

SPS. GAVINO C. GUDOY AND VIOLETA M. GUDOY, LILLETE C. GUDOY, NINOLETA M. GUDOY, JOEL C. TOLENTINO, AMARYLIS B. BISNAR, ROLDAN C. BUSTAMANTE, WELANDO G. ELLAZO AND ANNA SOCORRO M...

G.R. No. 151136. May 27, 2004

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Order[1] dated October 1, 2001 of the Regional Trial Court (RTC) of Panabo City, 11th Judicial Region, Branch 34, in Civil Case No. 99-78 for Quieting of Title and Damages.

The antecedent facts are as follows:

The petitioners herein are the spouses Gavino Gudoy and Violeta Gudoy, Lillette Gudoy, Ninoleta Gudoy, Joel Tolentino, Amarylis Bisnar, Roldan Bustamante, Welando Ellazo, and Anna Socorro Gudoy.

The respondents are Jacinta Guadalquiver and her husband Adriano Guadalquiver.

On October 1, 1999, the petitioners filed with the RTC of Panabo City, Davao del Norte, a Complaint for Quieting of Title and Damages against respondents herein. The case was docketed as Civil Case No. 99-78 and was originally assigned to Branch 4 of the said court.

Summons was served and respondents filed their Answer on December 3, 1999. On January 6, 2000, petitioners filed an Answer to Counterclaim and an Ex-Parte Motion to Set Case for Pre-Trial. In its Order dated January 17, 2000, the court set the case for pre-trial on March 1, 2000. Petitioners and respondents thus filed their respective pre-trial briefs.

On March 1, 2000, the court a quo ordered the dismissal of the complaint for petitioners' failure to appear during the pre-trial set on that day. It turned out that petitioners did not receive on time the Order of January 17, 2000. Thus, they filed a Motion for Reconsideration, which was granted.

On May 29, 2001, the presiding judge of Branch 4 of the said court issued an Order where he resolved to voluntarily inhibit himself from further presiding over the case. The case was then transferred to Branch 34 of the same court.

On July 10, 2001, petitioners filed a Motion to Set Pre-Trial and Trial, which the new judge granted in an Order dated July 18, 2001. Hence, the case was set for pre-trial on September 4, 2001.

However, on August 9, 2001, respondents filed a Motion to Dismiss alleging for the very first time that only one of the petitioners signed the verification of the complaint. They argued that the certification against forum shopping was thus defective.

Acting on the said motion, the court in an Order dated October 1, 2001 dismissed the complaint ruling as follows:

To this Court the rationale of this ruling is that all plaintiffs must sign the Certification against (sic) Anti-Forum Shopping and not just Gavino Gudoy, who may not know if the other eight (8) plaintiffs have filed similar cases or not. Only the eight (8) plaintiffs should know.

WHEREFORE, the Court dismisses the complaint and also cancels the pre-trial set on October 15, 2001, at 8:30 A.M., by reason of this dismissal.

SO ORDERED.[2]

Petitioners filed a Motion for Reconsideration and an Urgent Plea to Do Away with Needless Technicalities, both of which the court denied in an Order dated December 12, 2001 for lack of merit.

Thus, the instant appeal purely on a question of law. The sole issue for our resolution is whether petitioners' complaint was properly dismissed on the ground of alleged improper certification against forum shopping.

Petitioners contend that it is sufficient that only Gavino Gudoy sign the certification against forum shopping because all the petitioners are co-owners pro indiviso of the property subject of the complaint. They rely on our ruling in *Dar v. Alonzo-Legasto*,^[3] where we held that:

In the instant case, the Court of Appeals should have taken into consideration the fact that the petitioners were sued jointly, or as "Mr. and Mrs." over a property in which they have a common interest. Such being the case, the signing of one of them in the certification substantially complies with the rule on certification of non-forum shopping.

Petitioners also allege the trial court was already estopped from questioning the complaint's compliance with the formal requirements set by law. Petitioners argue that if the complaint was indeed defective, it should have been dismissed outright. Instead, the court a quo served summons to the respondents, set the case for pre-trial several times, and conducted various hearings on the case.

However, respondents maintain that the complaint is defective as to form because all the petitioners are required to sign the complaint's certification on non-forum shopping. Respondents cite the cases of *United Residents of Dominican Hill, Inc. v. Commission on the Settlement of Land Problems*^[4] and *Docena v. Lapesura*,^[5] where we held that the certification on non-forum shopping should be signed by all of the petitioners or plaintiffs in a case and that the signing by only one of them is insufficient.

At the outset, we find the petition impressed with merit.

It is true that Supreme Court (SC) Circular No. 28-91,^[6] as amended by SC Administrative Circular No. 4-94,^[7] specifically states that the certification on non-forum shopping must be signed by all the plaintiffs and failure to do so shall be a cause for the dismissal of the complaint upon motion and after hearing.

In *Loquias v. Office of the Ombudsman*,^[8] we categorically stated that where there are two or more plaintiffs or petitioners, a complaint or petition signed by only one of them is defective, unless he was duly authorized by his co-parties to represent them and to sign the certification. However, this ruling applies to the peculiar circumstances of the said case where the co-parties are being sued in their individual capacities. Note that the petitioners in *Loquias* are the mayor, vice-mayor, and three members of the municipal board of San Miguel, Zamboanga del Sur, who were criminally charged for allegedly withholding the salary increases and benefits of the municipality's health personnel. Petitioners were tried for alleged violation of Republic Act No. 3019^[9] in their various respective personal capacities. Clearly, the conviction or acquittal of one accused would not necessarily apply to all the accused in a graft charge.

Contrarily, in the present case, records show that the nine petitioners herein are the registered owners of a parcel

of land located at Poblacion, Penaplata, Davao as evidenced by Transfer Certificate of Title No. C-7700.[10] Upon discovering that respondents herein likewise have a title to a portion of the said property, all nine petitioners filed as co-owners pro indiviso a complaint against respondents for quieting of title and damages. As owners in common, none of the said petitioners is entitled to any specific portion of the said property as they all have a joint interest in the undivided whole.

As contended by herein petitioners, *Dar v. Alonzo-Legasto*[11] is instructive for the resolution of the present case. In *Dar*, petitioners were four spouses against whom a complaint for unlawful detainer was filed. They were Mr. and Mrs. Ronnie Dar, Mr. and Mrs. Randy Angeles, Mr. and Mrs. Joy Constantino, and Mr. and Mrs. Liberty Cruz. Their petition for review on certiorari and mandamus was dismissed by the Court of Appeals on the ground that there was failure to comply with the rule on certification against forum shopping. It appeared that while petitioners Ronnie Dar, Randy Angeles, Joy Constantino, and Liberty Cruz signed the said certification, their respective spouses did not sign the same. We held in that case that since what was involved in the complaint was the petitioners' common rights of abode under the system of absolute community of property, either of the spouses could sign the certification of non-forum shopping. The failure of the other spouses to sign the said certification should not be a ground for dismissal of their petition.

As aptly stated in *Dar*, to wit:

With respect to the contents of the certification which the pleader may prepare, the rule of substantial compliance may be availed of. While this section (Section 1 of SC Administrative Circular No. 4-94) requires that it be strictly complied with, it merely underscores its mandatory nature in that it cannot be altogether dispensed with or its requirements completely disregarded but it does not thereby prevent substantial compliance on this aspect of its provisions under justifiable circumstances. Circular No. 28-91 was designed to serve as an instrument to promote and facilitate the orderly administration of justice and 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.[12] (Insertion supplied).

Taking into account the circumstances of the present case, no real prejudice will result to the respondents' cause by proceeding with the pre-trial of the case already set. But a palpable denial of substantial justice to petitioners may occur because of belated reliance on a literal adherence to the formal requirement in an administrative circular, SC. No. 4-94, whose intent is precisely the expeditious administration of justice by the concerned court.

WHEREFORE, the Order dated October 1, 2001 of the Regional Trial Court of Panabo City, Branch 34, in Civil Case No. 99-78, is hereby REVERSED and SET ASIDE. The case is REMANDED to the said court for its proper and expeditious disposition.

SO ORDERED.

Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.
Puno, (Chairman), J., on official leave.

[1] Rollo, pp. 18-19.

[2] Rollo, p. 19.

[3] G.R. No. 143016, 30 August 2000, 339 SCRA 306, 309-310.

[4] G.R. No. 135945, 7 March 2001, 353 SCRA 782, 800.

[5] G.R. No. 140153, 28 March 2001, 355 SCRA 658, 666.

[6] Effective 1 January 1992.

[7] Effective 1 April 1994.

[8] G.R. No. 139396, 15 August 2000, 338 SCRA 62, 68.

[9] Otherwise known as the “Anti-Graft and Corrupt Practices Act”.

[10] Rollo, p. 26.

[11] Supra, note 3.

[12] Id. at 309.

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