

THIRTEENTH DIVISION

[CA-G.R. SP NO. 132516, June 30, 2014]

**JACINTO C. SY AND SY CHI SIONG, PETITIONERS, VS. HON.
JUDGE HONORIO E. GUANLAO, JR. AND CHINA BANKING
CORPORATION, RESPONDENTS.**

D E C I S I O N

DIMAAMPAO, J.:

This *Petition for Certiorari*^[1] ascribes grave abuse of discretion on the part of public respondent Judge Honorio Guanlao, Jr. as Presiding Judge of the Regional Trial Court of Makati City, Branch 57 (public respondent), in issuing the *Order*^[2] and *Resolution*^[3] dated 17 June 2013 and 28 August 2013, respectively, in Civil Case No. 01-705. The challenged *Order* disallowed the presentation of the witness of petitioners as they failed to file the former's *Judicial Affidavit* five days before the scheduled hearing. Upon the other hand, the assailed *Resolution* denied for lack of merit petitioners' *Motion for Reconsideration* thereof.

The precursor facts of the case are uncomplicated.

Private respondent China Banking Corporation (private respondent) filed a *Complaint for Sum of Money* against petitioners Jacinto Sy (Jacinto) and Sy Chi Siong in their capacity as sureties to the principal borrower. We shall collectively refer to them as petitioners. Traversing the *Complaint*, petitioners asserted that they never signed a *Surety Agreement*.

Trial on the merits ensued wherein the parties were allowed to substantiate their respective postures.

Petitioners presented as their witnesses Jacinto himself, Aida Casclang (Aida), and Ricky Delambutique (Ricky). Subsequently, on the hearing held on 17 June 2013, petitioners manifested to present their fourth witness. Petitioners having failed to file the *Judicial Affidavit* five days before the said hearing, public respondent, in the impugned *Order*, disallowed such presentation and instead required them to file their *Formal Offer of Exhibits*.

Dissatisfied, petitioners moved for reconsideration but the court *a quo*, via the repugned *Resolution*, found no merit in their *Motion*.

Perforce, petitioners come to Us through this Petition, anchored on this solitary ground—

**THE PUBLIC RESPONDENT ABUSED ITS DISCRETION AMOUNTING
TO LACK OF JURISDICTION WHEN IT IMPLIEDLY CONSIDERED
THE CASE SUBMITTED FOR DECISION AND DENIED BOTH
PETITIONERS THEIR RIGHT TO PRESENT THEIR EVIDENCE WHEN
ON A MERE TECHNICALITY.**

The Petition bears no merit.

First off, it bears stressing that to justify the grant of the extraordinary remedy of certiorari, the petitioner must satisfactorily show that the court or quasi-judicial authority gravely abused the discretion conferred upon them. Grave abuse of discretion connotes judgment exercised in a capricious and whimsical manner that is tantamount to lack of jurisdiction. To be considered "grave," the discretionary authority must be exercised in a despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.^[4]

In the case at bench, petitioners postulate that public respondent exhibited whimsicality in issuing the oppugned *Order* and *Resolution*. Indeed, public respondent's action of disallowing the presentation of one of their witnesses for their failure to file the *Judicial Affidavit* as provided under the law is tantamount to grave abuse of discretion since they were denied their right to present evidence on a mere technicality. They should be given a leeway in presenting their evidence inasmuch as the record would show that they could no longer locate the witness they wanted to present, and that the last intended witness, Expedito Nacu, was only belatedly obtained.^[5]

Petitioners' postulation fails to impress Us.

A perspicacious review of the record reveals no grave abuse of discretion on the part of public respondent.

At the core of the instant case is A.M. No. 12-8-8-SC otherwise known as the *Judicial Affidavit Rule*. This Rule which took effect on 1 January 2013 has prospective application.^[6] Whence, public respondent properly applied the same in this case.

Appositely, Section 10 thereof reads:

"SECTION 10. Effect of Non-Compliance with the Judicial Affidavit Rule.
— (a) A party who fails to submit the required judicial affidavits and exhibits on time shall be deemed to have waived their submission. The court may, however, **allow only once the late submission of the same provided, the delay is for a valid reason**, would not unduly prejudice the opposing party, and the defaulting party pays a fine of not less than P1,000.00 nor more than P5,000.00, at the discretion of the court.xxx"

Records reflect that in petitioners' *Pre-trial Brief*,^[7] they reserved the right to present additional witnesses even if they did not indicate their names.^[8]

To Our mind, public respondent gave petitioners ample opportunity to present evidence. In point of fact, petitioners presented two other witnesses, *i.e.*, Aida and Ricky. It must be emphasized that this is not the first time that petitioners failed to comply with the *Judicial Affidavit Rule*. It was only during the hearing for the presentation of Aida as witness that petitioners furnished private respondent a copy of the former's *Judicial Affidavit*.^[9] Evidently, this runs afoul of Section 2 of the aforesaid Rule, which ordains: