HEIRS OF AGAPITO T. OLARTE AND ANGELA A. OLARTE, NAMELY, ARMANDO OLARTE, NORMA OLARTE-DINEROS, YOLANDA OLARTE-MONTECER, AND RENATO A. OLARTE, PETITIONERS, VS. OFFICE OF THE PRES...

G.R. NO. 165821. June 21, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Assailed in this petition for review are the September 19, 2003 resolution[1] of the Court of Appeals in CA-G.R. SP No. 79163, which outrightly dismissed the petition on the grounds that the certification on non-forum shopping was signed by only two of the four petitioners and that they erroneously availed of the remedy of a petition for certiorari under Rule 65 instead of an appeal under Rule 43 of the Revised Rules of Civil Procedure; as well as the August 3, 2004 resolution[2] which denied the motion for reconsideration.

The subject of the instant controversy is a parcel of land particularly described as Lot 12, Block 2 of the Tramo-Singalong ZIP Project, located at No. 2131 F. Muñoz Street, San Andres, Malate, Manila, owned by the Philippine National Railways (PNR) and later turned over to the National Housing Authority (NHA). Petitioners alleged that in 1943, their parents Agapito and Angelina Olarte, occupied said lot by virtue of a Lease Contract with the PNR and constructed thereon a two-storey residential house which was declared for taxation purposes in the name of Agapito Olarte under Tax Declaration No. 01109 in 1985.[3]

They further claimed that on November 3, 1965, the Office of the President through the Board of Liquidators awarded a Certificate of Priority to Agapito Olarte in acknowledgment of his continuous occupancy of a portion of lot No. 7, now denominated as Lot 12, Block 2 of the Tramo-Singalong ZIP Project.[4] On September 1, 1985, after the demise of their parents, they leased the second floor of the house to private respondent Demetrio Ocampo, while on July 16, 1987, ½ portion of the ground floor was rented out to private respondent Eduardo Timbang. The remaining portion of the house not subject of the lease was occupied by petitioner Armando Olarte, a deaf who can communicate only through sign language, and by Renato Olarte, although he would come home only every weekend from a job in Caloocan City.[5]

Sometime in 1987, the NHA conducted a Census Tagging Operation in the area. Ocampo and Timbang allegedly took advantage thereof and listed their names as census renters of the premises. In 1988, Ocampo was judicially[6] ejected from the premises by petitioners for non-payment of rentals.[7]

On April 30, 1997, the NHA resolved to award the subject lot to private respondents in equal share. It disqualified petitioners Norma Olarte Dineros, Yolanda Olarte Montecer and Armando Olarte as beneficiaries of the questioned lot because they are not census residents of the project site, although they are entitled to reimbursement of their lawful expenses for the construction of the existing structure on the controverted lot.[8] Thus –

> In view of the foregoing, you are advised that:
>
> 1. Eduardo Timbang and Demetrio Ocampo are to negotiate with Norma Olarte-Dineros for the voluntary sale of the structure of Ms. Dineros or voluntarily dismantle the same, in case of failure of negotiations within sixty (60) days upon receipt hereof; otherwise, this Authority shall cause the dismantling of the said structure.
>
> 2. Mr. Armando Olarte is not qualified for lot award as he was not included in the census or is not a bonafide residents (sic) as defined in the code of policies as he occupied the structure one year after the official closure of tagging operation in the project site.
>
> 3. Lot 12, Block 2, Tramo-Singalong ZIP Project is hereby awarded to Eduardo Timbang and Demetrio Ocampo in equal share (sic).
>
> 4. This resolution is FINAL. Should the aggrieved parties opt to appeal, they have thirty (30) days from receipt hereof within which to file an appeal with the Office of the President, pursuant to Administrative Order No. 18, series of 1987.[9]

Petitioners appealed to the Office of the President.[10] Invoking Presidential Decree (P.D.) No. 1517,[11] as amended by P.D. No. 2016,[12] they contended that since the Tramo-Singalong ZIP Project was proclaimed as an Area for Priority Development and Land Reform Zone, they have the right of first refusal to purchase the property and should not be dispossessed of the subject lot, being legitimate tenants thereof who have built their home and resided thereon for 44 years, way beyond the 10 year occupancy requirement mandated by law.[13]

The Office of the President, however, dismissed the appeal for being filed out of time.[14] A motion for reconsideration[15] was filed by petitioners but was denied.[16] Petitioners then filed a petition for certiorari with the Court of Appeals which was denied for the reasons previously stated.

Hence, the instant petition.

The general rule is that the certificate of non-forum shopping must be signed by all the plaintiffs in a case and the signature of only one of them is insufficient. However, the Court has also stressed that the rules on forum shopping were designed to promote and facilitate the orderly administration of justice and thus should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective. The rule of substantial compliance may be availed of with respect to the contents of the certification. This is because the requirement of strict compliance with the provisions regarding the certification of non-forum shopping merely underscores its mandatory nature in that the certification cannot be altogether dispensed with or its requirements completely disregarded.[17] Thus, under justifiable circumstances, the Court has relaxed the rule requiring the submission of such certification considering that although it is obligatory, it is not jurisdictional.[18]

In HLC Construction and Development Corporation v. Emily Homes Subdivision Homeowners Association,[19] it was held that the signature of only one of the petitioners in the certification against forum shopping substantially complied with rules because all the petitioners share a common interest and invoke a common cause of action or defense.

The same leniency was applied by the Court in Cavile v. Heirs of Cavile,[20] because the lone petitioner who executed the certification of non-forum shopping was a relative and co-owner of the other petitioners with whom he shares a common interest. As explained by the Court –

> 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

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> 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 Cavili, 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. Moreover, it has been held that the merits of the substantive aspects of the case may be deemed as "special circumstance" for the Court to take cognizance of a petition for review although the certification against forum shopping was executed and signed by only one of the petitioners.[21]

In the instant case, petitioners share a common interest and defense inasmuch as they collectively claim a right not to be dispossessed of the subject lot by virtue of their and their deceased parents' construction of a family home and occupation thereof for more than 10 years. The commonality of their stance to defend their alleged right over the controverted lot thus gave petitioners Norma Olarte Dineros and Yolanda Olarte Montecer authority to inform the Court of Appeals in behalf of the other petitioners that they have not commenced any action or claim involving the same issues in another court or tribunal, and that there is no other pending action or claim in another court or tribunal involving the same issues. Hence, the appellate court should have given due course to the petition and disregarded the technical aspect of the case in the interest of substantial justice.

In the same vein, the appellate court erred in the outright dismissal of the petition for failure of petitioners to avail of the proper remedy of appeal under Rule 43 of the Revised Rules of Civil Procedure. Indeed, the ends of justice would be better served if substantial issues would be squarely addressed, especially so, where either side stands to lose a family home. Courts must see to it that a party litigant is given the fullest opportunity to establish the merits of his action or defense rather than for him to be deprived of life, honor or property on mere technicalities.[22]

A litigation is not a game of technicalities. When technicality deserts its function of being an aid to justice, the Court is justified in exempting from its operations a particular case. Technical rules of procedure should be used to promote, not frustrate justice. While the swift unclogging of court dockets is a laudable objective, granting substantial justice is an even more urgent ideal.[23]

Considering that the issues involved are factual in nature, such issues are best addressed to the Court of Appeals, which has the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings.[24]

In fine, in the interest of substantial justice, the instant case should be remanded to the Court of Appeals which is directed to decide the case on the merits.

WHEREFORE, the petition is partially granted. The September 19, 2003 and August 3, 2004 resolutions of the Court of Appeals in CA-G.R. SP No. 79163, are REVERSED and SET ASIDE. The case is REMANDED to the Court of Appeals for further proceedings.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

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[1] Penned by Associate Justice Delilah Vidallon-Magtolis and concurred in by Associate Justices Jose L. Sabio, Jr., and Hakim S. Abdulwahid (Rollo, p. 21).

[2] Rollo, p. 23.

[3] Id. at 29-30.

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[4] Id. at 30 and 38.

[5] Id. at 31-33.

[6] On October 15, 1990, the Court in G.R. No. 95206 denied Demetrio Ocampo's petition for review of the Court of Appeal's decision which sustained the judgment of the trial court ejecting him from the leased premises. On December 14, 1990, the decision became final and executory.

[7] Rollo, pp. 33-34.

[8] Id. at 24-26.

[9] Id. at 26.

[10] Id. at 27-56.

[11] PROCLAIMING URBAN LAND REFORM IN THE PHILIPPINES AND PROVIDING FOR THE IMPLEMENTING MACHINERY THEREOF.

[12] PROHIBITING THE EVICTION OF OCCUPANT FROM LAND IDENTIFIED AND PROCLAIMED AS AREAS FOR PRIORITY DEVELOPMENT (APD) OR AS URBAN LAND REFORM ZONES AND EXEMPTING SUCH LAND FROM PAYMENT OF REAL PROPERTY TAXES.

[13] Rollo, p. 40.

[14] Resolution dated November 29, 2002.

[15] Rollo, pp. 80-90.

[16] Resolution dated June 27, 2003, Rollo, pp. 93-94.

[17] Cavile v. Heirs of Cavile, G.R. No. 148635, 1 April 2003, 400 SCRA 255, 261-262.

[18] Torres v. Specialized Packaging Development Corporation, G.R. No. 149634, 6 July 2004, 433 SCRA 455, 465.

[19] G.R. No. 139360, 23 September 2003, 411 SCRA 504, 509-510.

[20] Supra, note 17.

[21] Id. at 262.

[22] Donato v. Court of Appeals, G.R. No. 129638, 8 December 2003, 417 SCRA 216, 227.

[23] Id. at 226-227.

[24] Section 9(3), B.P. Blg. 129 (As amended by R.A. No. 7902).

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