

LAZARO V. KAVINTA, PETITIONER, VS. HON. PRUDENCIO ALTRE CASTILLO, JR., PRESI-DING JUDGE, BRANCH 220, REGIONAL TRIAL COURT, QUEZON CITY, AND ANTONIO C. FRANCO, RESPONDENTS.

G.R. No. 117083. October 27, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

The issue in this special civil action for certiorari is whether public respondent Judge Prudencio Altre Castillo, Jr. has committed grave abuse of discretion in denying the motion to dismiss the complaint in Civil Case No. Q-94-20532 on the ground that the certification of non-forum shopping required under Administrative Circular No. 04-94[1] was, nevertheless, subsequently submitted after the filing of the motion to dismiss.

The antecedent disclosed by the parties in their pleadings are uncomplicated.

On 11 May 1994, private respondent represented by his attorney-in-fact, Angeles F. Arroyo, filed with the Regional Trial Court of Quezon City a complaint against petitioner Lazaro V. Kavinta and others[2] a complaint for Recovery of Possession and Issuance of Writ of Demolition. The case was docketed as Civil Case No. Q-94-20532 and was raffled to Branch 220 of said court, which is presided over by public respondent Judge Castillo.

On 20 June 1994, the petitioner and his codefendants moved to dismiss the complaint[3] on the ground that "it does not comply with Administrative Circular No. 04-94 of the Supreme Court which took effect on April 1, 1994."

On 4 July 1994, private respondent filed, through counsel, an opposition to the motion to dismiss,[4] to which he attached as Annex "A" thereof the certification required in Administrative Circular No. 04-94.[5]

On 20 July 1994, Judge Castillo issued an order[6] denying the motion to dismiss in view of the submission of the aforesaid certification, and directing the defendants to file their answer or responsive pleading "within the remaining reglementary period in accordance with the Rules of Court."

On 3 August 1994, Judge Castillo issued an order[7] declaring petitioner's Reply to the opposition to the motion to dismiss moot and academic in view of the order of 20 July 1994.

On 24 August 1994, petitioner filed a motion to consider his Reply as a motion for the reconsideration of the order of 20 July 1994.[8]

On 2 September 1994, Judge Castillo issued an order[9] denying the Reply, which was treated as a motion for reconsideration, and clarifying that

The language of the July 20, 1994 order is very clear and unambiguous. The fifteen (15) days reglementary period to plead is reckoned from the date defendants, through counsel, received the notice denying their motion to dismiss.

Administrative Circular No. 04-94 of this Court issued by the Chief Justice on 8 February 1994 and which took effect on 1 April 1994 pertinently provides:

Revised Circular No. 28-91, dated February 8, 1994 applies to and governs the filing of petitions in the Supreme Court and the Court of Appeals and is intended to prevent the multiple filing of petitions or complaints involving the same issues in other tribunals or agencies as a form of forum shopping.

Complementary thereto and for the same purpose, the following requirements, in addition to those in pertinent provisions of the Rules of Court and existing circulars, shall be strictly complied with in the filing of complaints, petitions, applications or other initiatory pleadings in all courts and agencies other than the Supreme Court and the Court of Appeals, and shall be subject to the sanctions provided hereunder:

1. The plaintiff, petitioner, applicant or principal party seeking relief in the complaint, petition, application or other initiatory pleading shall certify under oath in such original pleading, or in a sworn certification annexed thereto and simultaneously filed therewith, to the truth of the following facts and undertakings: (a) he has not theretofore commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (b) to the best of his knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals or any other tribunal or agency; (c) if there is any such action or proceeding which is either pending or may have been terminated, he must state the status thereof; and (d) if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, he undertakes to report that fact within five (5) days therefrom to the court or agency wherein the original pleading and sworn certification contemplated herein have been filed.

The complaint and other initiatory pleadings referred to and subject of this Circular are the original civil complaint, counterclaim, cross-claim, third (fourth, etc.) -- party complaint, or complaint?in-intervention, petition, or application wherein a party asserts his claim for relief.

2. Any violation of this Circular shall be a cause for the dismissal of the complaint, petition, application or other initiatory pleading, upon motion and after hearing. However, any clearly wilful and deliberate forum shopping by any party and his counsel through the filing of multiple complaints or other initiatory pleadings to obtain favorable action shall be a ground for summary dismissal thereof and shall constitute direct contempt of court. Furthermore, the submission of a false certification or non-compliance with the undertakings therein, as provided in Paragraph 1 hereof, shall constitute indirect contempt of court, without prejudice to disciplinary proceedings against the counsel and the filing of a criminal action against the guilty party.

In *Loyola vs. Court of Appeals, et al.*,^[10] we categorically ruled that the Circular is mandatory as indicated by the clear language of its paragraph 2. Nevertheless, substantial compliance thereof is sufficient. Thus:

Substantial compliance with the Circular is sufficient. This Circular expanded or broadened the applicability of Circular No. 28-91 of this Court. In *Gabionza vs. Court of Appeals* [G.R. No. 112547, Resolution of 18 July 1994, 234 SCRA 192] this Court held that substantial compliance therewith is sufficient for:

It is scarcely necessary to add that Circular No. 28-91 must be so interpreted and applied as to achieve the purposes projected by the Supreme Court when it promulgated that Circular. Circular No. 28-91 was designed to serve as an instrument to promote and facilitate an orderly administration of justice and should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective or the goal of all rules of procedure — which is to achieve substantial justice as expeditiously as possible.

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The fact that the Circular requires that it be strictly complied with merely underscores its mandatory nature in that it cannot be dispensed with or its requirements altogether disregarded, but it does not thereby interdict substantial compliance with its provisions under justifiable circumstances.

In his opposition to the motion to dismiss, private respondent neither offered any explanation why he failed to comply with the Circular nor invoked any justifiable circumstance which would relieve him of the adverse effect of non-compliance. If this Court is to be unbending in its demand for at least a substantial compliance of the said Circular, the challenged order must have to be set aside. However, in his motion to dismiss the instant petition,[11] private respondent pointed out that the filing of the required certification was done with dispatch by his counsel upon "realization of the existence of said circular." He thereby admits his unawareness or ignorance of the Circular at the time he filed his complaint. We are not unmindful of the fact that Administrative Circular No. 04-94 took effect only on 1 April 1994 and the complaint in Civil Case No. Q-94-20532 was filed on 11 May 1994. The proximity then of the filing of the complaint to the date of the effectivity of the Circular may be pleaded as a justifiable circumstance, and the belated filing of the certification required thereunder may be deemed a substantial compliance therewith. We thus rule pro hac vice, but not without a whit of reluctance, that this special circumstance in this case could sustain the action of the respondent Judge. This should not be taken, however, as a precedent. Elsewise stated, the mere submission of a certification under Administrative Circular No. 04-94 after the filing of a motion to dismiss on the ground of non-compliance thereof does not ipso facto operate as a substantial compliance; otherwise the Circular would lose its value or efficacy.

WHEREFORE, the instant petition is DISMISSED. Petitioner is DIRECTED to file his responsive pleading in Civil Case No. Q-94-20532 within a period of ten (10) days from notice of this resolution.

Costs against petitioner.

SO ORDERED.

Padilla, (Chairman), Bellosillo, and Hermosisima, Jr., JJ., concur.
Kapunan, J., on leave.

[1] Prescribing Additional Requisites for Civil Complaints, Petitions and Other Initiatory Pleadings Filed in All Court and Agencies, Other than the Supreme Court and the Court of Appeals, to Prevent Forum Shopping or Multiple Filing of Such Pleadings.

[2] Rollo, 21, Annex "C" of Petition.

[3] Id., 26, Annex "D" of Petition.

[4] Id., 28, Annex "E" of Petition.

[5] Id., 29, Annex "E-1" of Petition.

[6] Id., 19, Annex "A" of Petition.

[7] Rollo, 32, Annex "G" of Petition.

[8] Id., 33, Annex "H" of Petition.

[9] Id., 20, Annex "B" of Petition.

[10] G. R. No. 117186, 29 June 1995.

[11] Rollo, 39.

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