

LA FELONILA E. RODRIGUEZ NEIGHBORHOOD ASSOCIATION (FERNAS) INC., PETITIONER, VS. HON. FERNANDO T. SAGUN, IN HIS CAPACITY AS ACTING PRESIDING JUDGE OF REGIONAL TRIAL COURT OF QUE...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Before Us is the Petition for Certiorari[1] (“Petition” for brevity) filed by petitioner La Felonila E. Rodriguez Neighborhood Association (FERNAS) Inc. (“petitioner” for brevity) under Rule 65 of the Rules of Court. The Petition[2] “assail[s] the Orders dated 26 January 2011 and 08 July 2011 issued by the Regional Trial Court of Quezon City, Branch 216, denying Petitioner's Motion to Intervene as a third party claimant in case entitled 'Ysmael, et al. vs. Estreller, et al.' and docketed as Civil Case No. Q-95-24216”[3].

To begin with, a perusal of the Petition[4] at bench reveals that it suffers from the following infirmities:

First, petitioner's counsel, Atty. Anselmo A. Marqueda failed to indicate in the Petition[5] the date of issuance of his MCLE Certificate of Compliance[6]. This failure in turn, is a sufficient ground for the dismissal of the Petition[7] under Bar Matter No. 1922, which provides:

“The Court further Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to REQUIRE practicing members of the bar to INDICATE in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records.” (Emphasis and underscoring supplied)

Second, petitioner failed to attach a proof of authority[8] authorizing Eduardo Culianan[9] (“Culianan” for brevity) to sign the Verification and Certification of Non-Forum Shopping[10] in behalf of petitioner. The rule is settled that “the petition is subject to dismissal if a certification was submitted unaccompanied by proof of the signatory's authority”[11].

That petitioner's failure to submit proof of Culianan's authority to sign the Verification and Certification of Non-Forum Shopping[12] in behalf of petitioner is a sufficient ground for the dismissal of the Petition[13] is pursuant to the following pronouncement of the Supreme Court in *Purefoods Corporation vs. Nagkakaisang Samahang Manggagawa ng Purefoods Rank-and-File, St. Thomas Free Workers Union, Purefoods Grandparent Farm Workers Union and Purefoods Unified Labor Organization*, G.R. No. 150896, August 28, 2008:

“Section 1, Rule 65 of the Rules of Court explicitly mandates that the petition for certiorari shall be accompanied by a sworn certification of non-forum shopping. When the petitioner is a corporation, inasmuch as corporate powers are exercised by the board, the certification shall be executed by a natural person authorized by the corporation's board of directors. Absent any authority from the board, no person, not even the corporate officers, can bind the corporation. Only individuals who are vested with authority by a valid board

resolution may sign the certificate of non-forum shopping in behalf of the corporation, and proof of such authority must be attached to the petition. Failure to attach to the certification any proof of the signatory's authority is a sufficient ground for the dismissal of the petition.

In the instant case, the senior vice-president of the petitioner corporation signed the certificate of non-forum shopping. No proof of his authority to sign the said certificate was, however, attached to the petition. Thus, applying settled jurisprudence, we find that the CA committed no error when it dismissed the petition.” (Emphasis and underscoring supplied)

Third, petitioner failed to attach the material portions of the record as well as other supporting documents pertinent to the Petition.[14] These were: Motion for Execution[15]; Motion to Intervene/Participate as Third Party Claimant[16]; Motion for Reconsideration-in-Intervention[17]; Final Notices of Delinquency[18]; Affidavit of Publication[19]; Certificates of Sale of Delinquent Property[20]; Final Bills of Sale to Purchaser[21]; certified true copies of the Decision dated April 13, 2011[22], and of the assailed Orders of the Regional Trial Court dated January 26, 2011 and July 8, 2011[23].

Considering that all of these documents were referred to in the Petition,[24] petitioner's failure to attach them to the Petition[25] at bench was in contravention of Section 3 of Rule 46 of the Rules of Court, which violation warrants the dismissal of the Petition[26] under the same Rule, to wit:

“Section 3. Contents and filing of petition; effect of noncompliance with requirements. — xxx

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 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.

xxx

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

Petitioner's failure to comply with the procedural requirements of filing a Petition for Certiorari under Rule 65 of the Rules of Court renders its Petition dismissible, as is in accordance with the following declaration of the Supreme Court in *Marcelino Domingo vs. Court of Appeals, et al.*[27]:

“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)

The party who seeks to avail of the Petition for Certiorari under Rule 65 of the Rules of Court, being an extraordinary remedy[28], “must strictly observe the rules laid down by the law and non-observance thereof may not be brushed aside as mere technicality.”[29]

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

SO ORDERED.

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

[1] Rollo, pp. 3-16

[2] Rollo, pp. 3-16

[3] Rollo, p. 3

[4] Rollo, pp. 3-16

[5] Rollo, pp. 3-16

[6] Rollo, pp. 13, 14 and 16

[7] Rollo, pp. 3-16

[8] Philippine Airlines, Inc., Manolo Aquino, Jorge Ma. Cui, Jr. and Patricia Chiong, vs. Flight Attendants and Stewards Association of the Philippines (FASAP) and Leonardo Bhagwani, G.R. No. 143088, January 24, 2006

[9] Rollo, p. 14

[10] Rollo, pp. 13-14

[11] Philippine Airlines, Inc., Manolo Aquino, Jorge Ma. Cui, Jr. and Patricia Chiong, vs. Flight Attendants and Stewards Association of the Philippines (FASAP) and Leonardo Bhagwani, G.R. No. 143088, January 24, 2006

[12] Rollo, pp. 13-14

[13] Rollo, pp. 3-16

[14] Rollo, pp. 3-16

[15] Rollo, p. 5

[16] Rollo, p. 5

[17] Rollo, p. 6

[18] Rollo, p. 8

[19] Rollo, p. 8

[20] Rollo, p. 9

[21] Rollo, p. 10

[22] Rollo, p. 10

[23] Rollo, pp. 3 and 6

[24] Rollo, pp. 3-16

[25] Rollo, pp. 3-16

[26] Rollo, pp. 3-16

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

[28] *Solidum v. Court of Appeals*, G.R. No. 161647, 22 June 2006, 492 SCRA 261, 269

[29] *Juan G. Garcia, Jr. and Doroteo C. Gaerlan vs. Hon. Court of Appeals and Garcia Pasion Development Corporation (GPDC)*, represented by Ramona G. Ayesa and Marcelo F. Ayesa, G.R. No. 171098, February 26, 2008; *Balayan v. Acorda*, G.R. No. 153537, 5 May 2006, 489 SCRA 637, 643, citing *Matagumpay Maritime Co., Inc. v. Dela Cruz*, G.R. No. 144638, 9 August 2005, 466 SCRA 130, 134; *Seastar Marine Services, Inc. v. Bul-an, Jr.*, G.R. No. 142609, 25 November 2004, 444 SCRA 140, 153; *De Los Santos v. Court of Appeals*, G.R. No. 147912, 26 April 2006, 488 SCRA 351, 358; *Teoville Homeowners Association, Inc. v. Ferreira*, G.R. No. 140086, 8 June 2005, 459 SCRA 459, 472; *Sea Power Shipping Enterprises, Inc. v. Court of Appeals*, 412 Phil. 603, 611 (2001)

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