

THIRD DIVISION

[G.R. No. 175338, April 29, 2008]

AIR MATERIEL WING SAVINGS AND LOAN ASSOCIATION, INC., COL. RICARDO L. NOLASCO, [JR.], PAF (RET.); COL. THADDEUS P. ESTALILLA, PAF (RET.); COL. ISMAEL A. ABAD; 2LT. MORADO O. MERCADO, PAF (RET.); 2LT. CESAR S. TOLEDANES, PAF (RET.); COL. DOMINGO E. DIMAPILIS JR., PAF; COL. ANTONIO S. GUMBA, PAF (RET.); 2LT. RICARDO P. PERIDO; 2LT. CEDRIC V. REYES, PAF (RET.); BGEN. RUBEN C. ESTEPA, PAF (RET.); COL. ANGEL E. TAPAC, PAF (RET.); AND MAJ. ROLANDO S. CACABELOS, PAF (RET.), PETITIONERS, VS. COL. LUVIN S. MANAY, PNP (RET.); COL. ANTONIO MANTUANO, PAF (RET.); COL. ANSELMO R. GERONIMO, PAF (RET.); MAJ. JOSE A. ELAURZA, PAF (RET.); LT. JOHNSON NESTOR OCFEMIA, PAF (RET.); AND HON. JESUS B. MUPAS, PRESIDING JUDGE, REGIONAL TRIAL COURT OF PASAY CITY, BRANCH 117, RESPONDENTS.

RESOLUTION

YNARES-SATIAGO, J.:

This resolves the respondents' "Very Urgent Omnibus Motion (To Lift the Temporary Restraining Order Issued by the Court of Appeals Special Fourteenth Division, Annul the Election and the Result of the Election Conducted by AMWSLAI on 18 January 2008, and to Declare in Contempt of Court Individuals Defying the Decision of the Supreme Court in Civil Case (*sic*) No. 175338 Promulgated last 9 October 2007)" (the "Omnibus Motion," for brevity).^[1]

The antecedents of this case are as follows:

Following the resignation of all eleven members of the Board of Trustees of the Air Materiel Wing Savings and Loan Association, Inc. (AMWSLAI), a new election of trustees was scheduled on October 14, 2005. Respondents Manay, Mantuano, Geronimo, Elaurza and Ocfemia, together with a few others, filed their respective certificates of candidacy for the election. However, respondents were disqualified and declared ineligible to run on the basis of alleged irregularities as found by the *Bangko Sentral ng Pilipinas* (BSP). Hence, they filed an election protest with the Regional Trial Court of Pasay City, docketed as RTC SEC Case No. 05-001-CFM. Respondents also filed an *ex parte* application for the issuance of a temporary restraining order (TRO), seeking to enjoin the holding of the scheduled election.

On October 13, 2005, the trial court issued the TRO prayed for, effective for 72 hours. Accordingly, the court sheriff, Virgilio Villar, served copies of the summons and the TRO on officers and members of the AMWSLAI. The same were received by Ms. Kathy Liong of the receiving office of AMWSLAI.

Later that afternoon, Ms. Liong returned the summons, TRO and the rest of the court documents to the trial court, stating that she was not authorized to receive them on behalf of the party-respondents.

In the meantime, the trial court, after hearing the application for TRO, denied the application therefor on the ground that the summonses were not properly served. As such, the court had not acquired jurisdiction over the respondents in the election protest.

The election was held as scheduled on October 14, 2005. Individual petitioners were declared winners and assumed office as new members of the Board of Trustees.

Respondents filed a petition for certiorari before the Court of Appeals to annul the trial court's order denying the TRO. The petition was docketed as CA-G.R. SP No. 92372. Respondents also prayed that the election of October 14, 2005 be nullified and that they be reinstated to the contested positions in a hold-over capacity until a new set of trustees shall have been elected and qualified. The Court of Appeals granted the petition and invalidated the October 14, 2005 election. The appellate court also ruled that the service of summons on Ms. Liong was proper substituted service. Resultantly, the election, which was ordered restrained, was declared null and void. Petitioners thus elevated the matter by way of the instant case.

At the core of the petition was the sufficiency of the substituted service of summons and, consequently, the validity of the election of October 14, 2005.

On October 9, 2007, we rendered judgment in this case, the dispositive part of which reads:

WHEREFORE, the petition is hereby **DENIED**. The Decision of the Court of Appeals, dated August 15, 2006, and its Resolution dated November 10, 2006, are **AFFIRMED** with the **MODIFICATION** that the election held on October 14, 2005, and the results thereof, are **ANNULLED**. The Temporary Restraining Order issued by this Court in its Resolution dated November 28, 2006, as amended on December 4, 2006, is hereby **LIFTED**.

SO ORDERED.^[2]

Petitioners filed a Motion for Reconsideration, which we denied on December 3, 2007.^[3] Their Motion for Leave and To Admit Attached Second Motion for Reconsideration was also denied on January 23, 2008.

Meanwhile, the court of origin issued an Order dated December 10, 2007 directing the eleven members of the Board of Trustees of AMWSLAI to vacate their positions in order to give way to the reinstatement of herein respondents, together with petitioners Ricardo L. Nolasco, Thaddeus P. Estalilla and Morado O. Mercado.

Subsequently, petitioners Col. Rolando Cacabelos and Lt. Cedric V. Reyes, together with Capt. Odelon Mendoza, instituted a totally separate special civil action for certiorari with prayer for TRO before the Court of Appeals, docketed as CA-G.R. SP

No. 101627, assailing the trial court's Order of December 10, 2007.^[4] On December 20, 2007, the Court of Appeals issued a TRO enjoining the enforcement of the trial court's December 10, 2007 Order.^[5]

On January 18, 2008, an election of the Board of Trustees was held in accordance with the By-Laws of AMWSLAI. Seventeen candidates vied for the vacant seats. Respondents, having been disqualified by the BSP, were not among the candidates who were voted for in the said election.^[6]

Respondents are now again before us in the instant Omnibus Motion, asking for the lifting of the TRO issued by the Court of Appeals in CA-G.R. SP No. 101627, the annulment of the election of January 18, 2008, and the declaration of individual petitioners in contempt of court for defying our Decision dated October 9, 2007.

In sum, respondents allege that after the trial court issued the Order of December 10, 2007, Sheriff Villar exerted efforts to execute the judgment of October 9, 2007. Respondents sought the assistance of Col. Procopio Lipana, Station Commander of the Quezon City Police District Station 7. According to them, Col. Lipana refused to give assistance, citing the pendency of the second motion for reconsideration before us. Nevertheless, respondents, accompanied by Sheriff Villar and Col. Lipana, proceeded to the AMWSLAI office, where they constituted themselves as members of an interim Board of Trustees. There being five of them out of eight incumbent members, and thereby sufficient to form a quorum, they then proceeded to hold a board meeting and appointed three other interim Board members to complete the eleven seats. Respondent Manay, acting as Chairman, directed the security guards to escort the newly appointed members into the AMWSLAI office, but the security guards refused to follow his directive. The Board of Trustees then requested Col. Lipana to assist them, but the latter begged off saying that the police personnel were only there to maintain peace and order. Upon motion of respondents, the trial court issued an Order deputizing the National Bureau of Investigation to implement its December 10, 2007 Order. Again, the NBI agents refused to intervene.^[7]

Respondents accuse petitioners of employing strong-arm tactics to frustrate the execution of this Court's Decision of October 9, 2007, manifested by their filing of the petition for certiorari (CA-G.R. SP No. 101627) and obtaining a TRO from the appellate court to enjoin the enforcement of the trial court's December 10, 2007 Order.^[8]

In their Omnibus Motion, respondents contend that this Court has the authority to lift the appellate court's TRO; that the Philippine National Police should be deputized to assist in the execution of this Court's Decision; that the election held on January 18, 2008 should be declared null and void because it was called by petitioners who were no longer legitimate members of the Board of Trustees; and that petitioners, together with Col. Lipana, should be held in contempt of court for their defiance of this Court's Decision.

Petitioners filed their Opposition to the Omnibus Motion, arguing that respondents ignored the hierarchy of courts by coming to this Court for relief. First, they should have filed a motion for reconsideration of the TRO issued by the Court of Appeals. Second, they should have brought the matter up to this Court in a proper petition for certiorari. Anent respondents' prayer to annul the election of January 18, 2008,

petitioners point out that jurisdiction does not rest with this Court but with the regional trial courts, pursuant to Republic Act No. 8799 and the Interim Rules of Procedure for Intra-Corporate Controversies.

We agree with petitioners.

It bears stressing that the instant case, G.R. No. 175338, is a petition for review from the Decision of the Court of Appeals in CA-G.R. SP No. 92372. On the other hand, in the Omnibus Motion, we are being asked to pass upon the validity of the TRO issued by the Court of Appeals in CA-G.R. SP No. 101627, a totally different case. This we cannot do.

The correct remedy for the respondents to seek the annulment of the appellate court's TRO is to file a motion for reconsideration and, upon its denial, to file a petition for certiorari and prohibition before this Court. They cannot obtain the lifting of the TRO by the mere expedient of a motion filed before this Court. We cannot take cognizance of proceedings before the Court of Appeals unless they are brought before us through the proper mode of review. The Omnibus Motion cannot be a substitute for the remedy of a special civil action for certiorari.

First, the Omnibus Motion was filed without the payment of docket fees, which is an indispensable requirement^[9] before this Court can take cognizance of a case or controversy.^[10] While the rule on non-payment of docket fees may be relaxed in extreme circumstances to better serve the ends of justice, respondents have offered no valid reasons for their case to fall within the exception. Worse, they are attempting to circumvent the Rules of Court by praying for reliefs in their Omnibus Motion which are available only through a petition for certiorari and prohibition.

Second, the Omnibus Motion is so wanting in form and substance^[11] that it cannot pass for a petition for certiorari and prohibition. There is none of the formal requirements such as the verification, certification on non-forum shopping, certified true copy of the questioned judgment, copies of all pertinent pleadings and documents, and verified statement of material dates. It cannot be gainsaid that these procedural prerequisites are intended to safeguard the integrity of the appeal process, which respondents cannot ignore. Furthermore, there is no allegation and proof as to the absence of an appeal or a plain, speedy, adequate remedy in the ordinary course of law. On the contrary, there is an available remedy to respondents before the Court of Appeals, as outlined above.

A party who seeks to avail of the extraordinary remedy of certiorari must observe the rules laid down by law and non-observance thereof may not be brushed aside as mere technicality.^[12]

It is true that a litigation is not a game of technicalities and that the rules of procedure should not be strictly enforced at the cost of substantial justice. However, this does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. It must be emphasized that procedural rules should not be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Like all rules, they are required to be followed except only for the most persuasive of reasons.^[13]

The requirements of the rules on appeal cannot be considered as merely harmless and trivial technicalities that can be discarded at whim. To be sure, the Court will not countenance deviations from the rules. In these times when court dockets are clogged with numerous litigations, parties have to abide by these rules with greater fidelity in order to facilitate the orderly and expeditious disposition of cases.^[14]

The sort of relief respondents seek in this case is unconventional to say the least. No such remedy is provided for under the Rules of Court. Procedural rules exist to provide a methodical system that would facilitate the judicious disposition of cases. A recourse that finds no authorization or support under the rules could in fact be aimed to subvert orderly procedure, an end that runs contrary to the interest of justice.^[15]

Indeed, respondents have offered no justifiable or compelling reason for their non-observance of the proper course of action. Certainly, this Court must not tolerate, much less reward, this manifest disregard for the rules of procedure because it will open the floodgates to the filing of frivolous and misplaced motions such as this. Without a doubt, this will seriously impair the orderly administration of justice and the integrity of the appeal process.

More importantly, respondents are guilty of forum shopping, which is abhorred in this jurisdiction. It is clear that, by filing the Omnibus Motion, respondents seek to preempt the resolution of the very same issue that is currently pending before the Court of Appeals in CA-G.R. SP No. 101627.

The rule on forum shopping explicitly prohibits a party against whom an adverse judgment has been rendered in one forum from seeking another forum in the hope of obtaining a favorable disposition in the latter. Forum shopping is not only contumacious but also deplorable because it adds to the congestion of the heavily burdened dockets of the courts.^[16]

In essence, forum shopping is the practice of litigants resorting to two different fora for the purpose of obtaining the same relief, to increase their chances of obtaining a favorable judgment. In determining whether forum shopping exists, it is important to consider the vexation caused to the courts and the parties-litigants by a person who asks appellate courts and/or administrative entities to rule on the same related causes and/or to grant the same or substantially the same relief, in the process creating the possibility of conflicting decisions by the different courts or fora on the same issues. We have ruled that forum shopping is present when, in two or more cases pending, there is identity of (1) parties (2) rights or causes of action and reliefs prayed for and (3) the identity of the two preceding particulars is such that any judgment rendered in the other action, will, regardless of which party is successful, amount to *res judicata* in the action under consideration.^[17]

The case at bar, on the one hand, and CA-G.R. SP No. 101627, on the other hand, involve the same parties. A close comparison of the issues raised therein with those raised in the Omnibus Motion reveals that they revolve around the validity of the trial court's December 10, 2007 Order. Petitioners, for their part, seek to restrain the enforcement of the trial court's December 10, 2007 Order in CA-G.R. SP No. 101627. On the other hand, respondents, in their Omnibus Motion, maintain that