

**SPOUSES DIOCELY G. MACASERO AND DOMINADOR Z. MACASERO,
SPOUSES HENRY G. MACASERO AND WIFE JANE DOE, SPOUSES
MARITESS G. MACASERO AND HUSBAND, MISS JOCELYN G.
MACASERO, PETITIONE...**

Ponente: INTING, J.

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INTING, J.:

Before Us is a Petition for Certiorari[1] assailing the October 14, 2013 Resolution[2] of the Branch 3, Regional Trial Court of Butuan City denying the petitioners' Petition for Relief from Denial of Appeal.[3]

After due examination of the instant petition, this Court notes petitioners' inexcusable failure to move for the reconsideration of the lower court's resolution. Thus, the present petition suffers from a procedural defect that warrants its outright dismissal. This Court finds nothing from the allegations in the instant petition that could warrant an exceptional treatment of the petition.

It is worth stressing that the filing of a motion for reconsideration before resorting to a special civil action for certiorari is intended to afford public respondent an opportunity to correct any actual or fancied error attributed to it by way of a re-examination of the legal aspect of the case.[4]

Apart from the foregoing, We observed that the instant petition reveals the following defects and infirmities:

- The Verification and Certification Against Forum Shopping was executed only by two (2) petitioners of the five (5) petitioners, namely: Diocely Macasero and Maritess Macasero and there is no attached Special Power of Attorney authorizing the above-named two (2) petitioners to sign the Verification and Certification Against Forum Shopping in behalf of the other three (3) petitioners.
- The IBP Lifetime Number of petitioners' counsel indicated in the signature portion of the petition is not consistent with the one appeared in the notarial certificates of the Verification and Certification Against Forum Shopping, thereby creating confusion as to which is the correct IBP number as required under Bar Matter No. 287.
- The notarial certificates of the Verification and Certification Against Forum Shopping failed to comply with the 2004 Rules of Notarial Practice. There was a failure to indicate: (a) the serial number of the notary public's commission; and (b) the province or city where he is commissioned required under Section 2, Rule VIII of the 2004 Rules of Notarial Practice.

Thus, We are constrained to dismiss the petition in view of the foregoing defects appearing with it.

Section 3, Rule 46 of the 1997 Rules of Civil Procedure, emphatically provides:

Section 3. Contents and filing of petition; effect of non-compliance with requirements. -

x x x x x x x x

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

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 herein, and other documents relevant or pertinent thereto. x x x.

x x x x x x x x

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

Notably, it is a settled principle of law that rules of procedure must be used to facilitate, not to frustrate the ends of justice.[5] Corollary, petitioner and his counsel should bear in mind that the right to appeal is not a natural right. The right to appeal is a statutory privilege, and it may be exercised only in the manner and in accordance with the provisions of the law.[6] A party who seeks to appeal must comply with the law's requirements; otherwise, he forfeits his privilege. Rules of procedure may be relaxed only to relieve a litigant of an injustice which is not commensurate with the degree of his thoughtlessness in not complying with the prescribed procedure.[7]

WHEREFORE, the instant Petition for Certiorari under Rule 65 is hereby DISMISSED.

SO ORDERED.

Camello and Lopez, JJ., concur.

[1] Rollo, pp. 2-23.

[2] Ibid., pp. 71-73.

[3] Ibid., pp. 50-68.

[4] Building Care Corporation v. NLRC, G.R. No. 94237, February 26, 1997.

[5] Cusi-Hernandez v. Sps. Diaz, 390 Phil. 1245 (2000).

[6] Spouses Ortiz v. Court of Appeals, 360 Phil. 95 (1998).

[7] Limpot v. Court of Appeals, G.R. No. 44642, 20 February 1989.

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