

SPOUSES ALFREDO D. VALMONTE AND MARIA LOURDES A. VALMONTE, PETITIONERS, VS. CLARITA ALCALA, JOHN DOE OR JANE DOE, RESPONDENTS.

G.R. No. 168667. July 23, 2008

Ponente: BRION, J.

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BRION, J.:

This Petition for Review on Certiorari[1] asks us to set aside two Court of Appeals (CA) resolutions issued in CA-G.R. No. 88918: the first, issued on April 8, 2005,[2] dismissed the Petition for Review filed by the spouses Alfredo Valmonte and Maria Lourdes Valmonte (the petitioners); and the second, issued on June 20, 2005,[3] denied the petitioners' motion for reconsideration.

BACKGROUND FACTS

The present controversy traces its roots to the ejectment suit filed by the petitioners against Clarita Alcala (the respondent) before the Metropolitan Trial Court (MTC), Branch 4, in Manila.

The petitioners alleged that they are the unregistered owners of Apartment No. 1411 located at Echabelita Street, Paco, Manila, as the petitioner Maria Lourdes is one of the heirs and successors-in-interests of Cornelio Arreola and Antonina Pascua, the registered owners of the property.[4]

Since the petitioners were migrating to the United States, they offered Apartment No. 1411 for lease to the respondent at the rate of P1,500.00 per month beginning January 1980; the latter accepted the offer. The lease contract, initially verbal, was consummated by the respondent's payment of two (2) months' rental fees and the petitioners' delivery to the respondent of the keys to Apartment No.1411.[5]

Due to the respondent's subsequent failure to pay the agreed rentals despite written demand, the petitioners filed a complaint for unlawful detainer against her on April 26, 2002 before the MTC.[6] As the petitioners were already US residents at that time, they signed the required Verification/Certification of Non-Forum Shopping[7] of their complaint before a notary public in the state of Washington on March 18, 2002, and had this Verification/Certification authenticated by the Philippine Consulate General in San Francisco on March 27, 2002.[8]

The respondent contended in her defense that the petitioners had no cause of action against her; she was already the rightful owner of Apartment No. 1411 by virtue of a sale between her and petitioners,[9] as evidenced by the Memorandum of Agreement dated August 8, 1987.[10]

On April 25, 2003, the MTC ruled in the petitioners' favor.[11] The respondent appealed the MTC decision to the Regional Trial Court (RTC), Branch 50, Manila, which reversed the MTC ruling in its decision dated November 3, 2004.[12]

The petitioners responded to the reversal by filing a Petition for Review[13] (CA Petition) with the CA on March

31, 2005. On the same date, they also formally manifested[14] with the CA that - to comply with the verification and certification requirements under Sections 1 and 2 of Rule 42 of the Rules of Court - they were in the meantime submitting a photostatic copy of the Verification/Certification (executed and notarized in the State of Washington on March 17, 2005) as the original was still in the Philippine Consulate in San Francisco for authentication. They promised to submit the original document as soon as the consulate completed the authentication process. Indeed, on April 8, 2005, petitioners submitted to the CA the original authenticated Verification/Certification and moved that the appellate court consider the submission as full compliance with the verification requirements of the Rules.[15]

Meanwhile, the CA issued a Resolution dated April 8, 2005 (April 8 Resolution) dismissing the petition due to the petitioners' failure to attach the complaint, the answer, the position papers filed with the MTC, the memorandum filed with the RTC, and other material portions of the record supporting the allegations of the petition. The petitioners received a copy of this April 8 Resolution on April 15, 2005.

On April 28, 2005, the petitioners moved for the reconsideration[16] of the April 8 Resolution, attaching thereto the missing pleadings. The CA denied the motion in its Resolution dated June 20, 2005[17] reasoning that:

Notwithstanding the petitioners' superficial explanation for their failure to attach the pertinent portions of the record, this Court could have granted the motion since petitioners attached, nonetheless, other relevant documents to the Motion, if not for the observation that while the verification/certification was purportedly executed on March 17, 2005, the petition is dated March 31, 2005. Petitioners could not have actually read and understood the petition or attested to the truth of the contents thereof because at the time they executed the verification/certification, the petition was still inexistent.

WHEREFORE, in view of the foregoing, the petitioners' Motion for Reconsideration is hereby DENIED for lack of merit. [Emphasis supplied]

The petitioners now come before this Court on the claim that the dismissal of their petition by the CA is a reversible error that we should rectify.

ASSIGNMENT OF ERROR

The petitioners assert that the CA's conclusion, drawn from the variance between the dates of the Verification/Certification they executed abroad and the CA Petition, is erroneous; the variance does not mean that they did not actually read the petition before this was filed in court.

THE COURT'S RULING

We find the petition meritorious. The CA's conclusion results from an overly technical reading of the verification requirements, and from a failure to appreciate the circumstances of parties litigating in Philippine courts while they are overseas.

Generally, a pleading is not required to be verified unless required by law or by the Rules of Court.[18] One such requirement is found in Section 1 of Rule 42 which requires a party appealing from a decision of the RTC rendered in the exercise of its appellate jurisdiction to file a verified petition for review with the CA.

Verification, when required, is intended to secure an assurance that the allegations of a pleading are true and correct; are not speculative or merely imagined; and have been made in good faith.[19] To achieve this purpose, the verification of a pleading is made through an affidavit or sworn statement confirming that the affiant has read the pleading whose allegations are true and correct of the affiant's personal knowledge or based on authentic records.[20]

Apparently, the CA concluded that no real verification, as above required, had been undertaken since the CA Petition was dated March 31, 2005 while the Verification/Certification carried an earlier date - March 17, 2005; the petition "was still inexistent" when the Verification/Certification was executed.

We find this conclusion erroneous for the following reasons:

First, the variance in dates does not necessarily contradict the categorical declaration made by petitioners in their affidavit that they read and understood the contents of the pleading. The petitioners' claim in this regard is that they read a copy of the CA Petition through an electronic mail (e-mail) sent to them by their lawyers.[21] We find this claim, under the circumstances more fully discussed below, to be a reasonable explanation of why a variance in dates existed. We should not lose sight of the reality that pleadings are prepared and signed by the counsel at the instructions of the client; the latter merely provides the supporting facts of the pleading and, as needed, verifies that the allegations are true and correct. In short, the pleading and the verification are prepared separately and a variance in their dates is a matter that may satisfactorily be explained. To demand the litigants to read the very same document that is to be filed before the courts is too rigorous a requirement; what the Rules require is for a party to read the contents of a pleading without any specific requirement on the form or manner in which the reading is to be done. That a client may read the contents of a pleading without seeing the same pleading to be actually filed with the court is, in these days of e-mails and other technological advances in communication, not an explanation that is hard to believe. Apparently in this case, counsel sent a copy of the draft petition by e-mail and finalized it as soon as it was approved by the petitioners. The latter, on the other hand, complied with their end not only by approving the terms of the petition, but also by sending a copy of their sworn statement (as yet unauthenticated) in order to file the petition soonest, thereby complying with the required timeliness for the filing of the petition. To our mind, beyond the manner of these exchanges, what is important is that efforts were made to satisfy the objective of the Rule - to ensure good faith and veracity in the allegations of a pleading - thereby allowing the courts to act on the case with reasonable certainty that the petitioners' real positions have been pleaded.[22]

Second, the "circumstances" we mentioned above refer to the petitioners' unique situation as parties residing overseas who are litigating locally through their local counsel. While these overseas litigants are not excused from complying with our Rules such as the strict observance of the periods for appeal and the verification requirement, we must take into account the attendant realities brought into play because they are suing from overseas or via long distance communications with their counsel. In the verification requirement, there are added formalities required for the acceptance in the Philippines of statements sworn overseas before foreign notaries; we require their authentication by our consulates.[23] This is a process whose completion time may vary depending, among others, on various factors such as the location of the requesting party from the consulate; the peculiarities of foreign laws on notaries; the volume of transactions in a consulate, noting particularly the time of year when the authentication is requested; and the mode of sending the authenticated documents to the Philippines. Apparently compelled by one or a combination of these reasons, the petitioners in fact manifested when they filed their petition (on March 31, 2005) that they were submitting a photostatic copy of the Verification/Certification executed in Washington on March 17, 2005 since the original was still with the Philippine Consulate in San Francisco for authentication.[24] We take judicial notice that the petitioners' request for authentication coincided with the observance of the Holy Week - a traditional period of prayer and holidays in the Philippines, for the Philippines' foreign embassies and consulates, and even for Filipinos overseas.[25] We find it significant that, conformably with their Manifestation, the petitioners' counsel filed on April 8, 2005 the duly sworn and authenticated Verification as soon as counsel received it. Under these circumstances, there is every reason for an equitable and relaxed application of the rules to the petitioners' situation.

Third, we discern utmost good faith on the part of the petitioners when they filed their Manifestation about their problem, intent, and plan of compliance with the verification requirement. They in fact stated early on through this Manifestation that their verification had been executed on March 17, 2005 in Washington, that is, at a date much earlier than the filing of their petition and manifestation. Unfortunately, the CA failed to note the variance in dates at the earliest opportunity; thus, the CA dismissed the petition on some other ground,[26] only to hark back later on to the variance in dates in their reconsideration of the earlier dismissal. Given this good faith and the early disclosure, it was basically unfair for the CA - who had earlier overlooked the variance in dates - to subsequently make this ground the basis of yet another dismissal of the petition. The CA - after overlooking the variance in dates at the first opportunity - should have at least asked for the petitioners' explanation on why the variance should not be an additional ground for the dismissal of the petition, instead of reflecting in their order on reconsideration that it could have granted the motion for reconsideration based on attachments already made, but there existed another reason - the variance in dates - for maintaining the dismissal of the petition.

Fourth, we note that most of the material allegations set forth by petitioners in their CA Petition are already in their complaint for unlawful detainer filed before the MTC on April 26, 2002. Attached to the complaint was a Verification/Certification[27] dated March 18, 2002 (authenticated by the Philippine Consulate in San Francisco on March 27, 2002) in which petitioners declared under oath that they had caused the preparation of the complaint through their lawyers and had read and understood the allegations of the complaint. The material facts alleged in the CA Petition are likewise stated in the records of the case, as part of the findings of facts made by the MTC and the RTC. Verification as to the truth of these facts in the petition for review before the CA was, therefore, strictly a redundancy; its filing remained a necessity only because the Rules on the filing of a petition for review before the CA require it. This consideration could have led to a more equitable treatment of the petitioners' failure to strictly comply with the Rules, additionally justified by the fact that the failure to comply with the rules on verification is a formal rather than a jurisdictional defect.[28]

In sum, we find sufficient justification to rule - under the circumstances of this case - that the CA committed a reversible error when it dismissed the petition for failure to strictly follow the verification requirements. Stated otherwise, we do not consider the variance between the dates as fatal to the petitioners' case because the variance did not necessarily lead to the conclusion that no verification was made, or that the verification was false. More importantly, the variance totally lost significance after the petitioners sent from the US and submitted to the CA the required Verification/Certification in compliance with their previously manifested intent. As this Court noted in a case where compliance with a certificate of non-forum shopping was at issue, the fact that the Rules require strict compliance merely underscores its mandatory nature; it cannot be dispensed with or its requirements altogether disregarded, but it does not thereby interdict substantial compliance with its provisions under justifiable circumstances, as we find in this case.[29]

WHEREFORE, we hereby GRANT the Petition. The CA Resolutions dated April 8, 2005 and June 20, 2005 in CA G.R. No. 88918 are REVERSED and SET ASIDE. The case is REMANDED to the CA for appropriate proceedings under CA-GR No. 88918.

SO ORDERED.

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

[1] Filed under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justice Rosmari D. Carandang

and Associate Justice Monina Arevalo-Zenarosa, concurring; rollo, pp. 61-62.

[3] Id., pp. 117-119.

[4] Id., p. 94.

[5] Id., p. 133-134.

[6] Id., pp. 132-141.

[7] Id., p. 141.

[8] Id., p. 139.

[9] Id., pp. 142-149.

[10] Id., p. 219.

[11] Id., pp. 100 -106.

[12] Id., pp. 92-98.

[13] Id., pp. 63-91.

[14] Id., pp. 292-299.

[15] Id., pp. 300-306.

[16] Id., pp. 120-131.

[17] Supra, note 3.

[18] RULES OF COURT, Rule 7, Sec. 4.

[19] Bank of the Philippine Islands v. Court of Appeals, G.R. No. 146923, April 30, 2003, 402 SCRA 449, 454.

[20] Supra, note 18.

[21] Rollo, p. 292.

[22] Quimpo v. Dela Victoria, G.R. No. L-31822, July 31, 1972, 46 SCRA 139, 144, citing Villasanta v. Bautista, 36 SCRA 160, 170-171 [1970].

[23] Rule 132, Sec. 24 of the RULES OF COURT states: Proof of Official Record. - The record of public documents referred to in paragraph (a) of section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul-general, consul, vice-consul, or consular agent or by any officer in the foreign service of the Philippines station in the foreign country in which the record is kept, and authenticated by the seal of his office. [Emphasis supplied]

[24] Supra, note 14.

[25] The request for authentication was received by the Philippine Consulate Office in San Francisco on March 22, 2005. March 24 and 25, 2005 (Maundy Thursday and Good Friday, respectively) are considered Regular Non-Working Holidays pursuant to R.A. No. 9177, while March 26, 2005 (Black Saturday) was declared as

special non-working day pursuant to Proclamation No. 808, series of 2005. The verification/certification was authenticated on March 28, 2005, and received by petitioners on April 5, 2005.

[26] The Resolution of April 8, 2005 dismissed the petition for failure to attach material portions of the records that would support the allegations in the petition; *supra*, note 2.

[27] *Supra*, note 7.

[28] *Uy v. Land Bank of the Philippines*, G.R. No. 136100, July 24, 2000, 336 SCRA 419. See also: *Sy vs. Habacon-Garayblas*, G.R. No. MTJ-93, December, 21, 1993, 228 SCRA 644; *Buenaventura vs. Halili-Uy*, G.R. No. L-28156, March 31, 1987, 149 SCRA 22; *Quimpo vs. Dela Victoria*, G.R. L-31822, July 31, 1972, 46 SCRA 139; *Valino vs. Munoz*, G.R. No. L-26151, October 22, 1970, 35 SCRA 413; *Republic vs. Lee Wai Lam*, G.R. No. 22607, July 30, 1969, 28 SCRA 1043.

[29] *Huntington Steel Products, Inc. v. National Labor Relations Commission*, G.R. No. 158311, November 17, 2004, 442 SCRA 551, 559.

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