

CLUB ULTIMA EXECUTIVE SUITES, CROWN REGENCY HOTEL & TOWERS AND HITESH SAMPAT, PETITIONERS, VS. ELEMP ANGEL BACULAO, HON. BUTCH DONABEL RAGAS-BILOCURA, IN HER OFFICIAL CAPACITY A...

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HERNANDO, J:

On October 20, 2014, petitioners via registered mail filed a Petition for Certiorari[1] before this Court. However, perusal of said Petition reveals the following infirmities:

1. The National Labor Relations Commission (NLRC) was not impleaded as public respondent in the instant Petition in violation of Section 5, Rule 65[2] of the Rules of Court;
2. Petitioner failed to append in the Petition a Secretary Certification and/or Board Resolution authorizing Mr. Joselito Dalunan to sign the Verification and Certification against Non-Forum Shopping for and in behalf of petitioners Dalunan Management Services, Club Ultima Executive Suites and Crown Regency Hotel & Towers.

While the first infirmity may not be a ground for the outright dismissal of the instant Petition considering that the same may be rectified by amendment of the Petition, this is not true with respect to the second infirmity.

Here, the Verification/Certification was signed by a certain Joselito Dalunan for and on behalf of petitioners Club Ultima Executive Suites and Crown Regency Hotel and Towers. However, no such proof of authority granted to Joselito Daluna by petitioners to sign for and on their behalf has been appended to the instant Petition.

The Supreme Court has consistently held that the certification against forum shopping must be signed by the principal parties.[3] If, for any reason, the principal party cannot sign the petition, the one signing on his behalf must have been duly authorized.[4] With respect to a corporation, the certification against forum shopping may be signed for and on its behalf, by a specifically authorized lawyer who has personal knowledge of the facts required to be disclosed in such document.[5] A corporation has no power, except those expressly conferred on it by the Corporation Code and those that are implied or incidental to its existence.[6] In turn, a corporation exercises said powers through its board of directors and/or its duly authorized officers and agents.[7] Thus, it has been observed that the power of a corporation to sue and be sued in any court is lodged with the board of directors that exercises its corporate powers.[8] In turn, physical acts of the corporation, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate by-laws or by a specific act of the board of directors.[9]

In *Philippine Airlines, Inc. v. Flight Attendants and Stewards Association of the Philippines (FASAP)*[10] cited in *Cosco Philippines Shipping, Inc. v. Kemper Insurance Company*[11], the Supreme Court ruled that the only individuals vested with authority by a valid board resolution may sign the certificate of non-forum shopping on behalf of a corporation. The High Court also required proof of such authority to be presented. The petition is subject to dismissal if a certification was submitted unaccompanied by proof of the signatory's authority.

In the same Cosco Philippines case, the Supreme Court further held that:

In the present case, since respondent is a corporation, the certification must be executed by an officer or member of the board of directors or by one who is duly authorized by a resolution of the board of directors; otherwise, the complaint will have to be dismissed. The lack of certification against forum shopping is generally not curable by mere amendment of the complaint, but shall be a cause for the dismissal of the case without prejudice. The same rule applies to certifications against forum shopping signed by a person on behalf of a corporation which are unaccompanied by proof that said signatory is authorized to file the complaint on behalf of the corporation. (Emphasis supplied)

Corollarily, there is no proof in the present case that petitioners authorized Joselito Dalunan, through a board resolution, to sign the Verification and Certification against forum shopping on their behalf. Accordingly, the Verification/Certification appended to the instant Petition is fatally defective, and therefore warrants the dismissal of the Petition.

In view of the dismissal of the instant Petition, the Manifestation and Motion[12] of the Office of the Solicitor General stating that it has been furnished with a copy of the instant Petition for Certiorari and praying that it should be excused from participating herein considering that the NLRC is merely supposedly impleaded as nominal party, is mooted. Nonetheless, the parties are hereby reminded not to furnish the OSG with copies of their pleadings and motions relative to the instant Petition.

WHEREFORE, the instant Petition for Certiorari is hereby DISMISSED.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 3-24.

[2] Sec. 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, 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.

[3] *Cosco Philippines Shipping, Inc. v. Kemper Insurance Company*, G.R. No. 179488, April 23, 2012.

[4] *Ibid.*

[5] *Ibid.*

[6] *Ibid.*

[7] *Ibid.*

[8] Ibid.

[9] Ibid.

[10] G.R. No. 143088, January 24, 2006.

[11] Supra.

[12] Rollo, pp. 1-4.

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