



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

UWE MATHAEUS,
Petitioner,

G.R. No. 196651

Present:

- versus -

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
MENDOZA, *and*
LEONEN, *JJ.*

SPOUSES ERIC and
GENEVIEVE MEDEQUISO,
Respondents.

Promulgated:
03 FEB 2016

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DECISION

DEL CASTILLO, *J.:*

This Petition for Review on *Certiorari*¹ seeks to set aside the September 14, 2009 Resolution² of the Court of Appeals (CA) in CA-G.R. CEB SP No. 04236 dismissing petitioner Uwe Mathaeus' Petition for Review, as well as the CA's April 6, 2011 Resolution³ denying petitioner's Motion for Reconsideration.⁴

Factual Antecedents

In Civil Case No. 5579, the Tagbilaran Municipal Trial Court in Cities (MTCC), Branch 1 issued a January 12, 2007 Decision⁵ ordering petitioner to pay respondents spouses Eric and Genevieve Medequiso, the amount of ₱30,000.00 with legal interest, attorney's fees, and costs.

¹ *Rollo*, pp. 16-58.
² Id. at 136-137; penned by Associate Justice Edgardo L. Delos Santos and concurred in by Associate Justices Franchito N. Diamante and Samuel H. Gaerlan.
³ Id. at 148; penned by Associate Justice Edgardo L. Delos Santos and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Ingles.
⁴ Id. at 138-146.
⁵ Id. at 74-76; penned by Presiding Judge Sisinio C. Virtudazo.

Petitioner interposed an appeal, docketed as Civil Case No. 7269, before the Regional Trial Court (RTC) of Bohol, Branch 48. On September 30, 2008, the RTC issued a Decision⁶ affirming the MTCC judgment.

Petitioner moved to reconsider,⁷ but the RTC – in an April 13, 2009 Order⁸ – upheld its judgment.

Ruling of the Court of Appeals

Petitioner filed a Petition for Review⁹ with the CA, docketed as CA-G.R. CEB SP No. 04236. However, in its assailed September 14, 2009 Resolution, the CA dismissed the Petition, decreeing thus:

Perusal of the instant petition filed by the petitioner within the period prayed for discloses that the required Verification and Certification on Non-Forum Shopping was sworn to not before a notary public but before a clerk of court of the Regional Trial Court in Tagbilaran City, Bohol.

Although Section 242 of Article III of the Revised Administrative Code authorizes clerks of court to act as notaries public ex-officio, the Supreme Court has consistently ruled that clerks of court may notarize or administer oaths only when the matter is related to the exercise of their official functions.¹⁰ A Verification in an appeal via a Petition for Review is not within the scope of the matters wherein clerks of court are at liberty to notarize or administer oath. Hence, the same is considered improperly verified and treated as unsigned and dismissible.

WHEREFORE, the petition is hereby DISMISSED.

SO ORDERED.¹¹

Petitioner moved for reconsideration,¹² but in its assailed Resolution, the CA stood its ground.

Hence, the instant Petition.

In a December 4, 2013 Resolution,¹³ this Court resolved to give due course to the Petition.

⁶ Id. at 90-95; penned by Presiding Judge Pablo R. Magdoza.

⁷ Id. at 96-104.

⁸ Id. at 107; penned by Presiding Judge Pablo R. Magdoza.

⁹ Id. at 108-135.

¹⁰ Citing *Exec. Judge Astorga v. Solas*, 413 Phil. 558, 562 (2001), and *Noynay-Arlos v. Conag*, 465 Phil. 849, 855-856 (2004).

¹¹ *Rollo*, pp. 136-137.

¹² Id. at 138-146.

¹³ Id. at 176-177.

Issues

Petitioner raises the following issues for resolution:

I

WHETHER OR NOT THERE WAS A PROPER VERIFICATION AND CERTIFICATION OF THE PETITION FOR REVIEW UNDER RULE 42 THAT WARRANTS A DISMISSAL OF THE PETITION BY THE COURT OF APPEALS.

II

WHETHER OR NOT A STRICT ADHERENCE TO SECTION 6 OF THE REVISED RULE ON SUMMARY PROCEDURE IS TO BE RESORTED [TO] TAKING INTO CONSIDERATION THAT THE ANSWER OF THE PETITIONER WAS NOT EXPUNGED FROM THE RECORDS OF THE MTCC CASE.

III

WHETHER OR NOT THE PECULIARITY OF THE MTCC CASE AND THE ADVENT OF A.M. 08-9-7-SC (RULE OF PROCEDURE FOR SMALL CLAIMS CASES) ENTITLES A LIBERAL INTERPRETATION OF THE RULES TO GIVE THE PETITIONER HIS DAY IN COURT AND ALLOW HIM TO PRESENT HIS EVIDENCE DURING A FULL BLOWN TRIAL.¹⁴

Petitioner's Arguments

In his Petition and Reply¹⁵ seeking reversal of the assailed CA dispositions and the RTC's September 30, 2008 Decision, as well as the remand of the case to the MTCC for further proceedings, petitioner argues that – contrary to the CA's pronouncement that a clerk of court's administration of an oath in a verification contained in a petition for review is not within the scope of his official functions – Atty. Romulo T. Puagang (Clerk of Court of the Bohol RTC) may validly notarize the verification in the CA petition, as it is merely a continuation of the proceedings in Civil Case No. 5579; that the *Astorga*¹⁶ case refers to documents that are alien to a clerk of court's functions – the CA petition cannot be said to be alien to the proceedings in Civil Case No. 5579; that his filing of an unverified Answer in Civil Case No. 5579 – which led the MTCC to discard the same and render judgment against him – should not be taken against him, because as a non-lawyer and foreigner who prepared and filed the same without furnishing copies to the opposing party, he did not know the judicial rules of procedure; that therefore, his Answer in Civil Case No. 5579 should be admitted; that with the admission of his Answer, proceedings in the MTCC should be reopened and continued; that liberality in the application of the rules on summary procedure is underscored by the subsequent issuance of the rules of procedure on small claims cases, which

¹⁴ Id. at 38.

¹⁵ Id. at 167-173.

¹⁶ *Supra* note 10.

prohibit the appearance of attorneys; and that the case should be reopened in order that the parties may present their respective evidence.

Respondent's Arguments

In their Comment¹⁷ seeking denial of the Petition, respondents plainly point out that the Petition is frivolous and dilatory; that in deciding the case, the MTCC, RTC and CA unanimously rendered judgment against petitioner; and that petitioner's arguments deserve no merit.

Our Ruling

The Court denies the Petition.

We have held that "Clerks of Court are notaries public *ex-officio*, and may thus notarize documents or administer oaths **but only** when the matter is related to the exercise of their official functions. x x x [C]lerks of court should not, in their *ex-officio* capacity, take part in the execution of private documents bearing no relation at all to their official functions."¹⁸

Even if it is to be conceded that the CA Petition for Review in CA-G.R. CEB SP No. 04236 is merely a continuation of the proceedings in Civil Case No. 5579, this Court cannot agree with petitioner's argument that the notarization of verifications and certifications on non-forum shopping constitutes part of a clerk of court's *daily* official functions. We are not prepared to rule in petitioner's favor on this score; as it is, the workload of a clerk of court is already heavy enough. We cannot add to this the function of notarizing complaints, answers, petitions, or any other pleadings on a *daily* or *regular* basis; such a responsibility can very well be relegated to commissioned notaries public. Besides, if the practice – specifically the notarization by clerks of court of pleadings filed in cases pending before their own salas or courts – is allowed, unpleasant consequences might ensue; it could be subject to abuse, and it distracts the clerks of court's attention from the true and essential work they perform.

Petitioner's procedural misstep forms part of a series of lapses committed in the prosecution of his case. In the MTCC level, he failed to file a verified Answer to respondents' Complaint. Secondly, he did not furnish a copy thereof to respondents. As a result, the MTCC expunged his responsive pleading and rendered judgment against him. This time, at the level of the CA, he committed another mistake; that is, he caused his Petition for Review to be notarized by the

¹⁷ *Rollo*, pp.150-151.

¹⁸ *Cruz v. Atty. Centron*, 484 Phil. 671, 676 (2004). Emphasis supplied.

RTC Clerk of Court where his case is pending. At this point, petitioner and his counsel are expected to be more circumspect in their actions, avoiding the commission of questionable acts that jeopardize their case.

Under Sections 1 and 2, Rule 42 of the 1997 Rules of Civil Procedure, a party desiring to appeal from a decision of the RTC rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the CA, submitting together with the petition a certification on non-forum shopping. Under Section 3 of the same Rule, “[t]he failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.”

Specifically with respect to certifications against forum-shopping, we have repeatedly held that “non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of ‘substantial compliance’ or presence of ‘special circumstances or compelling reasons.’”¹⁹ Taking the foregoing circumstances and considerations to mind, the Court is not inclined to relax the rules for the petitioner’s benefit; it perceives no compelling reasons or circumstances to rule in his favor. Quite the contrary, the CA pronouncement ordering the dismissal of his Petition for Review is just, and thus should stand.

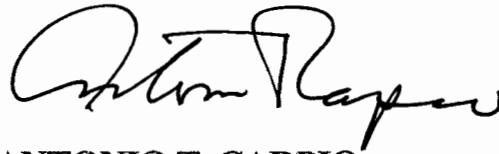
WHEREFORE, the Petition is **DENIED**. The September 14, 2009 and April 6, 2011 Resolutions of the Court of Appeals in CA-G.R. CEB SP No. 04236 are **AFFIRMED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

¹⁹ *Fernandez v. Villegas*, G.R. No. 200191, August 20, 2014, 733 SCRA 548, 557, citing *Ingles v. Estrada*, G.R. Nos. 141809, 147186, and 173641, April 8, 2013, 695 SCRA 285, 317-319 and *Altres v. Empleo*, 594 Phil. 246, 261-262 (2008); also, *Jacinto v. Gumaru, Jr.*, G.R. No. 191906, June 2, 2014, 724 SCRA 343, 356 and *Vda. de Formoso v. Philippine National Bank*, 665 Phil. 184, 193 (2011).

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice

(On leave)
MARVIC M.V. F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

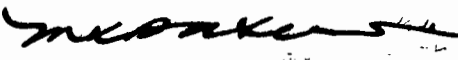


ANTONIO T. CARPIO
Associate Justice
Chairperson



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice

