

THIRD DIVISION

[G.R. NO. 159653, January 25, 2006]

**LDP MARKETING, INC. AND MA. LOURDES DE LA PEÑA,
PETITIONERS, VS. ERLINDA DYOLDE MONTER, RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

Respondent, Erlinda Dyalde Monter, a cashier at the Red Tag Convenience Store, filed a complaint for illegal dismissal and related causes of action against petitioner LDP Marketing, Inc., owner-operator of the store, and LDP's Vice-President-co-petitioner Ma. Lourdes Dela Peña.

By Decision^[1] of January 2, 2001, the Labor Arbiter ruled in favor of respondent.

On appeal, the National Labor Relations Commission (NLRC), by Resolution^[2] of May 24, 2002, affirmed the Labor Arbiter's decision, modifying, however, the amount of attorney's fees awarded.

Petitioners' Motion for Reconsideration having been denied by the NLRC, they filed on May 19, 2002 before the Court of Appeals a petition for certiorari wherein the Verification/Certification of non-forum shopping was accomplished by petitioner Ma. Lourdes Dela Peña-Vice-President of its co-petitioner corporation.

By Resolution of December 23, 2002, the appellate court, citing *Digital Microwave Corp. v. Court of Appeals*,^[3] dismissed petitioners' Petition for Certiorari for "failing to attach to the petition a copy of the company board resolution authorizing said Ma. Lourdes Dela Peña to sign the said Verification/Certification of [non-]forum shopping for and in behalf of petitioner corporation."

To the appellate court's Resolution, petitioners filed a Motion for Reconsideration^[4] to which they attached a January 24, 2003 Secretary's Certificate^[5] quoting a Resolution adopted by the Board of Directors of petitioner corporation during a special meeting on May 19, 1999 reading:

x x x x

RESOLVED, as it is hereby resolved that Ms. Ma. Lourdes dela Peña and/or Ms. Nonita R. Dela Peña are hereby appointed, designated and authorized to be the attorney-in-fact and representative of the Corporation, with absolute and complete authority to sign, enter into any stipulation, agreement, settlement or compromise and act on any and all matters that may be taken up in behalf of the Corporation in all the proceedings in connection with the case entitled "Erlinda D. Monter vs. LDP Marketing, Inc. and/or Ma. Lourdes dela Peña" with NLRC-NCR Case

No. 00-03-02699-99, pending with the National Labor Relations Commission, National Capital Region, wherein the Corporation is a respondent.

3. The above-resolution has not been revoked and is in full force and effect as of the date of this certification.^[6] (Underscoring supplied)

The Court of Appeals, "find[ing] no cogent reason to reverse" its Resolution of December 23, 2002, denied petitioners' Motion for Reconsideration by Resolution^[7] of August 20, 2003.

Hence, the present Petition for Review on Certiorari, petitioners advancing the following arguments:

1. The case of *Digital Microwave Corp. v. Court of Appeals*, 328 SCRA 286 (2000) relied upon by the Court of Appeals in dismissing the Petition for Certiorari is not applicable in this case.
2. The more recent case of Shipside Incorporated v. Court of Appeals, 352 SCRA 334 (2001) which affirmed the validity of a verification/certification against forum shopping despite the absence of an attached authorization confirming the authority of the person signing for and in behalf of a corporate entity, is the leading case applicable to the present controversy.
3. Assuming for the sake of argument that there was indeed a technical defect in the Petition for Certiorari due [to] the failure of [p]etitioners to attach a written authorization to sign the verification/certification against forum shopping, the merits of the case and the substantial interest of justice dictates that the Petition for Certiorari should be given due course.^[8] (Underscoring supplied)

The petition is impressed with merit.

Under Rule 46, Section 3, paragraph 3 of the Rules of Court, petitions for certiorari must be verified and accompanied by a sworn certification of non-forum shopping.^[9]

A pleading **is verified** by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.^[10]

The party need not sign the verification. A party's representative, lawyer or any person who personally knows the truth of the facts alleged in the pleading may sign the verification.^[11]

On the other hand, **a certification of non-forum shopping** is a certification under oath by the plaintiff or principal party in the complaint or other initiatory pleading asserting a claim for relief or in a sworn certification annexed thereto and simultaneously filed therewith, (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-

judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof, and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.^[12]

The requirement that a petitioner or principal party should sign the certificate of non-forum shopping applies even to corporations, considering that the mandatory directives of the Rules of Court make no distinction between natural and juridical persons.^[13]

A corporation, however, exercises its powers through its board of directors and/or its duly authorized officers and agents. Physical acts, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate by-laws or by a specific act of the board of directors. ^[14]

In *Digital Microwave Corporation*^[15] relied upon by the appellate court in dismissing petitioners' Petition for Certiorari, the certification of non-forum shopping was signed by the therein petitioner corporation's counsel, hence, the appellate court dismissed the petition for failure to comply with Revised Supreme Court Circular No. 28-91, as amended. On the therein petitioner corporation's Motion for Reconsideration, the appellate court denied the same "absent any compelling reason for petitioner's failure to comply at the first instance with [the circular] . . ." On the petitioner's petition, this Court denied the same in this wise:

In this case, petitioner has **not adequately** explained its failure to have the certification against forum shopping signed by one of its officers. **Neither has it shown any compelling reason** for us to disregard strict compliance with the rules.

As we further stated in *Spouses Ortiz*,

Utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.^[16] (Emphasis supplied)

In the more recent case of *Shipside Incorporated v. Court of Appeals*^[17] cited by herein petitioners, the therein petitioner Shipside Incorporated filed a Petition for Certiorari and Prohibition with the Court of Appeals which, however, dismissed it, citing absence of proof that the one who signed the Verification and Certification of non-forum shopping, its Manager Lorenzo Balbin, Jr., was authorized to institute the petition for and in behalf of the petitioner. Shipside Incorporated filed a Motion for Reconsideration to which it attached a certificate issued by its board secretary stating that ten days before the filing of the petition, its board of directors authorized Balbin to file it. The Court of Appeals just the same denied the Motion for Reconsideration. In granting petitioner Shipside Incorporated's Petition for Certiorari, this Court held:

It is undisputed that on October 21, 1999, the time petitioner's Resident Manager Balbin filed the petition, there was no proof attached thereto that Balbin was authorized to sign the verification and non-forum