

THIRD DIVISION

[G.R. No. 171098, February 26, 2008]

JUAN G. GARCIA, JR. and DOROTEO C. GAERLAN, Petitioners, vs. HON. COURT OF APPEALS and GARCIA PASION DEVELOPMENT CORPORATION (GPDC), represented by RAMONA G. AYESA and MARCELO F. AYESA, Respondents.

DECISION

CHICO-NAZARIO, J.:

In this Petition for *Certiorari*, petitioners seek to set aside the Resolutions of the Court of Appeals, dated 29 June 2005^[1] and 13 January 2006,^[2] which dismissed their Petition in CA-G.R. SP No. 90178 for failure to comply with the requirements of Section 1, Rule 65 of the 1997 Rules of Civil Procedure.^[3]

From the records, it appears that petitioners are stockholders of private respondent Garcia Pasion Development Corp. (GPDC), a family corporation duly registered with the Securities and Exchange Commission (SEC). Petitioners are defendants in SP. Proc. No. 03-106410, a stockholders' derivative suit with prayer for attachment and receivership filed by GPDC, represented by Ramona G. Ayesa and Marcelo F. Ayesa, with the Regional Trial Court (RTC) of Manila, Branch 24. Furthermore, GPDC is a stockholder of Kenram Philippines, Inc. and Kenram Industrial Development, Inc. On 22 February 2005, petitioners and private respondents filed a Joint Motion^[4] with the RTC, praying, thus:

WHEREFORE, plaintiff and defendants respectfully pray that the Honorable Court issue an Order as follows:

(a) Directing that all the dividends declared or to be declared in the future to plaintiff Garcia Pasion Development Corporation by Kenram Philippines, Inc. and Kenram Industrial Development, Inc., or other corporations, including those still in the custody of the latter two corporations, be delivered to the Branch Clerk of Court;

(b) Directing the Branch Clerk of Court to open an account in the name of Garcia Pasion Development Corporation [GPDC], with a bank designated by the Honorable Court, in which account shall be deposited all funds received by said Branch Clerk of Court as and by way of dividends due to GPDC; and

(c) Directing that no withdrawal shall be made from the bank account except upon motion of the parties approved by the Court.^[5]

The RTC issued an Order^[6] of even date which partially granted the parties' prayer, directing that the dividends be delivered to the Office of the Clerk of Court, RTC,

Manila. Hence:

As prayed for, all the dividends declared or to be declared in the future to [private respondent] Garcia Pasion Development Corporation [GPDC], by Kenram Philippines, Inc. and Kenram Industrial Development, Inc., or other corporations, including those still in the custody of the latter two corporations, are hereby directed to be delivered not to the Branch Clerk of Court but to the Office of the Clerk of Court, Regional Trial Court, Manila.^[7]

Unsatisfied, the parties filed a Joint Motion to Amend the Order dated 22 February 2005, praying that the RTC modify the same by directing that all the dividends of GPDC delivered to the Office of the Clerk of Court, RTC of Manila, be deposited in an account to be opened in the name of GPDC with a bank designated by the RTC, and that no withdrawal shall be made except upon joint motion of the parties approved by the court.^[8]

Acting on the said Joint Motion, the RTC issued an Order^[9] dated 7 April 2005, denying the same. It directed thus:

x x x considering that under Section 2.1.2 of [T]he 2002 Revised Manual for Clerks of Court, particularly the provisions that "only one depository bank shall be maintained, that deposits shall be made in the name of the court and that the clerk of Court shall be the custodian of the passbook to be issued by the depository bank x x x," the joint motion is hereby denied.^[10]

On 20 June 2005, petitioners filed a Petition for *Certiorari* with the Court of Appeals, which dismissed it outright for failure to attach therewith certified true copies of the assailed Orders of the RTC, dated 22 February 2005 and 7 April 2005 in contravention of Section 1, Rule 65 of the 1997 Rules of Civil Procedure.

On 15 July 2005, petitioners filed a Joint Motion for Reconsideration,^[11] but it was denied. The Court of Appeals held that while the attachment of a duplicate original copy of the assailed order is sufficient compliance with the mandate of Section 1, Rule 65 of the 1997 Rules of Civil Procedure, petitioners merely appended machine copies of the assailed orders.

Hence, the instant Petition alleging that the Court of Appeals erred in dismissing the Petition for *Certiorari* on mere technicality.

Private respondent GPDC in its Comment^[12] joins petitioners in their prayer that this Court give due course to the Petition.

We dismiss the Petition.

The 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.^[13] It must be stressed that *certiorari*, being an extraordinary remedy,^[14] the party who seeks to avail of the same must strictly observe the rules laid down by the law^[15] and non-observance thereof may not be brushed aside as mere technicality.^[16]

In the matter of the requirement that a petition for *certiorari* be accompanied by a certified true copy of the judgment, order or resolution subject thereof, Section 1, Rule 65 of the 1997 Rules of Civil Procedure, as amended, provides:

SECTION 1. *Petition for certiorari.*-

x x x x

The petition shall be accompanied by a **certified true copy** of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

Significantly, Section 3, Rule 46 of the same Rules, provides:

SECTION 3. *Contents and filing of petition; effect of non-compliance with requirements.* -

x x x x

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a **clearly legible duplicate original or certified true copy** of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

x x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition."

It is true that Section 3 of Rule 46 does not require that all supporting papers and documents accompanying a petition be duplicate originals or certified true copies. [17] However, it explicitly directs that all cases originally filed in the Court of Appeals shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution or ruling subject thereof. [18] Similarly, under Rule 65, which covers *certiorari*, prohibition and mandamus, petitions need to be accompanied only by duplicate originals or certified true copies of the questioned judgment, order or resolution. [19] Other relevant documents and pleadings attached to it may be mere machine copies thereof. [20] In the case at bar, petitioners failed to attach duplicate originals or certified true copies of the assailed Orders of the RTC, dated 22 February 2005 and 7 April 2005. What they affixed were machine or xerox copies of the same. Plainly put, petitioners contravened the obvious rudiments of

the rules.

In Circular No. 3-96, we made the following clarifications and supplemental rules on what is a duplicate original or certified true copy:

1. The "duplicate original copy" shall be understood to be that copy of the decision, judgment, resolution or order which is intended for and furnished to a party in the case or proceeding in the court or adjudicative body which rendered and issued the same. The "certified true copy" thereof shall be such other copy furnished to a party at his instance or in his behalf, duly authenticated by the authorized officers or representatives of the issuing entity as hereinbefore specified.
2. The duplicate original copy must be duly signed or initialed by the authorities or the corresponding officer or representative of the issuing entity, or shall at least bear the dry seal thereof or any other official indication of the authenticity and completeness of such copy. For this purpose, all courts, offices or agencies furnishing such copies which may be used in accordance with Paragraph (3) of Revised Circular No. 1-88 shall make arrangements for and designate the personnel who shall be charged with the implementation of this requirement.
3. The certified true copy must further comply with all the regulations therefor of the issuing entity and it is the authenticated original of such certified true copy, and not a mere xerox copy thereof, which shall be utilized as an annex to the petition or other initiatory pleading.
4. Regardless of whether a duplicate original copy or a certified true copy of the adjudicatory document is annexed to the petition or initiatory pleading, the same must be exact and complete copy of the original and all the pages thereof must be clearly legible and printed on white bond or equivalent paper of good quality with the same dimensions as the original copy. Either of the aforesaid copies shall be annexed to the original copy of the petition or initiatory pleading filed in court, while plain copies thereof may be attached to the other copies of the pleading.
5. It shall be the duty and responsibility of the party using documents required by Paragraph (3) of Circular No. 1-88 to verify and ensure compliance with all the requirements thereof as detailed in the proceeding paragraphs. Failure to do so shall result in the rejection of such annexes and the dismissal of the case. Subsequent compliance shall not warrant any reconsideration unless the court is fully satisfied that the noncompliance was not in any way attributable to the party despite due diligence on his part, and that there are highly justifiable and compelling reasons for the court to make such other disposition as it may deem just and equitable.