

**TIBLE & TIBLE COMPANY, INC., HEIRS OF EMILIO G. TIBLE, JR.,
NAMELY: ALMABELLA MENLA VDA. DE TIBLE, EMILIO M. TIBLE IV,
MA. MYLENE TIBLE, VICTOR M. TIBLE, ERIC M. TIBLE, ALLAN M....**

G.R. No. 155806. April 08, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

THE remedies of appeal and certiorari are mutually exclusive, not alternative or successive. Certiorari being an extraordinary remedy, the party which seeks to avail of it must observe the Rules strictly.

This is a Rule 45 petition for review on certiorari of the Resolution[1] of the Court of Appeals (CA) which dismissed a Rule 65 petition for certiorari on procedural flaws.

The Facts

The facts, as reflected in the petition and its annexes, are as follows:

Sometime in June 1997, petitioners Tible & Tible Company, Inc. (TTCI) and Emilio G. Tible, Jr. (now deceased), jointly and severally, obtained a loan and/or credit accommodation from respondent Royal Savings and Loan Association (RSLA) in the total amount of one million five hundred thousand and eighty pesos (P1,500,080.00). The loan amount was released to petitioner TTCI in four instalments, as follows:

Date Released Amount Due Date

June 6, 1977 P750,000.00 June 6, 1980

July 30, 1977 250,040.00 June 30, 1980

September 21, 1977 250,040.00 September 9, 1980

February 21, 1978 250,000.00 February 21, 1980

TOTAL

P1,500,080.00

Securing the loan were the following mortgages:

(a)

Chattel Mortgage executed on June 2, 1977 over 64 units/pieces of logging, heavy, and sawmill equipment, their accessions and accessories, all valued at P3,123,035.00; and

(b)

Chattel Mortgage on 2,243 pieces of logs, with total volume of 683,818 board feet.

The loan was intended to finance the logging and lumber business of petitioner TPCI. Unfortunately, between 1977 to 1980, TPCI did not come up to its projected capacity of 12,000 board feet per 8-hour operation due to mechanical and design deficiencies. Despite remedial measures undertaken, it was unsuccessful in its efforts to rehabilitate the sawmill. TPCI was thus able to pay only P418,317.40 through dacion en pago by delivery of its lumber products.

In a Decision dated February 4, 1980 in Civil Case No. 2893, then Judge Luis L. Victor of the Court of First Instance (CFI) of Cavite, Branch 2, approved the compromise agreement between respondent RSLA, as then plaintiff on the one hand, and petitioners TPCI and Emilio Tible, Jr., as then defendants, on the other. TPCI expressly admitted to be indebted to RSLA in the sum of P2,428,290.20, inclusive of interests, attorney's fees service charges, stamps collection costs and expenses of suit, to be restructured for 18 months commencing January 12, 1980.[2]

Also stipulated in said compromise agreement is the mode of payment, to wit:

2. That defendants, after having fully examined and verified the said sum of P2,428,290.20 to be correct and/or untainted by any illegality or any imperfection in law and in fact, do hereby expressly propose to pay the said sum of P2,428,290.20 strictly according to the following schedule:

- P156,176.58 - on or before March 30, 1980;

- P156,176.58 - on or before April 30, 1980 and every 30[th] day of the immediately succeeding months thereafter until the account is paid in full, it being expressly understood that all unpaid instalments shall bear fourteen per cent (14%) interest per annum from their respective dates of default until full payment.[3]

The compromise agreement further stated that "failure on the part of the defendants to pay any one of the installments as and when the same is due and payable, shall make the whole obligation immediately due and payable and shall entitle the plaintiff to immediately execute without further verbal or written notice to the defendants x x x." [4]

After TPCI defaulted in its monthly payments, RSLA moved for immediate execution of the February 4, 1980 Decision based on the compromise in Civil Case No. N-2893, without furnishing TPCI any copy of such motion. CFI granted the motion and issued the order dated July 16, 1980 stating as follows:

For failure of the defendants to comply with the decision rendered by the Court on February 4, 1980, the omnibus ex parte motion for appointment of special sheriff to enforce the same, dated July 1, 1980, filed by the plaintiff is granted.

WHEREFORE, in view thereof, let a writ of execution be issued in this case and the same be implemented by the City Sheriff of Naga City.

SO ORDERED.[5]

In its manifestation with ex parte motion dated August 17, 1981 in the said civil case, RSLA sought the issuance of an alias writ of execution, which was again granted by the CFI, as follows:

Considering the manifestation with ex parte motion, dated August 17, 1981, filed by counsel for the plaintiff, to be well-taken, the motion is granted and an alias writ of execution is hereby issued in this case and to implement the same, Deputy Provincial Sheriff of Laguna Godofredo Quiling is hereby appointed as a special sheriff for the purpose.

SO ORDERED.[6]

Accordingly, an alias writ of execution[7] was issued.

In a public auction sale conducted on December 12, 1983 by Godofredo E. Quiling, then Deputy Sheriff of the Province of Laguna, twenty-three (23) parcels of land[8] were awarded to RSLA as highest bidder for the total bid price of P950,000.00.

On November 5, 1993, almost ten years after the supposed public auction sale, Quiling, now Sheriff IV of Calamba, Laguna, issued the final deed of sale[9] in favor of RSLA (now Comsavings Bank).

Upon another ex parte motion by now respondent Comsavings Bank, the former CFI of Cavite, now Regional Trial Court (RTC), Branch 16, in Cavite City, issued an Order[10] for: (a) the Register of Deeds of Naga City to cancel Transfer Certificate of Title (TCT) No. 9061; (b) the Register of Deeds of Camarines Sur to cancel seven original and transfer certificates of title; (c) the Provincial Assessor of Camarines Sur to cancel eight tax declarations; and (d) the City Assessor of Naga City to cancel two tax declarations and (e) all of them to issue in lieu thereof new certificates of title and tax declarations in the name of respondent Comsavings Bank, upon payment of corresponding fees and subject to subsisting encumbrances.

Aggrieved by these developments, petitioners filed an action for "Annulment of Execution Sale, and TCT Nos. 27994, 24002, 24003, 24004, 24005 and other related Documents, and/or Reconveyance of Real Property with prayer to Preliminary Injunction and Restraining Order with Damages" initially with the RTC, Branch 24, Naga City which was docketed as Civil Case No. RTC-96-3626, considering that the subject matter in litigation are located within the territorial jurisdiction of the said court.

In an Order[11] dated October 13, 1997, however, RTC, Branch 24, in Naga City dismissed the complaint for want of jurisdiction and suggested that the complaint be filed in Cavite City instead. It cited *Philippine National Bank v. Javelana*[12] which held that the rule which prohibits a judge from interfering with the actuations of the judge of another branch of the same court is not infringed when the judge who modifies or annuls the order issued by the other judge acts in the same case and belongs to the same court.[13]

Opting against elevating the said order of dismissal to the appellate court, petitioners filed the same complaint, which is now the case involved in the present petition, with the RTC in Cavite City as suggested by the RTC in Naga City. This was considered as a new case, docketed as Civil Case No. N-6619, raffled to the same RTC, Branch 16 in which Civil Case No. N-2893 was docketed.

Instead of filing an answer, respondent Comsavings bank filed a motion to dismiss on the ground that petitioners' claim or demand has been waived, abandoned or otherwise extinguished.

RTC and CA Dispositions

On February 6, 2002, the RTC dismissed the complaint in Civil Case No. N-6619 for want of proof. The RTC likewise dismissed the counterclaim. Petitioners' motion for reconsideration of said dismissal was also denied by the RTC in its Order dated March 26, 2002, stating that:

Acting on the motion for reconsideration dated February 22, 2002 and finding no new and cogent reason which would warrant a reversal of the decision dated February 6, 2002 considering that the issues raised have already been passed upon and dealt with adequately, the same is DENIED.

SO ORDERED.[14]

Petitioners elevated the case to the CA on May 15, 2002 via petition for review under Rule 42. On May 20, 2002, after allegedly realizing that the decision of RTC, Branch 16, Cavite City was not rendered in the exercise of appellate jurisdiction, petitioners filed a motion to withdraw petition for review. The CA granted the motion to

withdraw.

On May 23, 2002, petitioners filed a petition for certiorari with the CA.

On July 11, 2002, the CA dismissed outright the petition for certiorari on procedural grounds, viz.:

(1)

the "Verification Affidavit of Non-Forum Shopping" was signed by one Almabella Menla Vda. de Tible, but there is no Special Power of Attorney, Board Resolution nor Secretary's Certificate was attached thereto authorizing said signatory to sign the Verification and Affidavit of Non-Forum Shopping in behalf of the other petitioners; (Sec. 3, Rule 46 of the 1997 Rules of Civil Procedure as amended)

(2)

there is no written explanation to justify service by mail in lieu of the required personal service of copies of the petition upon the respondents was made (Section 11, Rule 13, Id.; Solar Team Entertainment, Inc. vs. Hon. Ricafort, et al., 293 SCRA 661).

Further, even a perfunctory reading of the petition reveals that the same is seriously infirmed in that it is not the proper remedy from the assailed decision dismissing petitioners' complaint for "Annulment of Execution Sale and T.C.T. Nos. 27994, 24002, 24003, 24005 and other related documents, and/or Reconveyance of Real Property with prayer for Preliminary Injunction and Restraining Order with Damages" in Civil Case No. N-6619 before the Regional Trial Court of Cavite City, Branch 16, but ordinary appeal therefrom under Rule 41 of the 1997 Rules of Civil Procedure.[15]

On August 5, 2002, petitioners filed a motion for reconsideration and motion to admit petitioners' special power of attorney and board resolution. In a Resolution dated October 29, 2002, the CA denied petitioners' plea for reconsideration.

Hence, the present petition for review on certiorari.

Issues

The two main issues are both procedural in nature:

1. Is petitioners' proper remedy an ordinary appeal under Rule 41 or a petition for certiorari under Rule 65?
2. May the CA relax the application of the rules requiring verification and certification of non-forum shopping under Section 3, Rule 46, as well as compliance with the rule regarding priorities in modes of service and filing of pleadings under Section 11, Rule 13?

Our Ruling

The CA aptly dismissed the petition for certiorari for being an improper remedy.

In the assailed Resolution of July 11, 2002, the CA dismissed petitioners' certiorari petition for being the wrong remedy or mode of review of the decision dated February 6, 2002 of RTC, Branch 16, in Cavite City.

The RTC decision is a judgment from which an appeal may be taken in accordance with Section 1, Rule 41 of the Rules of Court, which states:

SECTION 1. Subject of appeal. - An appeal may be taken from a judgment or final order that completely disposes of the case or of a particular matter therein when declared by these Rules to be appealable.

The CA was, therefore, correct when it dismissed outright the petition for certiorari. This Court has invariably upheld dismissals of certiorari petitions erroneously filed, appeal being the correct remedy. It is a very basic rule in our jurisprudence that certiorari cannot be availed of when the party has adequate remedy such as an appeal.

Section 1, Rule 65 of the 1997 Rule of Civil Procedure explicitly states when a petition for certiorari may be availed of, to wit:

SECTION 1. Petition for certiorari. - When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require. (Emphasis supplied)

The Court has exhaustively enumerated and painstakingly discussed the differences between these two remedies in *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*,^[16] viz.:

Appeal and Certiorari Distinguished

Between an appeal and a petition for certiorari, there are substantial distinctions which shall be explained below.

As to the Purpose. Certiorari is a remedy designed for the correction of errors of jurisdiction, not errors of judgment. In *Pure Foods Corporation v. NLRC*, we explained the simple reason for the rule in this light:

"When a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. If it did, every error committed by a court would deprive it of its jurisdiction and every erroneous judgment would be a void judgment. This cannot be allowed. The administration of justice would not survive such a rule. Consequently, an error of judgment that the court may commit in the exercise of its jurisdiction is not correctable through the original civil action of certiorari."

The supervisory jurisdiction of a court over the issuance of a writ of certiorari cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court - on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision. Even if the findings of the court are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of certiorari. Where the error is not one of jurisdiction, but of an error of law or fact - a mistake of judgment - appeal is the remedy.

As to the Manner of Filing. Over an appeal, the CA exercises its appellate jurisdiction and power of review. Over a certiorari, the higher court uses its original jurisdiction in accordance with its power of control and supervision over the proceedings of lower courts.[] An appeal is thus a continuation of the original suit, while a petition for certiorari is an original and independent action that was not part of the trial that had resulted in the rendition of the judgment or order complained of. The parties to an appeal are the original parties to the action. In contrast, the parties to a petition for certiorari are the aggrieved party (who thereby becomes the petitioner) against the lower court or quasi-judicial agency, and the prevailing parties (the public and the private respondents, respectively).

As to the Subject Matter. Only judgments or final orders and those that the Rules of Court so declare are appealable. Since the issue is jurisdiction, an original action for certiorari may be directed against an interlocutory order of the lower court prior to an appeal from the judgment; or where there is no appeal or any plain, speedy or adequate remedy.

As to the Period of Filing. Ordinary appeals should be filed within fifteen days from the notice of judgment or

final order appealed from. Where a record on appeal is required, the appellant must file a notice of appeal and a record on appeal within thirty days from the said notice of judgment or final order. A petition for review should be filed and served within fifteen days from the notice of denial of the decision, or of the petitioner's timely filed motion for new trial or motion for reconsideration. In an appeal by certiorari, the petition should be filed also within fifteen days from the notice of judgment or final order, or of the denial of the petitioner's motion for new trial or motion for reconsideration.

On the other hand, a petition for certiorari should be filed not later than sixty days from the notice of judgment, order, or resolution. If a motion for new trial or motion for reconsideration was timely filed, the period shall be counted from the denial of the motion.

As to the Need for a Motion for Reconsideration. A motion for reconsideration is generally required prior to the filing of a petition for certiorari, in order to afford the tribunal an opportunity to correct the alleged errors. Note also that this motion is a plain and adequate remedy expressly available under the law. Such motion is not required before appealing a judgment or final order.[17]

With these distinctions, it is plainly discernible why a party is precluded from filing a petition for certiorari when appeal is available, or why the two remedies of appeal and certiorari are mutually exclusive and not alternative or successive.[18] Where appeal is available, certiorari will not prosper, even if the ground availed of is grave abuse of discretion.[19]

More than that, We find no grave abuse of discretion here. Applying the settled jurisprudence on the matter, appeal would have been an adequate remedy, especially since the dismissal by the RTC was mainly based on factual considerations.

After a thorough review of all the arguments of petitioners, We are unconvinced that the alleged errors referred to are acts of "grave abuse of discretion" that would fall under the definition of this phrase. As We explained in *Pilipino Telephone Corporation v. Pilipino Telephone Employees Association*: [20]

For a petition for certiorari under Rule 65 of the Rules of Court to prosper, the tribunal, board or officer exercising judicial or quasi-judicial functions must be proven to have acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. "Grave abuse of discretion" has been defined as "a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough, it must be so grave as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined or to act at all in contemplation of law." [21]

It should be stressed that it is not sufficient that a tribunal, in the exercise of its power, abused its discretion; such abuse must be grave. [22]

Non-compliance with the rules is fatal to a petition for certiorari.

Even assuming, arguendo, that the petition for certiorari filed with the CA is the correct remedy, still, petitioners' defective verification and affidavit of non-forum shopping as required by Section 3, Rule 46, as well as the absence of any written explanation to justify service by mail in lieu of personal service, as required by Section 11, Rule 13 of the 1997 Rule of Civil Procedure, are fatal to their cause.

In *Athena Computers, Inc. v. Reyes*, [23] the Court stressed that "certiorari, being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by the law." The Court further

explained in Athena:

The acceptance of a petition for certiorari as well as the grant of due course thereto is, in general, addressed to the sound discretion of the court. Although the court has absolute discretion to reject and dismiss a petition for certiorari, it does so only (1) when the petition fails to demonstrate grave abuse of discretion by any court, agency, or branch of the government; or (2) when there are procedural errors, like violations of the Rules of Court or Supreme Court Circulars. Clearly petitioners in their petition before the Court of Appeals committed procedural errors.

The verification of the petition and certification of non-forum shopping before the Court of Appeals were signed only by Jimenez. There is no showing that he was authorized to sign the same by Athena, his co-petitioner.

Section 4, Rule 7 of the Rules states that a pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his knowledge and belief. Consequently, the verification should have been signed not only by Jimenez but also by Athena's duly authorized representative.

In *Docena v. Lapesura*, we ruled that the certificate of non-forum shopping should be signed by all the petitioners or plaintiffs in a case, and that the signing by only one of them is insufficient. The attestation on non-forum shopping requires personal knowledge by the party executing the same, and the lone signing petitioner cannot be presumed to have personal knowledge of the filing or non-filing by his co-petitioners of any action or claim the same as similar to the current petition.[24]

As noted by the CA in its Resolution of July 11, 2002, petitioner Almabella Menla Vda. de Tible's signature in the verification and affidavit of non-forum shopping of the petition for certiorari was not ratified by any special power of attorney, board resolution nor secretary's certificate executed by her co-petitioners authorizing her to sign for and in their behalf. The CA used this as one of its basis to dismiss the petition.

The CA refused to reverse its earlier dismissal upon petitioners' motion for reconsideration despite subsequent compliance by submitting the required special power of attorney,[25] secretary's certificate,[26] and board resolution.[27]

In *Digital Microwave Corporation v. Court of Appeals*,[28] the Court affirmed the CA dismissal of a petition on the same ground, noting -

x x x That petitioner did not in the first instance comply with the requirement of Revised Circular No. 2-91 by having the certification against forum shopping signed by one of its officers, as it did after its petition before the Court of Appeals had been dismissed, is beyond our comprehension.[29] (Emphasis supplied)

At any rate, it must be noted that subsequent compliance does not ipso facto entitle a party to a reconsideration of the dismissal order. As the Court aptly observed in *Batoy v. Regional Trial Court, Br. 50, Loay, Bohol*: [30]

x x x the requirement under Administrative Circular No. 04-94 for a certificate of non-forum shopping is mandatory. The subsequent compliance with said requirement does not excuse a party's failure to comply therewith in the first instance. In those cases where this Court excused the non-compliance with the requirement of the submission of a certificate of non-forum shopping, it found special circumstances or compelling reasons which made the strict application of said Circular clearly unjustified or inequitable. x x x [31] (Emphasis supplied)

Moreover, petitioners failed to include any written explanation to justify service by mail in lieu of the required personal service of copies of the petition upon respondents. Section 11, Rule 13 of the Rules of Court states:

SEC. 11. Priorities in modes of service and filing. - Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to

other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed. (Emphasis supplied)

In *Solar Team Entertainment v. Ricafort*,^[32] the Court has unequivocally stated that "for the guidance of the Bench and the Bar, strictest compliance with Section 11, Rule 13 is mandated x x x."^[33] The Court finds no cogent reason not to apply the same strict standard to petitioners.

The doctrine of liberal application of Procedural rules applies when there is justifiable cause for non-compliance or compelling reason to relax it.

Much reliance is placed on the rule that "Courts are not slaves or robots of technical rules, shorn of judicial discretion. In rendering justice, courts have always been, as they ought to be, conscientiously guided by the norm that on balance, technicalities take a backseat against substantive rights, and not the other way around."^[34] This rule must always be used in the right context, lest injustice, rather than justice would be its end result.

It must never be forgotten that, generally, the application of the rules must be upheld, and the suspension or even mere relaxation of its application, is the exception. This Court previously explained:

The Court is not impervious to the frustration that litigants and lawyers alike would at times encounter in procedural bureaucracy but imperative justice requires correct observance of indispensable technicalities precisely designed to ensure its proper dispensation. It has long been recognized that strict compliance with the Rules of Court is indispensable for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business.

Procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party. Adjective law is important in ensuring the effective enforcement of substantive rights through the orderly and speedy administration of justice. These rules are not intended to hamper litigants or complicate litigation but, indeed to provide for a system under which a suitor may be heard in the correct form and manner and at the prescribed time in a peaceful confrontation before a judge whose authority they acknowledge.

It cannot be overemphasized that procedural rules have their own wholesome rationale in the orderly administration of justice. Justice has to be administered according to the Rules in order to obviate arbitrariness, caprice, or whimsicality. We have been cautioned and reminded in *Limpot vs. CA, et al.*, that:

"Rules of procedure are intended to ensure the orderly administration of justice and the protection of substantive rights in judicial and extrajudicial proceedings. It is a mistake to propose that substantive law and adjective law are contradictory to each other or, as often suggested, that enforcement of procedural rules should never be permitted if it will result in prejudice to the substantive rights of the litigants. This is not exactly true; the concept is much misunderstood. As a matter of fact, the policy of the courts is to give both kinds of law, as complementing each other, in the just and speedy resolution of the dispute between the parties. Observance of both substantive rights is equally guaranteed by due process, whatever the source of such rights, be it the Constitution itself or only a statute or a rule of court.

x x x x

"x x x (T)hey are required to be followed except only when for the most persuasive of reasons they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. x x x While it is true that a litigation is not a game of technicalities, this does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly

presentation and assessment of the issues and their just resolution. Justice eschews anarchy.”[35]

For the exception to come into play, first and foremost should be the party litigant's plausible explanation for non-compliance with the rules he proposes to be exempted from. Absent any acceptable explanation, the party's plain violation of the rules will not be countenanced.

Thus, in *Suzuki v. De Guzman*,[36] the Court held:

As a general rule, these requirements are mandatory, meaning, non-compliance therewith is a sufficient ground for the dismissal of the petition. While the Court is not unmindful of exceptional cases where this Court has set aside procedural defects to correct a patent injustice, concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to at least explain his failure to comply with the rules. There must be at least a reasonable attempt at compliance with the Rules. Utter disregard of the Rules cannot justly be rationalized by harking on the policy of liberal construction.[37] (Emphasis supplied)

In *Ortiz v. Court of Appeals*,[38] the CA dismissed the petition for review outright for failure of petitioners to sign the certification of non-forum shopping. The certification was signed only by their lawyer. In affirming the dismissal of the petition, the Court said:

Regrettably, we find substantial compliance will not suffice in a matter involving strict observance as provided for in Circular No. 28-91. The attestation contained in the certification on non-forum shopping requires personal knowledge by the party who executed the same. To merit the Court's consideration, petitioner here must show reasonable cause for failure to personally sign the certification. The petitioners must convince the court that the outright dismissal of the petition would defeat the administration of justice. However, the petitioner did not give any explanation to warrant their exemption from the strict application of the rule. Utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.[39] (Emphasis supplied)

Too, the party litigant must convince the Court that the outright dismissal of the petition would defeat the administration of justice.[40] The Court's pronouncements in *Pet Plans, Inc. v. Court of Appeals*[41] are illustrative:

x x x In *Loquias vs. Office of the Ombudsman* (338 SCRA 62, 68 [2000]), 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. x x x[42]

Recapitulating, the two pre-requisites for the relaxation of the rules are: (a) justifiable cause or plausible reason for non-compliance; and (b) compelling reason to convince the court that outright dismissal of the petition would seriously impair the orderly administration of justice.

Perusing the records, We find neither justifiable cause nor compelling reason to relax the rules in petitioners' favor.

Petitioners do not have any plausible reason for non-compliance. In their motion for reconsideration[43] of the CA dismissal, petitioners claimed that co-petitioners of *Almabella Vda. de Tible*, who signed the verification in their behalf, had executed a Special Power of Attorney (SPA) way back in November 22, 1997, but offered no acceptable explanation why they did not attach a copy of said SPA to their petition for certiorari. The same is true with the lack of a board resolution. Supposed "oversight and/or inadvertence committed by petitioners' counsel"

which may easily be alleged, do not per se constitute an acceptable explanation for non-compliance.

Also, the Court finds nothing on record which constitutes compelling reason for a liberal application of procedural rules.

WHEREFORE, the petition is DENIED for lack of merit.

SO ORDERED.

Austria-Martinez, (Acting Chairperson), Tinga, Chico-Nazario, and Nachura, JJ., concur.

* Vice Associate Justice Consuelo Ynares-Santiago, Chairperson, who is on official leave per Special Order No. 497 dated March 14, 2008.

** Designated as additional member per Special Order No. 497 dated March 14, 2008.

[1] Rollo, pp. 45-46. Dated July 11, 2002. Penned by Associate Justice B.A. Adefuin-dela Cruz (now retired), with Associate Justices Eliezer R. de los Santos (now deceased) and Regalado E. Maambong, concurring.

[2] Id. at 80.

[3] Id.

[4] Id. at 81. (Emphasis supplied)

[5] Id. at 82.

[6] Id. at 84.

[7] Id. at 85.

[8] Ten (10) parcels of land were covered only by tax declarations, while thirteen parcels of land were covered by eight (8) transfer certificates of titles.

[9] Rollo, pp. 86-94.

[10] Id. at 95-96. Dated February 16, 1995 in Civil Case No. N-2893.

[11] Id. at 128-130.

[12] 92 Phil. 525 (1953).

[13] Rollo, p. 130. Cited in RTC Order dated October 13, 1997.

[14] Id. at 25.

[15] Id. at 45-46.

[16] G.R. No. 156067, August 11, 2004, 436 SCRA 123.

[17] *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, id. at 134-136.

[18] *Tomas Claudio Memorial College v. Court of Appeals*, G.R. No. 152568, February 16, 2004, 423 SCRA 122.

[19] *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, supra note 16, at 136-137.

[20] G.R. No. 160058, June 22, 2007, 525 SCRA 361.

- [21] Pilipino Telephone Corporation v. Pilipino Telephone Employees Association, id. at 376-377, citing Salinguin v. Commission on Elections, G.R. No. 166046, March 23, 2006, 485 SCRA 219.
- [22] Benito v. Commission on Elections, G.R. No. 134913, January 19, 2001, 349 SCRA 705, 714.
- [23] G.R. No. 156905, September 5, 2007, 532 SCRA 343.
- [24] Athena Computers, Inc. v. Reyes, id. at 348.
- [25] Rollo, p. 55.
- [26] Id. at 57.
- [27] Id. at 58.
- [28] G.R. No. 128550, March 16, 2000, 328 SCRA 286.
- [29] Digital Microwave Corporation v. Court of Appeals, id. at 290.
- [30] G.R. No. 126833, February 17, 2003, 397 SCRA 506.
- [31] Batoy v. Regional Trial Court, Br. 50, Loay, Bohol, id. at 510.
- [32] G.R. No. 132007, August 5, 1998, 293 SCRA 661.
- [33] Solar Team Entertainment v. Ricafort, id. at 670.
- [34] Grand Placement Services Corporation v. Court of Appeals, G.R. No. 142358, January 31, 2006, 481 SCRA 189, 199.
- [35] Republic v. Hernandez, G.R. No. 117209, February 9, 1996, 253 SCRA 509, 529-531.
- [36] G.R. No. 146979, July 27, 2006, 496 SCRA 651.
- [37] Suzuki v. De Guzman, id. at 662.
- [38] G.R. No. 127393, December 4, 1998, 299 SCRA 708.
- [39] Ortiz v. Court of Appeals, id. at 711-712.
- [40] United Paragon Mining Corporation v. Court of Appeals, G.R. No. 150959, August 4, 2006, 497 SCRA 638, 648.
- [41] G.R. No. 148287, November 23, 2004, 443 SCRA 510.
- [42] Pet Plans, Inc. v. Court of Appeals, id. at 520.
- [43] Rollo, p. 69.

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