

SECOND DIVISION

[G.R. NO. 150865, June 30, 2006]

ART FUENTEBELLA, PARK-IN-CHARGE, AND ROLLING HILLS MEMORIAL PARK, INC., PETITIONERS, VS. DARLICA CASTRO, RESPONDENT.

DECISION

AZCUNA, J.:

This is a petition for review^[1] seeking the nullification of the resolutions, dated September 27, 2001 and November 20, 2001, of the Court of Appeals, in CA-G.R. SP No. 66478 entitled "Art Fuentebella, Park-in-Charge and Rolling Hills Memorial Park, Inc. v. Darlica Castro," which dismissed the petition of petitioners assailing the orders issued by the Regional Trial Court (RTC) of Negros Occidental, dated January 3, 2000 and July 9, 2001, in Civil Case No. 99-10747 entitled "Darlica Castro v. Art Fuentebella, Park-in-Charge and Rolling Hills Memorial Park, Inc."

The controversy primarily involves the application of Rule 7, Section 5 of the Rules of Court relating to the signature appearing on the certificate of non-forum shopping, and the submission of a false certification.

As stated by the Court of Appeals, the facts alleged are as follows:

Respondent Darlica Castro is the widow of the late Freddie Castro who died on September 18, 1997 in Bacolod City, Negros Occidental. Respondent engaged the funeral services of petitioner Rolling Hills Memorial Park, Inc. in Bacolod City for the interment of the remains of her husband on September 27, 1997 at three o'clock in the afternoon.

During the burial, when the casket of her deceased husband was about to be lowered into the vault, it was discovered that the dimensions of the vault did not correspond to the measurements of the casket. As a result, the casket was lifted and placed under the heat of the sun for about one hour in front of all the mourners while the vault was being prepared. To make matters worse, the employees of petitioner corporation measured the casket by using a spade.

Insulted by the events that transpired at the funeral, respondent, through counsel, wrote to the management of petitioner corporation demanding an explanation for its negligence, but the latter did not respond nor attempt to apologize to the former.^[2]

Consequently, on March 16, 1998, respondent filed a complaint for damages^[3] against the corporation and its Park-in-Charge Art Fuentebella, jointly and solidarily, before the Municipal Trial Court in Cities (MTCC) of Bacolod City asking for moral^[4] and exemplary^[5] damages, attorney's fees^[6] and litigation costs.

Petitioners filed a motion to dismiss on the ground that the MTCC has no jurisdiction to take cognizance of the case because the amount of damages claimed is more than P200,000. Respondent subsequently filed a motion to withdraw the complaint, which was granted by the MTCC in its order dated June 24, 1998.^[7]

On April 15, 1999, respondent filed a similar complaint with the RTC of Negros Occidental. Attached in the complaint was the Verification and Certification against Forum Shopping required under Section 5, Rule 7 of the Rules of Court, stating:

That I further certify that I have not commenced any other action or proceeding involving the same issues in the Supreme Court, Court of Appeals, or any other tribunal or agency; that to the best of my knowledge, no such action or proceeding is pending in the Supreme Court, Court of Appeals, or other tribunal or agency, and that if I should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, Court of Appeals, or any other tribunal or agency, I shall undertake to report that fact within five (5) days to this Honorable Court.^[8]

Petitioners filed a motion to dismiss on the ground that the certification is false because respondent had previously filed an identical complaint with the MTCC.

On January 3, 2000, the trial court issued the questioned order denying the motion to dismiss for lack of merit, to wit:

x x x, while the requirement as to the certificate of non-forum shopping is mandatory, nonetheless, the requirement is not to be interpreted too literally and thus defeat the objective of preventing the undesirable practice of forum shopping (Bernardo v. NLRC, 255 SCRA 108).

PERFORCE, the motion to dismiss is DENIED for lack of merit.

SO ORDERED.^[9]

A motion for reconsideration was filed by petitioners arguing that the motion to dismiss was not based on the ground that respondent had filed two similar actions at the same time but rather on the submission by the latter of a false certification. The trial court denied said motion in its order, dated July 9, 2001, stating:

As can be readily seen from the said provision, the sanction provided by the said rule on the submission of a false certification is not dismissal of the case but [the same] will be considered as an indirect contempt of Court, without prejudice to the corresponding administrative and criminal action that may be filed against the party concerned.

WHEREFORE, the motion for reconsideration is hereby DENIED for lack of merit.

SO ORDERED.^[10]

Petitioners filed with the Court of Appeals a petition for certiorari with preliminary injunction and/or restraining order. The petition, however, was dismissed by the

Court of Appeals in its resolution issued on September 27, 2001, thus:

A perusal of the records discloses that the verification and the certification against forum shopping was signed by a certain Lourdes Pomperada without any showing or indication that she is duly authorized by the petitioners to sign for and in their behalf.

IN VIEW OF THE FOREGOING, this petition is DENIED DUE COURSE and is accordingly DISMISSED.

SO ORDERED.^[11]

A motion for reconsideration of the above resolution was filed by petitioner Rolling Hills Memorial Park, Inc. attaching thereto a Secretary's Certificate signed by Monico A. Puentevella, Jr., Corporate Secretary of petitioner corporation, affirming therein the authority of Lourdes A. Pomperada to file the aforementioned petition.

Nonetheless, the Court of Appeals denied said motion in its challenged resolution, dated November 20, 2001, declaring that:

Petitioners submitted a Secretary's Certificate showing the authorization of Mrs. Lourdes Pomperada to represent the petitioner corporation. However, there is still no showing that the said Mrs. Lourdes Pomperada is duly authorized to act for and in behalf of the other petitioner.

WHEREFORE, in view of the foregoing, petitioner's Motion for Reconsideration cannot be favorably acted upon.

SO ORDERED.^[12]

Hence, this petition raising the following issues:

I

THE HONORABLE COURT OF APPEALS ACTED ERRONEOUSLY IN DISMISSING OUTRIGHT THE PETITION FOR CERTIORARI ON THE BASIS OF A NON-EXISTENT RULE; AND

II

THE REGIONAL TRIAL COURT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF, OR IN EXCESS OF JURISDICTION, IN REFUSING TO ORDER THE DISMISSAL OF THE COMPLAINT ON THE GROUND OF A FALSE CERTIFICATION.^[13]

On the first issue, petitioners argue that: (a) a board resolution or a secretary's certificate is unnecessary to show proof that the one signing the petition or the verification and certification against forum shopping has been duly authorized by petitioner company; and, (b) where there are two or more petitioners, the one signing the petition need not append his authority to sign on behalf of the other petitioners.

Contrary to petitioners' assertion, it is obligatory that the one signing the verification and certification against forum shopping on behalf of the principal party or the other petitioners has the authority to do the same.

Rule 7, Section 5 of the 1997 Revised Rules on Civil Procedure provides:

Sec. 5. Certification against forum shopping. – The plaintiff or principal party shall specify under oath 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.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

The above provision mandates that the petitioner or the principal party must execute the certification against forum shopping. The reason for this is that the principal party has actual knowledge whether a petition has previously been filed involving the same case or substantially the same issues. If, for any reason, the principal party cannot sign the petition, the one signing on his behalf must have been duly authorized.^[14]

This requirement is intended to apply to both natural and juridical persons as Supreme Court Circular No. 28-91 and Section 5, Rule 7 of the Rules of Court do not make a distinction between natural and juridical persons.^[15] Where the petitioner is a corporation, the certification against forum shopping should be signed by its duly authorized director or representative.^[16] This was enunciated in *Eslaban, Jr. v. Vda. de Onorio*,^[17] where the Court held that if the real party-in-interest is a corporate body, an officer of the corporation can sign the certification against forum shopping so long as he has been duly authorized by a resolution of its board of directors.

Likewise, where there are several petitioners, it is insufficient that only one of them executes the certification, absent a showing that he was so authorized by the others. That certification requires personal knowledge and it cannot be presumed that the signatory knew that his co-petitioners had the same or similar actions filed or pending.^[18]

Hence, a certification which had been signed without the proper authorization is