

REGINA ALEJANDRO, PETITIONER, VS. FE CHUA, RESPONDENT.

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

The instant Petition for Review under Rule 42 should be dismissed outright for the following reasons:

First, Section 2(d), Rule 42, of the 1997 Rules of Civil Procedure clearly requires the petition for review to be accompanied by "clearly legible duplicate original or true copy of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition." Here, the petitioner failed to append copies of the Complaint[1], Answer with Third Party Complaint[2], Answer with Compulsory Counterclaim[3], plaintiff's Answer[4], Motion for Reconsideration[5], Order denying the Motion for Reconsideration, Memorandum of Appeal and other material and relevant pleadings. Thus, depriving the Court of an opportunity to peruse the petition completely.

Second, the verification[6] is defective as it does not include the assurance that the allegations in the petition are true and correct of petitioner's personal knowledge or based on authentic records, as required by Section 4, Rule 7[7] of the 1997 Rules of Civil Procedure, as amended by A.M. No. 0-02-10-SC[8].

Finally, the Affidavit of Filing and Service[9] failed to comply with Section 6[10] and Section 12[11], Rule II of the 2004 Rules on Notarial Practice[12], as amended by A.M. No. 02-8-13-SC dated 19 February 2008, there being no properly accomplished jurat showing that the affiant exhibited before the notary public competent proof of her identity. The Court cannot simply assume that affiants are personally known to the notary public.

It is true that a litigation is not a game of technicalities, and that the rules of procedure should not be strictly enforced at the cost of substantial justice. It does not mean, however, that the Rules of Court may be ignored at will and at random, to the prejudice of the orderly presentation and assessment of the issues and their just resolution. It must be emphasized that procedural rules should not be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Like all rules, they are required to be followed except only for the most persuasive of reasons.[13]

Petitioner and its 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.[14] Therefore, a party seeking relief must strictly comply with the rules of procedure or otherwise face the risk of an outright dismissal of the case.

WHEREFORE, the petition is DISMISSED.

IT IS SO ORDERED.

Bueser, and [*]Paredes, JJ., concur.

[*] Acting Junior Member per Office Order No. 55-15-ABR dated 23 February 2015

[1] Rollo, p. 21

[2] Id., p. 21

[3] Id., p. 21

[4] Id., p. 21

[5] Id., p. 5

[6] Rollo, p. 11

[7] RULE 7

SEC. 4. Verification.- Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.

A pleading required to be verified which contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.

[8] May 1, 2000

[9] Id., p. 12

[10] 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;

(b)

is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules;

(c)

signs the instrument or document in the presence of the notary; and

(d)

takes an oath or affirmation before the notary public as to such instrument or document.

[11] SEC. 12. Competent Evidence of Identity. — The phrase "competent evidence of identity" 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)

the oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification.

[12] A.M. No. 02-8-13-SC (2004).

[13] Pyro Copper Mining Corp. vs. MAB-DENR, et. al., G.R. No. 179674, July 28, 2009, 594 SCRA 193 citing Teoville Homeowners Asso., Inc. v. Ferreira, G.R. No. 140086, 8 June 2005, 459 SCRA 459, 471.

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

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