

**SPOUSES VALENTINO ORTIZ AND CAMILLA MILAN ORTIZ,
PETITIONERS, VS. COURT OF APPEALS AND SPOUSES FRANCISCO
AND BERNARDINA RODRIGUEZ, RESPONDENTS.**

G.R. No. 127393. December 04, 1998

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioners seeks a review of the decision[1] of the Court of Appeals in CA- G.R. CV 42238 dated October 18, 1996, and it's resolution[2] dated December 03, 1996, on the motion for reconsideration, dismissing the case for failure of the petitioners to comply strictly with the Rules of Court. The appellate court decreed, thus:

"WHEREFORE, for not being sufficient in form and substance, the instant Petition for Review is hereby DENIED due course and accordingly DISMISSED outright."[3]

The factual background of this petition is as follows:

The spouses Francisco and Bernardina Rodriguez, herein private respondents (hereafter the "Rodriguezes"), filed an action for ejectment in the Metropolitan Trial Court (MeTC) of Parañaque, Branch 77, against Valentin and Camilla Ortiz, herein petitioners (hereafter the "Ortizs"), who are lessees of Cristopher and Angelica Barramedas, on the ground that they are the real owners of the house and lot or the subject property. MeTC, Branch 77, awarded the possession of the property in favor of the Rodriguezes.

The Ortizs appealed the Parañaque MeTC decision to the RTC of Parañaque, Branch 257. On August 30, 1996, the latter court found no reversible error in the assailed judgment, and thus affirmed it in toto. On September 27, 1996, the Rodriguezes filed the Motion for Issuance of Writ of Execution of judgment, which was opposed by the herein petitioners on October 24, 1996.

Upon the Parañaque RTC's denial of the Opposition to Motion for Issuance of Writ of Execution, the petitioner Ortizs appealed to the Court of Appeals ("CA"). The petition was dismissed on the following grounds: (1) the certification of non-forum shopping was signed by the counsel and not by the petitioners themselves, and (2) the copy of the RTC decision is not duly certified as a true copy as required by Sec. 3 (b), Rule 6 of the Revised Internal Rules of CA. Further, the supposed duplicate original copy of said decision does not bear the dry seal of the trial court, but merely stamped "Original Signed," which appears above the name of the judge.

Hence, the petitioners now come before us, and raise the following grounds in support of the petition:

I. The Court of Appeals is clear contravention of the rules of Court, and the ruling in *Gabionza v. Court of Appeals*, 234 SCRA 192, *Loyola v. Court of Appeals*, 245 SCRA 477 and *Kavinta v. Castillo*, 249 SCRA 604 gravely erred in dismissing the Ortizs' petition review, and/or in failing to reconsider such dismissal.

II. The Court of Appeals gravely erred in failing to rule on the issue of lack of jurisdiction of the MTC which had decided the issue of ownership.

III. The Court of Appeals gravely erred in ignoring the issue of forum shopping raised against the Rodriguezes, and thus sanctioned a violation of Circular Nos. 28-91 and 04-94."[4]

From the foregoing factual and procedural antecedents, the main issue for our resolution is:

DID THE RESPONDENT COURT OF APPEALS ERR IN DISMISSING THE PETITION FOR REVIEW UNDER RULE 41 OF THE REVISED RULES OF COURT AS AMENDED, FOR FAILURE OF PETITIONERS TO FAITHFULLY COMPLY WITH THE PROCEDURAL REQUIREMENTS SET FORTH IN SC CIRCULAR NO. 28-91 AND SC ADMINISTRATIVE CIRCULARS NO. 3-96?

To resolve the issue, it should be recalled that Revised Circular No. 28-91[5] provides that the party must certify under oath that he has not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, and that to the best of his knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or different Division thereof, or any other tribunal or agency[6] (Emphasis supplied)

Petitioners admit that their lawyer, Atty. Ma. Filomena Singh-Paulite, signed the Certification on Non-Forum Shopping. Allegedly, Atty. Paulite has personal knowledge that the Ortizes had not commenced any other action or proceeding involving the same parties and causes of action. Petitioners now assert that their lawyer's signature must be accepted as substantial compliance with the requirements of the Circular.

Regrettably, we find that substantial compliance will not suffice in a matter involving strict observance as provided for in Circular No. 28-91. The attestation contained in the certification on non-forum shopping requires personal knowledge by the party who executed the same. To merit the Court's consideration, petitioners here must show reasonable cause for failure to personally sign the certification. The petitioners must convince the court that the outright dismissal of the petition would defeat the administration of justice. However, the petitioners did not give any explanation to warrant their exemption from the strict application of rule. Utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.

Concerning the second ground for the appellate court's dismissal of the petition, it is required that:

"2 The duplicate original copy must be duly signed or initialled by the authorities or the corresponding officers or representative of the issuing entity, or shall at least bear the dry seal thereof or any other official indication of the authenticity and completeness of such copy."[7] (Emphasis ours.)

Petitioners contend that they attached the very same duplicate original copy of the decision which they revised from the RTC. Said duplicate original copy of the decision, having come from the trial court itself., petitioners believed in good faith that, by attaching it to the petition, they would be considered to have substantially complied with the filing requirements under the law. However, strict compliance with procedural requirements in taking an appeal cannot be substituted by "good faith compliance." To rule otherwise would defeat the very purpose of the rules of procedure, i. e., to "facilitate the orderly administration of justice." [8]

Although the petitioners subsequently submitted to the CA the corrected annexes of the Petition for review, the respondent court ruled that it did not stop the questioned decision from becoming final and executory.

The petitioners failed to fully satisfy the CA or this Court that (1) the non-compliance with the requirements was not in any way attributable to them; (2) they exerted due diligence; (3) there are highly justifiable and compelling reasons for the court to make a disposition in the interest of justice.[9]

The Petition for review filed by the Ortizes' with the CA was an appeal from the RTC in the exercise of its appellate jurisdiction. Consequently, the Ortizes should bear in mind that the right to appeal is not a natural right to a part of due process; it is merely a statutory privilege, and may be exercised only in manner and in accordance

with the provisions of the law.[10] The party who seeks to avail of the same must comply with the requirements of the rules, Failing to do so, the right to appeal is lost.[11] Rules of Procedure are required to be followed, except only when for the most persuasive of reasons, they must be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[12]

WHEREFORE, finding no reversible error nor grave abuse of discretion committed by public respondent, the Court resolved to DENY the Petition for Review on Certiorari and AFFIRM the decision in CA-G.R. CV 42238. COST against the petitioners.

SO ORDERED.

Davide Jr., C.J., (Chairman), Bellosillo, Vitug, and Panganiban, JJ., concur.

[1] Per Justice Arturo B. Buena, and concurred in by Justice Angelina Sandoval-Gutierrez and Conrado M. Vasquez, Jr.; Rollo, pp. 56-57.

[2] Rollo, pp. 56-57.

[3] Rollo, p. 57.

[4] Petition, pp. 18-19; Rollo, pp. 21-22. All caps in the original.

[5] Re: ADDITIONAL REQUISITE FOR PETITION FILED WITH THE SUPREME COURT AND COURT OF APPEALS TO PREVENT FORUM SHOPPING OR MULTIPLE FILING OF PETITION AND COMPLAINT.

[6] Supreme Court Circular No. 28-91, par. 2.

[7] SC Revised Circular No. 3-96, par. 2.

[8] Santos vs. Court of Appeals, 198 SCRA 806, p. 810.

[9] Supreme Court Administrative Circular No. 3-96, par. 5.

[10] Villanueva vs. Court of Appeals, 205 SCRA 537, 544, citing Tropical Homes Inc. vs. NHA, 152 SCRA 540.

[11] Ibid, p. 544, citing Ozaeta vs. CA, 179 SCRA 800.

[12] Limpot vs. CA 170 SCRA 367.

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