ART FUENTEBELLA, PARK-IN-CHARGE, AND ROLLING HILLS MEMORIAL PARK, INC., PETITIONERS, VS. DARLICA CASTRO, RESPONDENT.

G.R. NO. 150865. June 30, 2006

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is a petition for review[1] seeking the nullification of the resolutions, dated September 27, 2001 and November 20, 2001, of the Court of Appeals, in CA-G.R. SP No. 66478 entitled "Art Fuentebella, Park-in-Charge and Rolling Hills Memorial Park, Inc. v. Darlica Castro," which dismissed the petition of petitioners assailing the orders issued by the Regional Trial Court (RTC) of Negros Occidental, dated January 3, 2000 and July 9, 2001, in Civil Case No. 99-10747 entitled "Darlica Castro v. Art Fuentebella, Park-in-Charge and Rolling Hills Memorial Park, Inc."

The controversy primarily involves the application of Rule 7, Section 5 of the Rules of Court relating to the signature appearing on the certificate of non-forum shopping, and the submission of a false certification.

As stated by the Court of Appeals, the facts alleged are as follows:

Respondent Darlica Castro is the widow of the late Freddie Castro who died on September 18, 1997 in Bacolod City, Negros Occidental. Respondent engaged the funeral services of petitioner Rolling Hills Memorial Park, Inc. in Bacolod City for the interment of the remains of her husband on September 27, 1997 at three o'clock in the afternoon.

During the burial, when the casket of her deceased husband was about to be lowered into the vault, it was discovered that the dimensions of the vault did not correspond to the measurements of the casket. As a result, the casket was lifted and placed under the heat of the sun for about one hour in front of all the mourners while the vault was being prepared. To make matters worse, the employees of petitioner corporation measured the casket by using a spade.

Insulted by the events that transpired at the funeral, respondent, through counsel, wrote to the management of petitioner corporation demanding an explanation for its negligence, but the latter did not respond nor attempt to apologize to the former.[2]

Consequently, on March 16, 1998, respondent filed a complaint for damages[3] against the corporation and its Park-in-Charge Art Fuentebella, jointly and solidarily, before the Municipal Trial Court in Cities (MTCC) of Bacolod City asking for moral[4] and exemplary[5] damages, attorney's fees[6] and litigation costs.

Petitioners filed a motion to dismiss on the ground that the MTCC has no jurisdiction to take cognizance of the case because the amount of damages claimed is more than P200,000. Respondent subsequently filed a motion to withdraw the complaint, which was granted by the MTCC in its order dated June 24, 1998.[7]

On April 15, 1999, respondent filed a similar complaint with the RTC of Negros Occidental. Attached in the complaint was the Verification and Certification against Forum Shopping required under Section 5, Rule 7 of the Rules of Court, stating:

> That I further certify that I have not commenced any other action or proceeding involving the same issues in the Supreme Court, Court of Appeals, or any other tribunal or agency; that to the best of my knowledge, no such action or proceeding is pending in the Supreme Court, Court of Appeals, or other tribunal or agency, and that if I should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, Court of Appeals, or any other tribunal or agency, I shall undertake to report that fact within five (5) days to this Honorable Court.[8]

Petitioners filed a motion to dismiss on the ground that the certification is false because respondent had previously filed an identical complaint with the MTCC.

On January 3, 2000, the trial court issued the questioned order denying the motion to dismiss for lack of merit, to wit:

> x x x, while the requirement as to the certificate of non-forum shopping is mandatory, nonetheless, the requirement is not to be interpreted too literally and thus defeat the objective of preventing the undesirable practice of forum shopping (Bernardo v. NLRC, 255 SCRA 108).
>
> PERFORCE, the motion to dismiss is DENIED for lack of merit.
>
> SO ORDERED.[9]

A motion for reconsideration was filed by petitioners arguing that the motion to dismiss was not based on the ground that respondent had filed two similar actions at the same time but rather on the submission by the latter of a false certification. The trial court denied said motion in its order, dated July 9, 2001, stating:

> As can be readily seen from the said provision, the sanction provided by the said rule on the submission of a false certification is not dismissal of the case but [the same] will be considered as an indirect contempt of Court, without prejudice to the corresponding administrative and criminal action that may be filed against the party concerned.
>
> WHEREFORE, the motion for reconsideration is hereby DENIED for lack of merit.
>
> SO ORDERED.[10]

Petitioners filed with the Court of Appeals a petition for certiorari with preliminary injunction and/or restraining order. The petition, however, was dismissed by the Court of Appeals in its resolution issued on September 27, 2001, thus:

> A perusal of the records discloses that the verification and the certification against forum shopping was signed by a certain Lourdes Pomperada without any showing or indication that she is duly authorized by the petitioners to sign for and in their behalf.
>
> IN VIEW OF THE FOREGOING, this petition is DENIED DUE COURSE and is accordingly DISMISSED.
>
> SO ORDERED.[11]

A motion for reconsideration of the above resolution was filed by petitioner Rolling Hills Memorial Park, Inc. attaching thereto a Secretary's Certificate signed by Monico A. Puentevella, Jr., Corporate Secretary of petitioner corporation, affirming therein the authority of Lourdes A. Pomperada to file the aforementioned petition.

Nonetheless, the Court of Appeals denied said motion in its challenged resolution, dated November 20, 2001,

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declaring that:

> Petitioners submitted a Secretary's Certificate showing the authorization of Mrs. Lourdes Pomperada to represent the petitioner corporation. However, there is still no showing that the said Mrs. Lourdes Pomperada is duly authorized to act for and in behalf of the other petitioner.
>
> WHEREFORE, in view of the foregoing, petitioner's Motion for Reconsideration cannot be favorably acted upon.
>
> SO ORDERED.[12]

Hence, this petition raising the following issues:

> I
>
> THE HONORABLE COURT OF APPEALS ACTED ERRONEOUSLY IN DISMISSING OUTRIGHT THE PETITION FOR CERTIORARI ON THE BASIS OF A NON-EXISTENT RULE; AND
>
> II
>
> THE REGIONAL TRIAL COURT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF, OR IN EXCESS OF JURISDICTION, IN REFUSING TO ORDER THE DISMISSAL OF THE COMPLAINT ON THE GROUND OF A FALSE CERTIFICATION.[13]

On the first issue, petitioners argue that: (a) a board resolution or a secretary's certificate is unnecessary to show proof that the one signing the petition or the verification and certification against forum shopping has been duly authorized by petitioner company; and, (b) where there are two or more petitioners, the one signing the petition need not append his authority to sign on behalf of the other petitioners.

Contrary to petitioners' assertion, it is obligatory that the one signing the verification and certification against forum shopping on behalf of the principal party or the other petitioners has the authority to do the same.

Rule 7, Section 5 of the 1997 Revised Rules on Civil Procedure provides:

> Sec. 5. Certification against forum shopping. – The plaintiff or principal party shall specify 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.`

The above provision mandates that the petitioner or the principal party must execute the certification against forum shopping. The reason for this is that the principal party has actual knowledge whether a petition has previously been filed involving the same case or substantially the same issues. If, for any reason, the principal

party cannot sign the petition, the one signing on his behalf must have been duly authorized.[14]

This requirement is intended to apply to both natural and juridical persons as Supreme Court Circular No. 28-91 and Section 5, Rule 7 of the Rules of Court do not make a distinction between natural and juridical persons.[15] Where the petitioner is a corporation, the certification against forum shopping should be signed by its duly authorized director or representative.[16] This was enunciated in Eslaban, Jr. v. Vda. de Onorio,[17] where the Court held that if the real party-in-interest is a corporate body, an officer of the corporation can sign the certification against forum shopping so long as he has been duly authorized by a resolution of its board of directors.

Likewise, where there are several petitioners, it is insufficient that only one of them executes the certification, absent a showing that he was so authorized by the others. That certification requires personal knowledge and it cannot be presumed that the signatory knew that his co-petitioners had the same or similar actions filed or pending.[18]

Hence, a certification which had been signed without the proper authorization is defective and constitutes a valid cause for the dismissal of the petition.[19]

This holds true in the present case where the Court of Appeals accordingly dismissed the petition for lack of proper authorization of the one signing it on behalf of petitioners. Lourdes Pomperada, the Administrative Manager of petitioner corporation, who signed the verification and certificate on non-forum shopping, initially failed to submit a secretary's certificate or a board resolution confirming her authority to sign for the corporation, and a special power of attorney to sign on behalf of co-petitioner Art Fuentebella, who was sued jointly and solidarily with the corporation in his capacity as officer of the latter.

Thus, in Pet Plans, Inc. v. Court of Appeals,[20] the Court stated:

> Where the President of the corporation was impleaded in his official capacity as such and no specific claim or charge against him, in his personal capacity, was alleged in the complaint filed with the National Labor Relations Commission but the Labor Arbiter's decision made him jointly and solidarily liable with the corporation, he then became a real–party-in-interest whose stake have [sic] become distinct from those of the corporation and, as such, it became inevitable for him to sign the verification and certificate of non-forum shopping.
>
> In the present case, a reading of the subject resolution issued by the Board of Directors of PET PLANS, shows that it authorizes Espino to represent only PET PLANS, not its co-petitioner, Ocampo. Nothing in the records at hand indicates that Espino is clothed with special authority to represent Ocampo. Hence, Espino does not represent Ocampo in the filing of CA-G.R. SP No. 62410. As such, Ocampo, being a petitioner in his own right, should have also signed the verification and certificate of non-forum shopping attached to the petition of CA-G.R. SP No. 62410. Ordinarily, Ocampo should have been considered nominal party as he was merely impleaded by complainant in his capacity as the president of PET PLANS and no specific claim or charge against him, in his personal capacity, was alleged in the complaint filed with the NLRC, Regional Arbitration Branch. However, considering that the Labor Arbiter made him jointly and solidarily liable with PET PLANS, he has become a real party-in-interest whose stake, subsequent to the Labor Arbiter's decision, have (sic) become distinct from those of petitioner corporation. As such, it becomes inevitable for him to sign the verification and certificate of non-forum shopping.
>
> Section 3, Rule 46 of the Rules of Court requires that the petitioner shall sign the certificate of non-forum shopping. In the case of corporations, the physical act of signing may be performed in behalf of the corporate entity by specifically authorized individuals for the simple reason that corporations, as artificial persons, cannot do the task themselves. However, in the case of natural persons, the Rule requires the parties

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> themselves to sign the certificate of non-forum shopping. The reason for such a requirement is that the petitioner himself, or in [the] case of a corporation, its duly authorized representative, knows better than anyone else whether a separate case has been filed or pending which involves substantially the same issues.
>
> In the present case, it cannot be gainsaid with certainty that Ocampo has not filed before any court or tribunal a separate case related to the present petition in CA-G.R. SP No. 62410. In Loquias v. Office of the Ombudsman,[21] we held that failure of one of the petitioners to sign the verification and certificate against forum shopping constitutes a defect in the petition, which is a ground for dismissing the same. While we have held in rulings subsequent to Loquias that this rule may be relaxed, petitioners must comply with two conditions: first, petitioners must show justifiable cause for their failure to personally sign the certification; and, second, they must also be able to prove that the outright dismissal of the petition would seriously impair the orderly administration of justice. In the present case, we find that petitioners failed to prove the presence of these conditions.[22]

On the second issue, petitioners opine that respondent's failure to disclose that a similar case was earlier filed by her before the MTCC but was later withdrawn for lack of jurisdiction constituted false certification. They contend that the trial court committed grave abuse of discretion when it did not dismiss the petition for this reason.

The Court disagrees.

An omission in the certificate of non-forum shopping about any event that would not constitute res judicata[23] and litis pendentia, as in the present case, is not fatal as to merit the dismissal and nullification of the entire proceedings considering that the evils sought to be prevented by the said certificate are not present.[24]

Hence, in any event, the trial court correctly held that the submission of a false certification shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal sanctions. This is in accordance with Section 5, Rule 7 of the Rules of Court.

WHEREFORE, the petition is DENIED. The Resolutions of the Court of Appeals, dated September 27, 2001 and November 20, 2001, in CA-G.R. SP No. 66478 are AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, and Garcia, JJ., concur.
Sandoval-Gutierrez, J., on official business

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[1] Under Rule 45 of the Rules of Court.

[2] CA Rollo, pp. 30-35.

[3] Id. at 22.

[4] P100,000.

[5] P50,000.

[6] P50,000, and P500 appearance fee.

[7] Rollo, pp. 4-5.

[8] Id. at 36.

[9] Id. at 38.

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[10] Id. at 51.

[11] Id. at 22.

[12] Id. at 24.

[13] Id. at 7.

[14] Eslaban, Jr. v. Vda. de Onorio, G.R. No. 146062, June 28, 2001, 360 SCRA 230.

[15] Zulueta v. Asia Brewery, Inc., G.R. No. 138137, March 8, 2001, 354 SCRA 100.

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

[17] Supra, note 14.

[18] Loquias v. Office of the Ombudsman, G.R. No. 139396, August 15, 2000, 338 SCRA 62.

[19] Id.

[20] G.R. No. 148287, November 23, 2004, 443 SCRA 510, 519-521.

[21] Supra, note 18.

[22] Pet Plans, Inc. v. Court of Appeals, supra, note 20.

[23] "The Court has laid down the yardstick to determine whether a party violated the rule against forum shopping as where the elements of litis pendentia are present or where a final judgment in one case will amount to res judicata in the other. Stated differently, there must be between the two cases: (a) identity of parties; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and, (c) that the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration. "(Velasquez v. Hernandez, G.R. No. 150732, August 31, 2004, 437 SCRA 357)

[24] Roxas v. Court of Appeals, G.R. No. 139337, August 15, 2001, 363 SCRA 207.

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