

## THIRD DIVISION

[ G.R. No. 140713, March 08, 2001 ]

**ROSA YAP PARAS AND VALENTE DY YAP, PETITIONERS, VS.  
JUDGE ISMAEL O. BALDADO, REGIONAL TRIAL COURT BRANCH  
45, BAIS CITY AND JUSTO DE JESUS PARAS, RESPONDENTS.**

### RESOLUTION

**GONZAGA-REYES, J.:**

Petitioners seek the setting aside of two resolutions of the Court of Appeals (Fourteenth Division)<sup>[1]</sup>, dated June 23, 1999 and October 13, 1999, respectively, which dismissed their petition for certiorari in CA-G.R. SP No. 53059 for failure to comply with the requirements of Section 1, Rule 65 of the 1997 Rules of Civil Procedure.

The dismissed petition for certiorari prayed for the Court of Appeals to order the inhibition by herein respondent judge Ismael O. Baldado, presiding judge of Branch 45 of the Regional Trial Court, Bais City, in Special Civil Case No. 97-025-BY, entitled "Justo J. Paras vs. Rosa Yap Paras and Valente D. Yap". This special proceeding sought the declaration of Justo Paras as sole administrator of the conjugal properties of his marriage with petitioner Rosa Yap Paras, pending the resolution of their case for annulment of marriage.<sup>[2]</sup>

Shortly after respondent judge set the case for annual conference, petitioners filed a motion to inhibit<sup>[3]</sup> on the ground that respondent judge had been a former partner in private respondent's law firm. Petitioners also cited the decision of the Supreme Court in *Evangeline Dinapol vs. Judge Ismael Baldado*, Adm. Matter RTJ-92-898, dated August 5, 1993, to show that respondent judge had been previously found to have exhibited a bias towards relatives of former Congressman Jerome Paras, who allegedly sponsored his appointment to the judiciary. The motion to inhibit was denied in an order dated January 15, 1999; to this order a motion for reconsideration was filed, and was denied on March 9, 1999. Hence, the filing of the petition for certiorari with the Court of Appeals.

The dismissal by the Court of Appeals was set out in the questioned resolution of June 23, 1999 in this manner:

Considering that the impugned Order of the Court a quo dated January 15, 1999 which is attached to the instant petition for certiorari, prohibition and mandamus with prayer for a Temporary Restraining Order is merely a plain xerox copy (Vide Annex "H", p. 54, Rollo) and not a certified true copy thereof as required by Section 1 of Rule 65 of the 1997 Rules of Civil Procedure, and further in view of the provision of Section 3, Rule 46 of the same rules that failure to comply with any of the requirements shall be sufficient ground for dismissal, the Court

RESOLVES to DISMISS the instant petition.

SO ORDERED.<sup>[4]</sup>

Petitioners moved for reconsideration, maintaining that they fully complied with Section 1, Rule 65 of the 1997 Rules of Civil Procedure, since "duplicate original copies and certified true copies of the impugned (RTC) order" were attached to their petition.<sup>[5]</sup> In their motion for reconsideration, they also attached certified true copies of the RTC orders subject of their petition for certiorari, praying that these be admitted and be deemed as compliance with Section 1, Rule 65 of the 1997 Rules of Civil Procedure.

In the resolution of October 13, 1999, the Court of Appeals denied petitioners' motion for reconsideration on these bases:

An inquiry into the copies of the petition filed in this case shows that the copies of the impugned Order attached therein were not certified in accordance with Rule 46, Section 3 of the 1997 Rules of Civil Procedure, as amended, i.e., by the clerk of court or by his duly authorized representative, but merely by a notary public.

Furthermore, the Court cannot accept petitioners' subsequent compliance absent any compelling reason for their failure to do so in the first instance, and considering further that the submission of the certified true copies were made beyond the original sixty (60) day period within which to file the petition.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby DENIED.

SO ORDERED.<sup>[6]</sup>

Aggrieved, petitioners filed the instant petition for review on certiorari, alleging that the dismissal by the Court of Appeals of their petition for certiorari on a perceived procedural flaw violated their rights to due process and to an impartial tribunal, and would result in gross injustice.<sup>[7]</sup> Petitioners stated that the Court of Appeals had unduly deprived them of the opportunity to establish the merits of their petition, as a consequence of which Special Civil Case No. 97-025-BY would continue to be heard by respondent judge who was obviously partial to private respondent Justo Paras.

Meanwhile, private respondent contends that the Court of Appeals was justified in refusing to give the petition due course because compliance with the provisions of Section 1, Rule 65 of the 1997 Rules of Civil Procedure is mandatory and jurisdictional.<sup>[8]</sup> He further states that the petition before the Court of Appeals was patently unmeritorious and intended plainly for delay.

As such, the sole issue elevated for the consideration of this Court is whether the dismissal of the petition for certiorari by the Court of Appeals, on the ground that petitioners failed to comply with the requirement to attach duplicate original or certified true copies of the assailed order or judgment, was proper and warranted under the circumstances.