583 Phil. 618

SECOND DIVISION

[G.R. No. 166904, August 11, 2008]

MEDIAN CONTAINER CORPORATION, PETITIONER VS. METROPOLITAN BANK AND TRUST COMPANY, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

Respondent, Metropolitan Bank and Trust Company (Metrobank), filed a complaint for sum of money[1] on June 23, 2003 before the Regional Trial Court (RTC) of Makati against petitioner Median Container Corporation (MCC) and the spouses Carlos T. Ley and Fely C. Ley, Vice President/Treasurer of MCC for failure of MCC to settle the amount of more than P5,000,000 representing the outstanding balance of loans contracted by MCC, represented by Fely C. Ley.

Summonses addressed as follows to the defendants were issued on July 17, 2003 by Branch 22 of the Makati RTC:[2]

> MEDIAN CONTAINER CORPORATION
> Lot 421 C-4 Katipunan Road Extension, California Village,
> San Bartolome, Novaliches, Quezon City
>
> CARLOS T. LEY AND FELY C. LEY
> No. 14 Adams Street, West Greenhills, San Juan,
> Metro Manila (Underscoring supplied)

In the August 20, 2003 Process Server's Return,[3] no date of filing of which is indicated, process server George S. de Castro stated that Summons was served on MCC on August 7, 2003 at its given address upon one Danilo Ong (Ong) as shown by Ong's signature at the left bottom portion of the Summons, below which signature the process server wrote the words "General Manager."

In the same August 20, 2003 Process Server's Return, the process server stated that he was unable to serve the Summons upon the spouses Ley at their given address as they were no longer residing there. Summons was eventually served upon the spouses Ley.

On August 28, 2003, MCC filed a motion to dismiss[4] the complaint on the grounds of defective service of Summons over it and defective verification and certificate against non- forum shopping. The spouses Ley, upon the impression that the Summons was also served upon them through Ong, also filed a motion to dismiss on the same grounds as those of MCC's.

In its Motion to Dismiss, MCC alleged that, contrary to the statement in the August 20, 2003 Process Server's Return,[5] Ong, on whom the Summons was served, was

not its General Manager, he being merely a former employee who had resigned as of July 2002.[6] In support of its claim, MCC annexed to its motion photocopies of a resignation letter dated July 31, 2002 and a quitclaim dated August 1, 2002, both purportedly accomplished by Ong.[7]

Respecting its claim of defective verification and certificate of non-forum shopping, MCC questioned the authority of Atty. Alexander P. Mendoza to accomplish the same on behalf of Metrobank in this wise:

> . . . A careful perusal of the "authority" discloses that a certain Atty. Ramon S. Miranda delegated his authority to Atty. Mendoza to "sign the complaint and/or Verification and Certification of Non-Forum Shopping in the case entitled *MBTC v. Median Container Corporation and Spouses Carlos T. Ley and Fely C. Ley* filed before the RTC-Makati City. This authorization was **given only on June 03, 2003**.
>
> As previously discussed, Atty. Mendoza verified the complaint and signed the certification against forum shopping on **May 28, 2003**. Therefore, it is clear that Atty. **Mendoza did not have the proper authorization when he executed the verification and certification** against non-forum shopping because his authority came only at a later date, on June 03, 2003 or six days thereafter. In effect, there is no valid and effective verification and certification by plaintiff in its Complaint.[8] (Emphasis supplied; underscoring in the original)

By Order[9] of January 9, 2004, the trial court denied MCC's Motion to Dismiss. As for the spouses Ley's motion to dismiss, the trial court denied it for being premature. And the trial court denied too the movants' respective motions for reconsideration.[10]

The Process Server's Return dated April 12, 2004[11] states that alias Summons was served on the spouses Ley on March 31, 2004.

Only MCC went to the Court of Appeals via Petition for Certiorari filed on May 19, 2004 to assail the Order of the trial court denying its Motion to Dismiss and its Motion for Reconsideration, arguing in the main that the trial court "acted with grave abuse of discretion . . . considering that the Complaint failed to comply with Rule 7, Section 5 of the 1997 Rules of Civil Procedure, the Verification and Certification thereof having been signed and executed by one who had no authority to bind respondent Metrobank at the time of such signing and execution."[12]

As correctly defined by the appellate court, the issues raised by MCC were:

> 1) the alleged belated filing of Metrobank's Opposition, and
>
> 2) the alleged violation of Rule 7, Section 5 of the 1997 Rules of Civil Procedure regarding the verification/certification against forum shopping.[13]

By the present challenged Decision of September 23, 2004,[14] the appellate court dismissed petitioner's petition for certiorari, holding that the trial court did not commit any abuse of discretion since "Atty. Mendoza was already clothed with the

proper authority to sign the verification and certification through a Board's Resolution dated June 3, 2003 when the complaint was filed on June 23, 2003."[15]

Its definition of the issues raised by MCC notwithstanding, the appellate court found it necessary to pass upon the unraised issue of improper service of summons, it finding the same to be a "basic jurisdictional issue and if only to completely dispose of th[e] incident and facilitate the prompt resolution of the main underlying case (sum of money)."[16]

Brushing aside the impropriety of service of Summons upon MCC, the Court of Appeals stated:

> The case invoked by [MCC] in support of its position that service of summons was improper, is **E.B. Villarosa & Partner Co., Ltd. v. Benito** where the Honorable Supreme Court ruled that the trial court did not acquire jurisdiction over the person of the petitioner (a partnership) where service of summons was made on a branch manager instead of the general manager at the partnership's principal office. . . .[17] (Emphasis in original)
>
> x x x x
>
> After considering the facts and developments in this case in their totality, we believe - as the public respondent did - that the ruling in the cited *Villarosa* case should be applied with an eye on the unusual facts of the present case. We find it significant that the process server in this case certified that he served the summons upon the **"general manager"** of the petitioner. The process server apparently was fully aware of the strict requirements of the Rules as interpreted in the cited *Villarosa* case. The twist in the process certification is the petitioner's claim that Danilo Ong, the person who received the summons, was not the general manager but was a mere former employee. In other words, unlike in *Villarosa* where summons was served on the **branch manager** (a patently wrong party under the requirements of the Rules), there was, in the present case, the INTENTION on the part of the process server to observe the mandatory requirements on the services of summons and to serve it on the correct recipient.[18] (Emphasis in the original; capitalization and underscoring supplied)

Its Motion for Reconsideration[19] having been denied,[20] MCC filed the present Petition for Review on Certiorari[21] raising the following issues including, this time, the impropriety of service of Summons upon it, thus, whether:

> . . . A COMPLAINT SHOULD PROPERLY BE DISMISSED FOR FAILURE TO COMPLY WITH RULE 7, SECTON 5 OF THE 1997 RULES OF CIVIL PROCEDURE, THE VERIFICATION AND CERTIFICATION PORTION THEREOF HAVING BEEN SIGNED AND EXECUTED BY ONE WHO HAD NO AUTHORITY TO BIND THE PARTY-PLAINTIFF AT THE TIME OF SUCH SIGNING AND EXECUTION;
>
> . . . IT IS FULL COMPLIANCE WITH RULE 14, SECTION 11 OF THE 1997

> RULES OF CIVIL PROCEDURE, OR THE MERE INTENTION OF THE PROCESS SERVER TO SERVE THE SUMMONS ON THE INTENDED RECIPIENT, THAT DETERMINES THE VALIDITY OF SERVICE OF SUMMONS WHEN THE DEFENDANT IS A DOMESTIC PRIVATE CORPORATION; and
>
> . . . IT IS THE ACTUAL RECEIPT OF THE SUMMONS, OR THE VALID SERVICE OF SUMMONS IN ACCORDANCE WITH THE RULES, THAT VESTS THE TRIAL COURT WITH JURISDICTION OVER THE PERSON OF THE DEFENDANT.[22] (Underscoring supplied)

Verification is a formal, not jurisdictional, requirement.[23] It is simply intended to secure an assurance that the allegations in the pleading are true and correct, and that the pleading is filed in good faith.[24] That explains why a court may order the correction of the pleading if verification is lacking, or act on the pleading although it is not verified, if the attending circumstances are such that strict compliance with the rules may be dispensed with in order to serve the ends of justice.[25]

As for the required certification against forum shopping, failure to comply therewith is generally not curable by its submission subsequent to the filing of the petition nor by amendment, and is cause for its dismissal.[26] A certification against forum shopping signed by a person on behalf of a corporation which is unaccompanied by proof that the signatory is authorized to file the petition[27] is generally likewise cause for dismissal. In several cases, however, this Court relaxed the application of these requirements upon appreciation of attendant special circumstances or compelling reasons. *Shipside Incorporated v. Court of Appeals*[28] cites some of those instances:

> . . . In *Loyola v. Court of Appeals, et. al.* . . . , the Court considered the filing of the certification one day after the filing of an election protest as substantial compliance with the requirement. In *Roadway Express, Inc. v. Court of Appeals, et. al.* . . . , the Court allowed the filing of the certification 14 days before the dismissal of the petition. In *Uy v. LandBank*, . . . , the Court had dismissed Uy's petition for lack of verification and certification against non-forum shopping. However, it subsequently reinstated the petition after Uy submitted a motion to admit [verification] and non-forum shopping certification. In all these cases, there were special circumstances or compelling reasons that justified the relaxation of the rule requiring verification and certification on non-forum shopping.
>
> In the instant case, the **merits of petitioner's case** should be considered special circumstances or compelling reasons that justify tempering the requirement in regard to the certificate of non-forum shopping. Moreover, in *Loyola, Roadway,* and *Uy*, the Court excused *non-compliance* with the requirement as to the certificate of non-forum shopping. With more reason should we allow the instant petition since petitioner herein *did submit a certification on non-forum shopping*, failing only to show proof that the signatory was authorized to do so. That petitioner subsequently submitted a secretary's certificate attesting that Balbin was authorized to file an action on behalf of petitioner likewise mitigates this oversight.[29] (Emphasis and underscoring supplied)