

**MIGNONETTE REALTY AND DEVELOPMENT CORPORATION
REPRESENTED BY QUINTIN A. LLORENTE, PETITIONER, VS. UNITED
COCONUT PLANTERS BANK AND HON. PRESIDING JUDGE,
REGIONAL TRIAL COURT, BR...**

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

For resolution is petitioner's Motion for Reconsideration[1] of the Resolution[2] of this Court dated October 10, 2014 which dismissed the Petition for Certiorari with Prayer for Temporary Restraining Order and/or Preliminary Injunction.

A scrutiny of the instant Motion for Reconsideration shows that the grounds relied upon by the petitioner were already thoroughly considered, weighed, and passed upon[3] in the assailed Resolution. Thus, this Court finds it unnecessary to repeat itself on each point.

Ultimately, petitioner's contention is that this Court should not have dismissed the instant petition based on purely technical grounds. In particular, petitioner points out that this Court inadvertently overlooked the appended Affidavit of Service. However, a perusal of the assailed Resolution reveals that the dismissal is for non-compliance with Section 13, Rule 13 of the 1997 Revised Rules of Court which provides that the affidavit of the party serving the pleading should contain a full statement of the date, place and manner of service. In this respect, the Affidavit of Service of petitioner is defective as it does not contain a statement and explanation on the manner of service, and an explanation as to why service was not made personally.

In addition, a scrutiny of the Secretary's Certificate[4] which petitioner appended to its Motion for Reconsideration reveals that the authority granted to Mr. Quintin A. Llorente (Llorente for brevity) empowers him to perform certain acts in relation to a different action, i.e., complaint for Annulment of Extra-Judicial Foreclosure of Real Estate Mortgage with Application for Restraining Order/Preliminary Injunction against private respondent. This Court cannot construe such authority as extending to the filing of the instant petition. Hence, when Mr. Llorente signed the Verification and Certification of Non-Forum Shopping, he did so without the authority of the petitioner. Not being petitioner's duly authorized representative, Mr. Llorente could not have validly executed petitioner's Verification and Certification of Non-Forum Shopping, making the same fatally defective.

On these two (2) grounds alone, the petition is dismissible pursuant to Section 1, Rule 65, in relation to Section 3, Rule 46 of the 1997 Revised Rules of Civil Procedure.

The rules of procedure are merely tools designed to facilitate the attainment of justice.[5] They were conceived and promulgated to effectively aid the court in the dispensation of justice.[6] Courts are therefore, not slaves to or robots of technical rules, shorn of judicial discretion, but have always been, as they ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat against substantive rights, and not the other way around.[7] Thus, if the application of the Rules would tend to frustrate rather than promote justice, it is

always within the Court's power to suspend the rules, or except a particular case from its operation.[8] This Court is therefore not unmindful of cases where the interest of substantial justice prevailed over procedural and technical constraints.

In fact, rules pertaining to the Certification of Non-Forum Shopping may be relaxed upon compliance with two conditions: first, petitioner must show justifiable cause for his failure to personally sign the certification and; second, he must be able to prove that the outright dismissal of the petition would seriously impair the orderly administration of justice.[9] Even on Motion for Reconsideration, however, this Court finds that petitioner failed to substantially comply with, much less satisfy the two (2) conditions for the relaxation of the rules.

It bears stressing that if procedural rules are to attain the purpose for which they were put in place, litigants must not be allowed to trifle with them and simply invoke the policy of liberal construction to mask their own negligence and lapses. A party should not be permitted to gain an advantage from its flagrant disregard of the rules.[10]

All told, petitioner failed to advance any cogent reason for this Court to reconsider its findings. There being no substantial argument which would warrant the modification much less the reversal of this Court's October 10, 2014 Resolution, petitioner's Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.

Bueser, D.Q.,[*] and Inting, S.B.,[**] JJ., concur.

[*] Vice Justice Ramon R. Garcia per Office Order No. 496-14-ABR dated December 1, 2014.

[**] Vice Justice Danton Q. Bueser per Office Order No. 496-14-ABR dated December 1, 2014.

[1] Rollo, pp. 50-56.

[2] Rollo, pp. 46-47.

[3] Id.

[4] Rollo, p. 54.

[5] Fulgencio v. NLRC, G.R. No. 141600, September 12, 2003.

[6] Id.

[7] Id.

[8] Id. citing Coronel v. Hon. Desierto, G.R. No. 149022, April 8, 2003.

[9] Tolentino et al. v. Rivera et al., G.R. No. 149665, January 25, 2006 citing PET PLANS v. Court of Appeals, G.R. No. 148287, November 23, 2004.

[10] Id.

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