

SECOND DIVISION

[G.R. No. 172590, January 07, 2013]

**MARY LOUISE R. ANDERSON, PETITIONER, VS. ENRIQUE HO,
RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

As her petition for review was dismissed by the Court of Appeals (CA) on a technical ground, petitioner now invokes the liberal application of the rules of procedure.

Assailed in this Petition for Review on *Certiorari*^[1] is the July 14, 2005 Resolution^[2] of the CA in CA-G.R. SP No. 89793 which dismissed the petition for review of petitioner Mary Louise R. Anderson (Anderson) because the certification against forum shopping attached thereto was signed by counsel on her behalf without the proper authority. Likewise assailed is the CA's May 4, 2006 Resolution^[3] denying the motion for reconsideration thereof.

Factual Antecedents

On June 5, 2003, Anderson filed a Complaint^[4] for Ejectment against respondent Enrique Ho (Ho) before the Metropolitan Trial Court (MeTC) of Quezon City.^[5] She alleged that through her mere tolerance, Ho is in possession of her parcel of land at Roosevelt Avenue, Quezon City covered by Transfer Certificate of Title No. N-193368^[6] (Roosevelt property). As she was already in need of the said property, Anderson served upon Ho a Demand Letter to Vacate but despite receipt thereof, Ho refused. Because of this, Anderson prayed that the MeTC order Ho to vacate the Roosevelt property and pay her damages and attorney's fees.

In his Answer with Compulsory Counterclaim,^[7] Ho denied that his occupation of the Roosevelt property is through Anderson's mere tolerance. He claimed that since Anderson is an American citizen, he managed her affairs in the Philippines and administered her properties in Quezon City and Cebu. When Anderson sought his assistance in ejecting her relatives from the Roosevelt property and in demolishing the St. Anthony de Padua Church built thereon, Ho (1) secured the services of a lawyer to file an ejectment case against the occupants of the property; (2) dutifully appeared in court on Anderson's behalf who was then in the United States of America (U.S.A.); and (3) was able to secure a judgment from the court in favor of Anderson. For all these, Anderson did not pay Ho a single centavo and instead executed a written document dated January 14, 1999^[8] which states that as partial payment for Ho's services, Anderson is authorizing him "to make use of the Roosevelt property as his residence free of charge provided he vacates [it] if there is a buyer for the lot" and "that the balance of Ho's compensation shall consist of 10% of the proceeds [of the sale of any or all of her properties located in Roosevelt

Avenue, M.H. del Pilar Street and Ana Maria Street, all in Quezon City; Cebu City; and Cebu province]”. In view of this, Ho averred that he possesses the property not through mere tolerance but as part of his compensation for services rendered to Anderson. Hence, he is entitled to the continued possession thereof until such time that the property is sold and he is paid the 10% of the proceeds of its sale.

Ruling of the Metropolitan Trial Court

On June 25, 2004, the MeTC rendered a Decision^[9] dismissing the case for lack of cause of action. It gave much weight to the written document executed by Anderson wherein she gave her consent for Ho to occupy the Roosevelt property provided that the latter shall vacate the same if there is already a buyer for the lot. There being no allegation that the said property already has a buyer, she could not eject Ho therefrom.

Ruling of the Regional Trial Court

On appeal, the Regional Trial Court (RTC) in its Decision^[10] of January 21, 2005 ruled as follows:

The evidence of the parties thus stands upon an equipoise. With the equiponderance of evidence, the Court is inclined to consider the dismissal of the complaint as without prejudice depending on the outcome of the determination in the proper forum whether or not the [written document dated January 14, 1999] x x x was falsified.

WHEREFORE, the Court modifies the Decision dated June 25, 2004 of the Metropolitan Trial Court of Quezon City in Civil Case No. 30840 by dismissing the complaint without prejudice.

SO ORDERED.^[11]

Anderson moved for reconsideration,^[12] but the same was denied by the RTC in an Order^[13] dated April 1, 2005, a copy of which was received by her counsel on May 5, 2005.^[14]

Ruling of the Court of Appeals

Intending to file with the CA a Petition for Review under Rule 42 of the Rules of Court, Anderson’s counsel, Atty. Rommel V. Oliva (Atty. Oliva), filed a Motion for Extension of Time of 15 days from May 20, 2005 or until June 4, 2005 within which to file a petition^[15] allegedly due to the revisions required in the initial draft and on account of heavy pressure of work. This was granted by the CA in a Minute Resolution^[16] dated May 31, 2005. Subsequently, said counsel sought another extension of 15 days or until June 19, 2005,^[17] this time claiming that the petition had already been finalized and sent to Anderson in Hawaii, U.S.A. for her to read as well as sign the certification and verification portion thereof. However, as of the last day of the extended period on June 4, 2005, the petition has not yet been sent back, hence, the additional extension being sought. In the interest of justice, the

CA once again granted the said motion for extension.^[18] On June 20, 2005,^[19] Atty. Oliva was finally able to file the Petition for Review^[20] but the certification against forum shopping attached thereto was signed by him on Anderson's behalf without any accompanying authority to do so. Hence, the CA issued a Resolution^[21] on July 14, 2005, viz:

The Court resolves to DISMISS herein Petition for Review as the certification against forum shopping was executed not by the petitioner herself but [by] her counsel without attaching therewith any special authority to sign [on] her behalf.

SO ORDERED.^[22]

Anderson filed a Motion for Reconsideration.^[23] During its pendency, she also filed a Manifestation^[24] to which was attached an Affidavit^[25] and a Special Power of Attorney (SPA)^[26] authorizing her counsel to cause the preparation and filing of the Petition for Review and to sign and execute the verification and certification against forum shopping on her behalf. She explained in the Affidavit that at the time the petition was filed, her health condition hindered her from going to the proper authority to execute the necessary SPA so she just verbally instructed her lawyer to draft the petition and cause the filing of the same. Nevertheless, upon learning of the dismissal of her case, she returned to the Philippines even against her doctor's advice and executed an SPA in favor of her counsel. She thus prayed that the subsequently submitted documents be considered in resolving her pending Motion for Reconsideration.

The CA, however, remained unwayed and denied the Motion for Reconsideration in a Resolution^[27] dated May 4, 2006.

Hence, this Petition for Review on *Certiorari*.

The Parties' Arguments

Anderson prays for the relaxation of the rules on certification against forum shopping and cites a number of jurisprudence wherein the Court considered the subsequent submission or correction of a certificate of non-forum shopping as substantial compliance. One in particular is *Donato v. Court of Appeals*^[28] which she claims to be on all fours with the present case. Moreover, Anderson stresses that the merits of the case should at all times prevail over the rigid application of technical rules. She then proceeds to discuss her arguments relating to the substantial merits of her petition.

On the other hand, Ho points out that despite the extensions granted by the CA within which to file the Petition for Review, Anderson still failed to sign the certification against forum shopping. This, he avers, demonstrates Anderson's brazen disregard of technical rules. Anent the argument of substantial compliance, Ho cites *Mendigorin v. Cabantog*^[29] where the Court reiterated its earlier pronouncement that substantial compliance will not suffice in a matter involving

strict observance of the rule regarding a certificate of non-forum shopping.^[30] At any rate, Ho insists that Anderson has no sufficient cause of action for ejectment and damages against him.

Our Ruling

The petition has no merit.

*No justifiable reason exists in this case
as to relax the rule on certification against
forum shopping.*

The need to abide by the Rules of Court and the procedural requirements it imposes has been constantly underscored by this Court. One of these procedural requirements is the certificate of non-forum shopping which, time and again, has been declared as basic, necessary and mandatory for procedural orderliness.^[31]

In *Vda. De Formoso v. Philippine National Bank*,^[32] the Court reiterated the guidelines respecting non-compliance with or submission of a defective certificate of non-forum shopping, the relevant portions of which are as follows:

4) As to certification against forum shopping, non-compliance therewith or a defect therein, x x x, 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'.

x x x x

6) Finally, the certification against forum shopping must be executed by the party-pleader, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his behalf.^[33] (Emphasis supplied)

The requirement that it is the petitioner, not her counsel, who should sign the certificate of non-forum shopping is due to the fact that a "certification is a peculiar personal representation on the part of the principal party, an assurance given to the court or other tribunal that there are no other pending cases involving basically the same parties, issues and causes of action."^[34] "Obviously, it is the petitioner, and not always the counsel whose professional services have been retained for a particular case, who is in the best position to know whether [she] actually filed or caused the filing of a petition in that case."^[35] Per the above guidelines, however, if a petitioner is unable to sign a certification for reasonable or justifiable reasons, she must execute an SPA designating her counsel of record to sign on her behalf. "[A] certification which had been signed by counsel without the proper authorization is defective and constitutes a valid cause for the dismissal of the petition."^[36]

In this light, the Court finds that the CA correctly dismissed Anderson's Petition for