

SABAS ABRASADO, JR., ET AL?, PETITIONERS, VS. HON. CANDELARIO V. GONZALES AS PRESIDING JUDGE OF THE RTC BRANCH 45 OF THE REGIONAL TRIAL COURT OF BAIS CITY, MA. KATRINA G. GONZAL...

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This refers to a Petition for Certiorari^[1] under Rule 65 of the Rules of Court assailing the Order dated November 25, 2013 of the Regional Trial Court (RTC) Branch 45, Bais City.

A perusal of the petition the Court NOTES the following defects.

First, petitioner failed to file a Motion for Reconsideration to the Order dated November 25, 2013 of the RTC Branch 45, Bais City.

Petitions for Certiorari are governed by Rule 65 of the New Rules on Civil Procedure under Section 1 thereof:

"SECTION 1. Petition for Certiorari. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of his jurisdiction, or with grave abuse of discretion amounting to lack of or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of the law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying the judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46."

Generally, certiorari as a special civil action will not lie unless a motion for reconsideration is filed before the respondent tribunal to allow it an opportunity to correct its imputed errors.^[2] It was also held in the case of *Pio Delos Reyes (deceased), et al., v. Honorable Waldo Q. Flores, et al.*,^[3] that the filing of a motion for reconsideration is a condition sine qua non to the filing of a petition for certiorari, being the plain and adequate remedy referred to in Section 1 of Rule 65 of the Rules of Court. The rationale for the requirement of first filing a motion for reconsideration before the filing of a petition for certiorari is that the law intends to afford the tribunal, board, or office an opportunity to rectify the errors and mistakes it may have lapsed into before resort to the courts of justice can be had.^[4]

Second, petitioners failed to properly verify the Petition in accordance with A.M. No. 00-2-10-SC amending Section 4, Rule 7 in relation to Section 1, Rule 65 of the 1997 Rules of Civil Procedure. While there is a Verification and Certification of Non-Forum Shopping appended to the Petition, and signed by a certain Jielly Sablada y Torres, who claimed to be one of the defendants-appellants in the unlawful detainer case before the Municipal Circuit Trial Court (MCTC), it cannot be ascertained whether she is one of the petitioners herein since the Petition does not indicate all the names of petitioners.

Third, petitioners failed to attach copies of all pleadings and documents which are necessary for a thorough understanding and resolution of the instant Petition, such as but not limited to the following:

- a. April 29, 2011 Judgment of the MCTC of Manjuyod- Bindoy-Ayungon, Negros Oriental in the unlawful detainer case against petitioners.
- b. Private respondent's Motion for Issuance of Writ of Execution Pending Appeal filed before the RTC.
- c. Petitioners' Opposition to the Motion for Issuance of Writ of Execution Pending Appeal filed before the RTC.
- d. Notice of Appeal filed by petitioners before the MCTC.
- e. June 28, 2011 Order giving due course to the Notice of Appeal.

Fourth, petitioners' counsel did not indicate in their Petition dated January 27, 2014, the following⁵:

- a. 2014 Integrated Bar of the Philippines (IBP) number.
- b. Updated Professional Tax Receipt (PTR) number.
- c. Dates and places of issuance of his IBP.
- d. Covering Compliance period of his Mandatory Continuing Legal Education (MCLE).

Fifth, granting that Jielly Sablada y Torres is one of the petitioners herein there was no competent evidence of her identity (at least one current identification document issued by an official agency bearing the photograph and signature of the affiant), in violation of Section 6(a), Rule II, in relation to Section 12, of the Rules of Notarial Practice⁶ (A.M. 02-8-13-SC).

Sixth, the Verification and Certification of Non-Forum Shopping was subscribed and sworn to before an Associate City Prosecutor⁷.

WHEREFORE, with all the above-noted defects, We DISMISS the Petition upon authority of Section 5, Rule 46 of the 1997 Rules of Civil Procedure.⁸

SO ORDERED.

WE CONCUR:

Lagura-Yap, and * Quijano-Padilla, JJ., concur.

* As indicated in the caption of their petition.

* Acting Junior Member per Office Order No. 472-13-ABR dated December 12, 2013.

[1] Rollo, pages 3-18.

[2] Marawi Marantao General Hospital, Inc. vs. Court of Appeals, G.R. No. 141008, January 16, 2001, 11-12; Reyes vs. Court of Appeals, 321 SCRA 368 [1999]

[3] G.R. No. 168726, March 5, 2010.

[4] Alcosero v. National Labor Relations Commission, 288 SCRA 129, 137-138 [1998].

[5] In violation of Bar Matter No. 287 dated July 9, 1985, Bar Matter No. 1132 dated November 12, 2002 and Bar

Matter No. 1922 dated September 2, 2008.

[6] 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC), effective Aug. 1, 2004, amended on Feb. 19, 2008. “Rule II, Sec. 6. Jurat.- “Jurat” refers to an act in which an individual on a single occasion: (a) appears in person before the notary public and presents an instrument or document;”

Sec. 13. Competent Evidence of Identity. - The phrase “competent evidence of identify” refers to the identification of an individual based on: (a) at least one current identification document issued by an official agency bearing the photograph and signature of the individual; or (b) x x x.

[7] Cf. Section 41 and 42, Administrative Code of 1987 (E.O. No. 292), as amended by R.A. No. 6733 (July 25, 1989), which provides:

Section 41. Officers Authorized to Administer Oath. - The following officers have general authority to administer oaths: President; Vice-President; Members and Secretaries of both Houses of the Congress; Members of the Judiciary; Secretaries of Departments; provincial governors and lieutenant-governors; city mayors; municipal mayors; bureau directors; regional directors; clerk of courts; registrars of deeds; other civilian officers in the public service of the government of the Philippines whose appointments are vested in the President and are subject to confirmation by the Commission on Appointments; all other constitutional officers; and notaries public.”

Section 42. Duty to Administer Oath. - Officers authorized to administer oaths, with the exception of notaries public, municipal judges and clerks of court, are not obliged to administer oaths or execute certificates save in matters of official business; and with the exception of notaries public, the officer performing the service in those matters shall charge no fee, unless specifically authorized by law.”

Cf. *Leyrit, et. al. v. Solas*, A.M. Nos. P-08-2567 and P-08-2568, October 30, 2009; *Astorga v. Solas*, A.M. No. P-01-1484, July 17, 2001.

[8] Regalado, Florenz D., REMEDIAL LAW COMPENDIUM, Vol. 1, Notes on the Revised Rules of Court, Rule 46, p. 564.

Section 5. Action by the Court. - The court may dismiss the petition outright with specific reasons for such dismissal or require the respondent to file a comment on the same within ten (10) days from notice. Only pleadings required by the court shall be allowed. All other pleadings and papers may be filed only with leave of court.

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