

THIRD DIVISION

[G.R. No. 157573, February 11, 2008]

**Elinel Caña, Petitioner, vs. Evangelical Free Church of the
Philippines, Respondent.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the September 20, 2002 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 59760, which reversed and set aside the Decision^[2] of the Regional Trial Court (RTC) of Malabon City, Branch 74 dated May 15, 2000; and the CA Resolution dated February 26, 2003,^[3] denying petitioner's Motion for Reconsideration.

A dispute over the possession of a land claimed by a church against its former pastor sparked the commencement of this case in the trial court. The disputed property, consisting of a church lot and building, is covered by Transfer Certificate of Title No. 96813, registered in the name of Evangelical Free Church of the Philippines (respondent), a corporation existing under and by virtue of Philippine laws. Elinel Caña (petitioner) is its former pastor assigned to its affiliate, Malabon Evangelical Free Church, which petitioner refers to as Malabon Christian Evangelical Church (MCEC).

Respondent permitted petitioner to occupy the disputed property wherein MCEC maintained worship services. However, on December 1, 1997, respondent revoked petitioner's license and verbally demanded that petitioner vacate the disputed property but the latter refused to obey. Hence, respondent sought the services of a counsel who wrote a formal demand letter dated December 17, 1997 requiring petitioner to vacate the disputed premises and surrender peaceful possession thereof to respondent. Petitioner ignored the demand letter.

Consequently, respondent brought an action for ejectment against petitioner before the MTC of Malabon City. Petitioner filed an Answer with Counterclaim.

On September 24, 1998, the MTC rendered a decision dismissing respondent's complaint as well as petitioner's counterclaim.

On appeal, the RTC affirmed the MTC decision.

Respondent filed a petition for review with the CA.

On September 25, 2000, the CA issued a Resolution, to wit:

Contrary to Sec. 5, Rule 7, 1997 Rules on Civil Procedure, the verification and certification of non-forum shopping is signed merely by petitioner's counsel who does not appear to have been authorized to do so in its behalf.

Moreover, copies of the pleadings, i.e., complaint and answer in the ejectment suit and other material portions of the record as would support the allegations of the petition are not attached (Sec. 2(d), Rule 42, supra).

WHEREFORE, for being insufficient in form and substance, the petition for review is DISMISSED.

SO ORDERED.^[4]

Respondent filed a Motion for Reconsideration attaching thereto copies of the complaint, answer and other portions of the record.^[5]

On February 27, 2001, the CA issued another Resolution directing respondent to submit a copy of the board resolution authorizing its counsel to sign the certificate of non-forum shopping in its behalf.^[6] Respondent complied with the said directive.^[7]

In a Resolution dated May 31, 2001, the CA granted respondent's motion for reconsideration and reinstated the latter's petition for review.^[8]

On September 20, 2002, the CA rendered the presently assailed Decision, the dispositive portion of which reads:

WHEREFORE, the appealed decision of the Regional Trial Court is **REVERSED** and **SET ASIDE**. Respondent [herein petitioner] and all persons claiming rights under him are ordered to vacate the disputed property. The prayer for reasonable compensation for the use and occupation of the property and attorney's fees is **DENIED** for lack of factual basis. No pronouncement as to costs.

SO ORDERED.^[9]

Petitioner filed a Motion for Reconsideration but it was denied by the CA via its presently assailed Resolution dated February 26, 2003.^[10]

Hence, the present petition based on the following grounds:

I

THE HONORABLE COURT OF APPEALS GROSSLY ERRED IN GIVING DUE COURSE TO THE PETITION OF RESPONDENT CONSIDERING THAT IT MISERABLY FAILED TO COMPLY WITH REVISED CIRCULAR NO. 28-91 AND SC CIRCULAR 1-88 AS THE PETITION WAS NOT SIGNED BY THE AUTHORIZED REPRESENTATIVE OF RESPONDENT CORPORATION BUT ONLY BY ITS COUNSEL WHO WAS NOT DULY AUTHORIZED BY RESPONDENT'S BOARD OF DIRECTORS AND FOR FAILURE TO ATTACH

PERTINENT COPIES OF PLEADINGS AND OTHER MATERIAL PORTIONS OF THE RECORD TO THE PETITION.

II

THE HONORABLE COURT OF APPEALS, IN MANIFEST ERROR AND IN GRAVE ABUSE OF DISCRETION, BLATANTLY IGNORED THE UNREBUTTED, CATEGORICAL DECLARATION/ADMISSION OF PETITIONER'S WITNESSES IN THEIR AFFIDAVIT THAT THE SUBJECT PROPERTY WAS ALREADY FULLY PAID BY MCEC AND THAT THE SAME WAS BOUGHT FOR THE BENEFIT OF MCEC AND NOT FOR RESPONDENT AND WHICH FACTUAL FINDING OF THE METROPOLITAN TRIAL COURT WAS AFFIRMED BY THE REGIONAL TRIAL COURT OF MALABON CITY AND, THEREFORE, IS BINDING AND ENTITLED TO DUE RESPECT BY THE COURT OF APPEALS.^[11]

In his first assigned error, petitioner contends that under Section 5, Rule 7 of the 1997 Rules of Civil Procedure and Revised Circular No. 28-91, it is the principal party and not the attorney who shall certify under oath the certification of non-forum shopping; that in the present case, it was not respondent or its authorized representative but its counsel who signed the certification of non-forum shopping; that it was a certain Rev. Ariel Jornaes who was respondent's authorized representative; that it was Rev. Jornaes who gave a Power of Attorney to respondent's counsel; that Rev. Jornaes has no power to delegate the authority given him to represent respondent; that respondent's counsel has no independent authority to represent respondent corporation; and that this defect may not be cured by subsequent compliance with the requirements.

Petitioner further avers that compliance with the requirements of Section 2, Rule 42 of the 1997 Rules of Civil Procedure and Section 3, Supreme Court Circular No. 1-88, which require the submission of pleadings and other material portions of the records as would support the allegations of the petition, are mandatory.

Respondent counters that the courts may, in the interest of substantial justice, disregard technicalities and decide the case on its merits; that inadequacies and errors of form should be overlooked when they defeat rather than help in arriving at a just and fair result as to the essential merits of any case.

Anent the second assigned error, petitioner claims that in all the pleadings filed by respondent, it never disputed petitioner's claim that MCEC was the one which purchased the disputed property; that the amount of eighty thousand pesos appearing in one of the receipts presented in evidence as payment made by petitioner for Church Assistance Revolving Fund (CARF) loan actually represents payment for the disputed property; and that the CA erred in failing to give credence to the unrebutted affidavits of petitioner and his witnesses which clearly show that the subject property was fully paid for by MCEC.

Respondent contends that while findings of the trial court are entitled to great weight and should not be disturbed on appeal, an exception lies where the lower court has overlooked or ignored some fact or circumstances of sufficient weight or significance, which, if considered, would alter the situation; that the trial court, in the instant case, has overlooked and misapplied certain facts that merited a reversal by the CA of the trial court's decision; that the affidavits of petitioner and his

witnesses cannot prevail over respondent's Transfer Certificate of Title over the disputed property.

The Court's Ruling

The Court finds the petition devoid of merit.

On the first assigned error -

The CA did not commit any error when it reinstated respondent's petition upon subsequent submission of a copy of the Board Resolution authorizing respondent's counsel to sign the certificate of forum shopping in its behalf.

The provision of the Rules of Court in point is Section 2, Rule 42, as amended, which provides as follows:

Sec. 2. Form and contents. – The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific 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 Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

In *National Steel Corporation v. Court of Appeals*,^[12] the Court ruled that:

Circular No. 28-91^[13] was designed to serve as an instrument to promote and facilitate the orderly administration of justice and should not be so interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective or the goal of all rules of procedure -- which is to achieve substantial justice as expeditiously as possible.

The fact that the Circular requires that it be strictly complied with merely underscores its mandatory nature in that it cannot be

dispensed with or its requirements altogether disregarded, but it does not thereby interdict substantial compliance with its provisions under justifiable circumstances. (Emphasis and underscoring supplied)

x x x x^[14]

In *Vicar International Construction, Inc. v. FEB Leasing and Finance Corporation*,^[15] the Court reiterated the principle that technical rules of procedure should be used to promote, not frustrate, justice. Citing the case of *BA Savings Bank v. Sia*,^[16] the Court held:

x x x [t]he Court of Appeals denied due course to a petition for certiorari filed by BA Savings Bank. The CA's action was grounded on the fact that the Certification on anti-forum shopping incorporated in the Petition had been signed merely by the bank's counsel, not by a duly authorized representative, as required under Supreme Court Circular No. 28-91. Subsequently filed by the petitioner was a Motion for Reconsideration, to which was attached a Certificate issued by the corporate secretary. The Certificate showed that the Resolution promulgated by the board of directors had authorized the lawyers of petitioner "to represent it in any action or proceeding before any court, tribunal or agency; and to sign, execute and deliver the certificate of non-forum shopping," among others. Nevertheless, the Court of Appeals denied the Motion on the ground that Supreme Court Revised Circular No. 28-91 "requires that it is the petitioner, not the counsel, who must certify under oath to all of the facts and undertakings required therein."

The Court again reversed the appellate court and ruled thus:

Circular 28-91 was prescribed by the Supreme Court to prohibit and penalize the evils of forum shopping. **We see no circumvention of this rationale if the certificate was signed by the corporation's specifically authorized counsel, who had personal knowledge of the matters required in the Circular.** In *Bernardo v. NLRC*, we explained that a literal interpretation of the Circular should be avoided if doing so would subvert its very rationale. Said the Court:

x x x. Indeed, while the requirement as to certificate of non-forum shopping is mandatory, nonetheless the requirements must not be interpreted too literally and thus defeat the objective of preventing the undesirable practice of forum-shopping.^[17] (emphasis supplied)

Thus, the subsequent submission of the authority granted to herein respondent's counsel to sign the certification is substantial compliance, especially in view of the merits of the instant case.^[18]

As to respondent's subsequent submission of the complaint and answer as well as other material portions of the records of the case, the Court has ruled in *Cusi-Hernandez v. Diaz*,^[19] *Jaro v. Court of Appeals*^[20] and *Donato v. Court of Appeals*,^[21] that subsequent submission of the missing documents with the motion for