PHILIPPINE RABBIT BUS LINES, INC., PETITIONER, VS. ALADDIN TRANSIT CORP., ANACLETO VILLARICO AND ESTEBAN ZIPAGAN, RESPONDENTS.

G.R. NO. 166279. June 30, 2006

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Assailed by petition for review on certiorari is the Court of Appeals Decision[1] of April 29, 2004 reversing and setting aside that of Branch 221, Regional Trial Court (RTC) of Quezon City in Civil Case No. Q-96-28782.

Petitioner, Philippine Rabbit Bus Lines, Inc. (Philippine Rabbit) and respondent Aladdin Transit Corporation (Aladdin Transit) are public utilities engaged in the land transportation business. [2]

On March 18, 1996, an air-conditioned bus of Philippine Rabbit bearing Plate No. CVC-676 (Bus 676) figured in a vehicular accident at the North Luzon Expressway at Burol, Balagtas, Bulacan with two air-conditioned buses of Aladdin Transit bearing Plate Nos. NYD-451 (Bus 451) and NYA-886 (Bus 886).

Philippine Rabbit Bus 676 was driven by Maximo Dabu while Aladdin Transit Bus 451 and Bus 886 were driven by Esteban Zipagan and Anacleto Villarico, respectively.

As a result of the accident, the rear right bumper and rear right side body including the engine compartment cover of Philippine Rabbit Bus 676 were dented.[3] The rear body of Aladdin Transit Bus 451 was also dented, while the front portion and body of Aladdin Transit Bus 886 were heavily damaged.[4]

The estimated cost of repair of Philippine Rabbit Bus 676 was in the total amount of P30,107.00.[5] A written demand[6] for Aladdin Transit to settle the said amount was sent but it remained unheeded.[7]

Philippine Rabbit thus filed on September 16, 1996 with the RTC of Quezon City a complaint[8] for damages against Aladdin Transit and its drivers, praying for the payment of the cost of repair in the amount of P30,107.00, unrealized income of P231, 302.25 for the 45 days that Bus 676 was under repair, as well as interests and attorney's fees.[9] Attached to the complaint was a verification and certification of non-forum shopping signed by Philippine Rabbit's counsel, Atty. Elmer A. Dela Rosa.[10]

To the complaint, Aladdin Transit filed a motion to dismiss[11] on two grounds one of which was that the certification of non-forum shopping attached to the complaint was signed by the plaintiff's counsel and not by the party itself, contrary to Supreme Court Circular 04-94.

After Philippine Rabbit submitted its opposition to the motion to dismiss,[12] the trial court, by Order[13] of January 13, 1997, held that, inter alia, since the plaintiff is a corporation represented by its counsel, "the counsel . . . serves as an agent of plaintiff corporation, and the verification and certification signed by him bind[s] the corporation."[14] It accordingly denied the motion to dismiss and ordered Aladdin Transit to file its Answer.

Aladdin Transit filed its Answer[15] alright, albeit belatedly. In its Answer,[16] it averred, among other things,

that it was the Philippine Rabbit driver who was at fault as he drove Bus 676 in a reckless manner; and that assuming that its drivers were at fault, it could not be held liable, it having exercised due diligence in their selection and supervision.

Aladdin Transit thus concluded that Philippine Rabbit had no cause of action. And it reiterated its claim that the trial court lacked jurisdiction over the case.

By way of counterclaim, Aladdin Transit sought to recover P15,000 for each of its two damaged buses, unrealized income of P210,000.00 for 30 days that they were under repair, exemplary damages and attorney's fees.[17]

On the scheduled pre-trial on August 22, 1997, Aladdin Transit was declared as in default and Philippine Rabbit was allowed to present evidence ex parte.[18]

The trial court, holding Aladdin Transit and its Bus 886 driver Villarico solidarily liable for the vehicular accident, rendered judgment in favor of Philippine Rabbit, disposing as follows:

> Wherefore, judgment is hereby ordered against the defendants Anacl[e]to Villarico and Aladdin Transit Corporation and in favor of the plaintiff, ordering the defendants Villarico and Aladdin to pay jointly and severally the following:
>
> - The sum of Thirty Thousand One Hundred Seven Pesos (P30,107.00) as the cost of repair of the damaged vehicle plus legal interest until the amount is fully paid;
>
> - The sum of P231,302.25 representing the unrealized revenue;
>
> - Attorney's fees in the reduced amount of P20,000.00 plus appearance fee of P750.00; and
>
> - Cost of suit.
>
> The complaint against defendant Esteban Zipagan is hereby DISMISSED.[19]

Aladdin Transit's motion for reconsideration was denied.

Before the Court of Appeals to which Aladdin Transit appealed, it faulted the trial court in not dismissing the complaint due to defective verification and certification of non-forum shopping;[20] in denying its motion for reconsideration/new trial in light of the abandonment of the case by its former counsel;[21] in finding it negligent in the selection and supervision of its employees;[22] and in awarding damages to Philippine Rabbit.[23]

By Decision[24] of April 29, 2004, the appellate court reversed and set aside the decision of the trial court. It found that the trial court erred in not dismissing the complaint due to the defective certification of non-forum shopping;[25] that the documentary evidence presented by Philippine Rabbit contradicted the allegations of its complaint and the testimonies of its witnesses;[26] and that the locations of the respective damages incurred by the three buses belied its claim.[27]

Its motion for reconsideration[28] having been denied, Philippine Rabbit filed the present petition for review on certiorari on February 4, 2005 sans verification and certification of non-forum shopping.

Sections 1 and 4 of Rule 45 of the Rules of Court require that a petition for review on certiorari filed with this Court should be verified and should contain a certificate of non-forum shopping.

> SECTION 1. Filing of petition with Supreme Court. – A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. x x x

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> SEC. 4. Contents of petition. – The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall x x x (e) contain a sworn certificationagainst forum shopping as provided in the last paragraph of section 2, Rule 42. (Underscoring supplied)

These requirements are mandatory, failure to comply with which is sufficient ground for the dismissal of the petition.[29]

Revised Circular No. 28-9 in fact require all petitions filed with this Court to, not only comply with the above-quoted provisions of Rule 45, but also the following:

> [I]n every petition filed with the Supreme Court or the Court of Appeals, the petitioner, aside from complying with pertinent provisions of the Rules of Court and existing circulars, must certify under oath all of the following facts or undertakings: (a) he has not theretofore commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agencies; (b) to the best of his knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals or different Divisions thereof, or any other tribunal or agency; (c) if there is such other action or proceeding pending, he must state the status of the same; and (d) 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 such other tribunal or agency of that fact within five (5) days therefrom.

The requirement that the petitioner sign the certificate of non-forum shopping applies even to corporations as the mandatory directives of the Rules of Court make no distinction between natural and juridical persons.[30]

Petitioner's counsel, alleging that his failure to incorporate a verification and certificate of non-forum shopping in the present petition was "inadverten[t] which could be considered an excusable negligence,"[31] filed on February 22, 2005 a motion to admit the therewith attached verification and certification of non-forum shopping reading:

> VERIFICATION AND CERTIFICATION
>
> I, RAMON M. NISCE, of legal age, Filipino, married and a resident of Philippine Rabbit Building, MacArthur Highway, Tarlac City, after having been duly sworn to in accordance with law, do hereby depose and state:
>
> - That I am the Petitioner in the Petition for Review on Certiorari in G.R. No. 166279 filed with [the] Supreme Court;
>
> - That I caused the preparation of this petition;
>
> - That I read and understood all contained therein, and the same are true and correct of my knowledge;
>
> - That I certify under oath that:
>
> a.) I have not commenced any other action or proceeding which is pending in the Supreme Court, the Court of Appeals or any tribunal or agency;
>
> b.) To be (sic) best of my knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency;
>
> - That I likewise undertake that:
>
> a.) If there is such action or proceeding which is either pending or terminated, we will state the status thereof;
>
> b.) If I should thereafter learn that a similar action or proceedings (sic) has been filed or is pending before the Supreme Court, the Court of Appeals or any other tribunal or agency, we will undertake to report the fact within five (5) days therefrom to the court/agency wherein the original pleading and sworn certification

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> contemplated the (sic) Administrative Circular No. 04-94.
>
> IN WITNESS WHEREOF, I have affixed my signature this 16th say of February, 2005 at Tarlac City.
>
> x x x x[32] (Underscoring supplied)

The complaint for damages filed before the trial court, as well as the present petition, was filed by Philippine Rabbit as the title thereof clearly states. Thus, contrary to the claim of Ramon M. Nisce who accomplished the immediately quoted Verification and Certification, he is not the petitioner.

Philippine Rabbit is, however, a juridical entity, hence, it may only exercise its right to file a suit by a specific act of its board of directors or any duly authorized officer or agent.

> A corporation, such as the petitioner, has no powers except those expressly conferred on it by the Corporation Code and those that are implied by or are incidental to its existence. In turn, a corporation exercises said powers through its board of directors and/or its duly authorized officers and agents. Physical acts, like the signing of documents,can be performed only by natural persons duly authorized for the purposeby corporate bylaws or by a specific act of the board of directors. "All acts within the powers of a corporation may be performed by agents of its selection; and, except so far as limitations or restrictions which may be imposed by special charter, by-law, or statutory provisions, the same general principles of law which govern the relation of agency for a natural person govern the officer or agent of a corporation, of whatever status or rank, in respect to his power to act for the corporation; and agents once appointed, or members acting in their stead, are subject to the same rules, liabilities and incapacities as are agents of individuals and private persons."[33]

Petitioner's counsel claims in the motion to admit verification and certification that Nisce is the Chairman of the Board of Directors and Treasurer of Philippine Rabbit[34] and "ha[s] been the Chief Legal Counsel of the petitioner since he married Mrs. Natividad Paras-Nisce, one of the founders, incorporators and president of [Philippine Rabbit], a family owned corporation . . . [a]nd is aware of all cases in litigation of [Philippine Rabbit]."[35]

Nisce, however, did not personally attest to these facts and did not adduce proof that he is indeed the corporate officer charged with monitoring petitioner's legal cases before courts or quasi-judicial agencies.[36]

As in its complaint filed by petitioner before the trial court which, as correctly found by the appellate court, bore a defective certification of non-forum shopping, it having been merely executed by its then counsel Atty. Elmer A. Dela Rosa without any showing that he was empowered to do the same,[37] the certification of non-forum shopping executed by Nisce is defective.

While cases should, to serve the ends of justice, be determined on the merits, after full opportunity is afforded all parties to ventilate their cause and defenses, rather than on technicality or some procedural imperfections, this only holds true if parties endeavor to satisfactorily explain the lapse and subsequently comply with the requirements.[38]

Petitioner, however, failed to come up with a satisfactory explanation for its lapses. Even after Aladdin Transit questioned the authority of Nisce to sign and execute the certificate of non-forum shopping, petitioner still failed to subsequently submit the requisite documents to prove the existence of such authority.

WHEREFORE, the petition is DENIED.

Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

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[1] CA rollo, pp. 133-142, penned by Justice Josefina Guevara-Salonga concurred in by Justices Portia Aliño-Hormachuelos and Jose C. Reyes, Jr.

[2] Records, p. 1.

[3] Id. at 60.

[4] Id. at 62.

[5] Id. at. 43.

[6] Id. at 47.

[7] Id. at 2.

[8] Id. at 1-5.

[9] Id. at 44-46.

[10] Id. at 4-5.

[11] Id. at 14-16.

[12] Id. at 18-20.

[13] Id. at 21-22.

[14] Id. at. 21.

[15] Id. at 25-28.

[16] Ibid.

[17] Id. at 26-27.

[18] Id. at 56.

[19] Id. at 80.

[20] Id. at 25-26.

[21] CA rollo, pp. 27-29.

[22] Id. at 36.

[23] Id. at 31-34.

[24] Id. at 133-142.

[25] Id. at 136-138.

[26] Id. at 139.

[27] Id. at 140.

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[28] Id. at 152-156.

[29] Rule 45, Section 5 of the Rules of Court provides to wit:

> SEC. 5. Dismissal or denial of petition. – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.
>
> x x x x

[30] Pascual and Santos, Inc., v. The Members of the Tramo Wakas Neighborhood Association, G.R. No. 144880, November 17, 2004, 442 SCRA 438, 446.

[31] Rollo, p. 33.

[32] Id. at 35.

[33] BA Savings Bank v. Sia, G.R. No. 131214, July 27, 2000, 336 SCRA 484, 488.

[34] Rollo, p. 33.

[35] Id. at 51.

[36] Vide Republic v. Carmel Development, Inc., G.R. No. 142572, February 20, 2002, 377 SCRA 459, 476.

[37] Records, pp. 4-5.

[38] Donato v. Court of Appeals, G.R. No. 129638, December 8, 2003, 417 SCRA 216, 225.

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