

## THIRD DIVISION

[ G.R. No. 179878, December 24, 2008 ]

**NEGROS ORIENTAL PLANTERS ASSOCIATION, INC. (NOPA),  
PETITIONER, VS. HON. PRESIDING JUDGE OF RTC-NEGROS  
OCCIDENTAL, BRANCH 52, BACOLOD CITY, AND ANICETO  
MANOJO CAMPOS, RESPONDENTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

What's sauce for the goose is sauce for the gander.

This is a Petition for Review on *Certiorari* seeking the reversal of the Resolutions<sup>[1]</sup> of the Court of Appeals dated 23 May 2007 and 16 August 2007, respectively, in CA-G.R. SP No. 02651 outrightly dismissing the Petition for *Certiorari* filed by petitioner Negros Oriental Planters Association, Inc. (NOPA) against private respondent Aniceto Manojó Campos (Campos).

On 17 March 1999, Campos filed a Complaint for Breach of Contract with Damages, docketed as Civil Case No. 99-10773, against NOPA before the Regional Trial Court (RTC) of Negros Occidental, Bacolod City. According to the Complaint, Campos and NOPA entered into two separate contracts denominated as Molasses Sales Agreement. Campos allegedly paid the consideration of the Molasses Sales Agreement in full, but was only able to receive a partial delivery of the molasses because of a disagreement as to the quality of the products being delivered.

On 17 August 2005, more than six years after NOPA filed its Answer, NOPA filed a Motion to Dismiss on the ground of an alleged failure of Campos to file the correct filing fee. According to NOPA, Campos deliberately concealed in his Complaint the exact amount of actual damages by opting to estimate the value of the unwithdrawn molasses in order to escape the payment of the proper docket fees.

On 30 June 2006, the RTC issued an Order denying the Motion to Dismiss. NOPA received this Order on 17 July 2006.

On 1 August 2006, NOPA filed a Motion for Reconsideration of the 30 June 2006 Order. On 5 January 2007, the RTC issued an Order denying NOPA's Motion for Reconsideration.

On 2 April 2007, NOPA filed a Petition for *Certiorari* before the Court of Appeals assailing the Orders of the RTC dated 30 June 2006 and 5 January 2007.

On 23 May 2007, the Court of Appeals issued the first assailed Resolution dismissing the Petition for *Certiorari* on the following grounds:

1. Failure of the Petitioner to state in its Verification that the allegations in the petition are "based on authentic records", in violation of Section 4, Rule 7, of the 1997 Rules of Civil Procedure, as amended by A.M. No. 00-2-10-SC (May 1, 2000), which provides:

*" - x x x - A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.*

*A pleading required to be verified which contains a verification based on "information and belief," or lacks a proper verification, shall be treated as an unsigned pleading."*

2. Failure of the petitioner to append to the petition relevant pleadings and documents, which would aid in the resolution of the instant petition, in violation of Section 1, Rule 65 of the Rules of Court, such as:

- a. Ex-parte Motion to Set the Case for Pre-Trial dated July 27, 1999;
- b. Notice of Pre-Trial;
- c. Motion for Leave to File Third Party Complaint;
- d. Orders dated July 31, 2000, March 20 2001, November 17, 2004, and May 17, 2005, respectively;
- e. Motion to Suspend the Proceedings dated August 10, 2003;
- f. Motion to Dismiss for Failure to Prosecute; and
- g. Motion for Reconsideration to the Order dated May 12, 2005.

Section 1, Rule 65 of the Rules of Court, provides:

*"When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.*

*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 paragraph of section 3, Rule 46."

3. Failure of petitioner's counsel to indicate in the petition his current IBP Official Receipt Number, in violation of Bar Matter No. 1132 and/or A.M. No. 287, which reads as follows:

"The Court resolved, upon recommendation of the Office of the Bar Confidant, to GRANT the request of the Board of Governors of the Integrated Bar of the Philippines and the Sanguniang Panlalawigan of Ilocos Norte to require all lawyers to indicate their Roll of Attorneys Number in all papers or pleadings submitted to the various judicial or quasi-judicial bodies in addition to the requirement of indicating the current Professional Tax Receipt (PTR) and the IBP Official Receipt or Lifetime Member Number."<sup>[2]</sup>

On 22 June 2007, NOPA filed a Motion for Reconsideration of the above Resolution, attaching thereto an Amended Petition for *Certiorari* in compliance with the requirements of the Court of Appeals deemed to have been violated by NOPA. The Court of Appeals denied the said Motion in the second assailed Resolution dated 16 August 2007.

Hence, this Petition for Review on *Certiorari*, where NOPA raises the following issue and arguments:

### **ISSUE**

WHETHER OR NOT THE PUBLIC RESPONDENT CA COMMITTED REVERSIBLE ERROR WHEN IT RULED THAT THERE WAS NO SUBSTANTIAL COMPLIANCE WITH THE PROCEDURAL REQUIREMENTS WHEN PETITIONER FAILED TO ALLEGE IN ITS VERIFICATION THAT THE ALLEGATIONS THEREIN ARE TRUE AND CORRECT OF HIS PERSONAL KNOWLEDGE OR BASED ON AUTHENTIC RECORDS AND FAILURE TO ATTACH THE NECESSARY DOCUMENTS ON ITS PLEADINGS AS REQUIRED BY SECTION 1, RULE 65 OF THE 1997 RULES OF CIVIL PROCEDURE.<sup>[3]</sup>

### **ARGUMENTS**

1. The requirement that a pleading be verified is merely formal and not jurisdictional. The court may give due course to an unverified pleading where the material facts alleged are a matter of record and the questions raised are mainly of law such as in a petition for certiorari.<sup>[4]</sup>
2. Petitioner had attached to its Petition for *Certiorari* clearly legible and duplicate original or a certified true copy of the judgment or final order or resolution of the court a quo and the requisite number of plain copies thereof and such material portions of the record as

would support the petition.<sup>[5]</sup>

3. Substantial compliance of the rules, which was further supplied by the petitioner's subsequent full compliance demonstrates its good faith to abide by the procedural requirements.<sup>[6]</sup>
4. The resolution of the important jurisdictional issue raised by the petitioner before the PUBLIC RESPONDENT CA would justify a relaxation of the rules.<sup>[7]</sup>

The original Verification in the original Petition for *Certiorari* filed by NOPA states as follows:

1. That I am the President and Chairman of the Board of Directors of Negros Oriental Planters' Association, Inc. (NOPA), the petitioner in this case, a domestic corporation duly organized under Philippine Laws, with principal place of business at Central Bais, Bais City, Philippines; that I am duly authorized by the Board of NOPA (Secretary's Certificate attached as Annex "A") to cause the preparation of the foregoing petition; and that I hereby affirm and confirm that all the allegations contained herein are true and correct to my own knowledge and belief;<sup>[8]</sup>

NOPA claims that this Court has in several cases allowed pleadings with a Verification that contains the allegation "to the best of my knowledge" and the allegation "are true and correct," without the words "of his own knowledge," citing *Decano v. Edu*,<sup>[9]</sup> and *Quimpo v. De la Victoria*.<sup>[10]</sup> NOPA claims that the allegations in these cases constitute substantial compliance with the Rules of Court, and should likewise apply to the case at bar.

NOPA is mistaken. NOPA cited cases promulgated before 1 May 2000, when Section 4 of Rule 7 was amended by A.M. No. 00-2-10. Before the amendment, said Section 4 stated:

SEC. 4. *Verification*.—Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading **and that the allegations therein are true and correct of his knowledge and belief**.

As amended, said Section 4 now states:

SEC. 4. *Verification*.—Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading **and that the allegations therein are true and correct of his personal knowledge or based on authentic records**.

Clearly, the amendment was introduced in order to make the verification requirement stricter, such that the party cannot now merely state under oath that he *believes* the statements made in the pleading. He cannot even merely state under oath that he *has knowledge* that such statements are true and correct. His knowledge must be specifically alleged under oath to be either *personal knowledge* or at least *based on authentic records*.

Unlike, however, the requirement for a Certification against Forum Shopping in Section 5, wherein failure to comply with the requirements is not curable by amendment of the complaint or other initiatory pleading,<sup>[11]</sup> Section 4 of Rule 7, as amended, states that the effect of the failure to properly verify a pleading is that the pleading shall be treated as unsigned:

**A pleading required to be verified which contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.**

Unsigned pleadings are discussed in the immediately preceding section of Rule 7:

SEC. 3. Signature and address. - x x x.

x x x x

An unsigned pleading produces no legal effect. However, the court ***may, in its discretion***, allow such deficiency to be remedied if it shall appear that the same was due to mere inadvertence and not intended for delay. Counsel who deliberately files an unsigned pleading, or signs a pleading in violation of this Rule, or alleges scandalous or indecent matter therein, or fails to promptly report to the court a change of his address, shall be subject to appropriate disciplinary action. (5a)

A pleading, therefore, wherein the Verification is merely based on the party's knowledge and belief **produces no legal effect**, subject to the **discretion of the court to allow the deficiency to be remedied**. In the case at bar, the Court of Appeals, in the exercise of this discretion, refused to allow the deficiency in the Verification to be remedied, by denying NOPA's Motion for Reconsideration with attached Amended Petition for *Certiorari*.

May an appellate court reverse the exercise of discretion by a lower court? The old case of *Lino Luna v. Arcenas*<sup>[12]</sup> states that it can, but only in exceptional cases when there is grave abuse of this discretion or adverse effect on the substantial rights of a litigant:

Discretionary power is generally exercised by trial judges in furtherance of the convenience of the courts and the litigants, the expedition of business, and in the decision of interlocutory matters on conflicting facts where one tribunal could not easily prescribe to another the appropriate rule of procedure.

**The general rule, therefore, and indeed one of the fundamental principles of appellate procedure is that decisions of a trial court which "lie in discretion" will not be reviewed on appeal, whether**