



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **November 20, 2019**, which reads as follows:

“G.R. No. 248479 (*Felicisimo B. Mendoza v. Leonis Navigation Company, Inc., and/or Northstar Ship Management Limited and/or Captain Angelico Naquita*). – Before Us is a Petition for Review on *Certiorari*¹ assailing the Resolution² dated August 10, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 155714, which dismissed the petition for *certiorari* filed by Felicisimo B. Mendoza (petitioner) for: (a) failure to indicate the notarization date in the notarial portion of the Verification/Certification Against Non-Forum (*sic*) Shopping dated May 11, 2018; and (b) failure to indicate in the Affidavit of Service, dated May 11, 2016 when and where the documents were notarized, and also assails the Resolution³ dated July 15, 2019 denying his motion for reconsideration.

Facts of the Case

On November 7, 1999, respondent Leonis Navigation Company, Inc., a manning agency, first engaged the services of petitioner as vessel Chief Mate. He boarded their vessel “Alligator Independence” until September 3, 2000. Since then, respondents continued to hire petitioner until he was promoted as “Master” in the year 2005. Petitioner continued to work with respondents and, in 2008, petitioner was promoted as Captain/Master.⁴

Petitioner’s last contract of employment with respondents was from March 3, 2016 to December 3, 2016, or for a duration of nine months. Thereafter, respondents extended petitioner’s stint as master of the vessel for three months or until March 6, 2017. On January 26, 2017, petitioner was finally repatriated because there was already a reliever to take over the operation of the vessel. However, one week prior to the date of his repatriation, petitioner was already having chest pain and swollen body.⁵

¹ *Rollo*, pp. 22-55.

² Penned by Associate Justice Maria Filomena D. Singh with Associate Justice Sesonando E. Villon and Associate Justice Edwin D. Sorongon, concurring; *id.* at 59-64.

³ *Id.* at 56-58.

⁴ *Id.* at 74.

⁵ *Id.* at 74-75.

On January 27, 2017, petitioner arrived in Manila. On the same day, he went to Baguio because he owns a rest house there and he has his caretaker. Considering that he has no immediate relatives in the Philippines, only his caretaker can be of help to him. On January 28, 2017, petitioner went to Notre Dame Hospital in Baguio City and had his medical check-up before lunch, and at 1:00 p.m. of the same day, he was confined. At 3:00 p.m. of the same day, he reported to Ms. Josie Ceredon, an employee of respondent Leonis Navigation Company, Inc., through phone call that he was confined in Notre Dame Hospital in Baguio City. Petitioner was confined from January 28 to 31, 2017 due to kidney failure and his lung was suctioned in the same hospital.⁶

On February 2, 2017, petitioner went back to Manila and on February 6, 2017 he reported personally to respondents' office and informed respondents about his confinement. In the third week of March 2017, petitioner underwent a medical check-up at Supercare, the company-designated doctors/clinic of respondents. He was referred to Manila Medical Center. Sometime in April 2017, petitioner had his medical check-up at Manila Medical Center and was considered as an out-patient from April to May 2017. He again had his lungs suctioned but developed kidney failure. As a result, on May 19-21, 2017, petitioner was bedridden. On May 24, 2017, petitioner was again confined, this time, at Antipolo Doctor's Hospital. Furthermore, he was declared no longer fit for work based on the Medical Certificate⁷ issued by Dr. Racquel T. Reyes. On May 28, 2017, petitioner was transferred to St. Luke's Medical Center and was confined therein until June 17, 2017. Sometime in June 2017, petitioner asked respondents for financial help but they refused. Petitioner and respondents underwent mediation to settle their dispute but no amicable settlement was reached. As a result, petitioner filed the complaint for permanent sickness disability benefits, sickness wages, medical expenses, moral damages and exemplary damages against respondents.

Respondents countered that petitioner disembarked on January 27, 2017 due to finished contract, but he never submitted himself to post-employment medical examination. Around the last week of March, 2017, he reported to respondent Leonis Navigation Company Inc. for deployment. He was referred to the company physician, the Super Care Medical Services for pre-employment medical examination (PEME, for brevity) where he was noted to have diabetes mellitus. Thus, he was recommended for cardiologist/pulmonary consult/evaluation. On April 18, 2017, the company physician noted the same adverse finding in his blood chemistry, ECG, swelling feet, diabetes mellitus, urinalysis, among others. He was found unfit and was no longer employed.⁸

⁶ Id. at 75.

⁷ Id. at 99.

⁸ Id. at 210-211.

LA Ruling

In a Decision⁹ dated November 21, 2017, the Labor Arbiter (LA) denied petitioner's claim and held that in order to claim disability benefits under the POEA-SEC, the third paragraph of Section 20(A)(3) requires the seafarer to submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. The LA noted that petitioner failed to comply with this requirement. The Labor Arbiter cited the case of *Manota v. Avantgarde Shipping Corporation*.¹⁰ where the Court held that the failure of the seafarer to comply with the reportorial requirement is fatal to their claim.

NLRC Ruling

In its Decision¹¹ dated January 30, 2018, the National Labor Relations Commissions (NLRC) affirmed the decision of the LA. The NLRC held that a seaman's non-compliance with the mandatory reporting requirement shall result in the forfeiture of his right to claim the benefits therein. If the seaman is physically incapacitated to do so, a written notice to the agency within the same period is deemed as compliance. However, no notice was sent to respondents by petitioner. Upon arrival in the Philippines, petitioner opted to travel to Baguio City to his rest house with a caretaker. He cannot be deemed to be physically incapacitated since he was able to take a long journey to Baguio City.¹²

The NLRC stated that the reason for the mandatory nature of the three day reportorial requirement from repatriation by a company-designated physician is that reporting the illness or injury within three days from repatriation fairly makes it easier for a physician to determine the cause of the illness or injury.¹³

Also, petitioner's contention that he is entitled to sickness allowance and reimbursement of medical expenses was found untenable by the NLRC as petitioner failed to substantiate that his illness is work-related. While his personal physician has declared him unfit to work in the medical certificate issued sometime on September 2017, there was no declaration that his diagnosed illness was work-related.¹⁴

⁹ Id. at 264-266.

¹⁰ 715 Phil. 54 (2013).

¹¹ Penned by Presiding Commissioner Alex A. Lopez, with Commissioners Pablo C. Espiritu, Jr. and Cecilio Alejandro C. Villanueva, concurring; *rollo*, pp. 303-314.

¹² Id. at 311.

¹³ Id. at 311-312.

¹⁴ Id. at 312.

CA Ruling

Petitioner filed a Petition for *Certiorari*¹⁵ before the CA but his petition was dismissed due to defective verification/certification against forum shopping and affidavit of service.¹⁶ Petitioner moved for reconsideration but was denied in a Resolution¹⁷ dated July 15, 2019.

Hence, petitioner filed the present petition assailing the Resolutions¹⁸ of the CA.

Issue

The main issue for Our resolution is whether the CA properly dismissed the petition filed by petitioner.

Our Ruling

In *Fernandez v. Villegas*,¹⁹ the Court laid down the guidelines with respect to non-compliance with the requirements on or submission of a defective verification and certification against forum shopping. In the said case, the Court ruled that non-compliance or defect in the verification 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 Rules of Court (Rules) may be dispensed with in order that the ends of justice may be served.²⁰ As to the 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 Rules on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."²¹ In the present case, we deem that the defects in the Verification/Certification Against Non-Forum (*sic*) Shopping, as well as the Affidavit of Service are not fatal to petitioner's case as the court may order its submission or correction or act on the pleading in order to serve the ends of justice.

As held in the case of *Birkenstock Orthopaedie GMBH and Co. KG v. Philippine Shoe Expo Marketing Corp.*,²² technicalities should never be used to defeat the substantive rights of the other party. Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause.²³

¹⁵ Id. at 327-360.

¹⁶ Id. at 7-12.

¹⁷ Id. at 13-15.

¹⁸ Supra note 2 and 3.

¹⁹ 741 Phil. 689 (2014).

²⁰ Id. at 697-698.

²¹ Id.

²² 721 Phil. 867 (2013).

²³ Id. at 875.

Besides, the Court has consistently held that the requirement regarding verification of a pleading is formal, not jurisdictional.²⁴ It is intended to secure the assurance that the matters alleged in a pleading are true and correct. Similarly, 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 objective.²⁵

In the present case, there was substantial compliance with the rules and the failure to indicate the date of notarization in the Verification/Certification Against Forum Shopping and the failure to state in the Affidavit of Service when or where the documents were notarized, appears to be due to mere inadvertence which should not defeat the ends of substantial justice. Hence, the CA should not have dismissed the petition.

WHEREFORE, premises considered, the Resolutions dated August 10, 2018 and July 15, 2019 of the Court of Appeals in CA-G.R. SP No. 155714 are hereby **SET ASIDE**. Accordingly, the case is **REMANDED** to the Court of Appeals for immediate disposition.

SO ORDERED.” (Leonen, J., on official business; Gesmundo, J., designated as Acting Chairperson of the Third Division per Special Order No. 2737; Lazaro-Javier, J., designated as Additional Member of the Third Division per Special Order No. 2728, on official leave.)

Very truly yours,

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court

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²⁴ *LDP Marketing, Inc. v. Monter*, 515 Phil. 768, 776 (2006).

²⁵ *Palao vs. Florentino III International, Inc.*, 803 Phil. 393, 402 (2017), citing *Shipside Inc. v. CA*, 404 Phil. 981, 994 (2001).

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