

**CARMELITA S. MENDIGORIN, PETITIONER, VS. MARIA CABANTOG,
REPRESENTED BY HER SON, RAFAEL CABANTOG, RESPONDENT.**

G.R. No. 136449. August 22, 2002

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-136449/>

QUISUMBING, J.:

This petition for review under rule 45 of the Rules of Court seeks to reverse and set aside the decision promulgated on March 13, 1998 in CA-GR No. SP. No. 42887 of the respondent court, and its subsequent resolution dated November 17, 1998 denying petitioner's motion for reconsideration.

The facts of this case as culled from the records are as follows:

Petitioner Carmelita S. Mendigorin filed a complaint before the Municipal Trial Court (MTC) of Hagonoy, Bulacan for ejectment against Maria Cabantog. The complaint alleged:

3. That plaintiff is a co-owner of the parcel of land situated at San Pascual, Hagonoy, Bulacan covered by Original Certificate of Title No. P-5053 (2161) of the Register of Deeds for the province of Bulacan and more particularly described and bounded as follows:

ORIGINAL CERTIFICATE OF TITLE NO. P-5053 (2161)

Of Bulacan, Book No. RT-26, Page No. 53

Lot NO. 9995, Cad-304-D

Beginning xxx.

Containing an area of THREE HUNDRED AND FOUR (304) SQUARE METERS.

All points xxx.

Bounded on the NE., & SE., along lines 1-2-3 by Lot 9997, Cad-304-D; on the SW., along line 3-4 by Lot 9994, Cad-304-D; along line 4-5 by Lot 9996, Cad-304-D; and on the NW., along line 5-1 by Lot 10259, Cad-304-D (Road Lot).

Bearings true.

This lot xxx.

Note: This lot is covered by F.P.A. NO. (III-6) 4690"

xxx

4. That plaintiff allowed defendant to occupy a portion of their land covered by said O.C.T. No. P-5053 (2161) of Bulacan, with an area of around 100 square meters. On said portion of their land, defendant has a house standing thereon.

5. That defendant does not pay any amount of rental to the plaintiff. The reasonable monthly compensation for defendant's use and occupation of the 100 square meter portion of the parcel of land of plaintiff and her

co-owners is in the sum of three Thousand Pesos (P3,000.00), Philippine Currency. And defendant must pay the said monthly compensation beginning March 1, 1996.

6. That plaintiff made oral and written demands upon the defendant to vacate the 100 square meter portion of their parcel of land covered by O.C.T. No. P-5053 (2161) of Bulacan but defendant did not heed plaintiff's demands. On March 30, 1996, plaintiff thru her undersigned counsel made a written demand upon defendant to vacate the 100 square meter portion of their parcel of land covered by O.C.T. No. P-5053 (2161) of Bulacan and to pay the reasonable monthly compensation in the sum of P3,000.00, Philippine Currency, both within 15 days from receipt of the demand letter. Xxx. The said letter was sent by registered mail xxx. The said demand letter was received by defendant as evidenced by the Registry Return Card xxx.

7. That plaintiff complied with the barangay requirement of confrontation and conciliation but there was no agreement reached by the parties before the Barangay. xxx

8. The defendant has no right whatsoever to remain in the said 100 square meter portion of the parcel of land of plaintiff and her co-owners covered by O.C.T. No. P-5053 (2161) of Bulacan, for which reason, defendant must immediately vacate the same.[1]

She then prayed that the trial court issue a judgment:

(a) ordering defendant and all persons claiming under her to immediately vacate the 100 square meter portion of the parcel of land covered by O.C.T. No. P-5053 (2161) of Bulacan, specially by removing her (defendant's) house from said land;

(b) ordering defendant to pay the reasonable monthly compensation in the sum of P3,000.00 starting March 1, 1996 to plaintiff until defendant and all persons claiming under her shall have vacated the premises; and

(c) ordering defendant to pay to plaintiff reasonable sum of attorney's fees in the amount of P30,000.00 plus appearance fee of P3,000.00 per hearing and expenses of litigation, besides the costs of this suit.

Finally, she prays for such other and further relief to which she may in law and equity be deemed entitled in the premises.[2]

Cabantog alleged in her answer that the 100 square meters being claimed by Mendigorin belonged to her, and that said portion is part of the 350 sq. meter-lot adjudicated to her and her co-owners. She likewise alleged that Mendigorin used fraud in order to have the said portion included in the land area registered under her name.[3]

The MTC dismissed the complaint in its decision dated August 14, 1996. The dispositive portion of the said decision reads:

WHEREFORE, for lack of action (sic), this case is hereby ordered DISMISSED.

In the absence of evidence of bad faith in the filing of the instant complaint, defendant's counterclaim is likewise DISMISSED.

With no pronouncements (sic) as to costs.

SO ORDERED.[4]

Aggrieved, Mendigorin appealed before the Regional Trial Court (RTC), which reversed the MTC in a decision dated December 6, 1996. The dispositive portion of said RTC decision reads:

WHEREFORE, the judgment appealed from is hereby reversed and a new one rendered herein ordering defendant-appellee and all persons claiming under her:

- To vacate immediately the subject 100-meter square portion of plaintiff's land covered by O.C.T. No. P-5053 (2161) of the Bulacan Registry of Land;
- To pay plaintiff reasonable monthly compensation for the use and occupation of said premises in the amount of P3,000.00 reckoned from April 1, 1996, up to the time defendant and all persons claiming under her shall have vacated the same;
- To pay plaintiff the further amount of P30,000.00 as attorney's fees; and
- To pay the costs of suit.

JUDGMENT REVERSED.

SO ORDERED.[5]

The table being turned on her, Cabantog filed a petition before the Court of Appeals (CA) seeking to have the RTC decision reviewed. The CA, in its decision dated March 13, 1998, ruled in favor of Cabantog and reversed the RTC, thereby reinstating the decision of the MTC. The dispositive portion of said decision reads:

WHEREFORE, the assailed decision dated December 6, 1996 issued by the Regional Trial Court (Branch 12) of Malolos, Bulacan is hereby REVERSED and SET ASIDE. The decision dated August 14, 1996, rendered by the Municipal Trial Court of Hagonoy, Bulacan dismissing the complaint is REINSTATED.

Cost against private respondent.

SO ORDERED.[6]

On April 22, 1998, Mendigorrin filed a motion for reconsideration, which was denied by the CA in a resolution dated November 17, 1998.

Undaunted, Mendigorrin filed the instant petition assailing the decision of the CA, alleging that the CA gravely erred:

A

...WHEN IT REVERSED THE DECISION OF THE LOWER COURT AFTER IT FOUND IN ITS DECISION THAT "IT IS NOT DISPUTED THAT DEFENDANT-PETITIONER (NOW RESPONDENT) IS FOUND IN ACTUAL POSSESSION OF THE SUBJECT PREMISES" (CA DECISION OR ANNEX A OF THIS PETITION, PAGE 5) OR THE 100 SQUARE METER LOT, WHICH IS A PORTION OF LOT NO. 9995 COVERED BY OCT No. 5053 OF BULACAN.

B

...WHEN IT REVERSED THE DECISION OF THE LOWER COURT BECAUSE "THERE IS NO SHOWING THAT SHE (PETITIONER) OR HER PREDECESSOR-IN-INTEREST HAD ACTUALLY POSSESSED THE LAND IN QUESTION BEFORE SHE ALLOWED DEFENDANT-PRIVATE RESPONDENT TO OCCUPY THE SAME." (CA DECISION OR ANNEX A OF THIS PETITION, PAGE 6).

C

...IN NOT DISMISSING THE PETITION FOR REVIEW FILED WITH IT BY PRIVATE RESPONDENT WHEN IT IS AN INDISPUTABLE FACT THAT "THE CERTIFICATION OF NON-FORUM SHOPPING WAS NOT SIGNED OR EXECUTED BY THE PETITIONER" (MOTION FOR RECONSIDERATION OF

DECISION OR ANNEX B OF THIS PETITION, PAGE 2).[7]

The pivotal issue to be resolved in this petition is whether or not the CA erred in failing to dismiss the petition of respondent Cabantog on the ground that she failed to personally sign the certificate of non-forum shopping.

Petitioner Mendigorin contends that the CA violated Revised Circular No. 28-91, which is now incorporated in the Rules of Court as Section 2 of Rule 42, when it entertained Cabantog's petition notwithstanding that said petition had a defective certificate of non-forum shopping, because it was not signed personally by Cabantog.[8]

Respondent Cabantog, in turn, argues that the decision of the CA should be upheld because technicalities should not be used to defeat substantial rights.[9]

We find for petitioner. Indeed the CA erred in giving due course to the petition below of herein respondent Cabantog despite the fact that her petition was fatally defective. The certification of non-forum shopping must be signed by the plaintiff or any of the principal parties and not only the legal counsel.[10] The CA held that there was substantial compliance with the Rules of Court, citing *Dimagiba vs. Montalvo, Jr.*,[11] to the effect that a lawyer who assumes responsibility for a client's cause has the duty to know the entire history of the case, especially if any litigation is commenced.[12] This view, however, no longer holds authoritative value in the light of *Digital Microwave Corporation vs. CA*,[13] where it was held that the reason the certification against forum shopping is required to be accomplished by petitioner himself is that only the petitioner himself has actual knowledge of whether or not he has initiated similar actions or proceedings in other courts or tribunals. Even counsel of record may be unaware of such fact. To our mind, this view is more in accord with the intent and purpose of Revised circular No. 28-91. Thus, in *Valentin Ortiz and Camilla Milan Ortiz vs. CA*,[14] 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.

xxx

Respondent Cabantog failed to sufficiently explain the reason why her petition before the CA was signed by her counsel only and not by her. She also failed to show that the interest of justice would be defeated if her petition in the CA would be dismissed for failure to attach the proper certification.

As may be noted, involved in this case is the issue of possession. It does not affect the issue of ownership, which is being contested by petitioner Mendigorin and respondent Cabantog. Thus, other adequate remedies are available to either party which could, in an appropriate action, settle who is entitled to the lot as owner thereof as well as who is legally entitled to possession of the property. Issue of ownership or of possession could only be settled in a proper action determinative of such controversy.

In sum, the CA erred when it entertained the instant petition filed by respondent Cabantog before it for want of a proper certification of non-forum shopping. Said petition should have been outrightly dismissed below.[15] There being no proper petition filed before the CA, the decision of the RTC became final and executory.

WHEREFORE, the petition is GRANTED. The assailed decision and resolution of the Court of Appeals in CA-G.R. SP No. 42887 is hereby REVERSED and SET ASIDE. The decision of the Regional Trial Court of Malolos, Bulacan, Branch 12, dated December 6, 1996 is hereby REINSTATED. No pronouncement as to costs.

SO ORDERED.

Bellosillo, Acting C.J., (Chairman), Mendoza, and Corona, JJ., concur.

[1] Records, pp. 4-6.

[2] Id. at 7.

[3] Id. at 15.

[4] Id. at 71.

[5] Id. at 91.

[6] CA Rollo, p. 115.

[7] Rollo, pp. 11-12.

[8] Id. at 14-15.

[9] Id. at 79.

[10] Escorpizo vs. University of Baguio, 306 SCRA 497, 503 (1999), citing O.M. Herrera, Comments on the 1997 Rules of Civil Procedure as Amended 91 (1997); Supreme Court Revised Circular No. 28-91, Supreme Court Administrative Circular No. 04-94.

[11] 202 SCRA 641, 647 (1991).

[12] CA Rollo, p. 127.

[13] 328 SCRA 286, 290 (2000).

[14] 299 SCRA 708, 711-712 (1998).

[15] Sec. 5, Rule 7, 1997 Rules on Civil Procedure.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.