

NATHAN A. GABRONINO, PETITIONER, VS. HON. ROLANDO L. GONZALES, PRESIDING JUDGE, BRANCH 39, RTC 08, SOGOD, SOUTHERN LEYTE, RESPONDENT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the following: (1) the Order[1] dated September 9, 2014 of the Regional Trial Court (RTC), Branch 39 Sogod Southern Leyte in Civil Case No. 01-2014 entitled “In the Matter of the Petition for the Execution of the Decision of the Sangguniang Bayan of Sogod, Southern Leyte Acting as Quasi-Judicial Body in Administrative Case No. 03-S-2014”; (2); the Writ of Execution[2] dated September 12, 2014 issued by the OIC-Clerk of Court of RTC Branch 39; and (3) the Resolution[3] dated September 29, 2013 denying petitioner's amended motion for reconsideration to the writ of execution.

A perusal of the petition shows that only the presiding judge of RTC Branch 39, Sogod Southern Leyte has been impleaded as party to the case. There is no private respondent as petitioner did not implead the Sangguniang Bayan of Sogod Southern Leyte, and did not also furnish copies of his petition to said legislative body.

Rule 65 of the Rules of Court, which deals with a petition for certiorari provides, thus:

Section 5. Respondents and costs in certain cases. — When the petition filed relates to the acts or omissions of a judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person, the petitioner shall join, as private respondent or respondents with such public respondent or respondents, the person or persons interested in sustaining the proceedings in the court; and it shall be the duty of such private respondents to appear and defend, both in his or their own behalf and in behalf of the public respondent or respondents affected by the proceedings, and the costs awarded in such proceedings in favor of the petitioner shall be against the private respondents only, and not against the judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person impleaded as public respondent or respondents.

Unless otherwise specifically directed by the court where the petition is pending, the public respondents shall not appear in or file an answer or comment to the petition or any pleading therein. If the case is elevated to a higher court by either party, the public respondents shall be included therein as nominal parties. However, unless otherwise specifically directed by the court, they shall not appear or participate in the proceedings therein.

Meanwhile, Rule 46 of the same Rules provides, thus:

Section 2. To what actions applicable. — This Rule shall apply to original actions for certiorari, prohibition, mandamus and quo warranto.

xxx xxx xxx.

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.

xxx xxx xxx.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent xxx and shall be accompanied by xxx such material portions of the records as are referred to therein, and other documents relevant or pertinent thereto.

xxx xxx xxx.

The failure of the petitioner to comply with any of the requirements shall be sufficient ground for the dismissal of the petition.

The Sangguniang Bayan of Sogod Southern Leyte must necessarily be impleaded as private respondent, and served a copy of the petition considering that it is the party interested in sustaining the proceedings.

Apart from the failure to implead, and serve a copy of the petition to private respondent, petitioner also failed to attach to his petition material portions of the records referred therein, such as the: (a) copy of the search warrant issued by the responding judge; (b) copy of the petition for grave misconduct and commission of a crime involving moral turpitude; (c) Information for violation of Republic Act 9165; (d) copy of the Petition for Writ of Execution; and other documents relevant or pertinent to the instant petition.

We further observe that in the verification and certification of non-forum shopping, the notary public failed to indicate the province/city where his notarial commission was issued and his office address, in violation of the Rules on Notarial Practice.

Petitioner's failure to observe the requirements under the Rules of Court is fatal and as said rules expressly provide, such failure to comply therewith suffices as ground to dismiss the instant petition.

ACCORDINGLY, the petition is hereby DISMISSED.

SO ORDERED.

Hernando, Chairperson and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 31-32.

[2] Rollo, pp. 35-36.

[3] Rollo, p. 37.

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