

SECOND DIVISION

[G.R. No. 154096, August 22, 2008]

**IRENE MARCOS-ARANETA, DANIEL RUBIO, ORLANDO G. RESLIN,
AND JOSE G. RESLIN, PETITIONERS, VS. COURT OF APPEALS,
JULITA C. BENEDICTO, AND FRANCISCA BENEDICTO-PAULINO,
RESPONDENTS.**

D E C I S I O N

VELASCO JR., J.:

The Case

This Petition for Review on Certiorari under Rule 45 assails and seeks to nullify the Decision^[1] dated October 17, 2001 of the Court of Appeals (CA) in CA-G.R. SP No. 64246 and its Resolution^[2] of June 20, 2002 denying petitioners' motion for reconsideration. The assailed CA decision annulled and set aside the Orders dated October 9, 2000, December 18, 2000, and March 15, 2001 of the Regional Trial Court (RTC), Branch 17 in Batac, Ilocos Norte which admitted petitioners' amended complaint in Civil Case Nos. 3341-17 and 3342-17.

The Facts

Sometime in 1968 and 1972, Ambassador Roberto S. Benedicto, now deceased, and his business associates (Benedicto Group) organized Far East Managers and Investors, Inc. (FEMII) and Universal Equity Corporation (UEC), respectively. As petitioner Irene Marcos-Araneta would later allege, both corporations were organized pursuant to a contract or arrangement whereby Benedicto, as trustor, placed in his name and in the name of his associates, as trustees, the shares of stocks of FEMII and UEC with the obligation to hold those shares and their fruits in trust and for the benefit of Irene to the extent of 65% of such shares. Several years after, Irene, through her trustee-husband, Gregorio Ma. Araneta III, demanded the reconveyance of said 65% stockholdings, but the Benedicto Group refused to oblige.

In March 2000, Irene thereupon instituted before the RTC two similar complaints for *conveyance of shares of stock, accounting and receivership* against the Benedicto Group with prayer for the issuance of a temporary restraining order (TRO). The first, docketed as Civil Case No. 3341-17, covered the UEC shares and named Benedicto, his daughter, and at least 20 other individuals as defendants. The second, docketed as Civil Case No. 3342-17, sought the recovery to the extent of 65% of FEMII shares held by Benedicto and the other defendants named therein.

Respondent Francisca Benedicto-Paulino,^[3] Benedicto's daughter, filed a Motion to Dismiss Civil Case No. 3341-17, followed later by an Amended Motion to Dismiss. Benedicto, on the other hand, moved to dismiss^[4] Civil Case No. 3342-17, adopting *in toto* the five (5) grounds raised by Francisca in her amended motion to dismiss.

Among these were: (1) the cases involved an intra-corporate dispute over which the Securities and Exchange Commission, not the RTC, has jurisdiction; (2) venue was improperly laid; and (3) the complaint failed to state a cause of action, as there was no allegation therein that plaintiff, as beneficiary of the purported trust, has accepted the trust created in her favor.

To the motions to dismiss, Irene filed a Consolidated Opposition, which Benedicto and Francisca countered with a Joint Reply to Opposition.

Upon Benedicto's motion, both cases were consolidated.

During the preliminary proceedings on their motions to dismiss, Benedicto and Francisca, by way of bolstering their contentions on improper venue, presented the Joint Affidavit^[5] of Gilmia B. Valdez, Catalino A. Bactat, and Conchita R. Rasco who all attested being employed as household staff at the Marcos' Mansion in Brgy. Lacub, Batac, Ilocos Norte and that Irene did not maintain residence in said place as she in fact only visited the mansion twice in 1999; that she did not vote in Batac in the 1998 national elections; and that she was staying at her husband's house in Makati City.

Against the aforesaid un rebutted joint affidavit, Irene presented her PhP 5 community tax certificate^[6] (CTC) issued on "11/07/99" in Curimao, Ilocos Norte to support her claimed residency in Batac, Ilocos Norte.

In the meantime, on May 15, 2000, Benedicto died and was substituted by his wife, Julita C. Benedicto, and Francisca.

On June 29, 2000, the RTC dismissed both complaints, stating that these partly constituted "real action," and that Irene did not actually reside in Ilocos Norte, and, therefore, venue was improperly laid. In its dismissal order,^[7] the court also declared "all the other issues raised in the different Motions to Dismiss x x x moot and academic."

From the above order, Irene interposed a Motion for Reconsideration^[8] which Julita and Francisca duly opposed.

Pending resolution of her motion for reconsideration, Irene filed on **July 17, 2000** a Motion (to Admit Amended Complaint),^[9] attaching therewith a copy of the Amended Complaint^[10] dated July 14, 2000 in which the names of Daniel Rubio, Orlando G. Reslin, and Jose G. Reslin appeared as additional plaintiffs. As stated in the amended complaint, the added plaintiffs, all from Ilocos Norte, were Irene's new trustees. Parenthetically, the amended complaint stated practically the same cause of action but, as couched, sought the reconveyance of the FEMII shares only.

During the August 25, 2000 hearing, the RTC dictated in open court an order denying Irene's motion for reconsideration aforementioned, but deferred action on her motion to admit amended complaint and the opposition thereto.^[11]

On October 9, 2000, the RTC issued an Order^[12] entertaining the amended complaint, dispositively stating:

WHEREFORE, the admission of the Amended Complaint being tenable and legal, the same is GRANTED.

Let copies of the Amended Complaint be served to the defendants who are ordered to answer within the reglementary period provided by the rules.

The RTC predicated its order on the following premises:

(1) Pursuant to Section 2, Rule 10 of the Rules of Court,^[13] Irene may opt to file, as a matter of right, an amended complaint.

(2) The inclusion of additional plaintiffs, one of whom was a Batac, an Ilocos Norte resident, in the amended complaint setting out the same cause of action cured the defect of improper venue.

(3) Secs. 2 and 3 of Rule 3 in relation to Sec. 2 of Rule 4 allow the filing of the amended complaint in question in the place of residence of any of Irene's co-plaintiffs.

In time, Julita and Francisca moved to dismiss the amended complaint, but the RTC, by Order^[14] dated December 18, 2000, denied the motion and reiterated its directive for the two to answer the amended complaint.

In said order, the RTC stood pat on its holding on the rule on amendments of pleadings. And scoffing at the argument about there being no complaint to amend in the first place as of October 9, 2000 (when the RTC granted the motion to amend) as the original complaints were dismissed with finality earlier, i.e., on August 25, 2000 when the court denied Irene's motion for reconsideration of the June 29, 2000 order dismissing the original complaints, the court stated thusly: there was actually no need to act on Irene's motion to admit, it being her right as plaintiff to amend her complaints absent any responsive pleading thereto. Pushing its point, the RTC added the observation that the filing of the amended complaint on July 17, 2000 *ipso facto* superseded the original complaints, the dismissal of which, per the June 29, 2000 Order, had not yet become final at the time of the filing of the amended complaint.

Following the denial on March 15, 2001 of their motion for the RTC to reconsider its December 18, 2000 order aforestated, Julita and Francisca, in a bid to evade being declared in default, filed on April 10, 2001 their Answer to the amended complaint.

^[15] But on the same day, they went to the CA via a petition for certiorari, docketed as CA-G.R. SP No. 64246, seeking to nullify the following RTC orders: the first, admitting the amended complaint; the second, denying their motion to dismiss the amended complaint; and the third, denying their motion for reconsideration of the second issuance.

Inasmuch as the verification portion of the joint petition and the certification on non-forum shopping bore only Francisca's signature, the CA required the joint petitioners "to submit x x x either the written authority of Julita C. Benedicto to Francisca B. Paulino authorizing the latter to represent her in these proceedings, or a supplemental verification and certification duly signed by x x x Julita C.

Benedicto."^[16] Records show the submission of the corresponding authorizing Affidavit^[17] executed by Julita in favor of Francisca.

Later developments saw the CA issuing a TRO^[18] and then a writ of preliminary injunction^[19] enjoining the RTC from conducting further proceedings on the subject civil cases.

On October 17, 2001, the CA rendered a Decision, setting aside the assailed RTC orders and dismissing the amended complaints in Civil Case Nos. 3341-17 and 3342-17. The *fallo* of the CA decision reads:

WHEREFORE, based on the foregoing premises, the petition is hereby GRANTED. The assailed Orders admitting the amended complaints are SET ASIDE for being null and void, and the amended complaints *a quo* are, accordingly, DISMISSED.^[20]

Irene and her new trustees' motion for reconsideration of the assailed decision was denied through the equally assailed June 20, 2002 CA Resolution. Hence, this petition for review is before us.

The Issues

Petitioners urge the setting aside and annulment of the assailed CA decision and resolution on the following submissions that the appellate court erred in: (1) allowing the submission of an affidavit by Julita as sufficient compliance with the requirement on verification and certification of non-forum shopping; (2) ruling on the merits of the trust issue which involves factual and evidentiary determination, processes not proper in a petition for certiorari under Rule 65 of the Rules of Court; (3) ruling that the amended complaints in the lower court should be dismissed because, at the time it was filed, there was no more original complaint to amend; (4) ruling that the respondents did not waive improper venue; and (5) ruling that petitioner Irene was not a resident of Batac, Ilocos Norte and that none of the principal parties are residents of Ilocos Norte.^[21]

The Court's Ruling

We affirm, but not for all the reasons set out in, the CA's decision.

First Issue: Substantial Compliance with the Rule on Verification and Certification of Non-Forum Shopping

Petitioners tag private respondents' petition in CA-G.R. SP No. 64246 as defective for non-compliance with the requirements of Secs. 4^[22] and 5^[23] of Rule 7 of the Rules of Court at least with regard to Julita, who failed to sign the verification and certification of non-forum shopping. Petitioners thus fault the appellate court for directing Julita's counsel to submit a written authority for Francisca to represent Julita in the certiorari proceedings.

We are not persuaded.

Verification not Jurisdictional; May be Corrected

Verification is, under the Rules, not a jurisdictional but merely a formal requirement which the court may *motu proprio* direct a party to comply with or correct, as the case may be. As the Court articulated in *Kimberly Independent Labor Union for Solidarity, Activism and Nationalism (KILUSAN)-Organized Labor Associations in Line Industries and Agriculture (OLALIA) v. Court of Appeals*:

[V]erification is a formal, not a jurisdictional requisite, as it is mainly intended to secure an assurance that the allegations therein made are done in good faith or are true and correct and not mere speculation. The Court may order the correction of the pleading, if not verified, or act on the unverified pleading if the attending circumstances are such that a strict compliance with the rule may be dispensed with in order that the ends of justice may be served.^[24]

Given this consideration, the CA acted within its sound discretion in ordering the submission of proof of Francisca's authority to sign on Julita's behalf and represent her in the proceedings before the appellate court.

Signature by Any of the Principal Petitioners is Substantial Compliance

Regarding the certificate of non-forum shopping, the general rule is that all the petitioners or plaintiffs in a case should sign it.^[25] However, the Court has time and again stressed that the rules on forum shopping, which were designed to promote the orderly administration of justice, do not interdict substantial compliance with its provisions under justifiable circumstances.^[26] As has been ruled by the Court, the signature of any of the principal petitioners^[27] or principal parties,^[28] as Francisca is in this case, would constitute a substantial compliance with the rule on verification and certification of non-forum shopping. It cannot be overemphasized that Francisca herself was a principal party in Civil Case No. 3341-17 before the RTC and in the certiorari proceedings before the CA. Besides being an heir of Benedicto, Francisca, with her mother, Julita, was substituted for Benedicto in the instant case after his demise.

And should there exist a commonality of interest among the parties, or where the parties filed the case as a "collective," raising only one common cause of action or presenting a common defense, then the signature of one of the petitioners or complainants, acting as representative, is sufficient compliance. We said so in *Cavile v. Heirs of Clarita Cavile*.^[29] Like Thomas Cavile, Sr. and the other petitioners in *Cavile*, Francisca and Julita, as petitioners before the CA, had filed their petition as a collective, sharing a common interest and having a common single defense to protect their rights over the shares of stocks in question.

Second Issue: Merits of the Case cannot be Resolved on Certiorari under Rule 65

Petitioners' posture on the second issue is correct. As they aptly pointed out, the CA, in the exercise of its certiorari jurisdiction under Rule 65, is limited to reviewing and correcting errors of jurisdiction only. It cannot validly delve into the issue of trust which, under the premises, cannot be judiciously resolved without first