

**ATTY. FEDERICO CALO, NORMAN CALO, FEDERICO CALO JR., AND
DANILO CALO (DECEASED), PETITIONERS, VS. SPOUSES JACINTA
VILLANUEVA AND JOSE VILLANUEVA, RESPONDENTS.**

G.R. NO. 153756. January 30, 2006

Ponente: TINGA, J.

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TINGA, J.:

At bar is a Rule 45 petition involving purely technical questions.

The procedural antecedents on which the petition is solely hinged are as follows:

On 2 January 2001, respondent spouses Jacinta and Jose Villanueva filed before the Provincial Agrarian Reform Office (PARO) in CARAGA Region XIII, San Francisco, Agusan del Sur a case for unlawful ejectment and damages[1] against petitioners: Atty. Federico Calo (Atty. Calo), the alleged landowner, and his son, Norman Calo, the alleged manager of the property. Respondents claimed that beginning 1966, they had cleared second-growth forests and planted and cultivated a variety of crops and coconut trees under a share-tenancy agreement of two-thirds (2/3) to the tenant and one-third (1/3) to the owner over a two (2) hectare portion of Atty. Calo's property. Respondents also alleged that they were allowed to enter an additional three (3) hectares under the same tenancy terms in 1979.[2]

In their Answer with Counterclaim,[3] petitioners alleged, inter alia, that respondents were never constituted as tenants for agricultural production but merely as piados or caretakers tasked to prevent the entry of squatters in the area, and thus not entitled to the security of tenure provided under Republic Act (R.A.) No. 6657.[4]

Due to the failing health of Atty. Calo, the venue of the petition was transferred to the PARO in CARAGA Region XIII, Butuan City.[5] After pre-trial and the submission by the parties of their respective position papers, Regional Adjudicator Jimmy V. Tapangan rendered a Decision dated 15 June 2001 which in essence declared respondents as lawful tenants-lessees of five (5) hectares of land registered in the name of Norman Calo[6] and, as such, entitled to posses, cultivate, and share in the harvests thereof pursuant to Section 34 of R.A. No. 3844, otherwise known as the Agricultural Land Reform Code.[7]

On 12 July 2001, petitioners filed a Motion for Reconsideration[8] which included in its prayer a request for an ocular inspection of the subject landholding for the purpose of clarifying the vague points raised by respondents and for the Regional Adjudicator to determine whether respondents' claims thereto were true or merely fabricated.[9]

After the ocular inspection, Danilo R. Calo and Federico R. Calo, Jr., (Calo, Jr.) filed a Motion for Intervention[10] alleging that they are the actual owners of the land which respondents pointed to during the ocular inspection.[11] After being allowed to intervene through an Order dated 18 October 2001, Danilo R. Calo and Calo, Jr. filed an Answer-in-Intervention essentially raising the issues of lack of both jurisdiction and cause of action.[12]

After the parties submitted their respective memoranda, with the original petitioners and the intervenors filing a joint pleading, the Regional Adjudicator issued an Order[13] dated 21 February 2002 denying for lack of merit the Motion for Reconsideration, as well as the Answer-in-Intervention of the co-petitioners.

On 1 April 2002, petitioners filed before the Court of Appeals a Petition for Review[14] under Rule 43 of the Revised Rules on Civil Procedure, with Atty. Edmundo Calo as co-counsel of Atty. Calo. However, the verification and certification of non-forum shopping of their Petition was signed not by all petitioners but by Atty. Calo only. Moreover, the petition lacked the affidavit of service on respondents and the PARO in CARAGA Region XIII, Butuan City in violation of Section 13, Rule 13 of the Revised Rules of Civil Procedure. This prompted the Court of Appeals to dismiss the appeal via a Resolution[15] promulgated on 11 April 2002. It ruled, thus:

A close examination of the Petition for Review shows the following infirmities which render it dismissible, viz:

- Lack of proper verification and certification of non-forum shopping which was not signed by all the petitioners (See *Loquias v. Office of the Ombudsman*, 338 SCRA 62 [2000]; and
- Lack of affidavit of service as required by Sec. 13, Rule 13 of the 1997 Rules of Civil Procedure.

IN VIEW WHEREOF, the Petition for Review is hereby dismissed.

SO ORDERED.

Petitioners' Motion for Reconsideration dated 2 May 2002 was denied through a Resolution promulgated 28 May 2002. Thereafter, petitioners filed an appeal before this Court through a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Civil Procedure.

Without at all touching on the substantive aspects of their cause, petitioners submit it thru the present petition solely on the procedural dimensions, claiming that the Court of Appeals erred in dismissing their appeal purely on the basis of mere technicalities. They pray that the case be remanded in order that the Court of Appeals may resolve their case on the merits.

The petition relies heavily on this Court's pronouncements on substantial compliance with procedural requirements, a liberal interpretation of the Rules of Court and on the ideal that litigations should, as much as possible, be decided on their merits and not on technicalities.

We agree. Dismissal of appeals purely on technical grounds is frowned upon.[16]

With regard to dismissal by reason of lack of the proper signatures required for the certification of non-forum shopping, petitioners submit that the signature of Atty. Calo is adequate to satisfy the requirement under Section 2, Rule 42 of the Revised Rules on Civil Procedure.[17] Reliance is placed on *Condo Suite Club Travel, Inc., v. NLRC*[18] in which this Court ruled that the certification of non-forum shopping may be signed not only by the petitioners but also any of the principal parties.[19] Thus, petitioners stress that not only is Atty. Calo an original principal party, he is also the father and counsel of the other petitioners.[20] They emphasize the fact that the issues raised in respondents' complaint dwell on matters entered into by respondents with Atty. Calo at a time when the rest of the petitioners were still under-age.[21]

All the foregoing circumstances evince that Atty. Calo is a principal party to the case, competent in that capacity to sign the certification of non-forum shopping in behalf of the other petitioners. It is apparent from the pleadings on record that, for all intents and purposes, Atty. Calo has all along been the driving force behind petitioners' staunch defense against respondents' suit. Verily, actually playing the role of principal party to the case and being

the father and legal counsel to petitioners, Atty. Calo can, with reasonable certainty, declare whether or not his co-petitioners have engaged in forum-shopping.

Applicable to this case is *Cavile, et al. v. Heirs Of Clarita Cavile, et. al.*[22] Finding that the petitioners were relatives and co-owners jointly sued over property in which they had common interest, this Court in that case held that the signature of just one co-owner on the certificate of non-forum shopping in the petition before the Court substantially complied with the rule in this wise:

We find that the execution by Thomas George Cavile, Sr. in behalf of all the other petitioners of the certificate of non-forum shopping constitutes substantial compliance with the Rules. All the petitioners, being relatives and co-owners of the properties in dispute, share a common interest thereon. They also share a common defense in the complaint for partition filed by the respondents. Thus, when they filed the instant petition, they filed it as a collective, raising only one argument to defend their rights over the properties in question. There is sufficient basis, therefore, for Thomas George Cavile, Sr. to speak for and in behalf of his co-petitioners that they have not filed any action or claim involving the same issues in another court or tribunal, nor is there other pending action or claim in another court or tribunal involving the same issues.[23]

As the Court of Appeals opted not to decide the case on the merits, it is opportune to take stock of this Court's constant pronouncement that the ends of justice would be served better when cases are determined, not on mere technicality or some procedural nicety, but on the merits —after all the parties are given full opportunity to ventilate their causes and defenses.[24] Also, apposite is our ruling in *Barnes v. Reyes et. al.*, [25] to wit:

With respect to the contents of the certification which the pleader may prepare, the rule of substantial compliance applies. While this section requires that it be strictly complied with, in essence, what it means is that it cannot be altogether dispensed with or its requirements completely disregarded. But it does not thereby rule out substantial compliance under justifiable circumstances. The rule against forum-shopping 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 ultimate objective—the goal of all rules of procedure—of achieving substantial justice as expeditiously as possible.

. . . .

A litigation is rather a contest in which each contending party fully and fairly lays before the court the facts in issue and then, brushing aside as wholly trivial and indecisive all imperfections of form and technicalities of procedure, asks that justice be done on the merits.

Turning now to the lack of affidavits of service, we have held that "an affidavit of service, under Section 13, Rule 13 of the 1997 Rules of Civil Procedure, is required merely as proof that service has been made to the other parties in a case." [26] Petitioners have submitted confirmation of actual receipt by the DARAB and respondents' counsel of copies of the Petition for Review through the duly signed registry return cards. Certainly, the purpose behind the rule has been satisfied.

In sum, we find that the technicalities cited by the Court of Appeals should be relegated to the back burner since petitioners have complied substantially with the procedural requirements involved.

The rules of procedure ought not to be applied in a very rigid, technical sense, for they have been adopted to help secure—not override—substantial justice. [27] For this reason, courts must proceed with caution so as not to deprive a party of statutory appeal; rather, they must ensure that all litigants are granted the amplest opportunity for the proper and just ventilation of their causes, free from the constraint of technicalities.[28]

WHEREFORE, the resolutions of the Court of Appeals dated 11 April 2002 and 28 May 2002 are REVERSED and SET ASIDE. The case is REMANDED to the Court of Appeals for decision on the merits.

SO ORDERED.

Quisumbing, (Chairman), Carpio, and Carpio-Morales, JJ., concur.

[1] Entitled "Spouses Jacinta and Jose Villanueva vs. Atty. Frederico and Norman Calo," docketed as DARAB Case No. XIII (03)-918.

[2] DARAB Records, pp. 1- 6.

[3] Id. at 9-19.

[4] Id. at 19.

[5] Under Title No. P-12349.

[6] DARAB Records, pp. 61-77.

[7] Id. at 61.

[8] Id. at 78-81.

[9] Id. at 81-70.

[10] Id. at 105-113.

[11] Id. at 95-96.

[12] Id. at 111-108.

[13] Id. at 147-150.

[14] CA-G.R. SP UDK No. 4531

[15] Penned by Associate Justice Rodrigo V. Cosico and concurred in by Associate Justices Buenaventura J. Guerrero and Eliezer R. de los Santos of the Third Division of the Court of Appeals.

[16] Remulla v. Manlongat, G.R. No. 148189, 11 November 2004, 442 SCRA 226, 236 citing Jaro v. Court of Appeals, 427 Phil 532, 548 (2002).

[17] Section 2. Form and contents.— x x x

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.

[18] 380 Phil. 660 (2000).

[19] Id. at 667.

[20] Rollo, p. 10.

[21] Ibid.

[22] 448 Phil. 302 (2003).

[23] Id. at 311-312.

[24] Supra note 16 at 236 citing Paras v. Baldado, 352 SCRA 141, 146, 8 March 2001.

[25] G.R. No. 144533. September 23, 2003, 411 SCRA 538, 542-544.

[26] Mc Engineering, Inc., and Hanil Development Corp., Ltd, v. National Labor Relations Commission and Aristotle Baldameca, 412 Phil. 614 (2001).

[27] Remulla v. Manlongat, G.R. No. 148189, 11 November 2004, 442 SCRA 226, 236 citing Jaro v. Court of Appeals, 427 Phil. 532, 548.

[28] Remulla v. Manlongat, G.R. No. 148189, 11 November 2004, 442 SCRA 226, 236, citing Salazar v. Court of Appeals, 426 Phil. 864, 876.

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