

THIRD DIVISION

[G.R. No. 203750, June 06, 2016]

**JORGE B. NAVARRA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, HONGKONG AND SHANGHAI BANKING
CORPORATION, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

Before the Court is a petition which Jorge B. Navarra filed questioning the Court of Appeals (CA) Resolution^[1] dated July 18, 2012 in CA-G.R. CR No. 34954, which dismissed his petition due to lack of certification against forum shopping.

The pertinent factual antecedents of the case as disclosed by the records are as follows:

Petitioner Jorge Navarra is the Chief finance Officer of Reynolds Philippines Corporation (*Reynolds*), which has been a long time client of private respondent Hongkong and Shanghai Banking Corporation (*HSBC*). On November 3, 1998, HSBC granted Reynolds a loan line of P82 Million and a foreign exchange line of P900,000.00. Thereafter, Reynolds executed several promissory notes in HSBC's favor. Subsequently, Reynolds, through Navarra and its Vice-President for Corporate Affairs, George Molina, issued seven (7) Asia Trust checks amounting to P45.2 Million for the payment of its loan obligation.

On July 11, 2000, when HSBC presented the subject checks for payment, said checks were all dishonored and returned for being "Drawn Against Insufficient Funds." Thus, the bank sent Reynolds a notice of dishonor on July 21, 2000. Navarra received said notice but requested HSBC to reconsider its decision to declare the corporation in default. On September 8, 2000, HSBC sent another notice of dishonor with respect to another check in the amount of P3.7 Million, and demanded its payment as well as that of the six (6) other checks previously dishonored. Despite said demands, however, Reynolds refused to pay. Hence, HSBC filed Informations against Navarra and Molina for violation of *Batas Pambansa Bilang 22 (BP 22)* before the Makati Metropolitan Trial Court (*MeTC*).

Upon arraignment, Navarra and Molina pleaded not guilty to the charge. Trial on the merits then proceeded.

On April 27, 2010, the Makati MeTC, Branch 66 rendered a Decision finding both the accused guilty of the offense charged, with a dispositive portion that reads:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of the accused beyond reasonable doubt, the Court finds accused **JORGE B. NAVARRA** and **GEORGE C. MOLINA GUILTY** of the

offense of Violation of Batas Pambansa Blg. 22 on seven (7) counts under Criminal Case Nos. 312262 to 312268 and hereby sentences them to pay a **FINE** of P200,000.00 for each count or a total of P1.4 million with subsidiary imprisonment in case of insolvency.

Accused **JORGE B. NAVARRA** and **GEORGE C. MOLINA** are further **ORDERED** to pay private complainant Hongkong Shanghai and Banking Corporation (HSBC) by way of civil indemnity the respective face amount of the seven (7) bounced subject checks or a TOTAL AMOUNT OP P45.2 millions with interest at 12% per annum from date of the filing of this complaint on February 16, 2001 until the amount is fully paid and costs of suit.

SO ORDERED.^[2]

Navarra then elevated the case to the Regional Trial Court (RTC). On June 8, 2011, the Makati RTC, Branch 57 affirmed the MeTC Decision, thus:

WHEREFORE, premises considered, the decision of the Metropolitan Trial Court is hereby AFFIRMED in Toto.

SO ORDERED.^[3]

Thereafter, Navarra filed a petition for review before the CA which was docketed as CA-G.R. CR No. 34954. On July 18, 2012, the CA dismissed said petition for failure to attach a certification of non-forum shopping.^[4] The CA likewise denied Navarra's subsequent motion for reconsideration.^[5]

Hence, the instant petition.

Navarra raises the following issues to be resolved by the Court:

I.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT DISMISSED NAVARRA'S PETITION BASED SOLELY ON TECHNICALITIES.

II.

WHETHER OR NOT NAVARRA IS GUILTY BEYOND REASONABLE DOUBT OF VIOLATION OF BP 22.

The Court shall first tackle the procedural issue of the case. The CA dismissed Navarra's petition for failure to comply with the requirement of certification against forum shopping. It hinged its ruling on Section 5, Rule 7 of the Rules of Court which states:

Section 5. Certification against jorum shopping. — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same

issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (n)

As a general rule, petitions that lack or have a defective certificate of non-forum shopping cannot be cured by its subsequent submission or correction, unless there is a reasonable need to relax the rules on the ground of substantial compliance or presence of special circumstances or compelling reasons.^[6] The court has the discretion to dismiss or not to dismiss an appellant's appeal but said discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the unique circumstances obtaining in each case. Technicalities, as much as possible, must be avoided. When technicality abandons its proper office as an aid to justice and instead becomes its great hindrance and chief enemy, it deserves scant consideration from courts. Litigations must be decided on their merits and not on sheer technicality, for rules of procedure are used to help secure, not override substantial justice. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause. Thus, dismissal of appeals purely on technical grounds is frowned upon since the policy of the courts is to encourage hearings of appeals on their merits and not to apply the rules of procedure in a very rigid, technical sense. It would be more prudent for the courts to forego a technical lapse and allow the review of the parties' case on appeal to attain the ends of justice rather than to dispose of the case on technicality and cause grave injustice to the parties, giving nothing but false impression of speedy disposal of cases.^[7]

However, even if the Court is to rule on the merits of the case, the same will still have to decide against Navarra.

The cardinal issues involved in the present case are more legal than factual in nature, such that the Court can duly take cognizance of and pass upon the same. Also, nothing prevents the Court from settling even questions of fact if it deems that a review or reassessment is warranted in order to avoid further delay or worse, a miscarriage of justice. At any rate, the factual question as to whether the checks were issued merely as a condition for the restructuring of the obligation or for actual payment of the loan had already been settled by the trial courts and the CA. There is no cogent reason to deviate from the findings of said courts. Absent any proof