



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PPC ASIA CORPORATION,
 Petitioner,

G.R. No. 246439

Present:

- versus -

PERALTA, *CJ.*, Chairperson,
 CAGUIOA,
 REYES, J., JR.,
 LAZARO-JAVIER,
 LOPEZ, *JJ.*

**DEPARTMENT OF TRADE AND
 INDUSTRY, SEC. RAMON M.
 LOPEZ, USEC. ROWEL S.
 BARBA AND LOUIS "BAROK"
 BIRAOGO,**

Promulgated:

Respondents.

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DECISION

LAZARO-JAVIER, J.:

Antecedents

On July 22, 2015, respondent Louis "Barok" Biraogo filed a consumer complaint¹ with the Department of Trade and Industry-Fair Trade Enforcement Bureau (DTI-FTEB) entitled *Louis "Barok" Biraogo v. Pollux Distributors, Inc., TPL Industrial Sales Corporation, Power Point Battery Manufacturing Corporation and PPC Asia Corporation*, docketed FTEB ADM Case No. CC17-005. He impleaded as respondents the following importers and distributors:

¹ *Rollo*, pp. 87-98.

Distributor	Battery Brand
PPC Asia Corporation	3K
Pollux Distributors, Inc.	Nagoya and Quantum
TPL Industrial Sales Corporation	Quantum and Panasonic
Power Point Battery Manufacturing Corporation	GS Tropical

He alleged that sometime in 2013, he had to replace four (4) times the lead acid storage battery of his motorcycle even though he had only used the original battery for three (3) months. These batteries carried the following brands: 3K, Nagoya, Quantum, and GS Tropical.

Consequently, he asked the Philippine Association of Battery Manufacturers (PABMA) to verify the brands' compliance with the Philippine products standards. In response, PABMA members sought the assistance of the Philippine Batteries, Inc. (PBI) to do the verification process.

After testing twenty-four (24) battery samples, the PBI discovered that a great number of the branded batteries did not comply with PNS 06:1987 as they failed to pass the reserve capacity test. Thus, the PBI concluded that these branded batteries were substandard.

Consequently, Biraogo filed a complaint with the Department of Trade and Industry (DTI) praying for a confirmatory test to be done on subject batteries, for a cease and desist order to issue against the further importation, distribution, and sale of the same battery brands, for a fine to be imposed on the named importers, and for their respective licenses or permits to be cancelled for violating Sections 50 and 52 of Republic Act No. 7394 (RA7394), otherwise known as the Consumer Act of the Philippines.

The DTI-FTEB's Ruling

By Decision dated February 14, 2017,² the DTI-FTEB dismissed the complaint on ground of lack of legal standing and cause of action. It ruled that Biraogo's sales receipts did not show that he was the one who actually bought the batteries or that the batteries he purchased were the same ones actually submitted for testing. It also ruled that the previous certification issued by the Bureau of Philippine Standards in favor of the importers for the purpose of selling the battery brands in the Philippines should prevail over the test conducted by PBI. Hence, the DTI-FTEB concluded that the named respondents may not be found guilty of concealment and false representation.

² *Id.* at 61-66.

The Ruling of the DTI on Appeal

By Decision³ dated May 25, 2018 in DTI Appeal Case No. 2017-50, the DTI, through Undersecretary Rowel S. Barba, reversed and ordered the immediate testing of the branded batteries in order to settle any doubts on their quality before any resolution on the merits may be had. It dispensed with the application of technical rules pertaining to the parties who could file a complaint on the basis of sales receipts. It thus found that Biraogo's allegations based on the sales receipts submitted sufficed to establish that as a consumer, he was prejudiced by the sale of the branded batteries in the market.

The Court of Appeals' Ruling

Only PPC Asia Corporation (PPC) questioned this decision before the Court of Appeals *via* a petition for *certiorari* in CA-G.R. SP No. 157378.⁴ By Resolution⁵ dated October 18, 2018, the Court of Appeals dismissed the petition due to the following procedural infirmities: (1) failure to attach complaint, position paper, and appeal memorandum to the petition, and (2) failure to file a motion for reconsideration prior to elevating the case to the Court of Appeals.

Petitioner's subsequent motion for reconsideration was denied under Resolution⁶ dated March 12, 2019. The Court of Appeals noted therein that petitioner did not even try to submit the lacking documents when it moved to reconsider the decree of dismissal. It simply glossed over the deficiencies and stated as a matter of fact that it can just later on submit these additional documents should the court so require. At any rate, the Court of Appeals pointed to another deficiency pertaining to the unauthorized signing by petitioner's counsel of the verification and certification against forum-shopping.

The Present Petition

PPC now seeks affirmative relief from the Court *via* the present petition for review on *certiorari*. It imputes error on the Court of Appeals when the latter dismissed the petition allegedly on mere technicalities instead of resolving it on the merits. It also accuses the DTI of violating its right to due process when the agency reinstated the consumer complaint without even affording the company a chance to oppose it.⁷

³ *Id.* at 44-48.

⁴ *Id.* at 28-43.

⁵ Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by now Supreme Court Associate Justice Henri Jean Paul B. Inting and Associate Justice Ronaldo Roberto B. Martin, *id.* at 25-27.

⁶ *Id.* at 21-23.

⁷ *Id.* at 3-15.

For its part, the DTI⁸ ripostes that the Court of Appeals aptly dismissed the petition for PPC's failure to strictly observe the requisites of *certiorari*. It alleges that PPC not only failed to incipiently attach the relevant supporting documents but stubbornly persisted on its non-compliance even on reconsideration. The DTI also reiterates that petitioner's counsel was not authorized to sign the verification and certification on non-forum shopping since the Secretary's Certificate supposedly bearing this authority is not on file with the DTI.

On the denial of due process, the DTI asserts that petitioner's active participation in the proceedings below belies its protestation on the issue of due process. Nevertheless, the assailed decision is not yet a judgment that finally disposes of the case, hence, petitioner still has the opportunity to defend itself in the administrative case. Citing *Macayayong v. Ople*,⁹ the DTI further posits that petitioner cannot claim denial of due process when it had the opportunity to move to reconsider the questioned DTI decision, but did not. PPC missed the opportunity to be heard on reconsideration when it immediately went to the Court of Appeals.

Issues

FIRST: Did the Court of Appeals err in dismissing the petition for *certiorari* on grounds that (a) petitioner failed to submit twice the three (3) relevant documents specifically required by the court, (b) petitioner failed to file a motion for reconsideration of the assailed decision of the DTI and (c) petitioner failed to submit the corresponding authority of its lawyer to sign the verification and certificate on non-forum shopping in the case?

SECOND: Was petitioner's right to due process violated when the DTI required a test to be done on its battery brands for the purpose of determining their compliance with the quality and safety products standards?

Ruling

On the **first** issue, we first tackle the requirement of filing a motion for reconsideration before a petition for *certiorari* may be resorted to. Petitioner posits that it did not seek a reconsideration before the DTI because it is proscribed under the *Simplified and Uniform Rules of Procedure for Administrative Cases Filed with the Department of Trade and Industry for Violations of the Consumer Act of the Philippines and Other Trade and Industry Law*, viz.:

⁸ *Id.* at 176-190.

⁹ 281 Phil. 419, 423-424 (1991).

RULE XIV
MOTION FOR RECONSIDERATION

Section 1. Motion for Reconsideration. – (a) Cases Filed by Consumers for Violations of the Consumer Act – Per Article 165 of the Consumer Act, no Motion for Reconsideration is allowed for said cases.

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The argument is meritorious. Being a prohibited pleading, PPC's direct recourse to the Court of Appeals *via* petition for *certiorari* is justified. To require PPC to file a motion for reconsideration when it is prohibited under the DTI's rules of procedure prior to availing of the writ of *certiorari* is useless, nay devoid of legal basis. The filing of a prohibited pleading would not toll the running of the period of an appeal. In *Chua v. COMELEC*,¹⁰ we ruled that the filing of a prohibited pleading does not produce any legal effect and, thus, did not toll the running of the period to appeal, *viz.*:

x x x Under the COMELEC Rules of Procedure, a motion for reconsideration of its en banc ruling is prohibited except in a case involving an election offense. **A prohibited pleading does not produce any legal effect and may be deemed not filed at all.** In *Landbank of the Philippines vs. Ascot Holdings and Equities, Inc.*, the Court emphasized that **“a prohibited pleading cannot toll the running of the period to appeal since such pleading cannot be given any legal effect precisely because of its being prohibited.”** (Emphasis supplied)

So must it be.

As for petitioner's claim that the corresponding Secretary's Certificate authorizing its lawyer to sign on its behalf the certification and verification on non-forum shopping in this case, we did find that this document was actually submitted to the Court of Appeals as Annex B of the petition for *certiorari*.

Going now to the petitioner's failure to attach the complaint, position paper, and appeal memorandum, petitioner offers the following explanation: a) although it failed to attach copies of these documents, its petition already bore the essential attachments which could already serve as sufficient bases for the Court of Appeals to be able to resolve the case; and b) it was not able to submit copy of the appeal memorandum to the Court of Appeals because it never received copy of such pleading at the DTI level.

Petitioner therefore prays for the Court's liberality to dispense with the procedural formalities to prevent a miscarriage of justice.

¹⁰ G.R. No. 236573, August 14, 2018.



On this score, we affirm the dismissal of the petition.

Section 3, Rule 46 of the Rules of Court provides that failure to attach to the petition, among others, relevant documents or portions of the records shall be a sufficient ground for dismissal of the petition. In *Atillo v. Bombay*,¹¹ the Court affirmed the dismissal of the petition not only because the supporting documents were insufficient but also because petitioner inexplicably refused to even submit the required attachments, thus:

The phrase “of the pleadings and other material portions of the record” in Section 2(d), Rule 42 is followed by the phrase “as would support the allegations of the petition” clearly contemplates the exercise of discretion on the part of the petitioner in the selection of documents that are deemed to be relevant to the petition. x x x. The crucial issue to consider then is whether or not the documents accompanying the petition before the CA sufficiently supported the allegations therein.

x x x x x x x x x

x x x Petitioner's discretion in choosing the documents to be attached to the petition is however not unbridled. **The CA has the duty to check the exercise of this discretion, to see to it that the submission of supporting documents is not merely perfunctory. The practical aspect of this duty is to enable the CA to determine at the earliest possible time the existence of prima facie merit in the petition.** Moreover, Section 3 of Rule 42 of the Rules of Court provides that if petitioner fails to comply with the submission of “documents which should accompany the petition”, it “shall be sufficient ground for the dismissal thereof”. In this case, **the insufficiency of the supporting documents combined with the unjustified refusal of petitioner to even attempt to substantially comply with the attachment requirement justified the dismissal of her petition.** (Emphasis supplied)

Here, the Court of Appeals emphasized that the “lacking documents were indeed necessary, if not indispensable for it to be able to render an intelligent decision on the petition.” Although petitioner sought a reconsideration of the Court of Appeals’ decree of dismissal, it exerted nary an effort at all to submit the lacking documents. It simply and casually informed the Court of Appeals that it did not have a copy of this or that document and that anyway the Court of Appeals could already resolve the case based on what petitioner had thus far submitted. This is plain obstinate arrogance and utter disrespect toward the Court of Appeals and its legal processes. It is in fact an irreverent challenge to the rule of law!

Procedural rules should not be regarded as mere technicalities that may be ignored for the party’s convenience as it is equally important in effective, orderly, and speedy administration of justice. These rules are not intended to hamper litigants or complicate litigation but, indeed to provide for a system under which a suitor may be heard in the correct form and manner

¹¹ 404 Phil. 179, 188, 191-192 (2001).

and at the prescribed time in a peaceful confrontation before a judge whose authority they acknowledge.¹² In *Limpot v. CA*,¹³ the Court ordained that rules of procedures and substantive laws complement each other in the orderly administration of justice, thus:

Rules of procedure are intended to ensure the orderly administration of justice and the protection of substantive rights in judicial and extrajudicial proceedings. **It is a mistake to propose that substantive law and adjective law are contradictory to each other** or, as has often been suggested, that enforcement of procedural rules should never be permitted if it will result in prejudice to the substantive rights of the litigants. This is not exactly true; the concept is much misunderstood. **As a matter of fact, the policy of the courts is to give both kinds of law, as complementing each other, in the just and speedy resolution of the dispute between the parties. Observance of both substantive rights is equally guaranteed by due process, whatever the source of such rights, be it the Constitution itself or only a statute or a rule of court.** x x x (Emphasis supplied)

Indeed, petitioner utterly failed to show that its obstinate refusal to abide by the rules, nay, utter disrespect toward the Court of Appeals and its validly issued directive do not warrant a departure from the rules, much less, liberality from the Court.

We now discuss the second issue pertaining to due process. Petitioner claims it was prejudiced by the DTI's sudden reversal of the ruling of the DTI-Fair Trade Enforcement Bureau finding it not guilty of concealment and false representation. Petitioner thus faults the Court of Appeals for failing to consider that it was not even given an opportunity to explain its side.

We are not persuaded. It must be emphasized that the DTI's decision to reinstate the consumer complaint does not in any way equate to a finding of guilt against petitioner. All the DTI did so far was to order subject batteries to be officially tested *vis-à-vis* their compliance with the Philippines' quality and safety products standard. The DTI explicitly stated that this initial procedure ought to be done before it can proceed with the case.

Under Article 17 of the Consumer Act, the DTI has the authority to inspect and analyze consumer products for purposes of determining conformity to established quality and safety standards. Thus, the DTI acted well within the authority granted it by law when it ordered the testing of subject batteries as an initial step toward the eventual resolution of the appeal on the merits. Notably, petitioner has not adduced any cogent argument that this testing requirement is even prejudicial to its business interest. On the contrary, prior testing of subject batteries as required by the DTI would in fact serve petitioner's best interest to dispel once and

¹² *Malixi v. Baltazar*, 821 Phil. 423, 435 (2017).

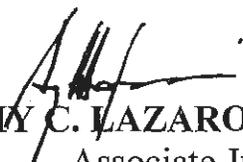
¹³ 252 Phil. 377, 379 (1989).

for all any doubts on the quality and safety of its battery brands. Most important, it is for the best interest of the public consumers that the DTI does ensure that petitioner's battery brands conform to the Philippines' quality and safety products standards.

In fine, petitioner's protestation against the purported denial of its right to due process is at best misplaced. As stated, the proceedings on appeal before the DTI have not even commenced in the main, much less, caused any prejudice to petitioner.

ACCORDINGLY, the petition is **DENIED**. The Resolutions dated October 18, 2018 and March 12, 2019 of the Court of Appeals in CA-G.R. SP No. 157378 are **AFFIRMED**. The case is remanded to the Office of the Secretary of Trade and Industry for continuation of the proceedings in *Louis "Barok" Biraogo v. Pollux Distributors, Inc., TPL Industrial Sales Corporation, Power Point Battery Manufacturing Corporation and PPC Asia Corporation*, docketed as Appeal Case No. 2017-50.

SO ORDERED.

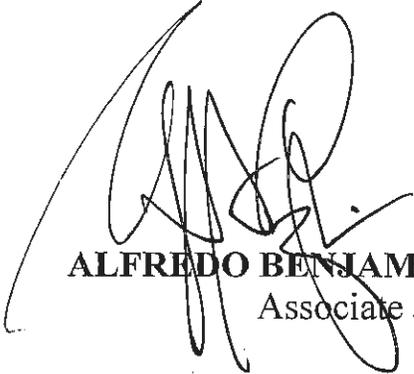


AMY C. LAZARO-JAVIER
Associate Justice

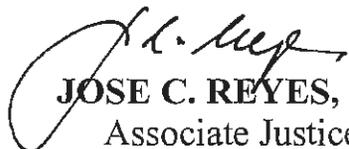
WE CONCUR:



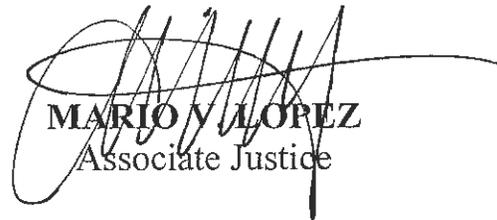
DIOSDADO M. PERALTA
Chief Justice
Chairperson – First Division



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



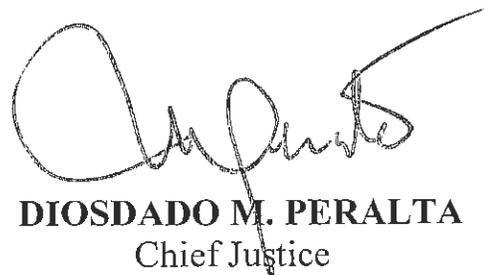
JOSE C. REYES, JR.
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VII 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.



DIOSDADO M. PERALTA
Chief Justice

