

## SECOND DIVISION

[ G.R. NO. 165496, June 29, 2007 ]

**HUN HYUNG PARK, PETITIONER, VS. EUNG WON CHOI,  
RESPONDENT.**

### R E S O L U T I O N

**CARPIO MORALES, J.:**

This resolves petitioner's Motion for Reconsideration dated March 21, 2007.

For the first time, petitioner raises the matter of inadvertence with respect to the improper verification of his petition. This Court notes that petitioner has softened his previously adamant stance<sup>[1]</sup> as he now claims to have simply overlooked the failure to include the words "or based on authentic records" in verifying the petition.

This Court takes cognizance of petitioner's humble submission and finds his invocation of honest mistake to be well-taken in explaining the lapse in the verification.

The relaxation of the rule on verification notwithstanding, petitioner's motion must nonetheless fail.

In asserting that he was not required to attach the MeTC Orders, petitioner tries to impress upon this Court that he was not questioning the Orders of the MeTC. Such attempt does not persuade.

Rule 42 explicitly mandates that a clearly legible duplicate original or certified true copy of both lower courts' judgments or final orders must be attached to the petition, except where, as in the case of *Ramos v. Court of Appeals*,<sup>[2]</sup> the MeTC Order was rendered in favor of the petitioner in which case only a true or plain copy thereof is required to be attached.

In this case, the February 27, 2003 MeTC Order was not submitted to the appellate court when, in fact, such Order dismissing the entire case was undoubtedly adverse to petitioner. If petitioner deemed the MeTC Order favorable as he now claims, he should not have appealed to the RTC in the first place. Clearly, petitioner's failure to attach the MeTC Order runs counter to the rules.

In insisting on the application of Rule 33 to buttress his claim that respondent waived his right to present evidence, petitioner underscores the silence of Section 23 of Rule 119 in cases where the demurrer to evidence

was granted by the MeTC but reversed on appeal by the RTC. Suffice it to state that the granting of a demurrer in criminal cases is tantamount to an acquittal and may not be reversed on appeal without violating the proscription against double