

## SECOND DIVISION

[ G.R. No. 219291, July 04, 2018 ]

**MICHAEL V. RACION, PETITIONER, VS. MST MARINE SERVICES PHILIPPINES, INC., ALFONSO RANJO DEL CASTILLO AND/OR THOME SHIP MANAGEMENT PTE. LTD., RESPONDENTS.**

### RESOLUTION

#### **CAGUIOA, J:**

Petitioner Michael V. Racion filed a Petition for Review<sup>[1]</sup> on *Certiorari* under Rule 45 of the Rules of Court assailing the twin Resolutions dated August 22, 2014<sup>[2]</sup> (2014 Resolution) and July 2, 2015<sup>[3]</sup> (2015 Resolution) of the Court of Appeals (CA) in CA-G.R. SP No. 136124. The CA dismissed the petition for *certiorari* because of the lack of authority of the counsel of petitioner to sign the certificate of non-forum shopping and the failure to state the addresses of petitioner and respondent Alfonso Ranjo Del Castillo (Del Castillo).

#### ***Facts***

Petitioner was hired as a GP1/MTM by respondent MST Marine Services Philippines, Inc. (MST Marine) on November 22, 2011.<sup>[4]</sup> During his employment, petitioner suffered an accidental fall and was found to have suffered from a left knee ligament strain.<sup>[5]</sup> Petitioner was subsequently repatriated on medical grounds on July 5, 2012.<sup>[6]</sup>

It is not clear from the submissions of the parties as to the doctor who examined petitioner when he arrived, and the conclusions arrived at by the doctor. But it would seem that petitioner filed a claim for disability benefits, refund of medical expenses, sickness allowances, damages, and attorney's fees on August 17, 2012.<sup>[7]</sup>

As respondents alleged: in a Decision dated March 25, 2013, the Labor Arbiter (LA) dismissed petitioner's complaint for lack of merit.<sup>[8]</sup> Petitioner then filed an appeal with the National Labor Relations Commission (NLRC), which denied the appeal but modified the LA's decision by directing MST Marine and/or Thome Ship Management PTE. Ltd. to pay petitioner the amount of Fifty Thousand Pesos (P50,000.00) as financial assistance.<sup>[9]</sup>

Petitioner then filed a petition for *certiorari* before the CA questioning the NLRC's decision. In its 2014 Resolution, the CA dismissed the petition outright because it was petitioner's counsel who signed the certificate on non-forum shopping, without authority from petitioner through a Special Power of Attorney (SPA), and without any explanation for petitioner's failure to execute the certificate.<sup>[10]</sup> The CA also ruled that petitioner failed to comply with paragraph 1, Section 3, Rule 46 of the

Rules of Court when he failed to indicate his own actual address and that of respondent Del Castillo.<sup>[11]</sup>

The CA reasoned that a petition for *certiorari* is an extraordinary remedy and that the party availing of the remedy must strictly observe the procedural rules laid down by law.<sup>[12]</sup> For the CA, the procedural rules may not be brushed aside as mere technicality and the decision of whether or not to accept a petition is generally addressed to the sound discretion of the court.<sup>[13]</sup>

Petitioner moved for reconsideration, but the CA denied it in its 2015 Resolution. The CA ruled that the liberal application of the rules may be done only if there are justifiable causes for non-compliance, and that petitioner failed to show the existence of such justifiable cause as he only claimed that his failure to comply was due to inadvertence.<sup>[14]</sup> The CA also found that there was nothing on record that constituted compelling reason for a liberal application of procedural rules.<sup>[15]</sup>

Aggrieved, petitioner thus filed this petition.

### ***Issue***

The sole issue is whether the CA erred in dismissing the petition for *certiorari* outright.

### ***The Court's Ruling***

The CA was correct in dismissing the petition for *certiorari* outright.

As the CA correctly held, the Court had ruled in *Vda. De Formoso v. Philippine National Bank*<sup>[16]</sup> that "[c]ertiorari is an extraordinary, prerogative remedy and is never issued as a matter of right. Accordingly, the party who seeks to avail of it must strictly observe the rules laid down by law."<sup>[17]</sup>

Further, "[t]he acceptance of a petition for *certiorari* as well as the grant of due course thereto is, in general, addressed to the sound discretion of the court. Although the court has absolute discretion to reject and dismiss a petition for *certiorari*, it does so only (1) when the petition fails to demonstrate grave abuse of discretion by any court, agency, or branch of the government; or (2) when there are procedural errors, like violations of the Rules of Court or Supreme Court Circulars."<sup>[18]</sup>

Here, the CA was correct in dismissing the petition for *certiorari* as it was beset with procedural errors arising from violations of the Rules of Court.

*First*, petitioner failed to execute a certificate of non-forum shopping. Section 1, Rule 65 of the Rules of Court directs that a petition should be accompanied by a certificate of non-forum shopping in accordance with Section 3, Rule 46 also of the Rules of Court, which states:

SEC. 3. *Contents and filing of petition; effect of non-compliance with requirements.* — The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of

the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

x x x x

**The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.**

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

**The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.** (n) (Emphasis supplied)

The execution of the certificate by petitioner's counsel is a defective certification, which amounts to non-compliance with the requirement of a certificate of non-forum shopping. This is sufficient ground for the dismissal of the petition.<sup>[19]</sup>

The issue of a counsel executing a certificate of non-forum shopping has been settled in *Suzuki v. de Guzman*,<sup>[20]</sup> where the Court affirmed the CA's dismissal of a petition for *certiorari* because the certificate was signed by counsel and not by the petitioners themselves. The Court ruled:

The Court also cannot accept the signature of petitioners' counsel as substantial compliance with the Rules. The attestation contained in the certification on non-forum shopping requires personal knowledge by the party who executed the same. The fact that there are three petitioners is not valid excuse or exception to the requirement. A certification against forum shopping signed by counsel is a defective certification that is equivalent to non-compliance with the requirement and constitutes a valid cause for the dismissal of the petition.<sup>[21]</sup>

*Suzuki* applies squarely here, and petitioner only argues that the Court should liberally construe the rules in his favor. As will be further discussed below, this argument also fails.