

SECOND DIVISION

[G.R. No. 128550, March 16, 2000]

DIGITAL MICROWAVE CORPORATION, PETITIONER, VS. COURT OF APPEALS AND ASIAN HIGH TECHNOLOGY CORPORATION, RESPONDENTS.

RESOLUTION

QUISUMBING, J.:

On December 14, 1994, private respondent Asian High Technology Corp. filed a complaint against petitioner Digital Microwave Corp. for a sum of money and damages before the Regional Trial Court of Pasig city. Petitioner moved for the dismissal of the complaint. The trial court denied the motion, as well as petitioner's subsequent motion for reconsideration.

Petitioner then initiated a special civil action for *certiorari* before the Court of Appeals, alleging grave abuse of discretion on the part of the trial court. However, the Court of Appeals dismissed the petition for failure to comply with Revised Circular No. 28-91, as amended by Administrative Circular No. 04-94. Said circular requires the petition filed before the Court of Appeals to be accompanied by a sworn certification against forum shopping, signed by petitioner himself. Petitioner's certification was signed by counsel; the petition was, thus, dismissed. Petitioner moved for a reconsideration of the dismissal and submitted a sworn certification against forum shopping duly signed by one of its senior officers. The motion was, however, denied, with the Court of Appeals stating that

"In the present case, absent any compelling reason for petitioner's failure to comply, at first instance, with Revised Supreme Court Circular No. 28-91, the Court cannot therefore, accept its subsequent compliance."^[1]

Aggrieved, petitioner is now before this Court seeking reversal of the ruling of the Court of Appeals.

Revised Circular No. 28-91 provided:

"To avoid [forum shopping], every petition or complaint filed with the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, shall comply with the following requirements, aside from pertinent provisions of the Rules of Court and existing circulars:

x x x

2. *Certification*.—The party must certify under oath that he has not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different Divisions thereof,