



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JOSELITO MA. P. JACINTO
(Formerly President of F. Jacinto
Group, Inc.),

Petitioner,

- versus -

EDGARDO* GUMARU, JR.,
Respondent.

G.R. No. 191906

Present:

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:
JUN 02 2014

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DECISION

DEL CASTILLO, J.:

“When a judgment has been satisfied, it passes beyond review”,¹ and “there are no more proceedings to speak of inasmuch as these were terminated by the satisfaction of the judgment.”²

This Petition for Review on *Certiorari*³ seeks to set aside the November 5, 2009 Resolution⁴ of the Court of Appeals (CA) in CA-G.R. SP No. 111098, entitled “*Joselito Ma. P. Jacinto (Former President of F. Jacinto Group, Inc.), Petitioner, versus Edgardo Gumaru, Jr. and the National Labor Relations Commission, Respondents,*” as well as its March 24, 2010 Resolution⁵ denying the petitioner’s Motion for Reconsideration. *Molle*

* Also spelled as Eduardo in some parts of the records.

¹ *C.F. Sharp Crew Management, Inc. v. Undersecretary Espanol, Jr.*, 559 Phil. 826, 834 (2007).

² *Spouses Malolos v. Dy*, 382 Phil. 709, 716 (2000).

³ *Rollo*, pp. 21-63.

⁴ CA *rollo*, pp. 179-180; penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Mario L. Guariña III and Mariflor P. Punzalan Castillo.

⁵ *Id.* at 182-183.

Factual Antecedents

On December 6, 2004, a Decision⁶ was rendered in favor of respondent Eduardo Gumar, Jr. and against petitioner Joselito Ma. P. Jacinto and F. Jacinto Group, Inc. in NLRC-NCR Case No. 00-06-07542-03⁷ (the labor case), the dispositive portion of which reads:

WHEREFORE, premises considered, respondents are hereby jointly and severally liable to pay complainant the following:

1. Separation pay based on two months per year of service.
₱50,000.00 x 2 x 10 years = ₱1,000,000.00
2. Other monetary claims.
 - A. 3 mos. unpaid wages & allowance = ₱133,101.00
 - B. SL/VL for 2000 = 34,969.00
 - C. 13th month pay for 2000 = 24,944.00
3. Moral Damages in the sum of ₱100,000.00
4. Exemplary Damages in the sum of ₱500,000.00
5. 10% of all sums accruing shall be adjudged as attorney's fees.

It is understood that the withholding of the separation benefits plus other monetary claims shall earn legal interest of 12% per annum from the time [they were] unlawfully withheld on September 01, 2000.

SO ORDERED.⁸

Petitioner and F. Jacinto Group, Inc. filed an appeal with the National Labor Relations Commission (NLRC). However, the appeal was not perfected for failure to post the proper cash or surety bond; this was the finding of the NLRC in its Resolution dated September 30, 2005.⁹ Thus, the December 6, 2004 Decision became final and executory. Entry of judgment was issued by the NLRC on November 23, 2005.¹⁰

On February 6, 2006, a Writ of Execution¹¹ was issued in the labor case. A Second Alias Writ of Execution was issued and returned when the first one

⁶ NLRC records, pp. 65-69; penned by Labor Arbiter Ariel Cadiente Santos of the National Capital Regional Arbitration Branch of the National Labor Relations Commission, Quezon City.

⁷ Entitled "Eduardo Gumar, Jr., Complainant, versus F. Jacinto Group, Inc. and/or Joselito Ma. P. Jacinto, Respondents."

⁸ NLRC records, pp. 68-69.

⁹ Id. at 193-196.

¹⁰ Id. at 211.

¹¹ Id. at 217-219.

expired. By virtue of such alias writ, real property belonging to petitioner – located in Baguio City and covered by Original Certificate of Title No. P-2010 – was levied upon, and was scheduled to be sold at auction on June 27, 2008 or July 4, 2008.

On June 20, 2008, petitioner filed an Extremely Urgent Motion to Lift and Annul Levy on Execution¹² praying, among others, that the scheduled June 27, 2008 auction sale be restrained, and that the execution process covered by the Second Alias Writ of Execution be invalidated.

On June 26, 2008, the Labor Arbiter issued an Order¹³ denying petitioner's Extremely Urgent Motion to Lift and Annul Levy on Execution, thus:

On June 20, 2008, respondents filed a Motion to Lift and Annul levy on execution on the ground that the writ of execution served had already elapsed.

Finding that the writ of execution was issued on September 07, 2007 and pursuant to the Supreme Court's declaration in the case of Merlinda Dagooc vs. Roberto Endina, 453 SCRA 423 quoting section 14 of the Revised Rules of Court, that the writ has a life of five years, the instant Motion is hereby DENIED.

WHEREFORE, premises considered, the NLRC Sheriff is hereby ORDERED to proceed with the auction sale set on June 27, 2008 at 10:00 AM before the Register of Deeds of Baguio City.

SO ORDERED.¹⁴

The Subject Resolutions of the National Labor Relations Commission

Petitioner appealed the Labor Arbiter's June 26, 2008 Order to the NLRC, which, in a November 28, 2008 Resolution,¹⁵ set aside the same. The decretal portion of the Resolution states:

WHEREFORE, premises considered, the Order appealed from is hereby SET ASIDE and respondents-appellants' Motion to Lift and Annul Levy is GRANTED. The Labor Arbiter is also hereby ordered to oversee the proper implementation and execution of the judgment award in this case.

Let the records be remanded to the Labor Arbiter of origin for further execution proceedings.

SO ORDERED.¹⁶

¹² Id. at 342-354.

¹³ Id. at 393.

¹⁴ Id.

¹⁵ Id. at 488-491; penned by Commissioner Pablo C. Espiritu, Jr. and concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Gregorio O. Bilog III.

¹⁶ Id. at 490-491.

Petitioner moved for partial reconsideration, but in a July 27, 2009 Resolution,¹⁷ the NLRC stood its ground.

The Assailed Resolutions of the Court of Appeals

Petitioner went up to the CA on *certiorari*, assailing the November 28, 2008 and July 27, 2009 Resolutions of the NLRC. The Petition¹⁸ in CA-G.R. SP No. 111098 contained a verification and certification of non-forum shopping that was executed and signed not by petitioner, but by his counsel Atty. Ronald Mark S. Daos.

On November 5, 2009, the CA issued the first assailed Resolution, which held thus:

The Verification and Certification of Non-Forum Shopping, which accompanied the petition at bar, was executed and signed by petitioner's counsel Atty. Ronald Mark S. Daos, in violation of Section 5, Rule 7 of the *Revised Rules of Court*.

Pursuant to Supreme Court *Revised Circular No. 28-91*, the duty to certify under oath is strictly addressed to petitioner which in this case is herein petitioner Joselito P. Jacinto and not his counsel to [sic] Atty. Ronald Mark S. Daos. Thus, to allow the delegation of said duty to anyone would render Supreme Court *Revised Circular No. 28-91* inutile.

Accordingly, the petition is DENIED DUE COURSE and DISMISSED.

SO ORDERED.¹⁹

Petitioner filed his Motion for Reconsideration,²⁰ arguing that a verification signed by counsel constitutes adequate and substantial compliance under Sections 4 and 5, Rule 7 of the 1997 Rules of Civil Procedure;²¹ verification is merely a

¹⁷ Id. at 523-526.

¹⁸ CA *rollo*, pp. 8-32.

¹⁹ Id. at 134-135.

²⁰ Id. at 136-147.

²¹ Which state:

RULE 7 PARTS OF A PLEADING

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.

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.

SEC. 5. Certification against forum shopping.

The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith:

formal, and not jurisdictional, requisite such that an improper verification or certification against forum-shopping is not a fatal defect.²² Petitioner attached a copy of an Affidavit²³ – acknowledged before the Hon. Paul Raymond Cortes, Consul, Philippine Consulate General, Honolulu, Hawaii, U.S.A. – attesting that he caused the preparation of the CA Petition, and that he read the contents of the CA Petition and affirm that they are true and correct and undisputed based on his own personal knowledge and on authentic records. In said Affidavit, petitioner further certified that he has not commenced any other action or proceeding, or filed any claims involving the same issues in the Supreme Court, Court of Appeals, or any Division thereof, or in any other court, tribunal or agency; to the best of his knowledge, no such other action, proceeding, or claim is pending before the Supreme Court, Court of Appeals, or any division thereof, or in any court, tribunal or agency; if there is any other action or proceeding which is either pending or may have been terminated, he will state the status thereof; if he should thereafter learn that a similar action, proceeding or claim has been filed or is pending before the Supreme Court, Court of Appeals, or any division thereof, or in any court, tribunal or agency, he undertakes to promptly report the fact within five days from notice thereof. Petitioner explained further that he was out of the country, and could not return on account of his physical condition, which thus constrained him to resort to the execution of a sworn statement in lieu of his actual verification and certification as required under the Rules. Petitioner likewise ratified Atty. Daos's acts done on his behalf relative to the labor case and the filing of the CA Petition, and implored the appellate court to reconsider its November 5, 2009 Resolution and excuse his procedural oversight in respect of the improper verification and certification in his CA Petition.

On March 24, 2010, the CA issued the second assailed Resolution denying petitioner's Motion for Reconsideration, stating that a writ of *certiorari* is merely a "prerogative writ, never demandable as a matter of right, never issued except in the exercise of judicial discretion. Hence, he who seeks a writ of *certiorari* must apply for it only in the manner and strictly in accordance with the provisions of the law and the Rules."²⁴

(a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

²² Citing *Uy v. Workmen's Compensation Commission*, 186 Phil. 156, 162-164 (1980); *Ballao v. Court of Appeals*, 535 Phil. 236, 243-244 (2006); *Rombe Eximtrade (Phils.), Inc. v. Asiatrust Development Bank*, 568 Phil. 810, 816-817 (2008).

²³ CA rollo, pp. 148-150.

²⁴ Id. at 163; citing *Nayve v. Court of Appeals*, 446 Phil. 473, 482-483 (2003).

Thus, the present Petition was instituted.

Issues

Petitioner raises the following issues:

- 4.1. THE COURT OF APPEALS SHOULD NOT HAVE DISMISSED THE SUBJECT PETITION.

A PARTY UNABLE TO SIGN THE CERTIFICATION AGAINST FORUM SHOPPING CAN AUTHORIZE HIS COUNSEL TO SIGN THE CERTIFICATION. IN HIS AFFIDAVIT AND SPECIAL POWER OF ATTORNEY, PETITIONER EFFECTIVELY EMPOWERED HIS COUNSEL TO EXECUTE THE REQUIRED VERIFICATION AND CERTIFICATION. MOREOVER, PETITIONER, BEING ABROAD AND PHYSICALLY UNABLE TO TRAVEL TO THE NEAREST CONSULAR OFFICE, MERITED THE RELAXATION OF THE TECHNICAL RULES ON VERIFICATION AND CERTIFICATION. IN ANY EVENT, PETITIONER SUBSEQUENTLY SUBMITTED THE NECESSARY DOCUMENT, IN SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENT OF VERIFICATION AND CERTIFICATION.

VERIFICATION BY COUNSEL IS LIKEWISE ADEQUATE AND SUBSTANTIALLY COMPLIANT. THE REQUIREMENT OF VERIFICATION IS ALSO DEEMED SUBSTANTIALLY COMPLIED WITH WHEN THE AFFIANT ACTED IN GOOD FAITH AND X X X [POSSESSES] X X X SUFFICIENT KNOWLEDGE TO TRUTHFULLY ATTEST THAT THE ALLEGATIONS ARE TRUE AND CORRECT, AS IN THE CASE AT BAR. IN ANY CASE, VERIFICATION IS A FORMAL, NOT A JURISDICTIONAL, REQUISITE. IT AFFECTS ONLY THE FORM OF PLEADING BUT DOES NOT RENDER THE PLEADING FATALLY DEFECTIVE.

- 4.2. THE COURT OF APPEALS SHOULD HAVE GIVEN DUE COURSE TO THE SUBJECT PETITION.

THE MERITS, SPECIAL CIRCUMSTANCES AND COMPELLING REASONS FOR THE ALLOWANCE OF THE SUBJECT PETITION, SPECIFICALLY, THAT IN THE ABSENCE OF A PRIOR VALID SERVICE ON PETITIONER OF THE RESOLUTION SUPPOSEDLY DISPOSING OF HIS APPEAL OF THE DECEMBER 6, 2004 DECISION, THE SAID DECISION CANNOT BE IMPLEMENTED AND EXECUTED BECAUSE IT HAS NOT ATTAINED FINALITY AND JURIDICAL EXISTENCE, IS APPARENT. IF NOT CORRECTED, IT WOULD CAUSE GREAT AND IRREPARABLE DAMAGE AND INJURY, NOT TO MENTION GRAVE INJUSTICE, TO PETITIONER, WHO WILL BE COMPELLED TO SATISFY A JUDGMENT THAT OBVIOUSLY HAS NOT ATTAINED FINALITY

AND JURIDICAL EXISTENCE.²⁵

Petitioner's Arguments

Essentially, petitioner in his Petition and Reply²⁶ argues that if, for reasonable or justifiable reasons, a party is unable to sign the verification and certification against forum-shopping, he could execute a special power of attorney authorizing his lawyer to execute the verification and sign the certification on his behalf. Which is exactly what petitioner did: he executed a special power of attorney in favor of his counsel, Atty. Daos, authorizing the latter to file the Petition in CA-G.R. SP No. 111098 and thus sign the verification and certification against forum-shopping contained therein. Petitioner asserts that, going by the dispositions of the Court in past controversies,²⁷ the said procedure is allowed.

Petitioner next argues that there are compelling reasons to grant his Petition for *Certiorari*. He asserts that the NLRC committed grave abuse of discretion in issuing its assailed November 28, 2008 and July 27, 2009 Resolutions remanding the case to the Labor Arbiter for further proceedings on execution, claiming that the December 6, 2004 Decision of the Labor Arbiter had not attained finality since the NLRC failed to furnish him with a copy of its September 30, 2005 Resolution which dismissed his appeal for failure to post the required bond and thus perfect the appeal. Since the Labor Arbiter's Decision has not attained finality, execution proceedings could not commence; the NLRC may not direct the Labor Arbiter to conduct execution proceedings below.

Petitioner therefore prays that the Court annul and set aside the assailed Resolutions of the CA and order the reinstatement of his Petition for *Certiorari* in the appellate court.

Respondent's Arguments

In his Comment,²⁸ respondent contends that with the dismissal of petitioner's *certiorari* petition by the CA, it is for all intents and purposes deemed to have never been filed, and thus may not be corrected by resorting to a Petition for Review under Rule 45. Respondent reiterates the view taken by the CA that *certiorari* under Rule 65 is a prerogative writ that is not demandable as a matter of right.

²⁵ *Rollo*, pp. 32-33.

²⁶ *Id.* at 415-444.

²⁷ Citing *Altres v. Empleo*, G.R. No. 180986, December 10, 2008, 573 SCRA 583; *Spouses Wee v. Galvez*, 479 Phil. 737 (2004).

²⁸ *Rollo*, pp. 397-402.

Respondent notes further that the Verification and Certification against forum-shopping accompanying the instant Petition was not signed by petitioner, but by his counsel, in consistent violation of the Court's Circular No. 28-91 and Rule 7 of the 1997 Rules of Civil Procedure.

Respondent cites that he is already 71 years old, yet petitioner continues to undermine execution of the judgment rendered in the labor case through the instant Petition, which he prays the Court to deny.

Our Ruling

The Court finds that the Petition has become moot and academic.

It is true, as petitioner asserts, that if for reasonable or justifiable reasons he is unable to sign the verification and certification against forum shopping in his CA Petition, he may execute a special power of attorney designating his counsel of record to sign the Petition on his behalf. In *Altres v. Empleo*,²⁹ this view was taken:

For the guidance of the bench and bar, the Court restates in capsule form the jurisprudential pronouncements already reflected above respecting non-compliance with the requirements on, or submission of defective, verification and certification against forum shopping:

1) A distinction must be made between non-compliance with the requirement on or submission of defective verification, and non-compliance 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."

²⁹ Supra note 27.

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.**³⁰ (Emphasis supplied)

However, while the Court takes the petitioner's side with regard to the procedural issue dealing with verification and the certification against forum-shopping, it nonetheless appears that the Petition has been overtaken by events. In a May 24, 2011 Manifestation,³¹ respondent informed this Court that the judgment award has been satisfied in full. The petitioner does not dispute this claim, in which case, the labor case is now deemed ended. "It is axiomatic that after a judgment has been fully satisfied, the case is deemed terminated once and for all."³² And "when a judgment has been satisfied, it passes beyond review, satisfaction being the last act and the end of the proceedings, and payment or satisfaction of the obligation thereby established produces permanent and irrevocable discharge; hence, a judgment debtor who acquiesces to and voluntarily complies with the judgment is estopped from taking an appeal therefrom."³³

With the above development in the case, the instant Petition is rendered moot and academic. The satisfaction of the judgment in full has placed the case beyond the Court's review. "Indeed, there are no more proceedings to speak of inasmuch as these were terminated by the satisfaction of the judgment."³⁴

WHEREFORE, the Petition is **DENIED** for being moot and academic.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

³⁰ Id. at 596-598.

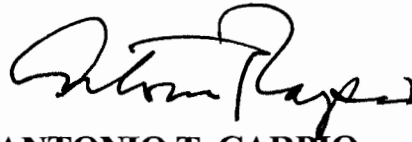
³¹ *Rollo*, pp. 451-455.

³² *Spouses Malolos v. Dy*, supra note 2; *Freeman, Inc. v. Securities and Exchange Commission*, G.R. No. 110265, July 7, 1994, 233 SCRA 735, 743; *Alazas v. Judge Salas*, 259 Phil. 432, 437 (1989).

³³ *C.F. Sharp Crew Management, Inc. v. Undersecretary Espanol, Jr.*, supra note 1.

³⁴ *Spouses Malolos v. Dy*, supra note 2 at 717.

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



ESTELA M. PERLAS-BERNABE
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.



ANTONIO T. CARPIO
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.

**MARIA LOURDES P. A. SERENO***Chief Justice*