ATENEO DE NAGA UNIVERSITY AND EDWIN P. BERNAL, PETITIONERS, VS. JOVITA S. MANALO, RESPONDENT.

G.R. NO. 160455. May 09, 2005

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioners urge this Court to reverse the Resolutions of 23 January 2003 and 03 October 2003 of the Court of Appeals (Eighth Division), which, respectively, dismissed, insofar as petitioners are concerned, the petition for certiorari docketed as C.A.-G.R. SP No. 74899 and entitled "Ateneo de Naga University, Fr. Joel Tabora, S.J., and Mr. Edwin P. Bernal vs. Hon. National Labor Relations Commission and Jovita S. Manalo" on the ground that the verification and certification against forum shopping was signed only by Fr. Tabora, and denied the motion to reconsider the former.

The controversy stemmed from the complaint for constructive dismissal, with prayer for moral and exemplary damages and attorney's fees, filed by respondent with the Sub-Regional Arbitration Branch No. 5 of the National Labor Relations Commission (NLRC) in Naga City against petitioners Ateneo de Naga University (ADNU) and Dean Edwin P. Bernal of ADNU's College of Commerce, and ADNU President Fr. Joel Tabora, S.J. This complaint was docketed as Sub-RAB 05-04-00118-00.

In its decision of 13 December 2000,[1] Labor Arbiter Jesus Orlando M. Quiñones rendered judgment against petitioners and Fr. Tabora. The labor arbiter found respondent to have been constructively dismissed when she was transferred from the Accountancy Department of the College of Commerce to the Department of Social Sciences of the College of Arts and Sciences of petitioner ADNU after being charged with alleged mismanagement of the Ateneo de Naga Multi-Purpose Cooperative. The labor arbiter did not, however, award moral and exemplary damages to respondent.

On appeal by the contending parties, the NLRC affirmed in toto the decision of the labor arbiter and denied the motion for reconsideration filed by petitioners and Fr. Tabora in its resolution of 26 March 2002[2] and 30 August 2002,[3] respectively.

Hence, petitioners and Fr. Tabora filed with the Court of Appeals on 22 November 2002 a petition for certiorari under Rule 65 of the Rules of Court ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC. The petition was docketed as CA - G.R. SP No. 74899. However, as stated at the outset, the Court of Appeals dismissed the said petition in a Resolution dated 23 January 2003, finding the verification and certification against forum shopping attached to the petition to have been signed only by Fr. Tabora, thus:

> The instant petition for certiorari is outrightly DISMISSED, as its verification and certification against non-forum shopping are signed by only one of the three petitioners. In Loquias vs. Office of the Ombudsman (338 SCRA 62 [2000]), it was held that all petitioners must be signatories to the certification of non-forum shopping unless one is authorized by the other petitioners. Otherwise, the petition is fatally defective.

So ordered.[4]

On 13 February 2003, Petitioners and Fr. Tabora filed a motion for reconsideration[5] of the foregoing resolution on the ground that Fr. Tabora signed the verification and certification of non-forum shopping not only for himself but also for petitioners herein. Petitioners explained that as president of ADNU, Fr. Tabora was its official representative, and in such capacity, he was duly authorized to sign for and in its behalf. Likewise, petitioners argued that Fr. Tabora was duly authorized by petitioner Bernal to sign for and in his behalf, as evidenced by the Special Power of Attorney[6] dated 18 November 2002, which they admit to have inadvertently failed to attach to their petition for certiorari and which they only attached to their motion for reconsideration.

On 27 June 2003, respondent filed an Opposition to the Motion for Reconsideration with Motion to Admit Opposition dated 26 June 2003,[7] asserting that with respect to petitioner ADNU, no secretary's certificate or board resolution authorizing Fr. Tabora to file the petition for certiorari was attached to the motion for reconsideration; neither was there an allegation to the effect that Fr. Tabora was so authorized. With respect to petitioner Bernal, respondent contended that even assuming that a Special Power of Attorney was executed prior to the filing of the petition for certiorari, neither petitioner Bernal nor Fr. Tabora was authorized to file the petition for certiorari for the primary petitioner, ADNU.

On 16 July 2003, petitioners and Fr. Tabora filed their Comment to Opposition and Manifestation with Motion to Expunge from the Records dated 09 July 2003,[8] praying that respondent's opposition be removed from the records for having been filed out of time and reiterating their motion for reconsideration of the Court of Appeals' 23 January 2003 Resolution. At the same time, petitioners and Fr. Tabora attached to their comment (1) a Secretary's Certificate dated 06 November 2002[9] attesting to a 04 November 2002 resolution of ADNU's Board of Trustees authorizing Fr. Tabora to file the petition for certiorari and sign the verification and certificate of non-forum shopping, and (2) a Secretary's Certificate dated 07 July 2003[10] attesting to a resolution of ADNU's Board of Trustees on even date ratifying Fr. Tabora's acts in connection with the filing of the petition for certiorari, in particular his signing of the certificate of non-forum shopping.

In her Reply to Comment to Opposition and Manifestation and Opposition to Motion to Expunge from the Records with Motion to Expunge Comment of the Petitioners dated 14 July 2003,[11] respondent called attention to the failure of petitioners and Fr. Tabora to mention the certificates in their petition for certiorari and motion for reconsideration. She also noted that in the said motion, petitioners strongly argued that Fr. Tabora had authority to represent ADNU in his capacity as president and not on the basis of any secretary's certificate.

On 03 October 2003, the Court of Appeals, unconvinced by petitioners' arguments and the documents they presented, issued a resolution denying the motion for reconsideration insofar as petitioners are concerned but granting it relative to Fr. Tabora. It ruled:

> "In a more recent case, however, Loquias was modified when the High Court ruled:
> "The greater interest of justice would be served if the petition for certiorari filed by petitioners before the Court of Appeals is adjudicated on its merits with respect to the three petitioners who have signed the verification and certification on non-forum shopping...than to make them all pay for the failure of their co-petitioner...to observe his own compliance with the rules. The three petitioners who have faithfully observed the rules mandated in Section 5, Rule 7 of the 1997 Rules of Civil Procedure, by signing the requisite verification and certification on non-forum shopping, should not be unduly prejudiced by the fault of their co-petitioner who apparently has lost interest in pursuing his case." (Fiel v. Kris Security Systems, Inc., G.R. No. 155875, April 3, 2003)

Accordingly, the above dismissal order is hereby RECONSIDERED AND SET ASIDE, only insofar as the signing petitioner, Fr. Joel Tabora, S.J. is concerned. As to the other two (2) petitioners, Ateneo de Naga

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University and Edwin P. Bernal, the dismissal STANDS.

It should be noted that We are not persuaded by the late filing of the Special Power of Attorney executed by Bernal in favor of Fr. Tabora.....The same is true with the two (2) Secretary's Certificates ..... For if indeed said empowerments were existing before the filing hereof, it should have been mentioned in the petition. None was alleged in the petition. Moreover, We cannot see any reason why despite having priorly authorized Fr. Tabora and Bernal on November 6, 2002 to file the petition at bar, on July 7, 2003, the same Board of Trustees will unanimously pass and adopt another similar resolution of authority to Fr. Tabora and Bernal. Noteworthy too is that the Secretary's Certificate dated November 6, 2002 was never mentioned in petitioners' Motion for Reconsideration thereby putting the same on high suspicion.

ACCORDINGLY, petitioners' Motion for Reconsideration is DENIED insofar as petitioners Ateneo de Naga University and Edwin P. Bernal are concerned, while the same is GRANTED relative to petitioner Fr. Joel Tabora, and this petition is ordered REINSTATED as far as he is concerned. "[12]

Petitioners then filed with this Court the petition at bar. They allege therein that the Court of Appeals committed gross and prejudicial error in dismissing the petition as far as they were concerned. They argue that they and Fr. Tabora share a common interest in the subject matter of CA-G.R. SP No. 74899, that they collectively filed the petition to uphold their common interest, and that they have substantially complied with Section 3, Rule 46 of the Rules of Court by subsequently presenting proof that Fr. Tabora was authorized to sign the certificate of non-forum shopping on their behalf. Thus, they assert that such dismissal was irregular and not in conformity with the applicable decisions of this Court.

In her Comment,[13] respondent claims that petitioners and Fr. Tabora do not share a common interest as not all of them were adjudged liable by the labor arbiter and the NLRC. Only petitioner ADNU was held liable for the relief granted; as such, petitioner Bernal and Fr. Tabora have no cause of action against either respondent or the NLRC. Respondent further averred that petitioners cannot invoke substantial compliance with Section 3, Rule 46 of the Rules of Court as their belated submission of the Special Power of Attorney and Secretary's Certificates was highly suspect. As regards the certificates, respondent additionally declared their submission to be evidently an afterthought as they were put forward only after respondent repeatedly pointed out the absence of authority of Fr. Tabora.

After the filing by petitioners of the Reply to the Comment, the Court gave due course to the petition and required the parties to submit their respective memoranda, which they later did.

Once again, this Court is confronted with the question of whether the Court of Appeals correctly dismissed the petition for certiorari insofar as petitioners are concerned for lack of proper verification and certification against forum shopping. Specifically, the problem in this case is not the lack of verification and certification but the adequacy of one executed by only one of three petitioners in the Court of Appeals. Invoking substantial compliance, petitioners are asking this Court to temper the application of the rules on verification and certification against forum shopping to forestall the dismissal of their petition before the Court of Appeals.

This Court finds merit in the instant petition.

Two separate rules come to play in the case at hand – one, on verification, under Section 4, Rule 7 of the Rules of Court; and two, on the certification against forum shopping, under Section 3, Rule 46 of the Rules of Court.

As regards the verification requirement, this Court explained in Torres vs. Specialized Packaging Development Corporation[14] that such requirement is deemed substantially complied with when, as in that case, two out of 25 real parties-in-interest, who undoubtedly have sufficient knowledge and belief to swear to the truth of the

allegations in the petition, signed the verification attached to it. Such verification is deemed sufficient assurance that the matters alleged in the petition have been made in good faith or are true and correct, not merely speculative.[15]

Applying the foregoing to the instant petition, this Court finds that, at the minimum, the lone signature of Fr. Tabora is sufficient to fulfill the verification requirement. Undoubtedly, Fr. Tabora, whose acts as president of petitioner ADNU are in issue, is a real party-in-interest. As ADNU's president and himself a party to the instant case, Fr. Tabora has sufficient knowledge to swear to the truth of the allegations in their petition for certiorari filed with the Court of Appeals. His signature, therefore, is sufficient assurance that the allegations in their petition have been made in good faith or are true and correct, not merely speculative.

In fact, the signature of Fr. Tabora is sufficient to stand for petitioners ADNU and Bernal. Although belatedly shown, the authority of Fr. Tabora to sign on behalf of petitioners is apparent from the record. Thus, attached to petitioners' motion for reconsideration was a Special Power of Attorney[16] dated 18 November 2002, and to their Comment to Opposition and Manifestation with Motion to Expunge from the Records dated 09 July 2003 were attached the Secretary's Certificates[17] showing that ADNU's Board of Trustees authorized Fr. Tabora to file the petition for certiorari and sign the verification and certification against forum shopping and ratified Fr. Tabora's acts in connection with the filing of said petition. While these documents were not attached to the petition for certiorari filed with the Court of Appeals and were submitted only after the filing of said petition, they nonetheless confirm the authority of Fr. Tabora to act on behalf of petitioners in filing the petition.

Respondent assails the authority of Fr. Tabora to sign on behalf of petitioners in view of the belated filing of the Special Power of Attorney dated 18 November 2002 and the two secretary's certificates, which respondent asserts as suspect. In effect, respondent would have this Court discredit these documents to render baseless the supposed authority of Fr. Tabora to sign on behalf of petitioners.

This Court, however, is not persuaded. Any suspicion on the authenticity and due execution of the special power of attorney and the two secretary's certificates, which are notarized documents – and as such, public documents – cannot stand against the presumption of regularity in their favor absent evidence that is clear, convincing, and more than merely preponderant.[18] The rule of long standing is that a public document executed and attested through the intervention of a notary public is evidence of the facts in a clear, unequivocal manner therein expressed.[19] In the instant case, except for respondent's bare allegations to cast doubt on these documents, there was no evidence adduced in support thereof. Absent such evidence, the presumption must stand and the special power of attorney and secretary's certificates must be upheld.

Considering the foregoing, this Court finds Fr. Tabora to be duly authorized to sign on behalf of petitioners the verification attached to their petition for certiorari, and, for the same reason, the certification against forum shopping.

It appearing that Fr. Tabora was, in fact, a duly authorized signatory, it can be said that there was at least substantial compliance with, and that there was no attempt to ignore, the prescribed procedural requirements.[20] The delay in the presentation of the documents showing the authority of Fr. Tabora to sign on behalf of petitioners cannot be allowed to defeat the petition for certiorari filed with the Court of Appeals. By the time the Court of Appeals resolved to uphold its dismissal of the petition as to them, they had already submitted proof of their conferment upon Fr. Tabora of the authority to sign the verification and certification against forum shopping. Such dismissal exalts technicality over substantial right, which this Court cannot countenance.

Time and again, this Court has held that rules of procedure are established to secure substantial justice. Being instruments for the speedy and efficient administration of justice, they must be used to achieve such end, not to

derail it.[21] In particular, when a strict and literal application of the rules on non-forum shopping and verification will result in a patent denial of substantial justice, these may be liberally construed.[22]

Moreover, as regards the certification against forum shopping, this Court has relaxed, under justifiable circumstances, the rule requiring the submission of such certification considering that although it is obligatory, it is not jurisdictional.[23] This Court has also applied the rule of substantial compliance under justifiable circumstances with respect to the contents of the certification.[24] If this Court has, in previous rulings, allowed the belated filing of the certification against forum shopping for compelling reasons, with more reason should it sanction the timely submission of such certification albeit the proof of authority of the signatory was put forward only after.

The outright dismissal of the petition for certiorari as far as petitioners are concerned would defeat the administration of justice and result in a patent denial of substantial justice. The reinstatement of said petition is warranted by the substantial right and freedom involved – the right of employees, on the one hand, and the academic freedom of educational institutions, on the other hand. Both petitioners Bernal and ADNU have substantial interests to protect as their very acts are the ones subject of the petition before the Court of Appeals. Moreover, petitioner ADNU is an indispensable party without whom no final determination can be had of said petition.[25] In fact, petitioner ADNU was the one specifically ordered by the NLRC to (1) immediately reinstate respondent to her former position or, at the option of respondent, effect payroll reinstatement; (2) effect and pay respondent's additional annual across the board increase of salary, allowances, and benefits or their monetary equivalent; and (3) pay respondent ten percent of the total amount awarded representing attorney's fees.[26]

The ends of justice are better served when cases are determined on the merits – after all parties are given full opportunity to ventilate their causes and defenses – rather than on technicality or some procedural imperfections.[27] Accordingly, the petition for certiorari before the Court of Appeals should be reinstated for proper determination of the substantive issues.

WHEREFORE, the instant petition is GRANTED. The assailed Resolutions of the Court of Appeals in CA – G.R. SP No. 74899 are SET ASIDE, and said CA-G.R. SP No. 74899 is ordered REINSTATED as far as petitioners are concerned for further proceedings.

No pronouncement as to costs.

SO ORDERED.

Quisumbing, Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

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[1] Rollo, 73-89.

[2] Id., 90-103.

[3] Id., 104-106.

[4] Rollo, 47.

[5] Id., 156-164.

[6] Id., 165-166.

[7] Id., 169-172.

[8] Id., 173-180.

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[9] Rollo, 182.

[10] Id., 183.

[11] Id., 216-218.

[12] Rollo, 49-51.

[13] Rollo, 191-201.

[14] G.R. No. 149634, 06 July 2004.

[15] Torres v. Specialized Packaging Development Corporation, Supra., citing Robern Development Corporation v. Judge Quitain, 373 Phil. 773, 786 (1999).

[16] Rollo, 165-166.

[17] Id., 182-183.

[18] Alfarero v. Sevilla, G.R. No. 142974, 22 September 2003, 411 SCRA 387, 393, citing Gevero v. Intermediate Appellate Court, G.R. No. 77029, 30 August 1990, 189 SCRA 201, 206; Rebuldela v. Intermediate Appellate Court, No. L-70856, 11 November 1987, 155 SCRA 520, 529.

[19] Id., citing Zambo v. Court of Appeals, G.R. No. 104166, 30 July 1993, 224 SCRA 855, 859.

[20] General Milling Corporation v. National Labor Relations Commission, 442 Phil. 425, 427 (2002).

[21] Torres v. Specialized Packaging Development Corporation, Supra., citing Far Eastern Shipping Co. v. Court of Appeals, 357 Phil. 703, 720 (1998).

[22] Bank of the Philippine Islands v. Court of Appeals, G.R. No. 146923, 30 April 2003, 402 SCRA 449.

[23] Torres v. Specialized Packaging Development Corporation, supra, citing Robern Development Corporation v. Judge Quitain, Supra.

[24] Id., citing MC Engineering, Inc. v. National Labor Relations Commission, 412 Phil. 614, 622-623 (2001), and Gabionza v. Court of Appeals, 234 SCRA 192, 197-198, 18 July 1994.

[25] Section 7, Rule 3, Rules of Court.

[26] Rollo, 88-89.

[27] Torres v. Specialized Packaging Development Corporation, Supra., citing Paras v. Baldado, G.R. No. 140713, 08 March 2001, 354 SCRA 141, 146.

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