WILSON GO AND PETER GO, PETITIONERS, VS. ANITA RICO, IN SUBSTITUTION OF THE LATE PILAR RICO, RESPONDENT.

G.R. NO. 140862. April 25, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us for resolution is the Petition for Review on Certiorari assailing the Resolutions dated August 16, 1999 and November 25, 1999 of the Court of Appeals in CA-G.R. SP No. 53342, entitled "WILSON GO and PETER GO, petitioners, versus ANITA RICO, in substitution of the late PILAR RICO, respondent."

On August 28, 1997, Wilson Go and Peter Go, petitioners, filed with the Metropolitan Trial Court (MeTC), Branch 40, Quezon City a Complaint for Ejectment[1] against defendants Pilar Rico (now deceased), mother of Anita Rico, respondent herein, Catalina Pablico, Violeta Medrano, Elmer Molit, Osmando Pagdanganan, Bobby Marquisas, Alexis Leynes, "and all persons claiming rights under them." In their complaint, docketed as Civil Case No. 18315, petitioners alleged that they are the registered owners of the land covered by Transfer Certificate of Title No. 170475 of the Registry of Deeds of Quezon City, located at Retiro corner Kanlaon Streets, same city; that on the land is an existing building with several units leased to the said individual defendants; that the lease contracts had already expired, thus their continued stay in the leased premises is on a month-to-month basis; that on March 30, 1997, being "in dire need of the property for their exclusive use," they (petitioners), through their lawyer, sent letters to the defendants, informing them that their respective monthly lease contracts are being terminated and that they must vacate the leased premises on July 15, 1997; and that despite notice, the defendants refused to do so.

In their respective answers, they averred that petitioners do not own the premises, part of the estate of the late Felisa Tamio de Buenaventura; that the estate is the subject of the probate proceedings before the Regional Trial Court, Branch 95, Quezon City, docketed as SP Proc. No. Q94-20661; that the defendants have been the lessees of Felisa Tamio de Buenaventura dating back in 1988; that their lease contracts have not been terminated; that Bella A. Guerrero, then special administratrix of the estate, in her personal capacity, without approval of the probate court and in conspiracy with the petitioners, sold to the latter the leased premises; that by reason of such fictitious sale, the probate court removed Bella Guerrero as special administratrix and appointed in her stead Resurrecion Bihis; that as the new administratrix of the estate, Bihis renewed the lease contracts with the defendants; and that in view of these circumstances, petitioners have no right whatsoever to evict them from the premises.

On July 10, 1998, the MeTC rendered a Decision[2] ordering inter alia the ejectment of the defendants, including respondent herein. The dispositive portion of the Decision reads:

> WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiffs and against the defendants, ordering the:
>
> - defendants and all persons claiming rights under them to vacate the property of the plaintiffs designated as

161-H; 161-E; 161-D; 161 Kanlaon Street; 161-F; Unit Kodak/Dunkin/Smokey's, all at Retiro Street, Quezon City and restore possession thereof to plaintiffs.

- defendants to pay plaintiffs the sum of P10,000.00 as and for attorney's fees;

- defendants to pay the costs of the suit.

SO ORDERED.

The MeTC held:

The evidence on record readily discloses beyond any shade of doubt that plaintiffs are the registered owners of the property as (shown) by the Transfer Certificate of Title (Annex "A"); that the defendants are possessors of the property by mere tolerance of the plaintiffs; that necessarily, defendants, who are mere possessors by tolerance, are bound by an implied promise that they will vacate the property upon demand by its owner, and plaintiffs have every right to recover possession thereof when actual need arises, as in the instant case. The refusal of the defendants without lawful cause to vacate the property, notwithstanding demands made on them, constitutes unlawful detention of the property, thus entitling the plaintiffs to eject the defendants in accordance with Sections 1 and 2, Rule 70, Rules of Court.

x x x

It should be borne in mind that the only issue for resolution in an ejectment case is who is entitled to the physical or material possession of the property involved, independent of any claim of ownership that either party may set forth in their pleadings (De Luna vs. CA, 212 SCRA 276). As correctly pointed out by the plaintiffs, x x x even without including the estate of the late Felisa Tamio de Buenaventura as party-defendant, there can be a valid and final determination of this case. After all, the defendants in this case have nothing to do with the cases pending before the Regional Trial Court, Branch 92, Quezon City, docketed as Civil Case No. 97-32515 (for reconveyance).[3]

Only the respondent interposed an appeal to the Regional Trial Court (RTC), Branch 222, Quezon City, docketed as Civil Case No. Q98-35559, assigning these errors:

- The lower court erred in setting aside the issue of ownership as indispensable in resolving the issue of possession.

- Granting that only the issue of possession must be resolved, the lower court likewise erred in ignoring the fact that plaintiffs or their predecessors-in-interest were not in prior and actual possession of the property.

In its Decision[4] dated July 10, 1998, the RTC reversed the MeTC Decision and dismissed petitioners' Complaint. It ruled:

x x x, defendant-appellant has been able to produce the lease contract it had with the late Felisa Buenaventura and more significantly that which now exists between the defendant-appellant and the estate of Felisa, thru the new administratrix, Resurrecion Bihis x x x.

Plaintiffs cannot deny that their predecessor Bella Guerrero herself declared the leased property as part of the estate of Felisa in the settlement proceedings (p. 247, Record), x x x. And the glaring situation to date is that there is a pending action for reconveyance filed by the estate of Felisa against the Gos for the alleged unlawful or fictitious transfer of the property in their favor. What is palpably clear from the record is that the right of Bella Guerrero, from whom plaintiffs allegedly derived their interest to the subject property, is still debatable.

Although it has been consistently held that mere allegation of ownership of the property in dispute by the defendant or the pendency of an action for reconveyance of title over the same property is unavailing in an ejectment suit, the rule is not without exception. Thus, where the question of de facto possession cannot be

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> determined properly without settling that of de jure possession and ownership because the latter is inseparably linked with the former, the court will be constrained to give importance to the issue of title (De la Santa vs. Court of Appeals, 140 SCRA 44). This court looked into all the supporting evidence of the defendant-appellant, and all the foregoing pose prejudicial question to the resolution of the suit for unlawful detainer against herein appellant so that, in the meantime, she should not be disturbed from her peaceful possession and occupation of the leased premises.

Feeling aggrieved, petitioners, on July 6, 1999, filed with the Court of Appeals a Petition for Review, docketed as CA-G.R. SP No. 53342. However, in its Resolution[5] dated August 16, 1999, the Court of Appeals dismissed outright the petition "for failure of the petitioners to comply with the Rule on Certification of Non-Forum Shopping in accordance with par. 2, Section 2 in relation to Section 3, all of Rule 42 of the 1997 Rules of Civil Procedure, as amended, considering that a reading of the certification shows that it is the counsel for the petitioners who has executed the same instead of the petitioners."

Atty. Erlinda B. Espejo, counsel for petitioners, filed a Motion for Reconsideration (with Compliance)[6] alleging inter alia that she was compelled to sign the certification against forum shopping because petitioner Wilson Go left for the United States to attend to his ailing father, while petitioner Peter Go was in Cebu for an important business commitment; that if she waited for any of the petitioners to sign the certification, the period to file the petition could expire; and that at any rate, she has a Special Power of Attorney wherein petitioners authorized her to represent them during the pre-trial and hearing of Civil Case No. 18315 for ejectment. Petitioners attached to their motion the certification against forum shopping signed by petitioner Wilson Go.

However, the Court of Appeals, in its Resolution[7] dated November 25, 1999 still denied petitioners' motion for reconsideration.

Hence, this Petition for Review on Certiorari.

Petitioners contend that the Court of Appeals erred in not giving due course to their petition. They assert that it should have applied the Rules on certification against forum shopping "liberally" in their favor.

Respondent vehemently opposed the petition and prayed that it be dismissed and that the assailed Resolutions of the Court of Appeals be affirmed.

We agree with the respondent.

Section 5, Rule 7,[8] 1997 Rules of Civil Procedure, as amended, provides:

> Sec. 5. Certification against forum shopping. - The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.
>
> Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute

> direct contempt, as well as a cause for administrative sanctions. (Underscoring supplied)

Similarly, Section 2 (second paragraph), Rule 42[9] of the same Rule states:

> Sec. 2. Form and contents. - x x x
>
> The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and 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 different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or thereof within five (5) days therefrom. (Underscoring supplied)

Section 3 of the same Rule 42 further mandates:

> Sec. 3. Effect of failure to comply with requirements. - The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket fee and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition, shall be sufficient ground for the dismissal thereof. (Underscoring supplied)

Evidently, the above-quoted provisions stress the mandatory requirements in filing the certification against forum shopping.

Here, petitioners admit that neither of them signed the certification against forum shopping. Only their counsel did.

It bears stressing that a certification by counsel and not by the principal party himself is no certification at all. The reason for requiring that it must be signed by the principal party himself is that he has actual knowledge, or knows better than anyone else, whether he has initiated similar action/s in other courts, agencies or tribunals.[10] Clearly, the subject petition suffers from a fatal defect warranting its dismissal[11] by the Court of Appeals in its assailed Resolutions.

We are not convinced by petitioners' plea that the Rules must be relaxed since they subsequently complied with the requirements. Firstly, petitioners' filing of a belated certification against forum shopping did not cure the defect considering that it should have been filed simultaneously with the petition.[12]Secondly, they failed to show justifiable cause for their failure to personally sign the certification. Their lawyer's explanation that they were out-of-town at the time their petition was filed with the Court of Appeals is bereft of basis. That explanation is an afterthought as it was not alleged by counsel in her certification against forum shopping. Thirdly, the Special Power of Attorney dated November 5, 1997 executed by petitioners in favor of their counsel, Atty. Erlinda B. Espejo, is merely for the latter to represent them during the pre-trial and subsequent hearing of Civil Case No. 18315 for ejectment before the MeTC, Branch 40, Quezon City. Such Special Power of Attorney is not a substitute for the required certification against forum shopping duly signed by the petitioners.

While we have ruled time and again that litigants should have the amplest opportunity for a proper and just disposition of their cause - free, as much as possible, from the constraints of procedural technicalities - however, equally settled is the rule that, save for the most persuasive of reasons, strict compliance with procedural rules is enjoined to facilitate the orderly administration of justice,[13] as in this case.

In sum, we find no reversible error committed by the Court of Appeals.

WHEREFORE, the instant Petition for Review on Certiorari is DENIED. The assailed Resolutions of the Court of

Appeals in CA-G.R. SP No. 53342 are AFFIRMED. Costs against petitioners.

SO ORDERED.

Corona, Azcuna, and Garcia, JJ., concur.
Puno, (Chairperson), J., on leave.

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[1] CA Rollo, pp. 37-40.

[2] Ibid, pp. 49, 51-52.

[3] MeTC Decision dated July 10, 1998, CA Rollo, pp. 49, 51-52.

[4] CA Rollo, pp. 29-32.

[5] SC Rollo, pp. 27-28.

[6] Ibid, pp. 33-41.

[7] Ibid, pp. 30-32.

[8] Procedure in Regional Trial Courts.

[9] Petition for Review from the Regional Trial Courts to the Court of Appeals.

[10] Pet Plans, Inc. v. Court of Appeals, G.R. No. 148287, November 23, 2004, 443 SCRA 510; Digital Microwave Corporation v. Court of Appeals, G.R. No. 128550, March 16, 2000, 328 SCRA 286, 290; Mendigorin v. Cabantog, G. R. No. 136449, August 22, 2002, 387 SCRA 655.

[11] Republic v. Carmel Development, Inc., G.R. No. 142572, February 20, 2002, 377 SCRA 459.

[12] See Section 5 (par. 1), Rule 7 and Section 2 (par. 2), Rule 42, 1997 Rules of Civil Procedure, as amended.

[13] Pet Plans, Inc. v. Court of Appeals, supra.

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