

FIRST DIVISION

[G.R. No. 191225, October 13, 2014]

ZARSONA MEDICAL CLINIC, PETITIONER, VS. PHILIPPINE HEALTH INSURANCE CORPORATION, RESPONDENT.

D E C I S I O N

PEREZ, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, questioning the 28 January 2009^[1] and 7 December 2009^[2] Resolutions of the Court of Appeals in CA-G.R. SP No. 02489-MIN.

A complaint was filed against petitioner Zarsona Medical Clinic (ZMC) for violation of Section 149 of the Revised Implementing Rules and Regulations of Republic Act No. 7875 or the National Health Insurance Act of 1995. Section 149 penalizes any health care provider that increases the period of actual confinement of any patient with revocation of accreditation.

ZMC filed a claim with the Philippine Health Insurance Corporation (Philhealth) on the confinement of National Health Insurance Program (NHIP) member Lorna M. Alestre (Alestre) on 10-12 August 2003. Said claim was denied on the ground of "extended confinement." It was stated on the claim form that Alestre was admitted to ZMC on 6 August 2003 and was discharged on 12 August 2003. It was also revealed in her *Salaysay* ^[3] dated 12 January 2004 that Alestre's actual confinement at ZMC was on 10-11 August 2003. Alestre, who is a teacher at Rizal Elementary School, was found to have reported for work on 12 August 2003.

In defense of ZMC, Dr. Sylvia Bragat (Dr. Bragat), its Medical Director, stated that ZMC's Midwife/Clerk Jennifer R. Acuram (Acuram) committed an honest mistake when she wrote 6-12 August 2003 as the confinement period in the claim form. Dr. Bragat asserted that the hospital had in fact claimed only for two (2) days. Acuram acknowledged her mistake in her Affidavit of Explanation.^[4]

ZMC also presented an Affidavit of Explanation^[5] dated 21 January 2005 from Alestre recanting her previous *Salaysay*. Alestre explained that the previous statement she gave does not reflect the truth because she was protecting herself when she logged-in at the school's time record on 12 August 2003 when she was supposedly still confined at ZMC. Alestre narrated that she and her son were admitted at ZMC on 10 August 2003 at around 1:30 p.m. and was discharged on 12 August 2003. In the morning of 12 August 2003, after her attending physician went to check on her, she managed to slip out of the hospital. She proceeded to the school, which was a mere ten minute drive away from ZMC. She reported for work and came back to the hospital at noon to take her medicines and look after her child. Thereafter, she again went back to the school and at about 1:30 p.m., she asked permission from the school principal that she needed to go back to the

hospital. She then went back to ZMC to attend to her child and process her discharge papers. At around 2:00 p.m., she finally came back to the school.

Dr. Ariel dela Cruz, attending physician of Alestre, confirmed that he ordered Alestre's discharge in the morning of 12 August 2003.^[6]

On 12 December 2007, ZMC was found liable for the charge of "Extending Period of Confinement" in violation of Section 149 of the Revised Rules and Regulations of Republic Act No. 7875 and was meted the penalty of suspension from participating in the NHIP for a period of three (3) months and a fine of P10,000.00.

While Health Insurance Arbiter Michael Troy Polintan considered the admission date of 6 August 2003 reflected in Alestre's clinical record as a mere clerical error, he refused to believe Alestre's claim that she was discharged only on 12 August 2003 but on that day, she was travelling back and forth from hospital to the school where she teaches. The Philhealth Arbiter gave more evidentiary weight to the signature of Alestre in the school's attendance logbook which established the fact that she reported for work on 12 August 2003.

ZMC appealed but on 24 July 2008, the Philhealth Board of Directors (the Board) issued Philhealth Board Resolution No. 1151, Series of 2008 dismissing the appeal and affirming the 12 December 2007 Decision of the Philhealth Arbiter.

The Board ruled that the contents of the Affidavit of Explanation dated **3 May 2005** executed by Alestre is "too good to be true" because "in the first place, she has stated in detail all her acts from 7:17 a.m. to 8:15 [a.m.], 9:30 [a.m.], 9:50 [a.m.], 12:00 [noon]; 12:55 p.m., 1:30 p.m., 1:50 p.m., 2:15 p.m. and 2:30 p.m. The recollection of all these times after 22 months is not only fantastic but likewise incredible."^[7] Moreover, the Board also noted that Alestre could not possibly be in ZMC and in the school at the same time on 12 August 2003 while her son was still confined at the hospital.

ZMC filed a petition for review with the Court of Appeals putting in the forefront of its arguments Alestre's Affidavit of Explanation. ZMC admitted to Alestre's recantation but in its defense, ZMC emphasized that the Affidavit, being notarized and executed under oath, should weigh more than the Salaysay, which was not so. ZMC added that Alestre's retraction rang true because she was willing to incriminate herself in exchange for telling the truth.

Acting on the petition, the Court of Appeals issued the 4 September 2008 Resolution, which reads:

In the greater interest of substantial justice, petitioner is directed to RECTIFY within five (5) days from notice, the following deficiencies in its petition: (1) failure to attach the Special Power of Attorney executed by the petitioner Zarsona Medical Clinic in favor of Ma. Irene M. Hao, authorizing the latter to execute the verification and certification of non-forum shopping; (2) failure of the petitioner to attach the certified true copy of the assailed decision of the Board of Directors of the Philippine Health Insurance Corporation as required under Rule 43, Section 6(c) of the Revised Rules of Court; (3) failure of the petitioner's counsel, Atty.

John Tracy F. Cagas, to indicate the dates and places of issuance of his IBP and PTR Receipts as well as his Roll of Attorneys Number.

Further action on the petition is held in abeyance pending the petitioner's compliance on these matters.^[8]

On 30 October 2008, ZMC filed its Compliance, attaching thereto the plain copies of the Official Receipts of Atty. John Tracy F. Cagas' Integrated Bar of the Philippines dues and Professional Tax Receipts showing the dates and places of issuance thereof, his roll number, a certified true copy of the assailed Decision dated 24 July 2008, and a Special Power of Attorney (SPA) dated 5 February 2001 executed by Dr. Leandro Zarsona, Jr. (Dr. Zarsona) in favor of Dr. Bragat and William Bragat.

On 28 January 2009, the Court of Appeals dismissed the petition for failure on the part of ZMC to attach a valid SPA. The appellate court found the SPA defective on the ground that it does not explicitly authorize Dr. Bragat to sign and execute the required verification and certification of non-forum shopping in this case. The appellate court noted that the powers granted to Dr. Bragat pertain only to her administrative functions as Medical Director of ZMC.

ZMC moved for reconsideration but it was denied for lack of merit on 7 December 2009. In his Dissent, Court of Appeals Associate Justice Ruben Ayson believed that ZMC should be given the opportunity to rectify any defect or infirmity in the petition pursuant to the preference on liberal construction of the Rules of Court over strict construction.^[9]

Hence, this petition for review with the following assignment of errors:

1. THE COURT OF APPEALS ERRED IN RULING THAT THE SPECIAL POWER OF ATTORNEY (SPA) EXECUTED IN FAVOR OF DR. SYLVIA P. BRAGAT WAS INSUFFICIENT TO COVER THE AUTHORITY GRANTED UPON HER TO SIGN THE VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING OF THIS INSTANT CASE.
2. THE COURT OF APPEALS ERRED IN DISMISSING THIS INSTANT CASE BY DISREGARDING THE MERITS THEREOF.^[10]

ZMC insists that the SPA provided that the Attorney-in-fact can make, execute and sign any contract, documents or all other writing of whatever kind and nature which are necessary to the power granted to it which is to represent, process, follow-up, transact and facilitate claims in Philhealth. This also covers the execution of verification and certification of non-forum shopping. ZMC then asserts that it will not gain anything in extending the period of confinement and reiterates that its clerk committed a mistake in entering the exact period of confinement.

At the outset, the issues revolve on the sufficiency of the SPA authorizing Dr. Bragat to sign the verification and certification of non-forum shopping in the petition filed before the Court of Appeals.

Verification of a pleading is a formal, not jurisdictional, requirement intended to secure the assurance that the matters alleged in a pleading are true and correct. Thus, the court may simply order the correction of unverified pleadings or act on them and waive strict compliance with the rules. It is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.^[11]

As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."^[12] Rule 7, Section 5 of the Rules of the Court, requires that the certification should be signed by the "petitioner or principal party" himself. The *rationale* behind this is "because only the petitioner himself has actual knowledge of whether or not he has initiated similar actions or proceedings in different courts or agencies."^[13]

In *Lim v. The Court of Appeals, Mindanao Station*,^[14] we reiterated that the requirements of verification and certification against forum shopping are not jurisdictional. Verification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative. Non-compliance with the verification requirement does not necessarily render the pleading fatally defective, and is substantially complied with when signed by one who has ample knowledge of the truth of the allegations in the complaint or petition, and when matters alleged in the petition have been made in good faith or are true and correct. On the other hand, the certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different *fora*. While the certification requirement is obligatory, non-compliance or a defect in the certificate could be cured by its subsequent correction or submission under special circumstances or compelling reasons, or on the ground of "substantial compliance."^[15]

In both cases, the submission of an SPA authorizing an attorney-in-fact to sign the verification and certification against forum-shopping in behalf of the principal party is considered as substantial compliance with the Rules.

In this case, Philhealth found the SPA defective.

The SPA granted by Dr. Zarsona to his attorneys-in-fact, Dr. Bragat and William Bragat, authorizes the latter to do the following:

- A) To represent(,) process, follow up, transact and facilitate all claims, benefits and privileges belonging to or owing to Zarsona Medical Clinic in the Philippine Health Insurance Corporation, Department of Health and in other agencies, may it be private or government;
- B) To receive, withdraw, and encash any check or checks belonging to or in the name of Zarsona Medical Clinic;
- C) To make, execute, and sign any contract, documents or all other writings of whatever kind and nature which are