

CHINA BANKING CORPORATION, PETITIONER, VS. MONDRAGON INTERNATIONAL PHILIPPINES, INC. AND ANTONIO GONZALES, RESPONDENTS.

G.R. No. 164798. November 17, 2005

Ponente: PUNO, J.

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PUNO, J.:

We begin with the facts.

On February 28, 1994, respondent Mondragon International Philippines, Incorporated (MIPI), together with the Mondragon Leisure & Resorts Corporation and Mondragon Securities Corporation, entered into a Lease Agreement with Clark Development Corporation to develop the 232-hectare Mimosa Leisure Estate. Thereafter, the parties thereto entered into supplemental lease agreements to develop other additional areas. Part of the funds used for these projects was generated from loans obtained from petitioner China Banking Corporation (CBC). To secure these loans, MIPI executed promissory notes in favor of CBC. In addition, respondent Antonio U. Gonzales executed a Surety Agreement in favor of CBC in the amount of Php100,000,000.00.[1]

Sometime in 1997, the Asian financial crisis transpired. The ensuing shock to the Philippine economy affected MIPI's ability to pay its obligations to CBC.

On December 28, 2000, CBC filed a complaint for a sum of money with the Regional Trial Court of Makati City against MIPI and Mr. Gonzales. The complaint was raffled to Branch 57 thereof and docketed as Civil Case No. 00-1357. The certification of forum shopping attached to the complaint reads as follows:

I, MERCEDES E. GERMAN, of legal age and with post office address at 3[rd] Floor China Bank Building, 8745 Paseo de Roxas cor. Villar Sts., Makati City, under oath, depose and state that:

- I am the Manager of Loans & Discounts Department of the China Banking Corporation.
- I caused the preparation and filing of the foregoing Complaint.
- I have read and understood all the allegations contained therein which are true and correct on the basis of authentic documents on file.
- I hereby certify that the defendant China Bank has not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different Divisions thereof, or before any other tribunal or agency, and that to the best of my knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals or any Divisions thereof before any other tribunal or agency.
- If I should learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, I undertake to report that fact within five (5) days therefrom to the court or agency wherein the original pleading and sworn certification has been filed.[2]

On March 26, 2001, MIPI and Mr. Gonzales filed a motion to dismiss the complaint on the following grounds: 1)

the complaint failed to comply with the requirements set forth under Supreme Court Administrative Circular No. 04-94 and Section 5, Rule 7 of the 1997 Rules of Civil Procedure as regards certifications against forum shopping; and 2) there was noncompliance with a condition precedent for the filing of the case and/or the same failed to state a cause of action or was premature.[3]

The Regional Trial Court denied the motion to dismiss for lack of merit in its order dated July 4, 2001 and denied the respondents' motion for reconsideration in its order dated November 9, 2001.[4]

From the trial court's resolution, the respondents filed a petition for certiorari and prohibition with the Court of Appeals on February 5, 2002. The petition was raffled to the Sixteenth Division of the appellate court and was docketed as CA-G.R. SP No. 68984.

In its Decision promulgated on February 27, 2004, the Court of Appeals granted the petition for certiorari and reversed the assailed July 4 and November 9, 2001 orders of the Regional Trial Court.[5] The Court of Appeals ruled that CBC failed to comply with the requirements of Section 5, Rule 7 of the 1997 Rules of Civil Procedure as there was nothing in the records showing that the signatory of the certification against forum shopping was authorized by CBC. It referred to the Corporation Code and jurisprudence which state that corporations exercise their corporate powers through their board of directors and no person can bind the corporation without authority from the latter.[6] It likewise ruled against the petitioner's motion for reconsideration in its resolution promulgated on August 2, 2004.[7]

Hence, the present petition.

The issue is whether the Court of Appeals erred in ruling that the Regional Trial Court committed grave abuse of discretion in denying the respondents' motion to dismiss and motion for reconsideration.

We rule for the petitioner.

Respondents contend that CBC's omission of allegations that Ms. German was an authorized signatory in its certification against forum shopping was fatal. The respondents forget that the petition pending before the Court of Appeals was filed under Rule 65 of the 1997 Rules of Civil Procedure which requires the existence of grave abuse of discretion. The mere denial of respondents' motion to dismiss under the alleged circumstances falls short of grave abuse of discretion. Grave abuse of discretion exists where an act of a court or tribunal is performed with a capricious or whimsical exercise of judgment equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility.[8] Mere errors of fact or law committed by the lower court are not correctable via a Rule 65 petition for certiorari.[9]

The respondents assert that CBC's failure to attach the requisite board resolution making Ms. German an authorized signatory of certifications against forum shopping was a fatal error and cannot be rectified by subsequent submission thereof. This argument is untenable.

In *Shipside Incorporated v. Court of Appeals*,^[10] the petitioner filed a petition for certiorari with the Court of Appeals which contained the requisite certification on non-forum shopping but failed to attach proof that the person signing the certification was authorized to do so. The Court of Appeals dismissed the petition. The petitioner subsequently submitted a motion for reconsideration which attached a secretary's certificate attesting to the signatory's authority to sign certificates against forum shopping on behalf of the petitioner. When the Court of Appeals denied the motion for reconsideration, the petitioner sought relief with this Court. In its decision reversing the decision of the Court of Appeals, this Court recognized that the belated filing of certifications

against forum shopping is permitted in exceptional circumstances. It further held that with more reason should a petition be given due course when this incorporates a certification on non-forum shopping without evidence that the person signing the certification was an authorized signatory and the petitioner subsequently submits a secretary's certificate attesting to the signatory's authority in its motion for reconsideration.

Similarly, in *Ateneo De Naga University v. Manalo*,^[11] this Court acknowledged that it has relaxed, under justifiable circumstances, the rule requiring the submission of these certifications and has applied the rule of substantial compliance under justifiable circumstances with respect to the contents of the certification. It also conceded that if this Court has allowed the belated filing of the certification against forum shopping for compelling reasons in previous rulings, with more reason should it sanction the timely submission of such certification though the proof of the signatory's authority was submitted thereafter.

In like manner, this Court ruled in *Pascual & Santos Inc v. Tramo Wakas Neighborhood Association*^[12] that the subsequent submission of proof of authority to act on behalf of a petitioner corporation justifies the relaxation of the Rules for the purpose of allowing its petition to be given due course.

Respondents, however, contend that CBC's board resolution proves that Ms. German lacked authority to sign the certification against forum shopping at the time of the filing of CBC's complaint with the Regional Trial Court. The board resolution reads, viz.:

[A]t the regular meeting of the Board of Directors of said corporation held at its offices in Makati on 7 January 2004 wherein quorum was present and acted (sic) throughout the meeting, the following resolution was duly passed and approved:

x x x

"Acting on a memorandum dated 07 January 2004, the Board, upon motion duly made and seconded, approved, confirmed and ratified the authority of Ms. MERCEDES E. GERMAN, Manager, to file or cause the preparation and filing of the complaint, petition, complaint-affidavit, answer, counter-claim, third-party complaint, motion, verification, certification against forum shopping of complaint, petition and any or all papers or pleadings, in civil and/or criminal cases before any or all courts, quasi-court, administrative bodies and the like in behalf of the Bank and/or against any and all delinquent clients of the Bank or any other party/ies against whom which the Bank may have a course of action, particularly in Civil Case No. Q-00-1537 entitled "China Banking Corporation versus Mondragon International Phils. Inc. et. al.", now pending with the Regional Trial Court of Makati, Branch 57, Makati City; to sign all documents that may be required/obtained in connection therewith and to testify in any and all of said cases, identify documents, parties involved and the like as may be needed or required."^[13] (Emphasis supplied)

Though the wording of the board resolution leaves much to be desired, it remains equally susceptible of interpretation in favor of Ms. German's preexisting status as an authorized signatory. In such circumstances, we deem it more in accord with substantive justice that the case be decided on the merits.

IN VIEW WHEREOF, the petition is GRANTED. The decision of the Court of Appeals promulgated on February 27, 2004 and its resolution promulgated on August 2, 2004 are REVERSED and SET ASIDE.

SO ORDERED.

Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.
Chico-Nazario, J., on leave.

[1] Rollo, pp. 52-53.

[2] Rollo, p. 131.

[3] Rollo, pp. 53-54.

[4] Rollo, pp. 54, 58.

[5] Rollo, p. 52.

[6] Rollo, p. 56, citing *Public Estates Authority v. Uy*, 372 SCRA 180 (2001).

[7] Rollo, p. 273.

[8] *Intestate Estate of Carmen de Luna v. Intermediate Appellate Court*, 170 SCRA 246, 254 (1989).

[9] *Elks Club v. Rovira*, 80 Phil. 272, 275 (1948).

[10] 352 SCRA 334 (2001).

[11] 458 SCRA 325 (2005).

[12] 442 SCRA 438 (2004).

[13] Rollo, p. 116.

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