

MARILYN VALDECANTOS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND FERNANDO GOKIOCO, RESPONDENTS.

G.R. NO. 148852. September 27, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court filed by Marilyn Valdecantos (petitioner) assailing the Resolutions dated December 7, 2000[1] and June 22, 2001[2] of the Court of Appeals (CA) which dismissed herein petitioner's petition for review and denied her motion for reconsideration, respectively, issued in CA-G.R. CR No. 24645.

Petitioner was charged in the Metropolitan Trial Court (MTC) of Caloocan City, Branch 49, with violation of Batas Pambansa Bilang 22, docketed as Criminal Case No. C-178508. The Information reads:

That on or about the 28th day of February, 1997 in Caloocan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously made and issue Check No. 035539 dated February 28, 1997 in the amount of P13,100.00 drawn against UNION BANK, to apply for value in favor of FERNANDO GOKIOKO, well knowing at the time of issue that she/he had no sufficient funds in or credit with the drawee bank for the payment of such check in full presentment, which check was subsequently dishonored for insufficiency of funds or credit, had not said accused, without any valid reason, ordered the bank to stop the payment of said check, and with intent to defraud, failed and still fails to pay said FERNANDO GOKIOKO the amount of P13,100.00 despite receipt of notice from the drawee bank that said check had been dishonored and had not been paid. [3]

Upon arraignment, petitioner entered a plea of not guilty. Trial thereafter ensued.

On June 30, 1999, the MTC rendered its Decision,[4] the dispositive portion of which reads:

WHEREFORE, after a careful consideration of the foregoing evidence, the Court finds accused Marilyn Valdecantos y Valmoseña, GUILTY beyond reasonable doubt of the offense of issuing a worthless check defined and penalized in Batas Pambansa Blg. 22 and hereby sentences the said accused to a penalty of imprisonment of six (6) months and to pay a fine of twenty-six thousand pesos (P26,000.00) with subsidiary imprisonment in case of insolvency.

Accused is further ordered to indemnify complainant Fernando Gokioko the amount of thirteen thousand one hundred pesos (P13,100.00) representing the amount of the dishonored check with interest thereon at the rate of 12% per annum starting February 28, 1997 until the amount is fully paid, to reimburse to the said complainant the amount of twenty-thousand pesos (P20,000.00) as and for attorney's fees and to pay the costs of this suit. [5]

Petitioner appealed the decision to the Regional Trial Court (RTC), Caloocan City, docketed as Criminal Case No. C-58312 and raffled to Branch 126. The RTC affirmed the MTC in its Decision dated July 24, 2000;[6] and denied petitioner's motion for reconsideration in its Order dated October 16, 2000.[7]

Dissatisfied, petitioner filed a petition for review with the CA on November 28, 2000, docketed as CA-G.R. CR No. 24645. On December 1, 2000, petitioner filed a "Submission of Verification and Certification Against Forum Shopping"[8] attaching thereto the Verification and Certification signed by petitioner on November 27, 2000.

On December 7, 2000, the CA issued the assailed Resolution dismissing the petition on the following grounds:

(a) The Regional Trial Court was not furnished a copy thereof as required by Section 1, Rule 42 of the present Rules of Court;

(b) It is not verified and failed to contain a non-forum shopping certification as mandated by Section 2, Rule 42, supra, and

(c) Only the two (2) lower court's decision and order denying the motion for reconsideration are attached without the other pleadings and material portion of the records as would support the allegations of the petition, such as, the information, position papers and appeal memoranda of the parties filed below, as provided for in Section 2, Rule 42, supra.

Section 3, Rule 42, same, considers the above omissions as sufficient grounds for the dismissal of the petition.[9]

Upon receipt of the CA Resolution on December 18, 2000, petitioner filed her Motion for Reconsideration stating that her counsel's failure to attach the verification and certification against forum shopping which she had already signed was due to inadvertence or oversight of the latter's secretary who forgot to attach the same to the petition; that three days after the filing of her petition with the CA, she filed on December 1, 2000 a "Submission of Verification and Certification Against Forum Shopping" where she had attached her verification and certification thereto. She likewise attached to her motion for reconsideration copies of the following documents: (a) Information in Criminal Case No. 178508; (b) Memorandum of petitioner's appeal in the RTC; (c) Memorandum of private respondent in the RTC; (d) Motion for Reconsideration of the decision of the RTC; (e) Opposition to the Motion for Reconsideration; (f) Transcript of Stenographic Notes of the testimony of Union Bank representative Ariel Puno taken on May 11, 1999; (g) Union Bank Check No. 035539 dated February 28, 1997 in the sum of P13,100.00; and the proof of service of a copy of her petition which she furnished the RTC on December 19, 2000.

In a Resolution dated June 22, 2001, the CA denied petitioner's motion for reconsideration in this wise:

x x x

Petitioner seasonably submitted a Motion for Reconsideration claiming inadvertence and oversight of his secretary in failing to comply with the missing requirements and altogether attaching the pertinent documents including a verification and certification against forum-shopping.

It should be stressed, however, that failure to file a certificate of non-forum shopping is mandatory and failure to comply with this requirement cannot be excused by the fact that plaintiff is not guilty of forum shopping, and that subsequent compliance with the certification requirement on non-forum shopping cannot excuse a party' failure to comply in the first instance.[10]

Hence, the instant Petition for Review on Certiorari anchored on the following issues:

1) Whether or not the Court of Appeals erred in dismissing petitioner's petition despite the fact that petitioner has submitted all the required documents, and instead ignored and disregarded the clear and manifest errors in the decisions of the MTC and RTC in convicting the petitioner.

2) Whether or not, on the basis of the evidence presented in the MTC, the petitioner could be convicted of having violated BP 22.[11]

Petitioner reiterates her contentions raised in her motion for reconsideration filed before the CA. She also claims that it is the declared policy of the courts to afford every litigant amplest opportunity for determination of his case freed from constraints of technicalities. Petitioner likewise contend that although our jurisdiction is confined to questions of law, it may extend its hand to accord justice to petitioner considering that the decision of the MTC finding her guilty of BP 22 was not supported and was even contrary to the evidence on record.

A Comment was filed by the Office of the Solicitor General praying for the dismissal of the petition. The parties submitted their respective Memoranda as required by the Court.

Preliminarily, we find it necessary to give proper perspective to the instant petition. Originally filed as a petition for review on certiorari under Rule 45 of the Rules of Court, the same should be considered as a petition for certiorari under Rule 65 of the Rules of Court as there is nothing to review on the merits due to its outright dismissal by the CA, for being insufficient in form and substance.[12] Ordinarily, the proper recourse of an aggrieved party from a decision of the CA is a petition for review on certiorari under Rule 45 of the Rules of Court. However, if the error, subject of the recourse, is one of jurisdiction, or the act complained of was perpetrated by a court with grave abuse of discretion amounting to lack or excess of jurisdiction, the proper remedy available to the aggrieved party is a petition for certiorari under Rule 65 of the said Rules.[13] Inasmuch as the present petition principally assails the dismissal of the petition on ground of procedural flaws involving the jurisdiction of the court a quo to entertain the petition, it falls within the ambit of a special civil action for certiorari under Rule 65 of the Rules of Court.[14]

The CA dismissed the petition for review due to petitioner's failure (1) to attach the required verification and the certification on non-forum shopping, (2) to furnish the RTC with a copy of the petition, and (3) to attach the pleadings and material portions of the records of the case pursuant to Sections 1, 2 and 3 of Rule 42 of the Rules of Court.[15]

The Court grants the petition.

The requirement regarding verification of a pleading is formal, not jurisdictional.[16] Such requirement is simply a condition affecting the form of pleading, the non-compliance of which does not necessarily render the pleading fatally defective.[17] 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.[18] The court may order the correction of the pleading if verification is lacking or act on the pleading although it is not verified, if the attending circumstances are such that strict compliance with the rules may be dispensed with in order that the ends of justice may thereby be served.[19]

While the lack of certification against forum shopping is generally not cured by its submission after the filing of the petition, and the submission of a certificate against forum shopping is deemed obligatory, it is not jurisdictional.[20] Not being jurisdictional, the requirement has been relaxed under justifiable circumstances under the rule on substantial compliance.

In *Roadway Express v. CA*, [21] the Court considered as substantial compliance the filing of a certification against forum shopping 14 days before the dismissal of the petition for review. In the same case, the Court stated that:

x x x If subsequent compliance, citing *Sanchez vs. CA*, G.R. 111255, February 7, 1994, First Division, Minute Resolution, with Circular 28-91, after a petition was dismissed for non-compliance was considered by the court as substantial compliance, citing *Fajardo, Jr. vs. CA*, G.R. 112558, en banc, Minute Resolution, with more reason should the petition for review be allowed in this case, in view of the compliance prior to the dismissal of the petition.[22]

In *Uy v. Landbank*,^[23] the Court dismissed Uy's petition for lack of verification and certification against non-forum shopping. However, the Court subsequently reinstated the petition after Uy submitted a motion to admit certification and non-forum shopping certification and justified the reinstatement.

In this case, on December 1, 2000, three days after petitioner filed her petition for review on November 28, 2000, she immediately rectified her error by filing a "Submission of Verification and Certification Against Forum Shopping" attaching thereto her Verification and Certification. Significantly, such verification and certification was submitted even before the petition was dismissed by the CA on December 7, 2000.

In addition, the Court notes that petitioner had appended a verification and certification against forum shopping in her motion for extension of time to file petition for review with the CA which further lends credence to her claim that indeed it was only due to inadvertence that she failed to submit the certification in her petition for review.

These circumstances mitigate the oversight. It is in the interest of substantial justice that the subsequent filing of the verification and certification of non-forum shopping be considered as substantial compliance of the rule.

Petitioner likewise attached the missing pleadings and pertinent documents of the case when she filed her motion for reconsideration. Jurisprudence dictates that the subsequent and substantial compliance of a petitioner may call for the relaxation of the rules of procedure.

In *Cusi-Hernandez v. Diaz*,^[24] *Piglas-Kamao v. National Labor Relations Commission*,^[25] *Mendoza v. David*,^[26] the Court ruled that the subsequent submission of the missing documents with the motion for reconsideration amounts to substantial compliance. The reasons behind the failure of the petitioners in these cases to comply with the required attachments were no longer scrutinized.^[27] Noteworthy in each case was the fact that the petitioners therein substantially complied with the formal requirements when they filed their motion for reconsideration.^[28]

In *Donato v. CA*,^[29] the Court reversed the CA's dismissal of a petition on the grounds that the (a) certificate of non-forum shopping was signed by petitioner's counsel and not by petitioner himself; and (b) only a certified copy of the questioned decision was annexed to the petition. Petitioner filed a motion for reconsideration where he attached a certification of non-forum shopping duly signed by him as well as copies of the material portions of the records of the lower courts. On petitioner's failure to attach material portions of the records, the Court held:

In like manner, the failure of the petitioner to comply with Section 3, paragraph b, Rule 6 of the RIRCA, that is, to append to his petition copies of the pleadings and other material portions of the records as would support the petition, does not justify the outright dismissal of the petition. It must be emphasized that the RIRCA gives the appellate court a certain leeway to require parties to submit additional documents as may be necessary in the interest of substantial justice. Under Section 3, paragraph d of Rule 3 of the RIRCA, the CA may require the parties to complete the annexes as the court deems necessary, and if the petition is given due course, the CA may require the elevation of a complete record of the case as provided for under Section 3(d)(5) of Rule 6 of the RIRCA. At any rate, petitioner attached copies of the pleadings and other material portions of the records below with his motion for reconsideration x x x. (Emphasis supplied)^[30]

The same leniency should also be extended to petitioner considering that petitioner, one day after receipt of the CA Resolution dismissing her petition for review, immediately complied with the rules and submitted the relevant pleadings and documents with her motion for reconsideration.

The Court also takes note of the fact that petitioner had furnished the RTC with a copy of the petition the following day after her receipt of the CA Resolution dismissing her petition.

Thus, petitioner's substantial compliance with Sections 1 and 2, Rule 42 of the Rules of Court should have

prompted the CA to reconsider the dismissal of the petition for review on technical grounds. In dismissing the petition, the CA clearly put a premium on technicalities at the expense of a just resolution of the case [31] which should be avoided.

In the Cusi-Hernandez[32] case, where the formal requirements and substantial compliance were liberally construed, the Court held:

We must stress that cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections. In that way, the ends of justice would be served better. Moreover, the Court has held:

"Dismissal of appeals purely on technical grounds is frowned upon and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very aims."

Rules of procedure are mere tools designed to expedite the decision or resolution of cases and other matters pending in court. A strict and rigid application of rules that would result in technicalities that tend to frustrate rather than promote substantial justice must be avoided.[33]

Petitioner contends that the MTC and RTC erred in finding that Union Bank Check No. 035539 was not sufficiently funded on the date of its presentment and that the bank statement presented failed to establish that it was the same account of petitioner against which the check was to be drawn. Petitioner points out that the evidence showed that there was sufficient fund to cover the check upon presentment and that Account No. 007-31719-2 which was in petitioner as well as in Felimon and Lydia Valdecantos's names from which account the check was supposed to be drawn was only changed with a new account number, i.e., Account No. 074-000206-5; that these accounts are one and the same which had sufficient fund to cover the check upon presentment. Petitioner also avers that the burden of proof lies with the prosecution, thus it should be the prosecution which must prove that petitioner did not maintain sufficient fund or credit in her account to pay the check within ninety days from the date of the check which it failed to do.

Furthermore, in her petition for review filed with the CA, petitioner contends that the trial court erred in finding that the sole ground for her stop payment order was the loss of the Lancer car and that respondent Gokioko had still demanded for the issuance of five additional checks in the total amount of P65,500.00 as additional payment for the car.

The Court will not resolve these issues in the present petition for certiorari. The issues involved are factual issues which require the weighing of evidence that is best addressed to the CA in the petition for review filed before it. Thus, the case should be remanded to the CA for the just resolution of the substantive issues.

WHEREFORE, the petition is GRANTED. The Resolutions dated December 7, 2000 and June 22, 2001 of the Court of Appeals are REVERSED and SET ASIDE. The case is REMANDED to the Court of Appeals for proper disposition.

No costs.

SO ORDERED.

Panganiban, C. J. (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario concur.

[1] Penned by Justice Conrado M. Vasquez, Jr. and concurred in by Justices Presbitero J. Velasco, Jr. (Now a Member of this Court) and Juan Q. Enriquez, Jr.; CA rollo, pp. 45-46.

[2] Id. at 135-136.

[3] CA rollo, p.57.

[4] Id. at 30-37; Penned by Judge Belen B. Ortiz.

[5] Id. at 37.

[6] Id. at 38-42; Penned by Judge Luisito C. Sardillo.

[7] Id. at 43.

[8] Id. at 47-49.

[9] Id. at 45-46.

[10] Id. at 135-136.

[11] Rollo, p. 24.

[12] Delgado v. Court of Appeals, G.R. No. 137881, December 21, 2004, 447 SCRA 402, 411 citing Donato v. Court of Appeals, G.R. No. 129638, December 8, 2003, 417 SCRA 216, 223.

[13] Id.

[14] Id.

[15] SECTION 1. How appeal was taken; time of filing. - A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, ... and furnishing the Regional Trial Court and the adverse party with a copy of the petition.

SECTION 2. Form and contents. - The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time ; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

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 agency thereof within five (5) days therefrom.

SECTION 3. Effect of failure to comply with requirements. - The failure of petitioner to comply with any of the foregoing requisites regarding the payment of the docket 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. (Emphasis supplied.)

[16] Uy v. Land Bank of the Philippines, 391 Phil. 303, 312 (2000) citing Sy v. Habacon-Garayblas, Adm. Matter No. MTJ-93-860, December 21, 1993, 228 SCRA 644, 646; Buenaventura v. Halili-Uy, No. L-28156, March 31, 1987, 149 SCRA 22, 26; Quimpo v. Victoria, 150-B Phil. 124, 131 (1972); Valino v. Munoz, 146 Phil. 412, 418 (1970); Republic v. Lee Wai Lam, 139 Phil. 265, 269 (1969).

[17] Id. citing Republic v. Lee Wai Lam at 276.

[18] Id. citing Buenaventura v. Uy at 26; Republic v. Lee Wai Lam at 269.

[19] Id. citing Sy v. Habacon-Garayblas at 646; Republic v. Lee Wai Lam at 269-270.

[20] Torres v. Specialized Packaging Development Corporation, G.R. No. 149634, July 6, 2004, 433 SCRA 455, 465 citing Robern Development Corporation v. Judge Quitain, 373 Phil. 773, 787 (1999).

[21] 332 Phil. 733 (1996).

[22] Id. at 738.

[23] Supra note 16.

[24] 390 Phil. 1245 (2000).

[25] G.R. No. 138556, May 9, 2001, 357 SCRA 640.

[26] G.R. No. 147575, October 22, 2004, 441 SCRA 172.

[27] Jaro v. Court of Appeals, 427 Phil. 532, 547 (2002).

[28] Id. at 547.

[29] Supra note 12.

[30] Id. at 225-226.

[31] Id. at 226.

[32] Supra note 24.

[33] Id. at 1252.

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