

## SECOND DIVISION

[ G.R. No. 212862, June 17, 2019 ]

**SPOUSES FERNANDO C. CRUZ AND AMELIA M. CRUZ AND  
MILLIANS SHOE, INC., PETITIONERS, V. ONSHORE STRATEGIC  
ASSETS (SPV-AMC), INC., UNITED OVERSEAS BANK  
PHILIPPINES (FORMERLY WESTMONT BANK),[\*] REGIONAL  
TRIAL COURT, BRANCH 263-MARIKINA CITY, REGISTER OF  
DEEDS, MARIKINA CITY, RESPONDENTS.**

**J. REYES, JR., J.:**

### **The Facts and the Case**

Before this Court is a Petition for Review on *Certiorari* seeking to annul and set aside the July 25, 2013 Decision<sup>[1]</sup> and June 9, 2014 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 99062 which dismissed the appeal of petitioners spouses Fernando C. Cruz and Amelia M. Cruz, and Millians Shoe, Inc., relative to the September 21, 2011 and March 19, 2012 Orders<sup>[3]</sup> of the Regional Trial Court (RTC) of Marikina City, Branch 263, which dismissed petitioners' complaint.

On March 17, 2011, petitioners filed a Complaint for Annulment of Extrajudicial Foreclosure Sale, Loan Documents, Accounting and Damages against respondents Onshore Strategic Assets (SPV-AMC), Inc. (OSAI), United Overseas Bank Philippines, as well as the Office of the Clerk of Court and Ex-Officio Sheriff, RTC of Marikina City and the Register of Deed of Marikina City.<sup>[4]</sup>

Instead of filing its Answer, OSAI moved for the dismissal of the complaint on the following grounds: (a) failure of the lawyer for the petitioners to comply with Bar Matter No. 1922, particularly the requirement for the counsel to indicate in every pleading that will be filed in court, the counsel's Mandatory Continuing Legal Education (MCLE) Compliance Number for the immediately preceding compliance period; (b) violation of the prohibition against forum shopping as there is another action pending between the same parties for the same cause; (c) lack of legal capacity to sue on the part of petitioner Millians Shoe, Inc. by reason of the revocation of its Articles of Incorporation by the Securities and Exchange Commission.<sup>[5]</sup>

In their Opposition/Comment to the Motion to Dismiss,<sup>[6]</sup> petitioners alleged that Atty. Michelle D. Martinez (Atty. Martinez), their counsel, had no intention to derogate the rules. They admitted that their counsel had only complied with the MCLE requirement for the second compliance period, and that she has a two-hour deficiency for the third compliance period brought about by her occupied time in attending to client calls in various domestic destinations and trips to Australia to attend to important filial obligations. Hence, they prayed that the complaint should not be dismissed due to their counsel's excusable negligence and honest oversight.

Petitioners further claimed that they are not guilty of forum shopping because the case pending before the appellate court is a corporate rehabilitation proceedings initiated by petitioner Millians Shoe, Inc., which is separate and distinct from the present action.<sup>[7]</sup>

On September 21, 2011, the RTC issued an order granting the motion to dismiss. It held:

*A careful perusal of the records of the case shows that counsel for the plaintiff Atty. Michelle D. Martinez failed to comply with her third MCLE the deadline for the MCLE III compliance period was on April 14, 2010. The complaint was filed on March 17, 2011. Counsel for the plaintiffs knowingly ignored Bar Matter No. 1922 and still filed the instant complaint despite knowing that she has not yet comply [sic] with MCLE III Counsel has more than a year to comply with the said rule but opted not to for the simple reason that she has to attend various client calls and her in and out trips to Australia. For Plaintiff's [sic] counsel's failure to comply with Bar Matter No. 1922 the instant case should be dismissed and expunge [sic] from the records. This Court will not delve on the issue of forum-shopping as the complaint should be dismissed outright.*<sup>[8]</sup>

Petitioners moved for reconsideration but the same was still denied by the RTC in an Order dated March 19, 2012.<sup>[9]</sup>

Not accepting defeat, petitioners appealed the matter before the CA.

In a Decision<sup>[10]</sup> dated July 25, 2013, the CA found the appeal to be without merit and dismissed the same. It held that:

Bar Matter No. 1922, requires lawyers to indicate their MCLE Certificate of Compliance or Certificate of Exemption in all pleadings filed before the courts, thus:

x x x x

In the present case, when the plaintiffs-appellants' counsel filed the complaint, she did not indicate her MCLE compliance for the immediately preceding compliance period, the third compliance period. She indicated her MCLE Certificate Number for the second compliance period. The complaint was filed on March 17, 2011 and the deadline for the completion of MCLE III was on April 14, 2010. More than a year has passed after the deadline and still the counsel did not comply. This is not a mere or simple inadvertence as claimed by the appellants.

Clearly, under Bar Matter No. 1922, the failure of a practicing lawyer to disclose the number and date of issue of his MCLE Certificate of Compliance or Certificate of Exemption in his pleadings in court "would cause the dismissal of the case and the expunction of the pleadings from the records." Thus, the trial court did not commit a reversible error in dismissing the complaint.

x x x x

In the case at hand, there is absolutely no compliance with Bar Matter No. 1922. While the appellants claim that there was a deficiency of two hours or two units, no proof was proffered.<sup>[11]</sup>

The appellate court refused to apply liberality in the interpretation and application of the subject Bar Matter for failure of the counsel to give an adequate explanation for her failure to abide by the rule. Moreover, it ruled that appeal to the appellate court of the Orders of the RTC was not the proper remedy. Pursuant to Section 1(h) of Rule 41 of the Revised Rules of Court, no appeal may be taken from an order dismissing an action without prejudice. Instead of filing an appeal, petitioners should have refiled the case, signed by a counsel who has complied with Bar Matter No. 1922.<sup>[12]</sup>

Petitioners moved for reconsideration, but the CA denied it in a Resolution<sup>[13]</sup> dated June 9, 2014.

Undaunted, petitioners are now before this Court in the present Petition for Review on *Certiorari*, raising the following issues for this Court's consideration:

### **The Issues**

#### **I.**

**WHETHER OR NOT THE COURT OF APPEALS ERRED IN DENYING THE MOTION FOR RECONSIDERATION AND DISMISSING THE PETITION NOTWITHSTANDING THE FACT THAT IT WAS CLEARLY SHOWN THAT THE PETITIONERS HAVE BEEN ABSOLUTELY DENIED THE CONSTITUTIONALLY GUARANTEED RIGHT TO DUE PROCESS.**

#### **II.**

**WHETHER OR NOT THE REGIONAL TRIAL COURT, BRANCH 263, OF MARIKINA CITY ERRED IN CONCLUDING THAT THE NEGLIGENCE AND MISTAKE OF COUNSEL BIND THE CLIENT.**<sup>[14]</sup>

### **Arguments of the Parties**

Petitioners contended that their counsel did not fail to disclose the information required under Bar Matter No. 1922 since she indicated in the pleadings she filed before the court her MCLE Certificate of Compliance number for the second compliance period. She has actually attended the MCLE lectures for the third compliance period and lacked only 2 units to be fully compliant thereto. Thus, the complaint should not have been dismissed and expunged from the records for the excusable negligence and/or honest oversight of Atty. Martinez.

They likewise averred that the negligence and mistake of their counsel should not prejudice them given the merits of their complaint. The court should have relaxed the rules in order not to cause injustice to the petitioners commensurate to the degree of their counsel's thoughtlessness in complying with the rules, and so as not to deprive them of their property right without due process of law. The strict application of the rules should be relaxed in the interest of substantial justice.<sup>[15]</sup> Petitioners also claimed that they are not guilty of forum shopping since the actions

for the nullification of foreclosure proceedings pending in Marikina City and Antipolo City do not involve the same properties.<sup>[16]</sup>

For these reasons, petitioners prayed that the ruling of the CA be reversed and the case be remanded to the RTC for a full blown trial.

For their part, respondents argued that the dismissal of petitioners' complaint was in accordance with Bar Matter No. 1922. Respondents contended that petitioners and their counsel are not at liberty to seek an exception to the clear mandate of Bar Matter No. 1922 by simply invoking jurisprudence on liberal construction given that petitioners' counsel did not only fail to indicate her MCLE Compliance Certificate Number for the immediately preceding compliance period, which is the third compliance period, she also unabashedly admitted to have failed to complete her MCLE requirements for the third compliance period which had already ended almost a year prior to the filing of the subject complaint. Worse, petitioners and their counsel did not even lift a finger to rectify their counsel's blatant non-compliance with the rules, but instead persisted in demanding that their counsel's non-compliance should just be excused as a mere inadvertence. Even after petitioners' attention had been called to the fact that the complaint did not comply with Bar Matter No. 1922, petitioners' counsel still proceeded to file a similarly defective Opposition/Comment, again without indicating her MCLE Compliance Certificate Number for the immediately preceding compliance period. The obstinate refusal of their counsel to comply with the MCLE requirements and Bar Matter No. 1922 make it all the more preposterous for petitioners to demand that said non-compliance be excused as a matter of course simply by making empty invocations of substantial justice.

Respondents also averred that the dismissal of the complaint did not violate petitioners' right to due process, considering that the dismissal was without prejudice; hence, the case could have just been refiled by a counsel who was duly compliant with Bar Matter No. 1922.

Lastly, respondents claimed that even assuming that the violation of Bar Matter No. 1922 is brushed aside, the petition should still be dismissed outright for violation of the proscription against forum shopping; for being accompanied by a false certification against forum shopping; and for failure to attach documents material for the proper resolution thereof. <sup>[17]</sup>

### **Ruling of the Court**

***Non-compliance with Bar Matter No. 1922 of petitioners' counsel correctly resulted to the dismissal of the complaint filed in court.***

Bar Matter No. 1922<sup>[18]</sup> requires lawyers to indicate in all the pleadings and motions they file before the courts, the number and date of their MCLE Certificate of Completion or Exemption. It provides:

Bar Matter No. 1922. - Re: Recommendation of the Mandatory Continuing Legal Education (MCLE) Board to Indicate in All Pleadings Filed with the