

DIGITAL MICROWAVE CORPORATION, PETITIONER, VS. COURT OF APPEALS AND ASIAN HIGH TECHNOLOGY CORPORATION, RESPONDENTS.

G.R. No. 128550. March 16, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On December 14, 1994, private respondent Asian High Technology Corp. filed a complaint against petitioner Digital Microwave Corp. for a sum of money and damages before the Regional Trial Court of Pasig city. Petitioner moved for the dismissal of the complaint. The trial court denied the motion, as well as petitioner's subsequent motion for reconsideration.

Petitioner then initiated a special civil action for certiorari before the Court of Appeals, alleging grave abuse of discretion on the part of the trial court. However, the Court of Appeals dismissed the petition for failure to comply with Revised Circular No. 28-91, as amended by Administrative Circular No. 04-94. Said circular requires the petition filed before the Court of Appeals to be accompanied by a sworn certification against forum shopping, signed by petitioner himself. Petitioner's certification was signed by counsel; the petition was, thus, dismissed. Petitioner moved for a reconsideration of the dismissal and submitted a sworn certification against forum shopping duly signed by one of its senior officers. The motion was, however, denied, with the Court of Appeals stating that

"In the present case, absent any compelling reason for petitioner's failure to comply, at first instance, with Revised Supreme Court Circular No. 28-91, the Court cannot therefore, accept its subsequent compliance."[1]

Aggrieved, petitioner is now before this Court seeking reversal of the ruling of the Court of Appeals.

Revised Circular No. 28-91 provided:

"To avoid [forum shopping], every petition or complaint filed with the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, shall comply with the following requirements, aside from pertinent provisions of the Rules of Court and existing circulars:

x x x

2. Certification.-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 Divisions thereof, or any other tribunal or agency. If there is any other action pending, he must state the status of the same. If he should learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, he should notify the court, tribunal or agency within five (5) days from such notice."[2]

The requirement for a sworn certification against forum shopping was extended by administrative Circular No. 04-94 to complaints, petitions, applications or other initiatory pleadings filed in all courts or agencies other than the Supreme Court or the Court of Appeals.

Petitioner contends that in the case of a corporation as petitioner, the certification against forum shopping may be signed by a natural person authorized to do so and with knowledge of the required facts. The authorized person may be anyone authorized by the corporation, not necessarily an officer thereof. In such a case, petitioner argues, the counsel of record has the authority to execute the certification on behalf of the corporation, particularly considering that under the Rules of Court, counsel's authority to represent his client is presumed. No written power of attorney is required for counsel to appear for his client.

If we follow petitioner's line of reasoning, then the requirement in Revised Circular No. 28-91 that petitioner himself must make the certification against forum shopping would have been rendered useless. Why require petitioner himself to certify when his counsel can anyway execute the certification on his behalf?

The reason the certification against forum shopping is required to be accomplished by petitioner himself is because only the petitioner himself has actual knowledge of whether or not he has initiated similar actions or proceedings in different courts or agencies. Even his counsel may be unaware of such fact. For sure, his counsel is aware of the action for which he has been retained. But what of other possible actions?

We disagree with petitioner that a corporation cannot possibly hope to comply with the requirement laid down by Revised Circular No. 28-91 because it is a juridical entity and not a natural person. If this were so, then it would have been impossible for a corporation to do anything at all. Needless to say, this is the reason why corporations have directors and officers, to represent it in its transactions with others. The same is true for the certification against forum shopping. It could easily have been made by a duly authorized director or officer of the corporation. That petitioner did not in the first instance comply with the requirement of revised Circular No. 28-91 by having the certification against forum shopping signed by one of its officers, as it did after its petition before the Court of Appeals had been dismissed, is beyond our comprehension.

In the recent case of *Spouses Valentin Ortiz and Camilla Milan Ortiz v. Court of Appeals, et al.*, 299 SCRA 708, 711-712 (1998), we ruled that

"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."

In this case, petitioner has not adequately explained its failure to have the certification against forum shopping signed by one of its officers.

Neither has it shown any compelling reason for us to disregard strict compliance with the rules.

As we further stated in *Spouses Ortiz*,

"Utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction." [3]

WHEREFORE, finding no merit in the petition, the petition is hereby DENIED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Rollo, p. 157.

[2] This requirement is now found in Rule 7, Section 5 of the 1997 Rules of Civil Procedure.

[3] 299 SCRA 708, 712 (1998).

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