

## THIRD DIVISION

**[ G.R. No. 144533, September 23, 2003 ]**

**JIMMY L. BARNES A.K.A. JAMES L. BARNES, PETITIONER, VS.  
TERESITA C. REYES, ELIZABETH C. PASION, MA. ELSA C. GARCIA,  
IMELDA C. TRILLO, MA. ELENA C. DINGLASAN AND RICARDO P.  
CRISOSTOMO, RESPONDENTS.**

### RESOLUTION

**CORONA, J.:**

This petition for review seeks to set aside the resolution<sup>[1]</sup> of the Court of Appeals dated August 21, 2000 denying petitioner Jimmy L. Barnes a.k.a. James L. Barnes' motion for reconsideration dated August 29, 2000 praying for the reinstatement of the Court of Appeals resolution<sup>[2]</sup> dated December 15, 1999 dismissing respondent Teresita C. Reyes' petition for review.

This case emanated from a complaint for ejectment filed by siblings Teresita C. Reyes, Elizabeth C. Pasion, Imelda C. Trillo. Ma. Elena C. Dinglasan and Ricardo P. Crisostomo against petitioner Jimmy Barnes. The Metropolitan Trial Court, Branch 35 of Quezon City ruled in favor of Teresita and her co-parties. On appeal to the Regional Trial Court, Branch 227 of Quezon City, the said decision of the Metropolitan Trial Court was reversed.

On December 9, 1999, respondents Teresita C. Reyes and her siblings filed a petition for review in the Court of Appeals.

In its resolution dated December 15, 1999 the Court of Appeals dismissed the petition:

The verification and certification on non-forum shopping was signed only by one of the six petitioners without any showing that the signatory (Teresita C. Reyes) was duly authorized to bind her fellow petitioners. Aside from that, no written explanation was submitted why copies of the petition have to be furnished the respondents by registered mail, instead of personal service (*Solar Team Entertainment vs. Hon. Helen Bautista Ricafor, et al.*, 293 SCRA 661).

The Petition for Review is denied due course and is hereby DISMISSED.

SO ORDERED.<sup>[3]</sup>

On February 4, 2000, Teresita filed a motion for reconsideration attaching therewith the Special Power of Attorney executed by the other five petitioners specifically authorizing her to sign the verification and certification page of their petition and file it on their behalf. The Court of Appeals required petitioner Barnes to comment

thereon. Petitioner complied and opposed respondents' motion for reconsideration.

On May 25, 2000, the Court of Appeals found respondents' motion for reconsideration meritorious and reinstated their petition for review. Thereafter, petitioner was ordered to comment to respondents' reinstated petition.

On June 13, 2000, petitioner moved for the reconsideration of the aforesaid resolution of the Court of Appeals. After respondents filed their opposition thereto, the Court of Appeals, in its resolution dated August 21, 2000, denied petitioner's motion for reconsideration for lack of merit.

Hence, the instant petition before us.

Petitioner Barnes contends that respondents' petition for review in the CA suffered from two legal deficiencies. First, five out of the six respondents failed to signed the verification of their petition for review. He asserts that the subsequent filing of the Special Power of Attorney by respondents showing the authority of Teresita to file the petition in their behalf did not cure the fatal defect. Petitioner maintains that the six respondents were co-owners with equal shares of the subject property and thus were indispensable parties to the petition for review in the Court of Appeals. The subsequent compliance with the certification requirement on non-forum shopping could not excuse the failure to comply in the first instance.

Second, respondents failed to comply with Section 11, Rule 13 of the 1997 Revised Rules of Civil Procedure requiring that pleadings and other papers must be personally served on the other party. A resort to other modes with a written explanation why the service was not made personally should have been included in the pleadings, otherwise, the pleadings should be considered as not filed.

Petitioner opines that rules of procedure instituted by this Court should be mandatorily adhered to and observed by the members of the bench and bar, otherwise, coordination, consistency and discipline cannot be attained.

Respondents, however, submit a contrary view. It is their position that the rule against forum-shopping was substantially complied with upon the subsequent filing of the Special Power of Attorney duly executed even before the filing of their petition for review in the Court of Appeals. The said Special Power Attorney was not required by the rules to be attached to the petition and thus became a matter of evidence if the authority was questioned, respondents argue.

As to the alleged non-compliance with Section 11, Rule 13 (on proof of service) of the 1997 Revised Rules on Civil Procedure, respondents claim that the rule on priorities in the modes of service and filing of pleadings is merely directory and not mandatory. In the case before the Court of Appeals, there was substantial compliance with the requirement with the attachment of the affidavit of service to the petition there.

The petition before us must necessarily fail.

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