

Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

BARANGAY TONGONAN,
 ORMOC CITY, REPRESENTED BY
 ITS PUNONG BARANGAY,
 ISAGANI R. BAÑEZ,

G.R. No. 204183

Petitioner,

Present:

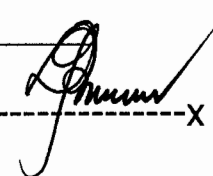
LEONARDO-DE CASTRO,
Chairperson,
 DEL CASTILLO,
 JARDELEZA,
 TIJAM, and
 **GESMUNDO, JJ.

- versus -

HON. APOLINARIO M. BUAYA, IN
 HIS CAPACITY AS PRESIDING
 JUDGE, REGIONAL TRIAL
 COURT, BRANCH 35, ORMOC
 CITY, CITY GOVERNMENT OF
 ORMOC, REPRESENTED BY ITS
 MAYOR, HONORABLE ERIC C.
 CODILLA, THE MUNICIPALITY
 OF KANANGA, LEYTE,
 REPRESENTED BY ITS MAYOR,
 HONORABLE GIOVANNI M.
 NAPARI, AND PHILIPPINE
 NATIONAL DEVELOPMENT
 CORP.* (PNOC-EDC),
 REPRESENTED BY ITS
 PRESIDENT MR. PAUL AQUINO,
 Respondents.

Promulgated:

JUN 20 2018

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* Should be Philippine National Oil Company – Energy Development Corporation.

** Designated as Acting Member pursuant to Special Order No. 2560 dated May 11, 2018.

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DECISION

TIJAM, J.:

Assailed in this Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court are the Resolution² dated November 24, 2011 and Resolution³ dated September 27, 2012 of the Court of Appeals (CA), Cebu City in CA-G.R. CEB SP No. 02691 which dismissed petitioner's Amended Petition for Declaration of Nullity and/or Annulment of Court Order and Amicable Settlement due to a defective Verification and Certification Against Non-forum Shopping.

The Antecedents

The instant petition has as its factual background a boundary dispute between respondents Ormoc City and the Municipality of Kananga. To settle the controversy, Ormoc City and the Municipality of Kananga entered into an Amicable Settlement dated February 27, 2003, which compromise agreement was subsequently approved by respondent court *a quo*.⁴

Claiming that the Amicable Settlement constitutes an illegal relinquishment of the patrimony of Ormoc City in general and of petitioner in particular which greatly altered its boundaries and reduced its territory by 325 hectares, petitioner lodged a petition before the CA Cebu City seeking to annul the Amicable Settlement as well as the court *a quo*'s Order approving the same.⁵

Because of certain procedural defects,⁶ the petition for annulment was initially dismissed by the CA Cebu City in its Resolution dated June 18, 2010.⁷ However, on petitioner's motion for reconsideration with motion to admit amended petition, the CA Cebu City reinstated the petition, noting that petitioner promptly corrected the procedural infirmities besetting its petition. Accordingly, the CA Cebu City directed the issuance of summons to the respondents.⁸ It appears that only respondents Municipality of Kananga and the Philippine National Oil Company-Energy Development Corporation (PNOC-EDC) filed their respective answers,⁹ while Ormoc City

¹ *Rollo*, pp. 17-27, With Annexes.

² Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Edgardo L. Delos Santos and Gabriel T. Ingles; *Id.* at 28-32.

³ *Id.* at 33-34.

⁴ *Id.* at 55.

⁵ *Id.* at 55-56.

⁶ These procedural defects are not extant on record.

⁷ *Rollo*, pp. 79-81.

⁸ *Id.* at 80.

⁹ *Id.* at 20.

filed its comment joining petitioner and imploring the CA Cebu City to give the latter's amended petition due course.¹⁰

However, on November 24, 2011, the CA Cebu City issued its presently assailed Resolution¹¹ dismissing petitioner's amended petition in the following manner:

1. petitioner, a local government unit and juridical entity, failed to submit the original of the Resolution of the *Barangay Council*, which specifically authorized Isagani R. Bañez, the *Punong Barangay*, to sign the Verification and Certification Against Non-Forum Shopping and to file the instant Amended Petition in behalf of petitioner. There must be a Resolution of the *Barangay Council* authorizing the person to make the Certification which must be *attached* to the Petition. Withal, the Verification and Certification Against Non-Forum Shopping must be *accompanied* by a *Barangay Council's* Resolution authorizing Isagani R. Bañez to sign the Certification. Moreover, a Certification not signed by a duly authorized person rendered the instant Petition subject to dismissal[;]
2. there was no competent evidence regarding the identity of petitioner's representative on the attached Verification and Certification Against Non-Forum Shopping, as required by *Section 12, Rule II* of the 2004 Rules on Notarial Practice; and
3. the Verification and Certification Against Non-Forum Shopping was subscribed and sworn to before an Assistant Provincial Prosecutor.

Accordingly, the [amended petition] for Annulment of Judgment dated June 18, 2007 is hereby DISMISSED.

SO ORDERED.¹² (Italics in the original)

Petitioner moved for reconsideration and, in order to rectify the above-identified infirmities, petitioner submitted the original of Barangay Council Resolution No. 50,¹³ Series of 2011 dated December 26, 2011 authorizing then incumbent Punong Barangay Periander R. Bañez “to sign and file the [amended petition] and to sign its Certification and Verification of Non-Forum Shopping as well as to submit an original copy of this Resolution to [CA Cebu City].” Petitioner also submitted a Verification and Certification of Non-Forum Shopping subscribed and sworn by Punong Barangay Periander R. Bañez before the Clerk of Court of Regional Trial Court Branch 45.¹⁴ As proof of identity, Punong Barangay Periander R. Bañez submitted his Postal I.D.¹⁵ and his Community Tax Certificate.¹⁶

¹⁰ Id at 213.

¹¹ Id. at 28-32.

¹² Id. at 30-32.

¹³ Id. at 41-42.

¹⁴ Id. at 47.

¹⁵ Id. at 49.

¹⁶ Id. at 48.

The foregoing notwithstanding, the CA Cebu City in its second assailed Resolution denied petitioner's motion for reconsideration. With this denial, petitioner comes before the Court through the instant petition arguing that its amended petition did not suffer from procedural infirmities because it in fact submitted a certified true copy of the Barangay Council Resolution authorizing then Punong Barangay Isagani R. Bañez to file the amended petition; the latter's identity as duly authorized representative was sufficiently established considering that the members of the Barangay Council unanimously approved the Resolution; and that subscription before an Assistant Provincial Prosecutor is allowable.¹⁷

By way of comment, the Municipality of Kananga stressed that the belated submission of the Certification and Verification of Non-Forum Shopping will not cure the defect in the certification. Ormoc City, on the other hand, having assumed a stance similar to that of petitioner, joins the latter in seeking that the assailed CA Cebu City's Resolutions be reversed in the interest of justice. PNOG, as represented by the Office of the Solicitor General (OSG), on the other hand, was excused from further participating in the instant petition for lack of material interest to the case.

Plainly, the issue to be resolved is whether the identified infirmities merit dismissal of petitioner's amended petition.

The Ruling of the Court

There is merit in the petition.


Petitioner's amended petition seeking to annul what it perceived to be an illegal compromise concerning a boundary dispute between Ormoc City and the Municipality of Kananga was dismissed by the CA Cebu City essentially due to petitioner's failure to submit the original of the Barangay Council Resolution authorizing its representative to file the petition and to sign the requisite Certification and Verification of Non-forum Shopping. The CA Cebu City also deems as defective the submitted Certification and Verification of Non-forum Shopping for lack of proof of identity of the affiant and for having been subscribed before an official allegedly not authorized to administer oath.

The Court is very much aware of the necessity of submitting a petition for annulment of judgment that is verified and of submitting a sworn certification of non-forum shopping as required under Rule 47, Section 4.¹⁸

¹⁷ Id. at 22-23.

¹⁸ SECTION. 4. *Filing and contents of petition.* - The action shall be commenced by filing a verified petition alleging therein with particularity the facts and the law relied upon for annulment, as well as those supporting the petitioner's good and substantial cause of action or defense, as the case may be.

The petition shall be filed in seven (7) clearly legible copies, together with sufficient copies corresponding to the number of respondents. A certified true copy of the judgment or final order or



Nevertheless, the strict interpretation of the procedural requirements, especially when there has been substantial compliance with the rules, does not find application in the instant case.

To begin with, We note that the CA Cebu City itself in its Resolution dated June 18, 2010, had in fact reinstated and gave due course to the amended petition (which was initially dismissed also on procedural defects) and even directed the issuance of summons to the respondents, only to later on regard the very same amended petition as being fatally defective.

Further, the amended petition was in fact accompanied by a certified true copy of the Barangay Resolution authorizing then Punong Barangay Isagani R. Bañez to file the amended petition. Hence, at the time the amended petition was filed, then Punong Barangay Isagani R. Bañez had sufficient authority to file the amended petition.

What is lacking, however, is the authority coming from the Barangay Council for Punong Barangay Isagani R. Bañez to likewise execute the Certification and Verification of Non-forum shopping. Expectedly, when the petitioner is a juridical person, the certification is to be executed by a natural person to whom the power to execute such certification has been validly conferred by the corporate board of directors and/or duly authorized officers and agents. Thus, generally, a petition is dismissible if the certification submitted was unaccompanied by proof of the signatory's authority.¹⁹

Petitioner attempted to cure this defect by submitting with its motion for reconsideration a new Barangay Council Resolution issued in favor of the succeeding Punong Barangay Periander R. Bañez and a new Certification and Verification of Non-forum Shopping executed by the latter before the Regional Trial Court Branch Clerk of Court with accompanying Postal I.D. as competent proof of identity. The question therefore is whether such belated submission of the Barangay Council Resolution and the Certification and Verification of Non-forum Shopping cured the defect.

The Court had laid down guidelines with respect to the non-compliance with the requirements on or submission of a defective Verification and Certification of Non-forum Shopping, as follows:

resolution shall be attached to the original copy of the petition intended for the court and indicated as such by the petitioner.

The petitioner shall also submit together with the petition affidavits of witnesses or documents supporting the cause of action or defense and 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.

¹⁹ *Shipside Incorporated v. Court of Appeals*, 404 Phil. 981-995 (2001).

1) A distinction must be made between non-compliance with the requirement on or submission of defective verification, and noncompliance with the requirement on or submission of defective certification against forum shopping.

2) As to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. **The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.**

3) Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.

4) As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, **unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."**

5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.

6) Finally, the certification against forum shopping must be executed by the party-pleader, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his behalf.²⁰ (Emphasis ours)

By jurisprudence, the Court has likewise allowed the belated filing of the certification on the justification that such act constitutes substantial compliance. In *Mediserv, Inc. v. Court of Appeals, et al.*,²¹ the Court held that the failure to submit proof of the representative's authority to sign the verification/certification on non-forum shopping on the corporation's behalf was rectified when the required document was subsequently submitted to the CA. As cited in *Mediserv*, the Court in *Uy v. Land Bank of the Philippines*,²² reinstated a petition on the ground of substantial compliance even though the verification and certification were submitted only after the petition had already been originally dismissed. So too, in *Havtor Management Phils. Inc. v. NLRC*,²³ likewise cited in *Mediserv*, the Court acknowledged substantial

²⁰ *Fernandez v. Villegas*, 741 Phil. 689, 697-698 (2014); *Ingles, et al., v. Estrada, et al.*, 708 Phil. 271, 302-303 (2013), citing *Altres, et al., v. Empleo, et al.*, 594 Phil. 246, 261-262 (2008).

²¹ 631 Phil. 282 (2010).

²² 391 Phil. 303 (2000).

²³ 423 Phil. 509, 513 (2001).

compliance when the lacking secretary's certificate was submitted by the petitioners as an attachment to the motion for reconsideration seeking reversal of the original decision dismissing the petition for its earlier failure to submit such requirement.

In this case, petitioner submitted the original of the Barangay Council Resolution authorizing the succeeding Punong Barangay Periander R. Bañez to file the amended petition and to sign the certification as an attachment to its motion for reconsideration. In line with the foregoing jurisprudence, We find that this act constitutes substantial compliance. That the Barangay Council Resolution authorized a different representative to file and pursue the petition for annulment and to sign the certification could not be cause for the denial of the motion for reconsideration as such was necessitated by the fact that there was a change in the leadership of the Barangay brought about by the supervening elections while the amended petition was pending resolution.

In any case, the Court finds that the ends of substantive justice is better served by the resolution of the issue on whether or not there was a valid compromise concerning the boundary dispute between Ormoc City and the Municipality of Kananga, rather than dismiss the same on procedural technicality.

As the Court in *Fernandez v. Villegas*²⁴ held:

Similar to the rules on verification, the rules on forum shopping are designed to promote and facilitate the orderly administration of justice; hence, it should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objectives. The requirement of strict compliance with the provisions on certification against forum shopping merely underscores its mandatory nature to the effect that the certification cannot altogether be dispensed with or its requirements completely disregarded. It does not prohibit substantial compliance with the rules under justifiable circumstances, as also in this case.

WHEREFORE, the petition is **GRANTED**. The Resolution dated November 24, 2011 and Resolution dated September 27, 2012 of the Court of Appeals in CA-G.R. CEB SP No. 02691 are **REVERSED** and **SET ASIDE**. The case is **REINSTATED** and **REMANDED** to the Court of Appeals for proper disposition.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

²⁴ Supra note 20 at 700.

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Chairperson

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Francis H. Jardeleza
FRANCIS H. JARDELEZA
Associate Justice

Alexander G. Gesmundo
ALEXANDER G. GESMUNDO
Associate Justice

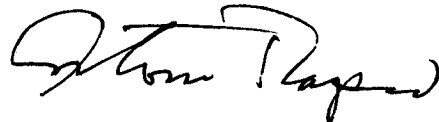
ATTESTATION

I attest 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.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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. 296,
The Judiciary Act of 1948, as amended)