

FIRST DIVISION

[G.R. NO. 139018, April 11, 2005]

**ESTHERLITA CRUZ-AGANA, PETITIONER, VS. HON. JUDGE
AURORA SANTIAGO-LAGMAN (IN HER CAPACITY AS PRESIDING
JUDGE OF REGIONAL TRIAL COURT, BRANCH 77, MALOLOS,
BULACAN) AND B. SERRANO ENTERPRISES, INC.,
RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

This petition for certiorari^[1] seeks to reverse the Order of the Regional Trial Court, Branch 77, Malolos, Bulacan ("trial court"), dated 4 June 1999, recalling its previous Order dated 25 May 1999 dismissing B. Serrano Enterprises, Inc.'s ("respondent") counterclaim upon a motion to dismiss filed by petitioner Estherlita Cruz-Agana ("petitioner").

Antecedent Facts

On 18 March 1996, petitioner filed a Complaint for annulment of title with prayer for preliminary mandatory injunction against respondent. Petitioner claims that as the sole heir of one Teodorico Cruz, she is the sole owner of a lot covered by Transfer Certificate of Title No. T-3907. Petitioner further claims that the lot was fraudulently sold to Eugenio Lopez, Jr. who later on transferred the lot to respondent. The case was raffled to the Regional Trial Court, Branch 77, Malolos, Bulacan presided by Judge Aurora Santiago-Lagman and docketed as Civil Case No. 210-M-96.

Respondent seasonably filed its Answer with compulsory counterclaim. Petitioner moved to dismiss respondent's counterclaim for lack of a certificate of non-forum shopping.

In an Order dated 11 March 1999, the trial court denied petitioner's motion to dismiss respondent's counterclaim. The trial court reasoned that respondent's counterclaim is compulsory and therefore excluded from the coverage of Section 5, Rule 7 of the Rules of Court. Petitioner moved that the trial court reconsider its Order invoking the mandatory nature of a certificate of non-forum shopping under Supreme Court Administrative Circular No. 04-94.^[2] On 25 May 1999, the trial court reversed its 11 March 1999 Order and dismissed respondent's counterclaim for lack of a certificate of non-forum shopping.

Respondent seasonably filed a motion for reconsideration arguing that Administrative Circular No. 04-94 does not apply to compulsory counterclaims following the ruling in *Santo Tomas University Hospital v. Surla*.^[3] On 4 June

1999, the trial court again reversed itself and recalled its Order dismissing respondent's counterclaim.

Petitioner now comes before this Court through Rule 65 of the 1997 Rules of Civil Procedure.

The Trial Court's Ruling

The trial court found that respondent's counterclaim is compulsory in nature. The trial court ruled that the filing of a compulsory counterclaim does not require a certificate of non-forum shopping. On the effect of ***Santo Tomas*** on Administrative Circular No. 04-94, the trial court explained:

It is settled rule that it is one of the inherent powers of the court to amend and control its processes and orders so as to make them conformable to law and justice. This power includes the right to reverse itself, specially when in its honest opinion, it has committed an error or mistake in judgment, and that to adhere to its decision will cause injustice to a party litigant.

The Issue

Petitioner raises the following issue:

WHETHER THE TRIAL COURT COMMITTED
GRAVE ABUSE OF DISCRETION IN REFUSING
TO DISMISS RESPONDENT'S COUNTERCLAIM.

The Ruling of the Court

The petition lacks merit.

The issue presented is not novel. This Court has squarely settled this issue in ***Santo Tomas University Hospital v. Surla***.^[4] Writing for the Court, Justice Jose C. Vitug began his ponencia thus:

Can a compulsory counterclaim pleaded in an Answer be dismissed on the ground of a failure to accompany it with a certificate of non-forum shopping? This question is the core issue presented for resolution in the instant petition.

Santo Tomas clarified the scope of Administrative Circular No. 04-94 with respect to counterclaims. The Court pointed out that this circular is intended primarily to cover "**an initiatory pleading or an incipient application of a party asserting a claim for relief.**" The distinction between a compulsory and a permissive counterclaim is vital in the application of the circular. The Court explained:

It should not be too difficult, the foregoing *rationale* of the circular aptly taken, to sustain the view that the circular in question has not, in fact, been contemplated to include a kind of claim which, by its very nature as being auxiliary to the proceedings in the suit and as deriving its substantive and jurisdictional support therefrom, can only be appropriately pleaded in the answer and not remain outstanding for independent resolution except by the court where the main case pends.