

## SECOND DIVISION

[ G.R. No. 166301, February 29, 2008 ]

**ST. MICHAEL SCHOOL OF CAVITE, INC. and SPOUSES CRISANTO S. CLAVERIA and GLORIA M. CLAVERIA, Petitioners, vs. MASAITO DEVELOPMENT CORPORATION and REXLON REALTY GROUP, INC., Respondents.**

### D E C I S I O N

**VELASCO JR., J.:**

The core issue in this petition for review under Rule 45 is what constitutes a sufficient cause of action for a complaint for easement of right-of-way. Petitioners assail the August 13, 2004 Resolution<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 85558, dismissing their petition for defective verification and certification of non-forum shopping, and the November 23, 2004 CA Resolution<sup>[2]</sup> rejecting their plea for reconsideration. In effect, the dismissal of petitioners' complaint in Civil Case No. BCV-2001-60 before the Bacoor, Cavite Regional Trial Court (RTC), Branch 19 was upheld by the CA.

Petitioner St. Michael School of Cavite, Inc. (St. Michael) is a duly registered non-stock corporation<sup>[3]</sup> owned by petitioners-spouses Crisanto S. Claveria and Gloria M. Claveria. It is represented by petitioner Gloria M. Claveria. Respondents Masaito Development Corporation (Masaito) and Rexlon Realty Group, Inc. (Rexlon) are domestic corporations that own, operate, and manage Citihomes Molino IV, Bacoor, Cavite (Citihomes). St. Michael is located outside the northern perimeter fence of Citihomes. Its passageway occupies a portion of the 61-square meter lot described as Lot 4, Block 7, Phase 1 of Citihomes. The gate to the school is located at the subdivision's northern perimeter fence and is the only entrance and exit for the entire school population.

On July 28, 1998, Rexlon informed petitioners that the value of the Citihomes lots when fully developed was PhP 3,872 per square meter as appraised by the Home Insurance and Guarantee Corporation.<sup>[4]</sup> In a letter dated January 29, 2001, Masaito advised petitioners to purchase Lots 1-9, Block 7, Phase 1, fronting the school at PhP 3,579,000.<sup>[5]</sup> On April 6, 2001, Masaito sent another offer to sell Lot 4, Block 7 of the subdivision with the right-of-way through the private roads/drainage facilities of Citihomes at the price of PhP 2 Million. Petitioners refused both proposals, reasoning that the school did not need the entire area mentioned in the first proposal. St. Michael also said that the second offer was grossly overpriced.

Petitioners, with four other homeowners, filed a complaint against respondents before the Bacoor, Cavite RTC, Branch 19 entitled *St. Michael School of Cavite, Inc., Spouses Crisanto S. Claveria and Gloria M. Claveria, Pancho R. Navo, Vivencio B.*

*Asuncion, Isaurito S. Hernandez and Elias Namit v. Masaito Development Corporation and Rexplon Realty Group, Inc.* for easement of right-of-way with damages under Article 649 of the Civil Code and preliminary injunction and/or temporary restraining order (TRO).

The trial court issued a TRO on June 5, 2001<sup>[6]</sup> for 72 hours which was extended to June 24, 2001 through the June 13, 2001<sup>[7]</sup> Order enjoining respondents from blocking the passageway and school gate of St. Michael. On July 17, 2001, respondents filed a motion to dismiss on the ground that petitioners failed to state a cause of action against them.

On July 29, 2002, the RTC issued an order,<sup>[8]</sup> dismissing for lack of cause of action the complaint as to Pancho R. Navo, Vivencio Asuncion, Isaurito S. Hernandez, and Elias Namit, as plaintiffs *a quo*, and denying petitioners' application for issuance of a writ of preliminary injunction.

On October 9, 2002, respondents filed a motion for partial reconsideration of the July 29, 2002 RTC Order, on the grounds that (1) St. Michael was not a real party in interest; and (2) petitioners-spouses failed to state a cause of action.

On September 25, 2003, the trial court granted respondents' partial motion for reconsideration and likewise dismissed the complaint of St. Michael and spouses Claverias for failure to state a cause of action.<sup>[9]</sup> Petitioners filed an omnibus motion/motion for reconsideration on December 18, 2003, reiterating their defenses, which the RTC denied on May 5, 2004 for lack of merit.<sup>[10]</sup>

Petitioners filed before the CA a petition for certiorari with prayer for issuance of a TRO and/or writ of preliminary injunction under Rule 65, seeking to annul and set aside the May 5, 2004 RTC Order. The CA dismissed the petition. In its August 13, 2004 Resolution, the CA held that the petition for certiorari was dismissible for the following infirmities:

1. The verification and certification of non-forum shopping [did] not fully comply with [Section 4, Rule 7] of the Rules of Court, because it failed to give the assurance that the allegations of the petition are true and correct based on authentic records.
- 2) [S]aid verification and certification was signed by petitioner Gloria M. Claveria in behalf of her co-petitioners without the accompanying special power of attorney or board resolution authorizing her to sign the same x x x; and
- 3) Counsel for petitioners failed to indicate his Roll of Attorney's Number x x x.<sup>[11]</sup>

On September 6, 2004, petitioners filed an Urgent Motion for Reconsideration,<sup>[12]</sup> which the CA denied.<sup>[13]</sup> Hence, we have this petition that raises the following issues:

(a)

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN ITS

INTERPRETATION AND APPLICATION OF SECTION 4, RULE 7 OF THE 1997 RULES OF CIVIL PROCEDURE WHICH, ACCORDING TO ITS INTERPRETATION, REQUIRES PETITIONERS TO STILL SUBMIT AN AMENDED VERIFICATION STATING THEREIN THAT THE ALLEGATIONS OF THE PETITION ARE TRUE AND CORRECT NOT ONLY OF THEIR PERSONAL KNOWLEDGE BUT ALSO BASED ON AUTHENTIC RECORDS DESPITE CLEAR COMPLIANCE BY PETITIONERS OF THE SAID PROCEDURAL REQUIREMENT THROUGH THE SUBMISSION OF THE THREE (3) DOCUMENTS ATTACHED TO THEIR URGENT MOTION FOR RECONSIDERATION DATED SEPTEMBER 6, 2004.

(b)

THE HONORABLE COURT OF APPEALS ERRED IN ITS FINDINGS THAT THE COURT A QUO DID NOT COMMIT GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION; THAT THE PETITION IS PATENTLY WITHOUT MERIT; AND THE QUESTIONS RAISED THEREIN ARE TOO [UNSUBSTANTIAL] TO REQUIRE CONSIDERATION, THE SAID FINDINGS BEING MERE CONCLUSIONS OF LAW UNSUPPORTED BY ANY STATEMENT OR FINDINGS OF FACT AND CONTRADICTED BY THE PERTINENT PLEADINGS AND MOTIONS OF THE CASE WHICH, IF PROPERLY CONSIDERED, WILL JUSTIFY A DIFFERENT CONCLUSION AND DEMONSTRATE THAT PETITIONERS ARE NOT ONLY REAL PARTIES IN INTEREST BUT HAVE VALID CAUSES OF ACTION AGAINST RESPONDENTS.<sup>[14]</sup>

In sum, the twin issues for our consideration are: (1) Did the CA err in dismissing the petition and ruling that Section 4, Rule 7 of the 1997 Rules of Civil Procedure still requires petitioners to submit an amended verification that the allegations in the petition are true and correct not only from their personal knowledge but also based on authentic records, even if they had already submitted three other documents attached to their September 6, 2004 motion for reconsideration?; and (2) Did the CA err in finding that the trial court did not commit grave abuse of discretion when it ruled that the petition has no merit, that the questions raised were unsubstantial, and that the findings were conclusions of law unsupported by facts and contradicted by the records?

On the first issue, petitioners aver that Gloria M. Claveria is expressly authorized by her co-petitioners to represent them in filing the petition for certiorari with the CA, evidenced by her Affidavit,<sup>[15]</sup> a Special Power of Attorney, and Secretary's Certificate. They claim that there was no need for them to submit an Amended Verification as the three aforementioned documents satisfied the requirement.

In its November 23, 2004 Resolution, the CA stated:

Considering that petitioners did not cure the first deficiency mentioned in Our August 13, 2004 Resolution dismissing the petition by submitting an amended verification and stating therein that the allegations in the petition **are true and correct not only of their personal knowledge but also based on authentic records**, the Court is constrained to deny their Motion for Reconsideration of said Resolution (emphasis supplied.)

The CA erred.

Petitioners correctly point out that paragraph 3 of Sec. 4, Rule 7 of the Rules of Court uses the conjunction "or" not "and":

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge **or** based on authentic records x x x .A pleading required to be verified which contains a verification based on "information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.

Moreover, petitioners, in their September 6, 2004 Urgent Motion for Reconsideration, attached the following:

(1) Affidavit executed by petitioner Gloria M. Claveria, stating:

1. That I am one of the petitioners in **C.A.- G.R. SP [No.] 85558 for Certiorari with Preliminary Injunction and Temporary Restraining Order** pending before the Special Tenth Division of the Court of Appeals;

2. That I hereby certify that I am duly authorized by my husband Crisanto S. Claveria and the St. Michael School of Cavite, Inc. who are my co-petitioners in the said case, to sign for all petitioners, to file said petition and represent them in the proceedings;

3. That I further certify that I am one of the Incorporators, a Trustee the incumbent Treasurer and the Directress of the Saint Michael School of Cavite, Inc.;

4. That I am also the registered owner together with my husband Crisanto S. Claveria, of the two (2) parcels of land upon which the said school stands and is a direct party in interest in the case;

5. That I am the Founder of the said school, managed, supervised and oversaw its operation from its opening up to the present and I have received, read and understood all the documents annexed to the said petition;

6. That I also participated in the collation and completion of all the documents attached as Annexes to the Petition for Certiorari filed before the Honorable Court of Appeals and which were ALL previously submitted to the Regional Trial Court, Branch 19 of Bacoor, Cavite and verified the truth and correctness of the contents of the Petition from the records and files in my possession. Thus, I attest to the truth and correctness of the allegations of the said Petition of my own personal knowledge and based on authentic documents.<sup>[16]</sup>

(2) Special Power of Attorney<sup>[17]</sup> executed by petitioner Crisanto S. Claveria, authorizing his spouse, Gloria M. Claveria, to represent him in the petition for certiorari with the CA, make, sign, execute for and in his behalf all documents necessary to the case; appear in court; and enter into a compromise agreement or alternative mode of dispute settlement; and

(3) Secretary's Certificate<sup>[18]</sup> signed by Sanett M. Claveria, Corporate Secretary of St. Michael, attesting that Mrs. Gloria M. Claveria is authorized to represent St. Michael as approved in a special meeting of the board of directors dated September 1, 2004.

We have held that the requirement regarding verification of a pleading is intended to assure that the pleading's allegations are accurate, filed in good faith, and not the product of the imagination or a matter of speculation.<sup>[19]</sup> While courts and litigants alike are directed to abide strictly by the procedural rules,<sup>[20]</sup> we have relaxed these rules on the basis of justifiable circumstances and substantial compliance.<sup>[21]</sup>

Although petitioners did not file their amended pleading to include the special power of attorney or board resolution authorizing Gloria M. Claveria to represent her co-petitioners, they, however, attached to their Urgent Motion for Reconsideration the special power of attorney; authorization signed by Crisanto S. Claveria for Gloria M. Claveria to make, sign, and execute all documents pertaining to the case; and the Board Resolution authorizing Gloria M. Claveria to represent the corporation. The submission of authorization, special power of attorney and certification issued by the corporate secretary is considered substantial compliance of the requirements under Rule 7, Sec. 4 of the Revised Rules of Court. We thus hold that petitioners were able to substantially comply with the requirements under the Rules of Court.

On the second issue. In its July 29, 2002 Order, the RTC resolved respondents' Motion to Dismiss by holding that plaintiffs Pancho Navo, Vivencio Asuncion, Isaurito Hernandez, and Elias Namit, as parents of some of the students in petitioners' school, have no cause of action to file the complaint for right-of-way. It ruled that the claimant in such an action must be the owner of a dominant estate and as such, the parents were not real parties-in-interest.

In its September 25, 2003 Order, the RTC resolved respondents' Motion for Reconsideration by ruling that St. Michael is not a registered owner of any property that is the subject matter of the easement case, hence not a real party-in-interest.

It thus dismissed the case because petitioners failed to state a cause of action against respondents.

Petitioners claim that the lower court's orders are baseless. They argue that concrete evidence is necessary for a reliable judgment on the merits.

Respondents, on the other hand, contend that the initiatory pleading does not aver the first two basic requisites for the establishment of a legal easement of right-of-way: (1) that the dominant property is surrounded by estates of others and (2) there is no adequate outlet to a public highway. The rest of the co-plaintiffs, they point out, did not even allege if they are co-owners or possessors of any real right over the estate of the petitioners-spouses which is a requisite for the right to demand the establishment of a legal easement of right-of-way over a servient estate.

We held in *Dabuco v. Court of Appeals* that what is determinative in a dismissal for failure to state a cause of action is the sufficiency, not the veracity, of the material allegations.<sup>[22]</sup> These allegations, hypothetically speaking, must aver ultimate facts that constitute plaintiff's cause of action which may entitle plaintiff to an