

BANK OF THE PHILIPPINE ISLANDS, PETITIONERS, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION AND DIAR'S ASSISTANCE LABOR UNION, RESPONDENTS.

G.R. No. 146923. April 30, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

When a strict and literal application of the rules on non-forum shopping and verification will result in a patent denial of substantial justice, they may be liberally construed. This guideline is especially true when the petitioner has satisfactorily explained the lapse and fulfilled the requirements in its motion for reconsideration.

The Case

Before the Court is a Petition for Review[1] under Rule 45 of the Rules of Court, challenging the January 26, 2001 Resolution[2] of the Court of Appeals[3] (CA) in CA-GR SP No. 59858. The Resolution reads as follows:

“Up for consideration is petitioner’s motion for reconsideration of this Court’s resolution of dismissal which was promulgated on August 25, 2000. Taking note of the comment by the Office of the Solicitor General for the public respondent on said motion, the same is hereby denied. The resolution of dismissal stands.”[4]

Earlier, in its August 25, 2000 Resolution,[5] the CA[6] “resolved to DISMISS the above-entitled petition on the ground that the verification was signed only by petitioner’s vice-president, sans any board resolution or power of attorney authorizing anybody to sign the same and the certificate on non-forum shopping.”[7]

The Facts

On January 30, 1990, 49 workers filed a Complaint[8] against Bank of the Philippine Islands (BPI) and Diar’s Assistance, Inc. (Diar). Docketed as NLRC Case No. 00-01-00580-90, the Complaint was for the “Regularization of Work Status and Preliminary Injunction with Prayer for Restraining Order.” Complainants claimed that they “were working in the respondent BPI performing clerical, messengerial and general utility work as they [had] been assigned in the bank by their agency x x x Diar’s Assistance, Inc.”[9]

In a Manifestation and Motion[10] filed on February 23, 1990 during the pendency of the case, the 49 workers prayed for the inclusion of 121 more as complainants after the latter had signified their intention to join the union. Thereafter, the Complaint was amended and the name of the complainant changed to that of the organization, Diar’s Employees Labor Union (BPI Unibank Chapter).[11] The union prayed that the employment status of their members be regularized and that BPI be ordered to absorb them as regular employees.

In an Order[12] dated July 18, 1991, Labor Arbiter Pablo C. Espiritu Jr. dismissed the Complaint. The dismissal was affirmed by the NLRC[13] and by this Court.[14]

On January 31, 1994, Diar’s Employees Labor Union, through Normando Beguelme (its president) and Jose Laron (a member), filed a new Complaint[15] for the declaration of its members as regular employees of BPI. The Complaint was docketed as NLRC NCR Case No. 00-01-00829-94. After Labor Arbiter Potenciano S. Canizares

Jr. dismissed the case for lack of merit,[16] the union appealed to the NLRC. BPI and Diar opposed the appeal and interposed forum shopping as one of their defenses.

The NLRC (First Division) set aside the labor arbiter's Decision and declared complainants as regular employees of BPI.[17] On the issue of forum shopping, the NLRC ruled thus:

“A check with the record of this case did not show that the complainants in the first case are the same complainants in this third case. Although the causes of action in the first case and this third case are the same – for the regularization of the members of complainant union – there is no identity of the parties involved. The second case is for injunction and the same is, therefore, not similar to this case.”[18]

Diar and BPI moved for a reconsideration. In its March 28, 2000 Order,[19] the NLRC denied both Motions: BPI's, for being filed beyond the reglementary period; and Diar's, for lack of merit.

Thereafter, BPI filed with the appellate court a Petition for Certiorari[20] under Rule 65, assailing the NLRC Decision. As earlier stated, the CA dismissed the recourse on the ground that the verification has been signed only by petitioner's vice president, without express authority from any board resolution or power of attorney.

Presently before the CA is a similar Petition (CA-GR SP No. 59093) filed by Diar, BPI's co-respondent.[21]

Hence this appeal.[22]

Issues

Petitioner submits the following issues for the resolution of this Court:

“1.

Whether or not BPI has a clearly meritorious case so as to warrant the review and the declaration as null and void by this Honorable Court of the resolution of the Court of Appeals dismissing BPI's petition for certiorari on a mere technicality and notwithstanding substantial compliance thereon by BPI in its motion for reconsideration.

“2.

Whether or not this Honorable Court's Resolution in G.R. No. 129067 which disposed of NLRC NCR Case No. 00-01-00580-90 (FIRST REGULARIZATION CASE) constitutes a bar by former judgment to NLRC-NCR Case No. 00-01-00829-94 (SECOND REGULARIZATION CASE) and whether or not the filing of the SECOND REGULARIZATION CASE violates the prohibition on forum-shopping.”[23]

In simpler terms, the issues are as follows (1) whether BPI's Petition before the CA should have been given due course; and (2) whether the second regularization case is barred by res judicata.

The Court's Ruling

The Petition has merit.

First Issue:

Dismissal of the Appeal on Technicality

Petitioner pleads for a liberal construction of the rules on verification and forum shopping. On the other hand, respondents insist on a strict application of these rules.

The rules on verification and forum shopping are laid out in Sections 4 and 5 of Rule 7 of the Rules of Court, which we quote:

“SEC. 4. Verification. -- Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

“A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.

“A pleading required to be verified which contains a verification based on ‘information and belief’ or upon ‘knowledge, information, and belief,’ or lacks a proper verification, shall be treated as an unsigned pleading. (As amended, A.M. No. 00-2-10, May 1, 2000.)

“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.”

It cannot be denied that the BPI Petition before the CA was dismissed, because the verification and the certificate of non-forum shopping had been signed by the vice president of the bank without any board resolution or power of attorney empowering him to do so.

On the other hand, petitioner contends that it did authorize the vice president to act as its representative, as shown in its Motion for Reconsideration. However, respondent union argues that his action was ratified by the Executive Committee of BPI only on September 6, 2000. Thus, the “belated authority” was given 11 days after the 60-day reglementary period for filing a Petition for Certiorari.

After carefully considering the arguments of both parties, we hold that a liberal construction of the rules on verification and forum shopping are in order.

“Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith.”[24] Meanwhile, the purpose of the aforesaid certification is to prohibit and penalize the evils of forum shopping.[25] We see no circumvention of these objectives by the vice president’s signing the verification and certification without express authorization from any existing board resolution.

As explained in BPI’s Motion for Reconsideration, he was actually authorized to sign the verification and the certification,[26] as shown by the written confirmation attached to the Motion. Furthermore, he is presumed to know the requirements for validly signing those documents.

“Rules of procedure are used to help secure and not override substantial justice. Even the Rules of Court mandates a liberal construction in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. Since rules of procedure are mere tools designed to facilitate the attainment of justice, their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided. Thus, the dismissal of an appeal on purely, technical ground is frowned upon especially if it will result to unfairness.”[27]

We shall not rule on the merits but, in the interest of fair play and the orderly administration of justice, we find that the reinstatement of the Petition and its consolidation with Diar's CA appeal is warranted. BPI is an indispensable party to the controversy, considering that its inclusion is necessary for the effective and complete resolution of the case.

The fact that respondent union commenced the case against BPI and Diar in a single Complaint is an indication of the indispensability of both parties to the action. The Rules state that "[p]arties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants." [28]

In *BA Finance Corporation v. CA*, [29] the Court explained:

"x x x. An indispensable party is one whose interest will be affected by the court's action in the litigation, and without whom no final determination of the case can be had. The party's interest in the subject matter of the suit and in the relief sought are so inextricably intertwined with the other parties' that his legal presence as a party to the proceeding is an absolute necessity. In his absence there cannot be a resolution of the dispute of the parties before the court which is effective, complete, or equitable.

"Conversely, a party is not indispensable to the suit if his interest in the controversy or subject matter is distinct and divisible from the interest of the other parties and will not necessarily be prejudiced by a judgment which does complete justice to the parties in court. He is not indispensable if his presence would merely permit complete relief between him and those already parties to the action or will simply avoid multiple litigation.

"Without the presence of indispensable parties to a suit or proceeding, judgment of a court cannot attain real finality." [30]

In all stages of an action -- including those involved in motions for reconsideration, petitions for certiorari and appeals -- the rule on joinder of indispensable parties must be extended, as long as such extension is practicable and the reason for it, as explained above, subsists.

The ultimate issue brought up for review in the instant case is: who is the employer of the members of respondent labor union -- BPI, Diar or both? Moreover, a review of the facts of the case reveals that (1) there is a service contract between BPI and Diar; (2) Diar pays the salaries of the members of respondent union; and (3) the members of respondent union perform their tasks in the premises of BPI.

These facts reveal close factual and legal relationships among respondent union, BPI and Diar -- relationships that are so inextricably intertwined that the issues raised in the Complaint cannot be finally determined without considering the rights of all three parties. Thus, it is essential that when the case is brought up for review to determine the real employer of the members of respondent labor union, all these parties must be heard.

Second Issue:

Res Judicata

Unquestionably, any ruling on the issue of res judicata would affect the final determination on the merits of the Complaint. This determination will, in turn, affect Diar, which is not impleaded as a party in the present appeal.

Hence, it would not be proper for this Court to resolve the issue of res judicata without Diar as a party before it, in view of the pendency of CA-GR SP No. 59093 [31] -- a similar petition for the review of the same NLRC Decision, the subject of the case at bar.

A consolidation is thus warranted, based on the foregoing circumstances: BPI and Diar are indispensable parties, who have filed separate but similar petitions to review the same NLRC Decision.

WHEREFORE, the Petition is hereby GRANTED, and the assailed Resolutions REVERSED and SET ASIDE.

The case is REMANDED to the Court of Appeals, which is DIRECTED to consolidate BPI's case (CA-GR SP No. 59858) with Diar's (CA-GR SP No. 59093). No costs.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Corona, and Carpio Morales, JJ., concur.

[1] Rollo, pp. 3-18.

[2] Id., p. 25.

[3] Sixth Division. Penned by Justice Ramon Mabutas Jr. (Division chairman) and concurred in by Justices Roberto A. Barrios and Edgardo P. Cruz (members).

[4] Rollo, p. 25. Citations omitted.

[5] Annex "G" of the Petition; rollo, p. 93.

[6] Special Eighth Division. Penned by Justice Ramon Mabutas Jr. (Division chairman) and concurred in by Justices Martin S. Villarama Jr. and Jose L. Sabio Jr. (members).

[7] Ibid.

[8] Annex "H" of the Petition; rollo, p. 94.

[9] Complaint, p. 2; id., p. 95.

[10] Annex "I" of the Petition; id., pp. 101-102.

[11] See Amended Complaint; id., pp. 106-107.

[12] Annex "M" of the Petition; id., pp. 108-116.

[13] In a Decision dated June 27, 1996; Annex "Q" of the Petition; id., pp. 128-139.

[14] In a resolution dated June 17, 1998 in GR No. 129067; Annex "W" of the Petition; id., pp. 185-189.

[15] Annex "Y" of the Petition; id., p. 191.

[16] See March 13, 1997 Decision; Annex "Z" of the Petition; id., pp. 192-198.

[17] See November 26, 1997 Decision; Annex "AA" of the Petition; id., pp. 199-220.

[18] Id., pp. 19 & 217.

[19] Annex "E" of the Petition; id., pp. 65-70.

[20] Id., pp. 80-90.

[21] See Motion for Early Resolution dated October 28, 2002.

[22] This case was deemed submitted for resolution on August 28, 2001, upon receipt by the Court of respondents' Memorandum signed by Atty. Carlo A. Domingo. Petitioner's Memorandum, signed by Atty. Justino M. Marquez III of Benedicto Verzosa Gealogo Burkley & Associates, was received earlier on August 9, 2001.

[23] Petitioner's Memorandum, p. 12; rollo, p. 272.

[24] *Shipside Incorporated v. Court of Appeals*, 352 SCRA 334, 346, February 20, 2001, per Melo, J.

[25] *BA Savings Bank v. Sia*, 336 SCRA 484, July 27, 2000.

[26] CA rollo, p. 135.

[27] *Ace Navigation Co., Inc. v. Court of Appeals*, 338 SCRA 70, 76, August 15, 2000, per Puno, J.

[28] Section 7 of Rule 3 of the Rules of Court.

[29] 258 SCRA 102, July 5, 1996, per Vitug, J.; citing *Imson v. Court of Appeals*, 239 SCRA 58, December 8, 1994, per Puno, J.

[30] *Ibid.*

[31] This was brought to our attention by respondent labor union in its Motion for Early Resolution dated October 28, 2002.

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