



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**NARCISO VICTORIANO,**  
Petitioner,

**G.R. No. 214794**

Present:

CARPIO, J.,  
Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., JJ.

- versus -

**JUNIPER DOMINGUEZ,**  
Respondent.

Promulgated:

23 JUL 2018

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**DECISION**

**REYES, JR., J.:**

*The Court's ultimate task is to render and dispense justice. To achieve this end, the Court may excuse certain procedural lapses, if the strict application of the rules will only serve to unjustly deprive a litigant of the chance to present his/her case on the merits.*

This treats of the Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Revised Rules of Court seeking the reversal of the Resolutions dated November 29, 2013,<sup>2</sup> and October 3, 2014,<sup>3</sup> issued by the Court of Appeals (CA) in CA-G.R. SP No. 132581, which dismissed outright the Petition for Review filed by herein petitioner Narciso Victoriano (Victoriano) on technical grounds.

<sup>1</sup> Rollo, pp. 3-22.

<sup>2</sup> Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Jane Aurora C. Lantion and Eduardo B. Peralta, Jr., concurring; id. at 23.

<sup>3</sup> Id. at 25-26.

### The Antecedents

On January 29, 2003, the Spouses Narciso and Josephine Victoriano (Spouses Victoriano) purchased a house and lot located at Nakagang, Sabangan, Mountain Province from the Philippine National Bank (PNB), Bontoc, Mountain Province. Victoriano was an employee of the Bureau of Fire Protection at Nakagang, Sabangan, Mountain Province. The sale was processed by Benedicto Vasquez (Vasquez), Branch Manager of the PNB in Bontoc, Mountain Province.<sup>4</sup> On even date, the parties signed a Deed of Sale (January Deed of Sale), which indicated a purchase price of Php 150,000.00.<sup>5</sup>

Barely a month after, on February 12, 2003, the parties again executed another Deed of Sale (February Deed of Sale) involving the same property, but this time changing the purchase price to reflect the higher amount of Php 850,000.00. Both Deeds of Sale included a proviso stating that the payment of taxes shall be shouldered by the buyer.<sup>6</sup> The Spouses Victoriano submitted the January Deed of Sale to the Bureau of Internal Revenue (BIR) for taxation purposes.

On December 4, 2006, respondent Juniper Dominguez (Dominguez) filed criminal and administrative complaints before the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (OMB MOLEO) against the Spouses Victoriano and Vasquez.<sup>7</sup> In his Complaint, Dominguez charged the Spouses Victoriano as vendees, and Vasquez as vendor, with Falsification of Public Documents Defrauding the Government of Taxes Due. According to Dominguez, the parties deliberately executed two separate deeds of sale covering the same subject property to evade the payment of correct taxes, which should have been based on the true selling price of Php 850,000.00.<sup>8</sup>

On May 19, 2011, the OMB MOLEO issued a Joint Resolution<sup>9</sup> dismissing the Complaint. The OMB MOLEO noted that the Spouses Victoriano submitted the February Deed of Sale (which bore the higher purchase price of Php 850,000.00) to the BIR. This conclusion was based on its observation that the February Deed of Sale bore a BIR stamp.<sup>10</sup>

The dispositive portion of the OMB MOLEO Joint Resolution reads:

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<sup>4</sup> Id. at 5; 50.

<sup>5</sup> Id. at 32.

<sup>6</sup> Id.

<sup>7</sup> Id. at 50.

<sup>8</sup> Id. at 35.

<sup>9</sup> Id. at 32-34.

<sup>10</sup> Id. at 33.

*Meyer*

**WHEREFORE**, premises considered, the instant criminal and administrative cases against [SPOUSES VICTORIANO], and [VASQUEZ] be **DISMISSED**.

**SO ORDERED.**<sup>11</sup>

Dissatisfied with the ruling, Dominguez filed a Motion for Reconsideration.

### **Joint Order of the OMB**

On November 14, 2011, the OMB MOLEO issued a Joint Order<sup>12</sup> reconsidering its earlier ruling. In reversing its earlier Joint Resolution, the OMB MOLEO found that Victoriano tried to evade the payment of correct taxes by executing two deeds of sale, each bearing a different purchase price. Interestingly, Victoriano did not deny this fact. The OMB MOLEO held that this was clear proof that one of the Deeds of Sale was falsified, and the execution of the same was deliberately done to evade the payment of correct taxes. Accordingly, the OMB MOLEO found Victoriano guilty of Dishonesty, and thus ordered his dismissal from the government service.<sup>13</sup>

Moreover, the OMB MOLEO ordered the filing of a criminal Information for Falsification under Article 172 of the Revised Penal Code against the Spouses Victoriano and Vasquez.<sup>14</sup>

The dispositive portion of the Joint Order reads:

WHEREFORE, premises considered, [Dominguez's] Motion for Reconsideration is hereby GRANTED. Accordingly, this Office's Joint Resolution dated May 19, 2011, recommending the dismissal of the criminal and administrative cases against respondents [the Spouses Victoriano] and [Vasquez] is hereby REVERSED and SET ASIDE.

With respect to OMB-P-C-10-0015-A, let an Information for Falsification under Article 172 of the Revised Penal Code be FILED against respondents [the SPOUSES VICTORIANO] and [VASQUEZ] before the proper court.

With respect to OMB-P-A-10-0019-A, [VICTORIANO] is hereby found GUILTY of Dishonesty and is meted the penalty of DISMISSAL from the service, together with its accessory penalties. If the penalty of dismissal from the service can no longer be served by reason of retirement or resignation of respondent, the alternative penalty of FINE in the amount equivalent to respondent's salary for ONE YEAR is hereby imposed.

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<sup>11</sup> Id.

<sup>12</sup> Id. at 35-38.

<sup>13</sup> Id. at 36-37.

<sup>14</sup> Id. at 37.

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Let a copy of this *Joint Order* be furnished the Secretary of the Department of Interior and Local Government, and the Chief, Bureau of Fire and Protection, for immediate implementation.

SO ORDERED.<sup>15</sup>

The Joint Order dated November 14, 2011 was approved on February 21, 2012.<sup>16</sup>

Aggrieved, Victoriano filed a Motion for Reconsideration and Reinvestigation.<sup>17</sup> In Victoriano's Motion, he claimed that new evidence, which consisted of the original copy of the Deed of Sale dated February 12, 2003, has surfaced.<sup>18</sup>

The Motion for Reconsideration was denied in the Order<sup>19</sup> dated April 27, 2012.

Undeterred, Victoriano filed a second Motion for Reconsideration. The same was denied in the Order<sup>20</sup> dated December 26, 2012.

Dissatisfied, Victoriano filed a Petition for Review with the CA.

### **Ruling of the CA**

On November 29, 2013, the CA Eleventh Division<sup>21</sup> issued a Resolution<sup>22</sup> dismissing the Petition for Review outright, due to the following fatal infirmities found therein, *viz.*:

- i. the statement of material dates is incomplete;
- ii. there is no explanation as to why the preferred mode of personal service was not resorted to, per Rule 13, Sec. 11, Rules of Court;
- iii. the Verification does not state that the allegations in the petition are true and correct of the affiant's personal knowledge and based on authentic records, pursuant to Rule 7, Sec. 4, Rules of Court;
- iv. the Certification on non-forum shopping does not state that to the best knowledge of the affiant, no such other action is pending;
- v. the notarization of the Verification/Certification and the Affidavit of Service failed to comply with Secs. 6 and 12, Rule II of the 2004 Rules on Notarial Practice, as amended by A.M. No. 02-8-13-SC dated February 19, 2008, there being no properly accomplished

<sup>15</sup> Id. at 37-38.

<sup>16</sup> Id. at 38.

<sup>17</sup> Id. at 39-46.

<sup>18</sup> Id. at 47.

<sup>19</sup> Id. at 47-48.

<sup>20</sup> Id. at 56-57.

<sup>21</sup> Issued by Atty. Celedonia M. Ogsimer, and witnessed by Associate Justice Vicente S.E. Veloso, as Chairman, with Associate Justices Jane Aurora C. Lantion and Eduardo B. Peralta, Jr., as Members.

<sup>22</sup> *Rollo*, p. 23.

- jurat showing that the affiants exhibited before the notary public competent evidence (at least one current identification document issued by an official agency bearing the photograph and signature of the affiant) of their identity; and
- vi. the petitioner's counsel's 'IBP NO. 792254', with no date of issuance indicated, does not appear to be updated.<sup>23</sup> (Citations omitted)

Victoriano filed a Motion for Reconsideration, which was denied by the CA in its Resolution<sup>24</sup> dated October 3, 2014. In the said resolution, the CA affirmed the outright dismissal of the petition, due to the absence of a complete statement of the specific material dates showing that the said petition was filed on time.<sup>25</sup>

Aggrieved, Victoriano filed the instant Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court.

### The Issue

The main issue raised for the Court's resolution pertains to whether or not the CA erred in dismissing the petition outright due to technical grounds.

Victoriano bewails the outright dismissal of his Petition based on mere technicality. Seeking the Court's liberality, he prays that his mistakes be excused on the ground of his substantial compliance with Rules of Court. He explains that for his statement of material dates, he sufficiently alleged the date when he received the OMB MOLEO's assailed ruling, and showed that his petition was actually filed within the reglementary period. As for the other infirmities in his petition, he urges that an examination of his petition will show that he substantially complied with the rules.<sup>26</sup> Finally, Victoriano prays that he be given a chance to argue his case on the merits.

On the other hand, Dominguez maintains in his Manifestation/Comment,<sup>27</sup> that the instant Petition must be denied, considering that the OMB correctly dismissed Victoriano from the service. He asserts that Victoriano knowingly and willfully submitted a fraudulent deed of sale to the BIR to escape the payment of the correct amount of taxes due.<sup>28</sup>

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<sup>23</sup> Id.

<sup>24</sup> Id. at 25-26.

<sup>25</sup> Id. at 25.

<sup>26</sup> Id. at 9-10.

<sup>27</sup> Id. at 64-65.

<sup>28</sup> Id. at 64.

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## Ruling of the Court

### *The instant petition is impressed with merit.*

It must be noted at the outset that a party aggrieved by the decision of the OMB in an administrative case, may appeal the adverse ruling by filing a petition for review under Rule 43 with the CA. The Petition must be filed within 15 days from the receipt of the assailed ruling.<sup>29</sup>

Parenthetically, Section 6, Rule 43 of the Rules of Court ordains that the petition for review must: (i) state the full names of the parties to the case; (ii) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (iii) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; (iv) contain a sworn certification against forum shopping; and (v) state the specific material dates showing that the petition was filed on time.<sup>30</sup> Failure to comply with the above-mentioned rules shall be a sufficient ground for the dismissal of the petition.<sup>31</sup>

In the instant case, the CA dismissed Victoriano's petition for review outright, due to the following six infirmities attendant in his Petition, namely, (i) an incomplete statement of material dates; (ii) absence of an explanation on why personal service was not resorted to; (iii) absence of a statement in his Verification that the allegations in his petition are true and correct based on his personal knowledge and based on authentic records; (iv) failure to state in his Certification on non-forum shopping that to the best of his knowledge, no such other action is pending; (v) violation of the notarial rules which ordain the presentation of competent evidence of one's identity before the notary public; and (vi) failure to indicate the date of issuance of his counsel's Integrated Bar of the Philippines (IBP) number, which was also not updated.<sup>32</sup>

In his defense, Victoriano claims that he had substantially complied with all the purported defects pointed out by the CA. He likewise beseeches the Court's liberality in giving due course to his petition, considering the gravity of his case, where the OMB meted upon him the supreme penalty of dismissal from the service.

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<sup>29</sup> RULES OF COURT, Rule 43, Sec. 4.

<sup>30</sup> RULES OF COURT, Rule 43, Sec. 6.

<sup>31</sup> RULES OF COURT, Rule 43, Sec. 7.

<sup>32</sup> *Rollo*, p. 23.

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Analyzing the procedural errors committed in the petition, *vis-à-vis* the substance and gravity of the case, **the Court rejects the strict application of the technical rules of procedure, in order to give way to a just resolution of the case on the merits.** This stems from the oft-repeated rule that the dismissal of an appeal purely on technical grounds is frowned upon. Significantly, rules of procedure ought not to be applied in a very rigid, technical sense, but must be used to help secure, and not override substantial justice. After all, the court's primary duty is to render or dispense justice.<sup>33</sup>

In fact, in *Hadji-Sirad v. Civil Service Commission*,<sup>34</sup> the Court enumerated the reasons that may provide a justification for the suspension of a strict adherence to procedural rules. These include (i) "matters of life, liberty, honor or property; (ii) the existence of special or compelling circumstances; (iii) the merits of the case; (iv) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (v) a lack of any showing that the review sought is merely frivolous and dilatory; and (vi) a showing that the other party will not be unjustly prejudiced thereby."<sup>35</sup>

Verily, the merits of case, involving as it does the imposition of the supreme penalty of dismissal on a government employee, thereby depriving him of his very livelihood, warrant a departure from a strict and rigid application of the rules of court. Besides, as will be shown, the perceived errors pointed out by the CA, may be excused on the basis of substantial compliance with the rules.

***The Failure to Include a Complete Statement of Material Dates May Be Excused, insofar as The Date of the Receipt of the Assailed Ruling is Specified, and the Petition was Actually Filed on Time***

Significantly, Section 6 of Rule 43 of the Revised Rules of Court mandates that the petitioner must state the specific material dates showing that his/her petition was filed within the period fixed. Remarkably, the inclusion of a complete statement of material dates in a petition for review is essential to allow the Court to determine whether the petition was indeed filed within the period fixed in the rules.<sup>36</sup> The absence of such a statement will leave the Court at a quandary on whether the petition was in fact filed on time.

<sup>33</sup> *Peñoso v. Dona*, 549 Phil. 39, 45-46 (2007).

<sup>34</sup> 614 Phil. 119 (2009).

<sup>35</sup> *Id.* at 135, citing *Barranco v. Commission on the Settlement of Land Problems*, 524 Phil. 533, 543 (2006).

<sup>36</sup> *Capin-Cadiz v. Brent Hospital and Colleges, Inc.*, 781 Phil. 610, 621 (2016).

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However, in *Capin-Cadiz v. Brent Hospital and Colleges, Inc.*,<sup>37</sup> the Court excused therein petitioner's failure to indicate the date when the assailed decision was received. The Court ruled that the said error is not fatal, since the important date that must be alleged in the petition is the date when the petitioner received the resolution denying his/her motion for reconsideration.<sup>38</sup> Over the years, the Court extended the same modicum of leniency, as shown in a long line of cases, ranging from *Great Southern Maritime Services Corporation v. Acuña*;<sup>39</sup> *Acaylar, Jr. v. Harayo*;<sup>40</sup> *Barra v. Civil Service Commission*;<sup>41</sup> and *Sara Lee Philippines, Inc. v. Macatlang, et al.*<sup>42</sup> In these cases, the Court emphasized that the "material date" for purposes of an appeal to the CA is the date of receipt of the lower court's order denying the motion for reconsideration. All other material dates may be gleaned from the records of the case, if reasonably evident.<sup>43</sup>

A perusal of the Petition for Review shows that Victoriano clearly specified that he received the assailed OMB MOLEO resolution denying his motion for reconsideration on October 7, 2013. More importantly, the records show that the petition was filed by registered mail on October 21, 2013, or well-within the 15-day reglementary period. Accordingly, Victoriano is deemed to have substantially complied with the rules. His failure to indicate the date when he received the other orders and resolutions of the OMB MOLEO may be dispensed with in the interest of justice.<sup>44</sup>

***The Failure to Attach an Affidavit of Explanation as to Why Personal Service was not Resorted to May be Excused If Personal Service is Impracticable and Difficult***

The CA also dismissed Victoriano's petition outright due to the absence of an affidavit of explanation on why he did not personally serve copies of his petition.

Indeed, Section 11, Rule 13 of the Rules of Court requires the personal service and filing of all pleadings, as follows:

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<sup>37</sup> 781 Phil. 610 (2016).

<sup>38</sup> Id. at 621.

<sup>39</sup> 492 Phil. 518 (2005).

<sup>40</sup> 582 Phil. 600 (2008).

<sup>41</sup> 706 Phil. 523 (2013).

<sup>42</sup> 735 Phil. 71 (2014).

<sup>43</sup> Id. at 92.

<sup>44</sup> Id. at 94-95.

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**Sec. 11. Priorities in modes of service and filing.** – Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.

It is clear from the foregoing rule that the filing of pleadings and other papers, whenever practicable, must be done personally. Personal service is preferred because it expedites the action or resolution on a pleading, motion or other paper. Conversely, it also minimizes, if not eliminates, delays likely to be incurred if service is done by mail, and deters the pernicious practice of some lawyers who craftily try to catch their opposing counsel off-guard or unduly procrastinate in claiming the parcel containing the pleading served. On this score, resort to other modes of service may only be done when personal service is rendered impracticable in light of the circumstances of time, place and person. Consequently, any deviation from this preferred mode of service must be accompanied by a corresponding written explanation on why personal service or filing was not practicable to begin with.<sup>45</sup>

However, the strict requirement of attaching a written explanation on why the pleading was not served personally is susceptible of exceptions. In *Spouses Ello v. CA*,<sup>46</sup> and *Peñoso v. Dona*,<sup>47</sup> the Court enumerated the grounds that may excuse the absence of a written explanation, to wit: “(i) the practicability of personal service; (ii) the importance of the subject matter of the case, or the issues involved therein; and (iii) the *prima facie* merit of the pleading sought to be expunged x x x.”<sup>48</sup> Notably, the Court warned that the exercise of discretion to dismiss an appeal must be exercised properly and reasonably. To be sure, the appellate court must first consider the situation of the petitioner/appellant and the reasons proffered for non-compliance with the said rule.

In the same vein, in *Pagadora v. Ila*,<sup>49</sup> the Court considered the distance between the appellant and the appellate court, as a justifiable excuse for the failure to personally serve the pleadings.<sup>50</sup> This liberality was a reflection of the Court’s earlier pronouncements in *Maceda v. De Guzman Vda. De Macatangay*,<sup>51</sup> and *Musa v. Amor*,<sup>52</sup> where the Court allowed resort to other modes of service, and further excused the petitioner’s failure to file a corresponding explanation thereof, considering the distance between the opposing parties’ counsels. Furthermore, in *Musa*, the Court even

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<sup>45</sup> *Pagadora v. Ila*, 678 Phil. 208 (2011), citing *Sarmiento v. CA*, 320 Phil. 146, 155 (1995).

<sup>46</sup> 499 Phil. 398 (2005).

<sup>47</sup> 549 Phil. 39 (2007).

<sup>48</sup> *Ello v. CA*, supra note 46, at 409; *Peñoso v. Dona*, id. at 45.

<sup>49</sup> 678 Phil. 208 (2011).

<sup>50</sup> Id. at 226.

<sup>51</sup> 516 Phil. 755 (2006).

<sup>52</sup> 430 Phil. 128 (2002).

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characterized the affidavit of explanation as something that “might have been superfluous,” considering the distance between Sorsogon and the CA.<sup>53</sup>

Applying the aforementioned jurisprudential tenets to the case at bar, Victoriano’s failure to attach a written explanation shall also be excused. The Court takes note of the distance between Bontoc, Mountain Province (where Victoriano resides) and the CA. Certainly, the distance between these two places rendered prompt personal service of the petition impracticable and difficult. Besides, the Affidavit of Service submitted by the secretary of Victoriano’s counsel, sufficed as substantial compliance with the rule. It bears noting that the secretary explained the circumstances behind the service of the petition by registered mail. Moreover, she confirmed that she deposited the petition in the post office addressed to the Clerk of Court of the CA, and likewise furnished copies of the same to the OMB and to Dominguez.<sup>54</sup>

***The Statement in the Verification  
“That the Allegations Are True and  
Correct of the Affiant’s Personal  
Knowledge” Constitutes Sufficient  
Compliance with the Rule***

The third alleged infirmity pertains to Victoriano’s failure to state in his Verification that the allegations in his petition are true and correct based on his personal knowledge, ***and*** based on authentic records. The CA deemed the failure to include the adjunct, “and based on authentic records” as an error that renders the Verification defective, and correspondingly, the petition dismissible.

Essentially, Rule 7, Section 4 of the Rules of Court states that:

**Section 4. Verification.** — Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit. (5a)

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.

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. (6a)

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<sup>53</sup> Id. at 138.

<sup>54</sup> *Rollo*, p. 10.

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Notably, a pleading may be verified in any of the following ways, (i) based on one's own personal knowledge; (ii) or based on authentic records; (iii) or both, as the circumstances may warrant. This rule was underscored in *Hun Hyung Park v. Eung Won Choi*,<sup>55</sup> where the Court affirmed the validity of a verification, which merely stated that the contents of the petition for review are true and correct to the best of the petitioner's personal knowledge. The Court excused the petitioner's failure to attest that the contents of the petition are also based on authentic records. The Court explained that:

A reading of the above-quoted Section 4 of Rule 7 indicates that a pleading may be verified under either of the two given modes or under both. The veracity of the allegations in a pleading may be affirmed **based on either one's own personal knowledge or on authentic records, or both**, as warranted. The use of the preposition "or" connotes that either source qualifies as a sufficient basis for verification and, needless to state, the concurrence of both sources is more than sufficient. **Bearing both a disjunctive and conjunctive sense, this parallel legal signification avoids a construction that will exclude the combination of the alternatives or bar the efficacy of any one of the alternatives standing alone.**<sup>56</sup> (Citations omitted and emphasis and underscoring Ours)

Similarly, in *Heirs of Faustino Mesina, et al. v. Heirs of Domingo Fian, Sr., et al.*,<sup>57</sup> the Court extended the same leniency, and stressed that the presence of the word "or" serves as a disjunctive article indicating an alternative. "As such, 'personal knowledge' and 'authentic records' need not concur in a verification as they are to be taken separately."<sup>58</sup>

Besides, the requirement that the contents of a petition should also be based on authentic records, bears more significance in petitions where the greater portions of the allegations are based on the records of the proceedings in the court of origin, and not solely on the personal knowledge of the petitioner. This scenario does not obtain in the case at bar.

Needless to say, a verification is a formal requirement, and is not jurisdictional. It is mainly intended to secure an assurance that matters alleged are done in good faith or are true and correct, and not of mere speculation.<sup>59</sup> Resultantly, Victoriano's failure to indicate that the allegations are true and correct based on authentic records, may be excused, inasmuch as he already attested to the truth and correctness of the allegations based on his personal knowledge.

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<sup>55</sup> 553 Phil. 96 (2007).

<sup>56</sup> Id. at 438-439.

<sup>57</sup> 708 Phil. 327 (2013).

<sup>58</sup> Id. at 335.

<sup>59</sup> Id. at 336.

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***The Certification of Non-Forum Shopping Which Failed to State that There is No Other Similar Action Pending in Any Other Court or Tribunal, Shall Be Excused.***

Another reason behind the outright dismissal of Victoriano's petition was the allegedly defective certification of non-forum shopping which did not specify that to the best of his knowledge, there is no such other action pending before any other court.

Remarkably, a similar Certification was excused by the Court in *Santos v. Litton Mills Incorporated and/or Atty. Mariño*.<sup>60</sup> In that case, the petitioners merely attested that they have not commenced any other action or proceeding involving the same issues in the Supreme Court, or any other tribunal or agency; and that if they learn that a similar action or proceeding has been filed or is pending before the Supreme Court, or any other tribunal or agency, they will report the matter within five (5) days to the Court.<sup>61</sup> In *Santos* and in the instant case, the petitioners failed to specifically state that "there is no other similar action pending in any other court."

In *Santos*, the Court held that the petitioner's undertaking that she has not filed a similar case before any other court or tribunal, and that she would inform the court if she learns of a pending case similar to the one she had filed therein, was more than substantial compliance with the requirements of the Rules. It has been held that "with respect to the contents of the certification[,] x x x the rule on substantial compliance may be availed of."<sup>62</sup> Applying this to the case at bar, Victoriano's assurance in his Certification that he had not filed any other case in court, shall likewise constitute substantial compliance with the rule on the Certification against non-forum shopping.

***A Community Tax Certificate Constitutes Sufficient Proof of Identity If the Affiant is Personally Known By The Notary Public***

The CA held that the notarization of the Verification/Certification and Affidavit of Service was done in violation of the rules on notarial practice; due to the absence of a properly accomplished jurat showing that the affiants exhibited competent evidence of their identity before the Notary Public.

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<sup>60</sup> 667 Phil. 640 (2011).

<sup>61</sup> Id. at 649.

<sup>62</sup> Id. at 651, citing *Ching v. The Secretary of Justice*, 517 Phil. 151, 166 (2006). See also *Ateneo de Naga University v. Manalo*, 497 Phil. 635, 646 (2005); *MC Engineering Inc. v. National Labor Relations Commission*, 412 Phil. 614, 622 (2001).

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The Court does not agree.

Parenthetically, A.M. No. 02-8-13-SC, February 19, 2008, amended Section 12 (a), Rule II of the 2004 Rules on Notarial Practice, requiring the presentation of competent evidence of identity, to wit:

**Sec. 12. Component Evidence of Identity.** The phrase “competent evidence of identity” refers to the identification of an individual based on:

(a) at least one current identification document issued by an official agency bearing the photograph and signature of the individual, such as but not limited to, passport, driver’s license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter’s ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman’s book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disable Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; or”

Indeed, as a general rule, the affiant must present his/her identification card issued by an official agency, bearing his/her photograph and signature. However, this is not an iron-clad rule. Particularly, in *Coca-Cola Bottlers Phils., Inc. v. Dela Cruz, et al.*,<sup>63</sup> the Court allowed the presentation of the affiant's community tax certificate in lieu of other competent evidence of identity. According to the Court, a glitch in the evidence of the affiant’s identity should not defeat his petition, and may be overlooked in the interest of substantial justice, taking into account the merits of the case.<sup>64</sup>

Furthermore, in *Reyes v. Glaucoma Research Foundation, Inc., et al.*,<sup>65</sup> the Court ruled that competent evidence of identity is not required in cases where the affiant is personally known to the notary public.<sup>66</sup> Specifically, the Court categorically stated that “[i]f the notary public knows the affiants personally, he need not require them to show their valid identification cards.”<sup>67</sup> This stems from the fact that a jurat simply pertains to an act in which an individual on a single occasion (i) personally appears before the notary public and presents an instrument or document; (ii) is personally known to the notary public or is identified by the notary public through competent evidence of identity; (iii) signs the instrument or document in the presence of the notary; and (iv) takes an oath or affirmation before the notary public as to such instrument or document.<sup>68</sup> Added to this, the Court emphasized that the verification of a pleading is a mere formal,

<sup>63</sup> 622 Phil. 886 (2009).

<sup>64</sup> Id. at 900.

<sup>65</sup> 760 Phil. 779 (2015).

<sup>66</sup> Id. at 786.

<sup>67</sup> Id.

<sup>68</sup> Id.

*Reyes*

and not jurisdictional requirement. It is intended to secure the assurance that the matters alleged in a pleading are true and correct.<sup>69</sup>

Thus, it is all too apparent that Victoriano's Community Tax Certificate constituted sufficient proof of his identity, considering that he was personally known by the Notary Public, being a longtime client of the latter.

***The Counsel's Inadvertence Shall Not Prejudice His Client, provided that He Immediately Rectifies Such Minor Defect***

Finally, the last procedural glitch pointed out by the CA pertained to the failure of Victoriano's counsel to indicate his IBP number in the pleading, and show that the same was updated.

Although the IBP Number was inadvertently omitted, this mistake was immediately rectified in Victoriano's Motion for Reconsideration.<sup>70</sup> His counsel subsequently indicated the date and place of the issuance of his IBP number, which was shown to have been updated.

All told, the facts show that Victoriano substantially complied with the Rules of Court. With this, the strict and rigid application of the rules shall give way to the promotion of substantial justice. Courts are reminded to temper their propensity to dismiss cases on sheer technical errors. After all, it must be remembered that a "litigation is not a game of technicalities."<sup>71</sup> "Lawsuits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts."<sup>72</sup>

**WHEREFORE**, premises considered, the instant Petition is hereby **GRANTED**. Accordingly, the case shall be **REMANDED** to the Court of Appeals for a proper resolution on the merits.

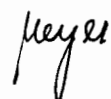
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<sup>69</sup> *Manarpiis v. Texan Phils., Inc., et al.*, 752 Phil. 305 (2015).

<sup>70</sup> *Rollo*, p. 11.

<sup>71</sup> *Peñoso v. Dona*, supra note 47, at 46.

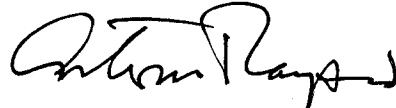
<sup>72</sup> *Marlon Curammeng y Pablo v. People of the Philippines*, G.R. No. 219510, November 14, 2016, citing *Heirs of Zaulda v. Zaulda*, 729 Phil. 639 (2014).



**SO ORDERED.**

*Reyes*  
**ANDRES B. REYES, JR.**  
Associate Justice

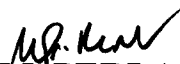
**WE CONCUR:**



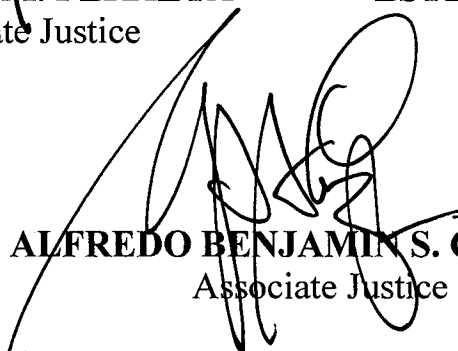
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson



**DIOSDADO M. PERALTA**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, R.A. No. 296  
The Judiciary Act of 1948,  
as amended)