If another mode is employed, there must be attached to the pleading or paper, a written explanation of such recourse. Omission of a written explanation will give the court cause to expunge the pleading or paper not personally served or filed. xxx

xxx

In fine, the CA acted within the bounds of its discretion under Section 11 of Rule 13 in refusing to accept the petition for certiorari for failure of petitioner to attach a written explanation of non-personal filing.” (Emphasis

Supplied)

Second, petitioner failed to comply with the requirement of submitting a Certification of Non-Forum Shopping under Section 3, Rule 46 in relation to Section 1, Rule 65 of the Rules of Court. They state the following:

“Sec. 3, Rule 46. Contents and filing of petition; effect of non-compliance with requirements. xxx

xxx

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom. xxx” (Emphasis Supplied)

“Section 1, Rule 65. Petition for Certiorari. The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.” (Emphasis Supplied)

Explicit in the last paragraph of Section 3, Rule 46 of the Rules of Court is that “[t]he failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.”

Apart from these infirmities, a perusal of petitioner’s “URGENT MOTION FOR ISSUANCE OF RESTRAINING ORDER (TRO)”[5] reveals that petitioner filed such Motion without paying the legal fees for the issuance of a Temporary Restraining Order[6]. This is in violation of Section 1 and Section 5 of A.M. No. 00-2-01-SC[7], Resolution Amending Rule 141 (Legal Fees) of the Rules of Court, which provides:

“Section 1. Payment of fees. — Upon the filing of the pleading or other application which initiates an action or proceeding, the fees prescribed therefor shall be paid in full.

xxx

Section 5. Fees to be paid by the advancing party. — The fees of the clerk of the Court of Appeals or of the Supreme Court shall be paid him at the same time of the entry of the action or proceeding in the court by the party who enters the same by appeal or otherwise, and the clerk shall in all cases give a receipt for the same and shall enter the amount received upon his book, specifying the date when received, person from whom received, name of action in which received and amount received. If the fees are not paid, the court may refuse to proceed with the action until they are paid and may dismiss the appeal or the proceeding.” (Emphasis Supplied)

Indeed, the rule is settled that procedural rules are designed to provide order to, and enhance the efficiency of, our judicial system[8]. 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.*[9]:

“In petitions for certiorari, procedural rules must be strictly observed. In *Athena Computers, Inc. v. Reyes*, the Court held that:

Certiorari, being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law.

x x x x

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. Accordingly, the “URGENT MOTION FOR ISSUANCE OF RESTRAINING ORDER (TRO)”[10] is DENIED.

SO ORDERED.

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

[1] Rollo, pp. 3-12

[2] Rollo, pp. 52-54

[3] Rollo, pp. 3-12

[4] G.R. No. 158073, November 23, 2007

[5] Rollo, pp. 52-54

[6] Rollo, p. 1

[7] March 1, 2000

[8] 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

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

[10] Rollo, pp. 52-54

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