

**SPOUSES MANUEL AND ROSEMARIE WEE, PETITIONERS, VS.
ROSARIO D. GALVEZ, RESPONDENT.***G.R. No. 147394. August 11, 2004*

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-147394/>**QUISUMBING, J.:**

For review is the Decision[1] dated December 4, 2000 of the Court of Appeals in CA-G.R. SP No. 55415, which denied special civil action for certiorari, prohibition, and mandamus filed by petitioners Manuel and Rosemarie Wee. In said petition, the Wees sought to (1) annul and set aside the Order dated July 29, 1999 of the Regional Trial Court (RTC) of Quezon City, Branch 80, denying their prayer to dismiss Civil Case No. Q-99-37372, as well as the Order of September 20, 1999 denying their motion for reconsideration; (2) order the trial court to desist from further proceedings in Civil Case No. Q-99-37372; and (3) order the trial court to dismiss the said action. Also assailed by the Wees is the Resolution[2] of the Court of Appeals, promulgated March 7, 2001, denying their motion for reconsideration.

The antecedent facts in this case are not complicated.

Petitioner Rosemarie Wee and respondent Rosario D. Galvez are sisters.[3] Rosemarie lives with her husband, petitioner Manuel Wee, in Balanga, Bataan, while Rosario resides in New York, U.S.A. The present controversy stemmed from an investment agreement between the two sisters, which had gone sour along the way.

On April 20, 1999, Rosario, represented by Grace Galvez as her attorney-in-fact, filed a complaint before the RTC of Quezon City to collect a sum of money from Manuel and Rosemarie Wee. The amount for collection was US\$20,000 at the exchange rate of P38.30 per dollar. The complaint, which was docketed as Civil Case No. Q-99-37372, alleged that Rosario and Rosemarie entered into an agreement whereby Rosario would send Rosemarie US\$20,000, half of said amount to be deposited in a savings account while the balance could be invested in the money market. The interest to be earned therefrom would be given to Rosario's son, Manolito Galvez, as his allowance.

Rosario claimed that pursuant to their agreement, she sent to Rosemarie on various dates in 1993 and 1994, five (5) Chemical Bank checks, namely:

CHECK No.

DATE**AMOUNT**

CB No. 97 05-24-93 US\$1,550.00

CB No. 101 06-11-93 10,000.00

CB No. 104 11-12-93 5,500.00

CB No. 105 02-01-94 2,000.00

CB No. 123 03-03-94 1,000.00

TOTAL

US\$20,050.00[4]

Rosario further alleged that all of the aforementioned checks were deposited and encashed by Rosemarie, except for the first check, Chemical Bank Check No. 97, which was issued to one Zenedes Mariano, who gave the cash equivalent of US\$2,000 to Rosemarie.

In accordance with her agreement with Rosario, Rosemarie gave Manolito his monthly allowance ranging from P2,000 to P4,000 a month from 1993 to January 1999. However, sometime in 1995, Rosario asked for the return of the US\$20,000 and for an accounting. Rosemarie promised to comply with the demand but failed to do so.

In January 1999, Rosario, through her attorney-in-fact, Grace Galvez, sent Rosemarie a written demand for her US\$20,000 and an accounting. Again, Rosemarie ignored the demand, thus causing Rosario to file suit.

On May 18, 1999, the Wees moved to dismiss Civil Case No. Q-99-37372 on the following grounds: (1) the lack of allegation in the complaint that earnest efforts toward a compromise had been made in accordance with Article 151[5] of the Family Code; (2) failure to state a valid cause of action, the action being premature in the absence of previous earnest efforts toward a compromise; and (3) the certification against forum shopping was defective, having been executed by an attorney-in-fact and not the plaintiff, as required by Rule 7, Section 5[6] of the 1997 Rules of Civil Procedure.

Conformably with Rule 10, Sections 1[7] and 3[8] of the 1997 Rules of Civil Procedure, Rosario amended her complaint with the addition of the following paragraph:

9-A. Earnest efforts towards (sic) have been made but the same have failed. As a matter of fact, plaintiff thru her daughter as Attorney-In-Fact caused the sending of a Demand Letter dated January 4, 1999 and the last paragraph of which reads as follows:

...

Trusting this will merit your utmost preferential attention and consideration in as much as you and our client are sisters and in order that [earnest] efforts toward a compromise could be obtained.[9]

The Wees opposed Rosario's motion to have the Amended Complaint admitted. They contended that said motion was a mere scrap of paper for being in violation of the three-day notice requirement of Rule 15, Section 4[10] of the 1997 Rules of Civil Procedure and for having the notice of hearing addressed to the Clerk of Court and not to the adverse party as required by Section 5[11] of the same Rule.

On July 29, 1999, the trial court came out with an Order denying the Wees' motion to dismiss for being "moot and academic," thus:

WHEREFORE, premises considered, the amended complaint is hereby admitted. Defendant-spouses are hereby directed to file their Answer within the reglementary period provided by the Rules of Court.

SO ORDERED.[12]

The Wees duly moved for reconsideration, but the motion was denied on September 20, 1999, for lack of merit.

On October 18, 1999, the Wee couple brought the matter to the Court of Appeals via a special civil action for certiorari, prohibition, and mandamus, docketed as CA-G.R. SP No. 55415. The petition assailed the trial court for having acted with grave abuse of discretion amounting to lack or excess of jurisdiction for issuing the

interlocutory orders of July 29, 1999 and September 20, 1999, instead of dismissing Civil Case No. Q-99-37372 outright.

On December 4, 2000, the appellate court decided CA-G.R. SP No. 55415 in this wise:

WHEREFORE, the instant petition for certiorari, prohibition and mandamus is DENIED.

SO ORDERED.[13]

The Court of Appeals held that the complaint in Civil Case No. Q-99-37372, as amended, sufficiently stated a cause of action. It likewise held that the questioned certification against forum shopping appended thereto was not so defective as to warrant the dismissal of the complaint.

On January 9, 2001, the petitioners herein moved for reconsideration of the appellate court's decision, but this was denied on March 7, 2001.

Hence, the instant petition, raising the following issues:

- WHETHER OR NOT THE INSTANT PETITION FOR REVIEW ON CERTIORARI UNDER RULE 45 OF THE REVISED RULES OF COURT IS THE PROPER REMEDY FOR PETITIONERS UPON THE DENIAL OF THEIR PETITION FOR CERTIORARI, PROHIBITION AND MANDAMUS BY THE COURT OF APPEALS;
- WHETHER OR NOT THE CERTIFICATION OF NON-FORUM SHOPPING EXECUTED BY THE PLAINTIFF'S ATTORNEY-IN-FACT IS DEFECTIVE; AND
- WHETHER OR NOT THE AMENDED COMPLAINT BEFORE THE REGIONAL TRIAL COURT SUFFICIENTLY STATES A CAUSE OF ACTION AGAINST THE DEFENDANTS.[14]

We shall now resolve these issues seriatim.

On the first issue, the petitioners argue that the present appeal by certiorari filed with this Court assailing the dismissal of their special civil action for certiorari, prohibition, and mandamus by the appellate court is meritorious. After all, according to petitioners, a petition for review under Rule 45, Section 1,[15] of the 1997 Rules of Civil Procedure could be brought before us, regardless of whether the assailed decision of the appellate court involves an appeal on the merits from the trial court's judgment or the dismissal of a special civil action questioning an interlocutory order of the trial court. What is important under Rule 45, Section 1, is that the assailed decision of the appellate court is final and that the petition before this Court should raise only questions of law.

Respondent, in turn, point out that the dismissal by the Court of Appeals of herein petitioners' special civil action for certiorari, prohibition, and mandamus in CA-G.R. SP No. 55415 is not the final judgment or order, which could be the subject of an appeal by certiorari under Rule 45. This is because, according to respondent, certiorari as a mode of appeal involves the review of a judgment, final order, or award on the merits. Respondent contends that the appellate court's ruling in CA-G.R. SP No. 55415 did not dispose of the case on the merits, as the orders of the trial court subject of CA-G.R. SP No. 55415 were all interlocutory. In other words, the ruling of the appellate court did not put an end to Civil Case No. Q-99-37372, which is still pending before the trial court. Hence, a petition for review on certiorari will not lie to assail the judgment of the Court of Appeals in CA-G.R. SP No. 55415, according to respondent.

We find no basis for respondent's contention that the decision of the Court of Appeals in CA-G.R. SP No. 55415, dismissing the petitioners' special civil action for certiorari, prohibition, and mandamus is interlocutory in nature.

The CA's decision on said petition is final for it disposes of the original action for certiorari, prohibition, and mandamus directed against the interlocutory orders of the trial court in Civil Case No. Q-99-37372. In other words, having dismissed the said action, there is nothing more left to be done in CA-G.R. SP No. 55415 as far as the appellate court is concerned.

Nor can we sustain respondent's argument that the appellate court's decision in CA-G.R. SP No. 55415 is not on the merits. In special civil actions for certiorari, such as CA-G.R. SP No. 55415, the only issue before the appellate court is whether the lower court acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. Stated differently, in a certiorari petition the appellate court is not tasked to adjudicate the merits of the respondent's claims before the trial court. Resolving such claims on the merits remains the proper province of the trial court in Civil Case No. Q-99-37372. The appellate court properly ruled in CA-G.R. SP No. 55415 that the trial court committed no grave abuse of discretion amounting to lack or excess of jurisdiction so as to warrant the issuance of writs of certiorari, prohibition, and mandamus that petitioners sought. In so limiting itself to and addressing squarely only the issue of grave abuse of discretion or lack or excess of jurisdiction, the Court of Appeals, in CA-G.R. SP No. 55415, precisely decided the matter on the merits. In other words, it found that the special civil action of petitioners before it had no merit.

Now, as to whether the Court of Appeals decided the matter in CA-G.R. SP No. 55415 in a manner contrary to law or established jurisprudence remains precisely for us to determine in this review on certiorari. Considering the factual and procedural circumstances of this case, the present petition is petitioners' proper remedy to challenge the appellate court's judgment in CA-G.R. SP No. 55415 now.

Anent the second issue, the petitioners aver that the Court of Appeals gravely erred in finding that the certification against forum shopping in Civil Case No. Q-99-37372 was valid, notwithstanding that it was not the plaintiff below, Rosario D. Galvez, who executed and signed the same, but her attorney-in-fact, Grace Galvez. Petitioners insist that there was nothing in the special power of attorney executed by Rosario D. Galvez in favor of Grace Galvez, which expressly conferred upon the latter the authority to execute and sign, on behalf of the former, the certificate of non-forum shopping. Petitioners point out that under Rule 7, Section 5 of the 1997 Rules of Civil Procedure, it is the "plaintiff" or "principal party" who must sign the certification. They rely on our ruling in *BA Savings Bank v. Sia*,^[16] that where the parties in an action are natural persons, the party himself is required to sign the certification, and where a representative is allowed in case of artificial persons, he must be specifically authorized to execute and sign the certification. The petitioners stress that Rosario D. Galvez failed to show any justifiable reason why her attorney-in-fact should be the one to sign the certification against forum shopping, instead of herself as the party, as required by *Santos v. Court of Appeals*.^[17]

Respondent counters that petitioners' contention has no basis. The Special Power of Attorney executed by her in favor of Grace Galvez, if subjected to careful scrutiny would clearly show that the authority given to the latter is not only broad but also all encompassing, according to respondent. By virtue of said document, Grace Galvez is given the power and authority to institute both civil and criminal actions against any person, natural or juridical, who may be obliged or answerable to the respondent. Corollary with this power is the authority to sign all papers, documents, and pleadings necessary for the accomplishment of the said purpose. Respondent likewise stresses that since Grace Galvez is the one authorized to file any action in the Philippines on behalf of her principal, she is in the best position to know whether there are other cases involving the same parties and the same subject matter instituted with or pending before any other court or tribunal in this jurisdiction. Moreover, as an attorney-in-fact, Grace Galvez is deemed to be a party, pursuant to Rule 3, Section 3^[18] of the 1997 Rules of Civil Procedure. Hence, petitioners' argument that Grace Galvez is not specifically authorized to execute and sign the certification of non-forum shopping deserves scant consideration.

We find for the respondent. Noteworthy, respondent in the instant case is already a resident of the United States, and not of the Philippines. Hence, it was proper for her to appoint her daughter, Grace Galvez, to act as her attorney-in-fact in the Philippines. The Special Power of Attorney granted by the respondent to her attorney-in-fact, Grace Galvez, categorically and clearly authorizes the latter to do the following:

- To ask, demand and claim any sum of money that is duly [due] from any person natural, juridical and/or corporation in the Philippines;
- To file criminal and/or civil complaints before the courts of justice in the Philippines to enforce my rights and interest[s];
- To attend hearings and/or Preliminary Conference[s], to make stipulations, adjust claims, to settle and/or enter into Compromise Agreement[s], to litigate and to terminate such proceedings; [and]
- To sign all papers, documents and pleadings necessary for the accomplishment of the above purposes.[19]

From the foregoing, it is indisputable that Grace Galvez, as attorney-in-fact of the respondent, was duly authorized and empowered not just to initiate complaints, whether criminal or civil, to enforce and protect the respondent's rights, claims, and interests in this jurisdiction, but is specifically authorized to sign all "papers, documents, and pleadings" necessarily connected with the filing of a complaint. Pursuant to Administrative Circular No. 04-94,[20] which extended the requirement of a certification on non-forum shopping to all initiatory pleadings filed in all courts and quasi-judicial agencies,[21] as well as Rule 7, Section 5 of the 1997 Rules of Civil procedure, the aforementioned papers and documents, which Grace Galvez was authorized and empowered to sign, must necessarily include the certification on non-forum shopping. To conclude otherwise would render nugatory the Special Power of Attorney and also render respondent's constitution of an attorney-in-fact inutile.

Forum shopping "occurs when a party attempts to have his action tried in a particular court or jurisdiction where he feels he will receive the most favorable judgment or verdict." [22] In our jurisdiction, it has taken the form of filing multiple petitions or complaints involving the same issues before two or more tribunals or agencies in the hope that one or the other court would make a favorable disposition.[23] There is also forum shopping when, because of an adverse decision in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another.[24] The rationale against forum shopping is that a party should not be allowed to pursue simultaneous remedies in two different fora. Filing multiple petitions or complaints constitutes abuse of court processes,[25] which tends to degrade the administration of justice, wreaks havoc upon orderly judicial procedure, and adds to the congestion of the heavily burdened dockets of the courts.[26] Thus, the rule proscribing forum shopping seeks to promote candor and transparency among lawyers and their clients in the pursuit of their cases before the courts to promote the orderly administration of justice, prevent undue inconvenience upon the other party, and save the precious time of the courts. It also aims to prevent the embarrassing situation of two or more courts or agencies rendering conflicting resolutions or decisions upon the same issue.[27] It is in this light that we must look at the propriety and correctness of the Certificate of Non-Forum Shopping signed by Grace Galvez on the respondent's behalf. We have examined said Certificate[28] and find that under the circumstances, it does not negate but instead serves the purpose of the rule against forum shopping, namely to promote and facilitate the orderly administration of justice.

Rule 7, Section 5 of the Rules of Court, requires that the certification should be signed by the "petitioner or principal party" himself. The rationale behind this 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." [29] However, the rationale does not apply where, as in this case, it is the attorney-in-fact who instituted the action. The Special Power of Attorney in this instance was constituted precisely to authorize Grace Galvez to file and prosecute suits

on behalf of respondent, who was no longer resident of the Philippines but of New York, U.S.A. As respondent points out, it is Grace Galvez, as attorney-in-fact for her, who has actual and personal knowledge whether she initiated similar actions or proceedings before various courts on the same issue on respondent's behalf. Said circumstance constitutes reasonable cause to allow the attorney-in-fact, and not the respondent, as plaintiff in Civil Case No. Q-99-37372 to personally sign the Certificate of Non-Forum Shopping. Under the circumstances of this case, we hold that there has been proper compliance with the rule proscribing forum shopping. As we previously held concerning Administrative Circular No. 04-94:

The fact that the Circular requires that it be strictly complied with merely underscores its mandatory nature in that it cannot be dispensed with or its requirements altogether disregarded, but it does not thereby interdict substantial compliance with its provisions under justifiable circumstances.[30]

Administrative Circular No. 04-94 is now incorporated in the 1997 Rules of Civil Procedure, as Rule 7, Section 5. It is basic that the Rules "shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding." [31] Otherwise put, the rule requiring a certification of forum shopping to accompany every initiatory pleading, "should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective or the goal of all rules of procedure – which is to achieve substantial justice as expeditiously as possible." [32]

On the third issue, petitioners submit that the amended complaint in Civil Case No. Q-99-37372 violates Rule 8, Section 1 [33] of the 1997 Rules of Civil Procedure, as there is no plain and direct statement of the ultimate facts on which the plaintiff relies for her claim. Specifically, petitioners contend that the allegation in paragraph 9-A [34] of the amended complaint that "Earnest efforts towards have been made but the same have failed" is clearly insufficient. The sentence is incomplete, thus requires the reader of the pleading to engage in deductions or inferences in order to get a complete sense of the cause of action, according to petitioners.

Respondent rebuts petitioners' contention by stating that the amended complaint as well as the annexes attached to the pleadings should be taken in their entirety in determining whether a cause of action was validly stated in the complaint. Thus taken together, in their entirety, the amended complaint and the attachments to the original complaint, clearly show that a sufficient cause of action as it is shown and stated that earnest efforts towards a compromise have been made, according to respondent.

Under Article 151 of the Family Code, a suit between members of the same family shall not be entertained, unless it is alleged in the complaint or petition that the disputants have made earnest efforts to resolve their differences through compromise, but these efforts have not succeeded. The attempt to compromise as well as its failure or inability to succeed is a condition precedent to the filing of a suit between members of the same family. [35] Rule 8, Section 3 [36] of the 1997 Rules of Civil Procedure provides that conditions precedent may be generally averred in the pleadings. Applying the foregoing to the instant case, we have to ask: Is there a sufficient general averment of the condition precedent required by the Family Code in the Amended Complaint in Civil Case No. Q-99-37372?

We find in the affirmative. Our examination of paragraph 9-A of the Amended Complaint shows that respondent has complied with this requirement of a general averment. It is true that the lead sentence of paragraph 9-A, which reads "Earnest efforts towards have been made but the same have failed" may be incomplete or even grammatically incorrect as there might be a missing word or phrase, but to our mind, a lacking word like "compromise" could be supplied by the rest of the paragraph. A paragraph is "a distinct section or subdivision of a written or printed composition that consists of from one to many sentences, forms a rhetorical unit (as by dealing with a particular point of the subject or by comprising the words of a distinct speaker)." [37] As a "short composition consisting of a group of sentences dealing with a single topic," [38] a paragraph must necessarily be

construed in its entirety in order to properly derive the message sought to be conveyed. In the instant case, paragraph 9-A of the Amended Complaint deals with the topic of efforts made by the respondent to reach a compromise between the parties. Hence, it is in this light that the defective lead sentence must be understood or construed. Contrary to what petitioners claim, there is no need for guesswork or complicated deductions in order to derive the point sought to be made by respondent in paragraph 9-A of the Amended Complaint, that earnest efforts to compromise the differences between the disputants were made but to no avail. The petitioners' stance that the defective sentence in paragraph 9-A of the Amended Complaint fails to state a cause of action, thus, has no leg to stand on. Having examined the Amended Complaint in its entirety as well as the documents attached thereto, following the rule that documents attached to a pleading are considered both as evidence and as part of the pleading,[39] we find that the respondent has properly set out her cause of action in Civil Case No. Q-99-37372.

WHEREFORE, the instant petition is DENIED for lack of merit. The Decision dated December 4, 2000 of the Court of Appeals in CA-G.R. SP No. 55415, as well as its Resolution dated March 7, 2001, are hereby AFFIRMED. Costs against the petitioners.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] CA Rollo, pp. 111-117. Penned by Associate Justice Romeo A. Brawner, with Associate Justices Cancio C. Garcia, and Andres B. Reyes, Jr. concurring.

[2] Id. at 147-148.

[3] Id. at 47.

[4] Id. at 35-36.

[5] ART. 151. No suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts toward a compromise have been made, but that the same have failed. If it is shown that no such efforts were in fact made, the case must be dismissed.

This rule shall not apply to cases which may not be the subject of compromise under the Civil Code.

[6] 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.

[7] SEC. 1. Amendments in general. – Pleadings may be amended by adding or striking out an allegation or the name of any party, or by correcting a mistake in the name of a party or a mistaken or inadequate allegation or description in any other respect, so that the actual merits of the controversy may speedily be determined, without regard to technicalities, and in the most expeditious and inexpensive manner.

[8] SEC. 3. Amendments by leave of court. – Except as provided in the next preceding section, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay. Orders of the court upon the matters provided in this section shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard.

[9] CA Rollo, pp. 50-51.

[10] SEC. 4. Hearing of motion. - Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

[11] SEC. 5. Notice of hearing. – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

[12] CA Rollo, p. 63.

[13] Rollo, p. 138.

[14] Id. at 230.

[15] SEC. 1. Filing of petition with Supreme Court. – A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

[16] G.R. No. 131214, 27 July 2000, 336 SCRA 484, 489.

[17] G.R. No. 141947, 5 July 2001, 360 SCRA 521, 526.

[18] SEC. 3. Representatives as parties. – Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

[19] Records, p. 11.

[20] The Circular is entitled “Additional Requisites for Civil Complaints, Petitions and Other Initiatory Pleadings Filed In All Courts and Agencies, Other Than the Supreme Court and the Court of Appeals, To Prevent Forum Shopping or Multiple Filing of Such Pleadings.”

[21] *Benguet Electric Cooperative, Inc. v. Flores*, A.C. No. 4058, 12 March 1998, 287 SCRA 449, 456.

[22] BLACK'S LAW DICTIONARY (5[th] Ed. 1979) 590.

[23] *Melo v. Court of Appeals*, G.R. No. 123686, 16 November 1999, 318 SCRA 94, 100 citing *Executive Secretary v. Gordon*, G.R. No. 134171, 18 November 1998, 298 SCRA 736, 740; *Domingo, Jr. v. Commission on Elections*, G.R. No. 136587, 30 August 1999, 313 SCRA 311, 317.

[24] *Fortich v. Corona*, G.R. No. 131457, 24 April 1998, 289 SCRA 624, 647 citing *First Philippine International Bank v. Court of Appeals*, G.R. No. 115849, 24 January 1996, 252 SCRA 259, 283; *Villanueva v. Adre*, G.R. No. 80863, 27 April 1989, 172 SCRA 876, 882; *Crisostomo v. Securities and Exchange Commission*, G.R. Nos. 89095 & 89555, 6 November 1989, 179 SCRA 146, 155.

[25] *Zebra Security Agency v. NLRC*, G.R. No. 115951, 26 March 1997, 337 Phil. 200, 209.

[26] *Nacuray v. NLRC*, G.R. Nos. 114924-27, 18 March 1997, 336 Phil. 749, 756.

[27] *Solid Homes, Inc. v. Court of Appeals*, G.R. No. 108451, 11 April 1997, 337 Phil. 605, 616.

[28] *Records*, pp. 8-9.

[29] *Digital Microwave Corporation v. Court of Appeals*, G.R. No. 128550, 16 March 2000, 328 SCRA 286, 290.

[30] *Loyola v. CA*, G.R. No. 117186, 29 June 1995, 315 Phil. 529, 538.

[31] Rule 1, Section 6.

[32] *Dar v. Alonzo-Legasto*, G.R. No. 143016, 30 August 2000, 339 SCRA 306, 309 citing *Gabionza v. Court of Appeals*, G.R. No. 112547, 18 July 1994, 234 SCRA 192, 198.

[33] SEC. 1. In general. – Every pleading shall contain in a methodical and logical form, a plain, concise and direct statement of the ultimate facts on which the party pleading relies for his claim or defense, as the case may be, omitting the statement of mere evidentiary facts.

If a defense relied on is based on law, the pertinent provisions thereof and their applicability to him shall be clearly and concisely stated.

[34] *Records*, pp. 38-39. Paragraph 9-A in its entirety reads as follows: “Earnest efforts towards (sic) have been made but the same have failed. As a matter of fact, plaintiff thru her daughter as Attorney-In-Fact caused the sending of a Demand Letter dated January 4, 1999 and the last paragraph of which reads as follows:

...

“Trusting this will merit your utmost preferential attention and consideration in as much as you and our client are sisters and in order that earnest (sic) efforts toward a compromise could be obtained.”

...

[35] *O’Laco v. Co Cho Chit*, G.R. No. 58010, 31 March 1993, 220 SCRA 656, 661 citing *Mendoza v. Court of Appeals*, No. L-23102, 24 April 1967, 19 SCRA 756, 759; *Guerrero v. RTC of Ilocos Norte*, Br. XVI, G.R. No. 109068, 10 January 1994, 229 SCRA 274, 277.

[36] SEC. 3. Conditions precedent. – In any pleading a general averment of the performance or occurrence of all conditions precedent shall be sufficient.

[37] WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY.

[38] Ibid.

[39] Asia Banking Corporation v. Walter E. Olsen & Co., No. 24488, 28 December 1925, 48 Phil. 529, 532.

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