

THIRD DIVISION

[G.R. NO. 157195, April 22, 2005]

VICAR INTERNATIONAL CONSTRUCTION, INC., AND CARMELITA V. LIM, PETITIONERS, VS. FEB LEASING AND FINANCE CORPORATION (NOW BPI LEASING CORPORATION), RESPONDENT.

DECISION

PANGANIBAN, J.:

Once more, the Court stresses that procedural rules must be used to promote, not obstruct, substantial justice. The failure to attach the Resolution authorizing herein individual petitioner to represent herein corporate petitioner is, under the circumstances, excusable. The immediate correction of the defect should have been deemed sufficient compliance with the rules.

The Case

Before us is a Petition for Review on Certiorari^[1] pursuant to Rule 45 of the Rules of Court, seeking to reverse and set aside two Resolutions^[2] of the Court of Appeals (CA) dated October 23, 2002^[3] and February 7, 2003,^[4] in CA-GR SP No. 73117. The earlier Resolution reads:

"The instant petition for certiorari is hereby DISMISSED for lack of proper verification and certification against forum shopping as the same was executed by Carmelita V. Lim, one of the petitioners, without showing any authority from petitioner corporation to sign for and on its behalf."^[5]

The second assailed Resolution denied petitioners' "Omnibus Motion for Reconsideration and for Admission of the Attached Secretary's Certificate."

The Facts

This controversy originated from a Complaint^[6] for unjust enrichment and damages, filed in the Regional Trial Court of Makati by herein petitioner, Vicar International Construction, Inc. (Vicar), against Respondent FEB Leasing and Finance Corporation (now BPI Leasing Corporation) and the Far East Bank and Trust Company. In turn, FEB Leasing and Finance Corporation filed a Complaint^[7] against Vicar, Carmelita Chaneco Lim and one John Doe, for a sum of money, damages and replevin.

These Complaints stemmed from loans obtained from FEB by Vicar, a corporation engaged in the construction business, for the purchase of certain heavy equipment. In obtaining the loans, Deeds of Absolute Sale with a "lease-back" provision were executed by the parties. In those Deeds, Vicar appears to have sold to FEB the equipment purchased with the loan proceeds and, at the same time, leased them

back.^[8] For the total loan of P30,315,494, Vicar claims to have paid FEB an aggregate amount of P19,042,908 in monthly amortizations.

Nevertheless, FEB maintains that Vicar still had an outstanding balance of about P22,000,000, despite the extrajudicial foreclosure of sixty-three (63) subdivision lots. These lots, comprising an aggregate area of 20,300 square meters in Calamba, Laguna, were used by the corporation as additional collateral. As a consequence, the auction sale produced P17,000,000 which, Vicar claims, should have been applied to its loans.

In the course of the second (replevin) case, the trial court issued several Orders pertaining to the possession/custody of eight (8) units of the subject equipment. In an Order dated August 2, 2002, the regional trial court (RTC) quashed the property counterbond filed by Vicar and denied the latter's Motion to Dismiss the Complaint, which was grounded on forum shopping. In an Order dated September 30, 2002, the RTC denied the corporation's Motion for Reconsideration and Motion for Voluntary Inhibition of the trial judge.

On October 3, 2002, Vicar filed a Petition for Certiorari before the Court of Appeals, to stop the implementation of the Writ of Replevin issued against the subject equipment.

Ruling of the Court of Appeals

The Petition was, however, instantly dismissed by the CA in its herein assailed Resolution dated October 23, 2002, because the Verification and the Certification against forum shopping had been executed by Petitioner Carmelita V. Lim without any showing that she had the authority to sign for and on behalf of petitioner-corporation.

On November 23, 2003, the day after receiving its copy of the Resolution, Vicar filed an "Omnibus Motion for Reconsideration and for Admission of the Attached Secretary's Certificate." Nevertheless, the CA denied the Omnibus Motion in this wise:

"The belated filing by the petitioners of the Certification of their Corporate Secretary, to the effect that petitioner Carmelita Lim has been duly authorized by petitioner corporation to file the subject petition for certiorari, did not cure the defect of said petition. Absent any compelling reason for petitioners' failure to comply at the first instance with the required certification, we cannot, therefore, accept their subsequent compliance."^[9]

Hence, this Petition.^[10]

The Issues

Petitioners raise the following issues for our consideration:

"A.

Whether compelling reasons exist which warrant the liberal construction

of the Petition for Certiorari.

"B.

Whether petitioners' subsequent submission of the secretary's certificate is a sufficient compliance with the requirement of the law.

"C.

Whether the policy of the law is to afford a party the fullest opportunity to establish the merits of his case."^[11]

In short, the principal issue is whether the Court of Appeals erred in summarily dismissing the Petition for Certiorari.

The Court's Ruling

The present Petition for Review is meritorious.

Main Issue:

Propriety of Summary Dismissal

Petitioners assert that Carmelita V. Lim was duly authorized to execute, for and on behalf of Vicar, the Verification and Certification against forum shopping. Attached to the Petition and signed by Petitioner Lim was the Verification/Certification, in which was explicitly stated the authorization and affirmation, as follows:

"x x x. I am likewise duly authorized to execute this Verification/Certification in behalf of petitioner Vicar International Construction, Inc. x x x."

This statement was supported by Vicar's board of directors, who unanimously approved a Resolution dated October 2, 2002, which reads thus:

"NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved, that the Corporation be authorized to file a Petition for Certiorari before the Court of Appeals for the purpose of annulling or setting aside the Orders dated 2 August 2002 and 30 September 2002 rendered by Branch 150 of the Regional Trial Court of Makati in connection with Civil Case No. 02-357 entitled 'FEB Leasing & Finance Corporation, Plaintiff vs. Vicar International Construction, Inc. et al., Defendants.'

"RESOLVED further, that the President/General Manager Carmelita V. Lim is hereby authorized to execute and sign any and all documents necessary for filing of the Petition for Certiorari, including the verification and certification against forum shopping."^[12]

Petitioners candidly admit that they inadvertently failed to attach the above Resolution to their CA Petition. In preparing the Petition, their counsel supposedly worked overnight without sleep. She wanted to file it immediately to avoid the trial court's quashal of their counterbond and, thus, the immediate seizure of their equipment -- their only means of livelihood.

Their counsel allegedly believed in good faith that the secretary's Certificate was attached to the Petition. When they received a copy of the October 23, 2002 CA Resolution on November 11, 2002, they lost no time in filing the following day their "Omnibus Motion for Reconsideration and for Admission of the Attached Secretary's Certificate."

Petitioners submit that the foregoing circumstances constitute compelling reasons to justify setting aside the procedural defect, pursuant to *Ramos v. Court of Appeals*.
[13]

Further, citing *Yap v. Baldado*,^[14] they contend that their posthaste submission of the secretary's Certificate, albeit after the filing of their Petition, constitutes substantial compliance with the requirements of the law. Finally, they aver that pursuant to the policy of the law to afford parties the fullest opportunity to establish the merits of their case, the CA should have given due course to their Petition.

On the other hand, Respondent FEB asserts that the CA's dismissal of the Petition -- arising from petitioners' failure to attach a duly executed verification and certification against forum shopping -- is well within the appellate court's authority, pursuant to Sections 3 and 5 of Rule 46 of the Revised Rules of Civil Procedure.^[15] Respondent also claims that petitioners' present action before this Court seeks to correct a perceived erroneous application by the CA of a procedural rule that is not correctible by certiorari.

Finally, respondent alleges that the instant Petition, being based on the ground of excusable negligence, is actually a motion for new trial. As such, the Petition must allegedly fail, because petitioners did not execute and attach an affidavit of merits.

The issue before us is not novel; neither are the factual circumstances that gave rise to it.

In *Shipside Incorporated v. Court of Appeals*,^[16] the petitioner had not attached any proof that its resident manager was authorized to sign the Verification and the non-forum shopping Certification, as a consequence of which the Petition was dismissed by the Court of Appeals. Subsequent to the dismissal, however, the petitioner filed a motion for reconsideration, to which was already attached a Certificate issued by its board secretary who stated that, prior to the filing of the Petition, the resident manager had been authorized by the board of directors to file the Petition.

Citing several cases^[17] excusing noncompliance with the requirement of a certificate of non-forum shopping, the Court held that "with more reason should x x x the instant petition [be allowed,] since petitioner herein did submit a certification on non-forum shopping, failing only to show proof that the signatory was authorized to do so." The Court further said that the subsequent submission of the Secretary's Certificate, attesting that the signatory to the certification was authorized to file the action on behalf of petitioner, **mitigated** the oversight.

Similarly, in *General Milling Corporation v. NLRC*,^[18] the Court of Appeals dismissed the Petition, which was not accompanied by any board resolution or certification by the corporate secretary showing that the person who had signed the Certification of