

SECOND DIVISION

[G.R. No. 186967, January 18, 2017]

**DIVINA PALAO, PETITIONER, V. FLORENTINO III
INTERNATIONAL, INC., RESPONDENT.**

DECISION

LEONEN, J.:

This resolves a Petition for Review on Certiorari^[1] filed by petitioner Divina Palao (Palao) praying that the assailed January 8, 2009 Decision^[2] and the March 2, 2009 Resolution^[3] of the Court of Appeals in CA-G.R. SP No. 105595 be reversed and set aside.

In its assailed Decision, the Court of Appeals reversed and set aside the September 22, 2008 Order^[4] of Intellectual Property Office Director General Adrian S. Cristobal, Jr. and reinstated respondent Florentino III International, Inc.'s (Florentino) appeal from Decision No. 2007-31,^[5] dated March 5, 2007, of the Bureau of Legal Affairs of the Intellectual Property Office.

Decision No. 2007-31 denied Florentino's Petition for Cancellation of Letters Patent No. UM-7789, which the Intellectual Property Office had issued in favor of Palao.^[6]

Letters Patent No. UM-7789 pertained to "A Ceramic Tile Installation on Non-Concrete Substrate Base Surfaces Adapted to Form Part of Furniture, Architectural Components and the Like."^[7]

In its Petition for Cancellation, Florentino claimed that the utility model covered by Letters Patent No. UM-7789 was not original, new, or patentable, as it had been publicly known or used in the Philippines and had even been the subject of several publications.^[8] It added that it, as well as many others, had been using the utility model well before Palao's application for a patent.^[9]

In its Decision No. 2007-31,^[10] the Bureau of Legal Affairs of the Intellectual Property Office denied Florentino's Petition for Cancellation. It noted that the testimony and pictures, which Florentino offered in evidence, failed to establish that the utility model subject of Letters Patent No. UM- 7789 was publicly known or used before Palao's application for a patent.^[11]

In its Resolution No. 2008-14^[12] dated July 14, 2008, the Bureau of Legal Affairs of the Intellectual Property Office denied Florentino's Motion for Reconsideration.

On July 30, 2008, Florentino appealed to the Office of the Director General of the Intellectual Property Office.^[13] This appeal's Verification and Certification of Non-Forum Shopping was signed by Atty. John Labsky P. Maximo (Atty. Maximo) of the

firm Balgos and Perez.^[14] However, Florentino failed to attach to its appeal a secretary's certificate or board resolution authorizing Balgos and Perez to sign the Verification and Certification of Non-Forum Shopping.^[15] Thus, on August 14, 2008, the Office of the Director General issued the Order requiring Florentino to submit proof that Atty. Maximo or Balgos and Perez was authorized to sign the Verification and Certification of Non-Forum Shopping.^[16]

On August 19, 2008, Florentino filed a Compliance.^[17] It submitted a copy of the Certificate executed on August 15, 2008 by Florentino's Corporate Secretary, Melanie Marie A. C. Zosa-Tan, supposedly showing its counsel's authority to sign.^[18] This Certificate stated:

[A]t a meeting of the Board of Directors of the said corporation on 14 August 2008, during which a majority of the Directors were present, the following resolution was unanimously adopted:

'RESOLVED, as it is hereby resolved, that BALGOS & PEREZ, or any of its associates, be, as they are hereby, authorized to sign for and on behalf of the corporation, the Verification and Certification on Non-Forum Shopping and/or all other documents relevant to the Appeal filed by the Corporation with the Office of the Director General of the Intellectual Property Office entitled "Philippine Chambers of Stonecraft Industries, Inc. and Florentino III International, Inc. vs. Divina Palao".'

IN WITNESS WHEREOF, I have hereunto set my hand on these presents, this 15 August 2008 in Cebu City, Cebu.^[19]

In his Order dated September 22, 2008, Intellectual Property Office Director General Adrian S. Cristobal, Jr. (Director General Cristobal) dismissed Florentino's appeal.^[20] He noted that the Secretary's Certificate pertained to an August 14, 2008 Resolution issued by Florentino's Board of Directors, and reasoned that the same Certificate failed to establish the authority of Florentino's counsel to sign the Verification and Certification of Non-Forum Shopping as of the date of the filing of Florentino's appeal (i.e., on July 30, 2008).^[21]

Florentino then filed before the Court of Appeals a Petition for Review under Rule 43 of the 1997 Rules of Civil Procedure. In its assailed January 8, 2009 Decision,^[22] the Court of Appeals faulted Director General Cristobal for an overly strict application of procedural rules. Thus, it reversed Director General Cristobal's September 22, 2008 Order and reinstated Florentino's appeal.^[23]

In its assailed March 2, 2009 Resolution,^[24] the Court of Appeals denied Palao's Motion for Reconsideration.

Hence, this Petition was filed.

For resolution is the sole issue of whether the Court of Appeals erred in reversing the September 22, 2008 Order of Intellectual Property Office Director General Adrian S. Cristobal, Jr., and in reinstating respondent Florentino III International, Inc.'s appeal.

We deny the Petition and sustain the ruling of the Court of Appeals.

The need for a certification of non-forum shopping to be attached to respondent's appeal before the Office of the Director General of the Intellectual Property Office is established.

Section 3 of the Intellectual Property Office's Uniform Rules on Appeal^[25] specifies the form through which appeals may be taken to the Director General:

Section 3. Appeal Memorandum. - The appeal shall be perfected by filing an appeal memorandum in three (3) legible copies with proof of service to the Bureau Director and the adverse party, if any, and upon payment of the applicable fee, Reference Code 127 or 128, provided in the IPO Fee Structure.

Section 4(e) specifies the need for a certification of non-forum shopping. Section 4 reads in full:

Section 4. Contents of the Appeal Memorandum. - The appeal memorandum shall:

- a) State the full name or names, capacity and address or addresses of the appellant or appellants;
- b) Indicate the material dates showing that it was filed on time;
- c) Set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Bureau Director and the reasons or arguments relied upon for the allowance of the appeal;
- d) Be accompanied by legible copies of the decision or final order of the Bureau Director and of the material portions of the record as would support the allegations of the appeal; and
- e) *Contain a certification of non-forum-shopping.* (Emphasis supplied)

These requirements notwithstanding, the Intellectual Property Office's own Regulations on Inter Partes Proceedings (which governs petitions for cancellations of a mark, patent, utility model, industrial design, opposition to registration of a mark and compulsory licensing, and which were in effect when respondent filed its appeal) specify that the Intellectual Property Office "shall not be bound by the strict technical rules of procedure and evidence."^[26]

Rule 2, Section 6 of these Regulations provides:

Section 6 Rules of Procedure to be Followed in the Conduct of Hearing of Inter Partes Cases

In the conduct of hearing of inter partes cases, the rules of procedure herein contained shall be primarily applied. The Rules of Court, unless inconsistent with these rules, may be applied in suppletory character,

provided, however, that *the Director or Hearing Officer shall not be bound by the strict technical rules of procedure and evidence* therein contained but may adopt, in the absence of any applicable rule herein, such mode of proceedings which is consistent with the requirements of fair play and conducive to the just, speedy and inexpensive disposition of cases, and which will give the Bureau the greatest possibility to focus on the technical grounds or issues before it. (Emphasis supplied)

This rule is in keeping with the general principle that administrative bodies are not strictly bound by technical rules of procedure:

[A]dministrative bodies are not bound by the technical niceties of law and procedure and the rules obtaining in courts of law. Administrative tribunals exercising quasi-judicial powers are unfettered by the rigidity of certain procedural requirements, subject to the observance of fundamental and essential requirements of due process in justiciable cases presented before them. In administrative proceedings, technical rules of procedure and evidence are not strictly applied and administrative due process cannot be fully equated with due process in its strict judicial sense.^[27]

In conformity with this liberality, Section 5(b) of the Intellectual Property Office's Uniform Rules on Appeal expressly enables appellants, who failed to comply with Section 4's formal requirements, to subsequently complete their compliance:

Section 5. Action on the Appeal Memorandum - The Director General shall:

- a) Order the adverse party if any, to file comment to the appeal memorandum within thirty (30) days from notice and/or order the Bureau Director to file comment and/or transmit the records within thirty (30) days from notice; or
- b) *Order the appellant/appellants to complete the formal requirements mentioned in Section 4 hereof;*
- c) Dismiss the appeal for being patently without merit, Provided, that the dismissal shall be outright if the appeal is not filed within the prescribed period or for failure of the appellant to pay the required fee within the period of appeal. (Emphasis supplied)

Given these premises, it was an error for the Director General of the Intellectual Property Office to have been so rigid in applying a procedural rule and dismissing respondent's appeal.

Petitioner-in her pleadings before this Court—and Director General Cristobal—in his September 2, 2008 Order—cite Decisions of this Court (namely: *Philippine Public School Teachers Association v. Heirs of Iligan*^[28] and *Philippine Airlines, Inc. v. Flight Attendants & Stewards Association of the Philippines*^[29]) to emphasize the need for precise compliance with the rule on appending a certification of non-forum shopping.

Philippine Public School Teachers Association states:

Under Section 3 of the same Rule, failure to comply shall be sufficient ground for the dismissal of the petition. The rule on certification against forum shopping is intended to prevent the actual filing of multiple petitions/complaints involving identical causes of action, subject matter and issues in other tribunals or agencies as a form of forum shopping. This is rooted in the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different forums, as this practice is detrimental to orderly judicial procedure. Although not jurisdictional, the requirement of a certification of non-forum shopping is mandatory. The rule requires that a certification against forum shopping should be appended to or incorporated in the initiatory pleading filed before the court. The rule also requires that the party, not counsel, must certify under oath that he has not commenced any other action involving the same issue in the court or any other tribunal or agency.

The requirement that the certification of non-forum shopping should be executed and signed by the plaintiff or principal means that counsel cannot sign said certification unless clothed with special authority to do so. The reason for this is that the plaintiff or principal knows better than anyone else whether a petition has previously been filed involving the same case or substantially the same issues. Hence, a certification signed by counsel alone is defective and constitutes a valid cause for dismissal of the petition. In the case of natural persons, the Rule requires the parties themselves to sign the certificate of non-forum shopping. However, in the case of the corporations, the physical act of signing may be performed, on behalf of the corporate entity, only by specifically authorized individuals for the simple reason that corporations, as artificial persons, cannot personally do the task themselves. It cannot be gainsaid that obedience to the requirements of procedural rules is needed if we are to expect fair results therefrom. Utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.^[30]

Philippine Airlines, for its part, states that:

The required certification of non-forum shopping must be valid at the time of filing of the petition. An invalid certificate cannot be remedied by the subsequent submission of a Secretary's Certificate that vests authority only after the petition had been filed.^[31]

As pointed out by the Court of Appeals,^[32] however, the strict posturing of these Decisions are not entirely suitable for this case. Both *Philippine Public School Teachers Association* and *Philippine Airlines* involved petitions filed before the Court of Appeals, that is, petitions in judicial proceedings. What is involved here is a quasi-judicial proceeding that is "unfettered by the strict application of the technical rules of procedure imposed in judicial proceedings."^[33]

In any case, even in judicial proceedings, this Court has rebuked an overly strict application of the rules pertaining to certifications of non-forum shopping.

In *Pacquing v. Coca-Cola Philippines, Inc.*:^[34]