

VICAR INTERNATIONAL CONSTRUCTION, INC., AND CARMELITA V. LIM, PETITIONERS, VS. FEB LEASING AND FINANCE CORPORATION (NOW BPI LEASING CORPORATION), RESPONDENT.

G.R. NO. 157195. April 22, 2005

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-157195/>

PANGANIBAN, J.:

Once more, the Court stresses that procedural rules must be used to promote, not obstruct, substantial justice. The failure to attach the Resolution authorizing herein individual petitioner to represent herein corporate petitioner is, under the circumstances, excusable. The immediate correction of the defect should have been deemed sufficient compliance with the rules.

The Case

Before us is a Petition for Review on Certiorari[1] pursuant to Rule 45 of the Rules of Court, seeking to reverse and set aside two Resolutions[2] of the Court of Appeals (CA) dated October 23, 2002[3] and February 7, 2003,[4] in CA-GR SP No. 73117. The earlier Resolution reads:

“The instant petition for certiorari is hereby DISMISSED for lack of proper verification and certification against forum shopping as the same was executed by Carmelita V. Lim, one of the petitioners, without showing any authority from petitioner corporation to sign for and on its behalf.”[5]

The second assailed Resolution denied petitioners’ “Omnibus Motion for Reconsideration and for Admission of the Attached Secretary’s Certificate.”

The Facts

This controversy originated from a Complaint[6] for unjust enrichment and damages, filed in the Regional Trial Court of Makati by herein petitioner, Vicar International Construction, Inc. (Vicar), against Respondent FEB Leasing and Finance Corporation (now BPI Leasing Corporation) and the Far East Bank and Trust Company. In turn, FEB Leasing and Finance Corporation filed a Complaint[7] against Vicar, Carmelita Chaneco Lim and one John Doe, for a sum of money, damages and replevin.

These Complaints stemmed from loans obtained from FEB by Vicar, a corporation engaged in the construction business, for the purchase of certain heavy equipment. In obtaining the loans, Deeds of Absolute Sale with a “lease-back” provision were executed by the parties. In those Deeds, Vicar appears to have sold to FEB the equipment purchased with the loan proceeds and, at the same time, leased them back.[8] For the total loan of P30,315,494, Vicar claims to have paid FEB an aggregate amount of P19,042,908 in monthly amortizations.

Nevertheless, FEB maintains that Vicar still had an outstanding balance of about P22,000,000, despite the extrajudicial foreclosure of sixty-three (63) subdivision lots. These lots, comprising an aggregate area of 20,300 square meters in Calamba, Laguna, were used by the corporation as additional collateral. As a consequence, the

auction sale produced P17,000,000 which, Vicar claims, should have been applied to its loans.

In the course of the second (replevin) case, the trial court issued several Orders pertaining to the possession/custody of eight (8) units of the subject equipment. In an Order dated August 2, 2002, the regional trial court (RTC) quashed the property counterbond filed by Vicar and denied the latter's Motion to Dismiss the Complaint, which was grounded on forum shopping. In an Order dated September 30, 2002, the RTC denied the corporation's Motion for Reconsideration and Motion for Voluntary Inhibition of the trial judge.

On October 3, 2002, Vicar filed a Petition for Certiorari before the Court of Appeals, to stop the implementation of the Writ of Replevin issued against the subject equipment.

Ruling of the Court of Appeals

The Petition was, however, instantly dismissed by the CA in its herein assailed Resolution dated October 23, 2002, because the Verification and the Certification against forum shopping had been executed by Petitioner Carmelita V. Lim without any showing that she had the authority to sign for and on behalf of petitioner-corporation.

On November 23, 2003, the day after receiving its copy of the Resolution, Vicar filed an "Omnibus Motion for Reconsideration and for Admission of the Attached Secretary's Certificate." Nevertheless, the CA denied the Omnibus Motion in this wise:

"The belated filing by the petitioners of the Certification of their Corporate Secretary, to the effect that petitioner Carmelita Lim has been duly authorized by petitioner corporation to file the subject petition for certiorari, did not cure the defect of said petition. Absent any compelling reason for petitioners' failure to comply at the first instance with the required certification, we cannot, therefore, accept their subsequent compliance." [9]

Hence, this Petition. [10]

The Issues

Petitioners raise the following issues for our consideration:

"A.

Whether compelling reasons exist which warrant the liberal construction of the Petition for Certiorari.

"B.

Whether petitioners' subsequent submission of the secretary's certificate is a sufficient compliance with the requirement of the law.

"C.

Whether the policy of the law is to afford a party the fullest opportunity to establish the merits of his case." [11]

In short, the principal issue is whether the Court of Appeals erred in summarily dismissing the Petition for Certiorari.

The Court's Ruling

The present Petition for Review is meritorious.

Main Issue:

Propriety of Summary Dismissal

Petitioners assert that Carmelita V. Lim was duly authorized to execute, for and on behalf of Vicar, the Verification and Certification against forum shopping. Attached to the Petition and signed by Petitioner Lim was the Verification/Certification, in which was explicitly stated the authorization and affirmation, as follows:

“x x x. I am likewise duly authorized to execute this Verification/Certification in behalf of petitioner Vicar International Construction, Inc. x x x.”

This statement was supported by Vicar’s board of directors, who unanimously approved a Resolution dated October 2, 2002, which reads thus:

“NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved, that the Corporation be authorized to file a Petition for Certiorari before the Court of Appeals for the purpose of annulling or setting aside the Orders dated 2 August 2002 and 30 September 2002 rendered by Branch 150 of the Regional Trial Court of Makati in connection with Civil Case No. 02-357 entitled ‘FEB Leasing & Finance Corporation, Plaintiff vs. Vicar International Construction, Inc. et al., Defendants.’

“RESOLVED further, that the President/General Manager Carmelita V. Lim is hereby authorized to execute and sign any and all documents necessary for filing of the Petition for Certiorari, including the verification and certification against forum shopping.”[12]

Petitioners candidly admit that they inadvertently failed to attach the above Resolution to their CA Petition. In preparing the Petition, their counsel supposedly worked overnight without sleep. She wanted to file it immediately to avoid the trial court’s quashal of their counterbond and, thus, the immediate seizure of their equipment -- their only means of livelihood.

Their counsel allegedly believed in good faith that the secretary’s Certificate was attached to the Petition. When they received a copy of the October 23, 2002 CA Resolution on November 11, 2002, they lost no time in filing the following day their “Omnibus Motion for Reconsideration and for Admission of the Attached Secretary’s Certificate.”

Petitioners submit that the foregoing circumstances constitute compelling reasons to justify setting aside the procedural defect, pursuant to *Ramos v. Court of Appeals*. [13]

Further, citing *Yap v. Baldado*, [14] they contend that their posthaste submission of the secretary’s Certificate, albeit after the filing of their Petition, constitutes substantial compliance with the requirements of the law. Finally, they aver that pursuant to the policy of the law to afford parties the fullest opportunity to establish the merits of their case, the CA should have given due course to their Petition.

On the other hand, Respondent FEB asserts that the CA’s dismissal of the Petition -- arising from petitioners’ failure to attach a duly executed verification and certification against forum shopping -- is well within the appellate court’s authority, pursuant to Sections 3 and 5 of Rule 46 of the Revised Rules of Civil Procedure. [15] Respondent also claims that petitioners’ present action before this Court seeks to correct a perceived erroneous application by the CA of a procedural rule that is not correctible by certiorari.

Finally, respondent alleges that the instant Petition, being based on the ground of excusable negligence, is actually a motion for new trial. As such, the Petition must allegedly fail, because petitioners did not execute and attach an affidavit of merits.

The issue before us is not novel; neither are the factual circumstances that gave rise to it.

In *Shipside Incorporated v. Court of Appeals*, [16] the petitioner had not attached any proof that its resident manager was authorized to sign the Verification and the non-forum shopping Certification, as a consequence of

which the Petition was dismissed by the Court of Appeals. Subsequent to the dismissal, however, the petitioner filed a motion for reconsideration, to which was already attached a Certificate issued by its board secretary who stated that, prior to the filing of the Petition, the resident manager had been authorized by the board of directors to file the Petition.

Citing several cases^[17] excusing noncompliance with the requirement of a certificate of non-forum shopping, the Court held that “with more reason should x x x the instant petition [be allowed,] since petitioner herein did submit a certification on non-forum shopping, failing only to show proof that the signatory was authorized to do so.” The Court further said that the subsequent submission of the Secretary’s Certificate, attesting that the signatory to the certification was authorized to file the action on behalf of petitioner, mitigated the oversight.

Similarly, in *General Milling Corporation v. NLRC*,^[18] the Court of Appeals dismissed the Petition, which was not accompanied by any board resolution or certification by the corporate secretary showing that the person who had signed the Certification of Non-Forum Shopping was duly authorized to represent the petitioner-corporation in the case. In the Motion for Reconsideration, however, the petitioner attached a board Resolution stating that the signatory of the Certification had been duly authorized to do so.

Under those circumstances, the Court held that “there was at least substantial compliance with, and that there was no attempt to ignore, the prescribed procedural requirements,” except that the petition “was not accompanied by a board resolution or a secretary’s certificate that the person who signed it was duly authorized by petitioner to represent it in the case.”^[19]

Also, in *BA Savings Bank v. Sia*,^[20] the Court of Appeals denied due course to a Petition for certiorari filed by BA Savings Bank. The CA’s action was grounded on the fact that the Certification on anti-forum shopping incorporated in the Petition had been signed merely by the bank’s counsel, not by a duly authorized representative, as required under Supreme Court Circular No. 28-91. Subsequently filed by the petitioner was a Motion for Reconsideration, to which was attached a Certificate issued by the corporate secretary. The Certificate showed that the Resolution promulgated by the board of directors had authorized the lawyers of petitioner “to represent it in any action or proceeding before any court, tribunal or agency; and to sign, execute and deliver the certificate of non-forum shopping,” among others. Nevertheless, the Court of Appeals denied the Motion on the ground that Supreme Court Revised Circular No. 28-91 “requires that it is the petitioner, not the counsel, who must certify under oath to all of the facts and undertakings required therein.”

The Court again reversed the appellate court and ruled thus:

“Circular 28-91 was prescribed by the Supreme Court to prohibit and penalize the evils of forum shopping. We see no circumvention of this rationale if the certificate was signed by the corporation’s specifically authorized counsel, who had personal knowledge of the matters required in the Circular. In *Bernardo v. NLRC*,^[21] we explained that a literal interpretation of the Circular should be avoided if doing so would subvert its very rationale. Said the Court:

‘x x x. Indeed, while the requirement as to certificate of non-forum shopping is mandatory, nonetheless the requirements must not be interpreted too literally and thus defeat the objective of preventing the undesirable practice of forum-shopping.’”^[22]

Guided by the above pronouncements, the Court deems it proper and justifiable to grant the present Petition. Clearly, petitioners did not deliberately ignore SC Circular 28-91. In fact, a “Verification/Certification,” stating the information required under the Circular, was attached to the Petition for Certiorari filed before the CA. In that Verification/Certification signed by Petitioner Lim, she attested as follows:

“1. x x x I am likewise duly authorized to execute this Verification/Certification in behalf of petitioner Vicar

International Construction, Inc.

“2. In my personal capacity and as a duly authorized representative of Vicar International Construction, Inc., I caused the preparation of the foregoing Petition for Certiorari.”

x x x x x x x x

Petitioners merely missed attaching to their Petition a concrete proof of Lim’s authority from Vicar to execute the said Verification/Certification on its behalf. The latter, however, lost no time in submitting its corporate secretary’s Certificate attesting to the fact that, indeed, Petitioner Vicar’s board of directors had unanimously approved a Resolution on October 2, 2002, authorizing its president and general manager, Carmelita V. Lim, to file the Petition and “to execute and sign x x x the verification and certification against forum shopping.”

The Certificate was submitted to the CA on the day right after it had denied the Petition. Such swiftness of action indicates that the Resolution -- authorizing Petitioner Lim to file the Petition and execute the Verification and the Certification against forum shopping on behalf of Petitioner Vicar -- did exist at the time the Petition was filed. Such fact also lends credence to the assertion of petitioners that it was only due to inadvertence and oversight that they failed to attach the Secretary’s Certificate to their Petition for Certiorari.

In closing, the Court stresses once more that technical rules of procedure should be used to promote, not frustrate, justice. While the swift unclogging of court dockets is a laudable objective, the granting of substantial justice is an even more urgent ideal.[23] Rules of procedure are but tools designed to facilitate, not obstruct, the attainment of justice.

WHEREFORE, the Petition is GRANTED, and the appealed Resolutions are REVERSED and SET ASIDE. The case is REMANDED to the Court of Appeals, which is directed to continue the proceedings in CA-GR SP No. 73117 with deliberate speed. No costs.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

Garcia, J., No part. Had taken part in assailed Resolutions.

[1] Rollo, pp. 11-37.

[2] First Division. Penned by Justice Eloy R. Bello Jr., with the concurrence of Justices Cancio C. Garcia (acting presiding justice then, now a member of this Court) and Sergio L. Pestano.

[3] Rollo, p. 41.

[4] Id., p. 43.

[5] October 23, 2002 Resolution; rollo, p. 41.

[6] Civil Case No. 00-522, Regional Trial Court, Branch 133, Makati City; Annex “J” to Petition; rollo, pp. 90-97.

[7] Civil Case No. 02-357, Regional Trial Court, Branch 150, Makati City; Annex “K” to Petition; rollo, pp. 102-113.

[8] Annex “F” to Petition; rollo, pp. 84-86.

[9] February 7, 2003 Resolution; rollo, p. 43.

[10] This case was deemed submitted for decision on December 22, 2003, upon this Court's receipt of respondent's Memorandum, the signature page of which had been left unsigned by Atty. Marvin J. Urmenita. Petitioners' Memorandum, signed by Atty. Maria Teresa S. Sianghio, was received by this Court on December 5, 2003.

[11] Petitioners' Memorandum, p. 11; rollo, p. 255. Original in upper case.

[12] Petitioners' Memorandum, p. 6; rollo, p. 250.

[13] 257 SCRA 167, July 7, 1997.

[14] 354 SCRA 141, March 8, 2001.

[15] §§3 & 5 of Rule 46 of the Rules of Court read:

“Sec. 3. Contents and filing of petition; effect of non-compliance with requirements. –

x x x x x x x x

“The petitioner shall also submit together with the petition a sworn certification 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.”

“Sec. 5. Action by the court. – The court may dismiss the petition outright with specific reasons for such dismissal or require the respondent to file a comment on the same within ten (10) days from notice. Only pleadings required by the court shall be allowed. All other pleadings and papers may be filed only with leave of court.”

[16] 352 SCRA 334, February 20, 2001, per Melo, J. See also *Active Realty & Development Corporation v. Daroya*, 431 Phil. 753, May 9, 2002.

[17] *Loyola v. Court of Appeals*, 245 SCRA 477, June 29, 1995; *Roadway Express, Inc. v. Court of Appeals*, 264 SCRA 696, November 21, 1996; *Uy v. LandBank*, 336 SCRA 419, July 24, 2000.

[18] 394 SCRA 207, December 17, 2002.

[19] *Id.*, p. 209, per Vitug, J.

[20] 391 Phil. 370, July 27, 2000.

[21] 255 SCRA 108, 117, March 15, 1996, per Mendoza, J.

[22] *BA Savings Bank v. Sia*, *supra*, pp. 378-379, per Panganiban, J.

[23] *Shipside Incorporated v. Court of Appeals*, *supra*; *BA Savings Bank v. Sia*, *supra*; *General Milling Corporation v. NLRC*, *supra*.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.