



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**FELIPE JHONNY A. FRIAS, JR.
AND HEIRS OF ROGELIO B.
VENERACION,**

Petitioners,

- versus -

**THE HONORABLE EDWIN D.
SORONGON, ASSISTING JUDGE,
BRANCH 211, REGIONAL TRIAL
COURT, MANDALUYONG CITY;
FIRST ASIA REALTY
DEVELOPMENT CORPORATION
AND/OR SM PRIME HOLDINGS,
INC., AND ORTIGAS & COMPANY
LIMITED PARTNERSHIP,**

Respondents.

G.R. No. 184827

Present:

VELASCO, JR., *J.*, Chairperson,
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, *JJ.*

Promulgated:

February 11, 2015

Brigida L. Ligan

X-----X

DECISION

VILLARAMA, JR., *J.*:

This is a petition for certiorari and mandamus under Rule 65 of the 1997 Rules of Civil Procedure, as amended, seeking to nullify the March 18, 2008 Order¹ of respondent Judge Edwin D. Sorongon, Assisting Judge of the Regional Trial Court (RTC) of Mandaluyong City, Branch 211, ordering petitioners to pay proper docket fees, among other things, as well as his May 30, 2008 Order² denying petitioners' motion for reconsideration.

The antecedents of the case follow:

On May 24, 2007, petitioner Felipe Jhonny Frias, Jr. and Rogelio Veneracion (predecessor of petitioner heirs) filed before the Mandaluyong

¹ *Rollo*, p. 25.

² *Id.* at 27.

[Handwritten signature]

City RTC a complaint³ for declaration of nullity of certificates of title with damages against respondents First Asia Realty Development Corporation and/or SM Prime Holdings, Inc. (First Asia Realty/SM) and Ortigas & Company Limited Partnership (Ortigas). They alleged to be the co-owners of a parcel of land covered by Original Certificate of Title (OCT) No. 779 which embraces the property covered by Transfer Certificate of Title (TCT) No. 126575 registered in the name of Ortigas. They claimed that TCT No. 126575 is falsified and spurious and that consequently, all derivative titles of TCT No. 126575 including those now registered in the name of First Asia Realty/SM are also void. The case was docketed as Civil Case No. MC07-3276 and was raffled off to Branch 211 of the RTC of Mandaluyong City.

Civil Case No. MC07-3276 is one of five cases filed by Frias, Jr. and Veneracion before the Mandaluyong City RTC which all seek the nullification of TCT No. 126575. The other four cases⁴ are:

Case Title	Case No.	Raffled to:
Felipe Jhonny Frias, Jr. and Rogelio B. Veneracion v. Ortigas & Company Limited Partnership, et al.	MC07-3275	Branch 208
Felipe Jhonny Frias, Jr., Rogelio B. Veneracion and Isaias Nicolas v. Greenfield Development Corporation and Ortigas & Company Limited Partnership	MC07-3227	Branch 208
Felipe Jhonny Frias, Jr., Rogelio B. Veneracion and Isaias A. Nicolas v. Shangri-la Properties, Inc. and Ortigas & Company Limited Partnership	MC07-3237	Branch 212
Felipe Jhonny Frias, Jr., Rogelio B. Veneracion and Isaias A. Nicolas v. United Laboratories, Inc. and Ortigas & Company Limited Partnership	MC-07-3226	Branch 214

On even date, Frias, Jr. and Veneracion filed a Motion for Leave and to Admit Complaint of Indigent Litigants.⁵ Included in the annexes attached thereto are the following:

- 1) Certification⁶ dated March 8, 2007 from the Office of the City Assessor of Antipolo City that Frias, Jr. has no real property registered for taxation purposes;

³ Id. at 76-83.
⁴ Id. at 435-448, 468-482 & 658.
⁵ Id. at 36-38.
⁶ Id. at 39.

- 2) *Pinagpisang Salaysay*⁷ dated March 19, 2007 executed by Reynaldo L. Garcia and Shirley Percival, neighbors of Frias, Jr., stating that he neither has a job nor real property;
- 3) Certification⁸ dated March 17, 2007 from the City Assessor's Office of Quezon City that there is no record of real property, whether land or improvement, registered for taxation purposes under the name of Veneracion;
- 4) *Pinagpisang Salaysay*⁹ dated March 20, 2007 executed by Rogelio Cagumoc and Salvacion Sanay, friends of Veneracion, stating that he has neither a steady job nor real property;
- 5) Letter¹⁰ dated May 7, 2007 from Leonila De Los Santos, MD, Medical Director of Unciano Medical Center, Antipolo City, addressed to Rosario Uriarte, then General Manager of the Philippine Charity Sweepstakes Office (PCSO), stating that the hospital is willing to accept a guarantee letter from PCSO as payment for the hospitalization of Veneracion, who was then a patient of said hospital;
- 6) Patient Bills¹¹ of Veneracion at the Unciano Medical Center for his confinement from April 11 to May 8, 2007.

On May 25, 2007, it appears that said motion was granted by Mandaluyong City RTC Executive Judge Maria C. Erum who wrote the following notation on the first page of the motion:

Granted provided the docket fees for this case shall be a lien in case plaintiffs get a favorable judgment.¹²

On June 29, 2007, First Asia Realty/SM filed a Motion to Dismiss¹³ arguing that: (1) the summonses were not properly served on it; (2) the correct and proper docket fees were not paid; (3) the complaint fails to state a cause of action; (4) there was a willful violation of the rule against forum-shopping; (5) the plaintiffs are guilty of laches; and (6) the cause of action is barred by the statute of limitations or prescription.

On July 6, 2007, Ortigas filed its Consolidated Motion to Dismiss and Motion to Cite Plaintiffs and Counsel in Direct Contempt based on the following grounds: (1) failure to state a cause of action; (2) lack of capacity to sue; (3) lack of jurisdiction over the subject matter of the claim for non-

⁷ Id. at 40.

⁸ Id. at 41.

⁹ Id. at 42.

¹⁰ Id. at 43.

¹¹ Id. at 44-45.

¹² Id. at 50.

¹³ Id. at 242-282.

payment of docket fees; (4) failure to comply with a condition precedent for filing the claim; (5) splitting a single cause of action; (6) forum-shopping; (7) *litis pendentia*; (8) prescription; and (9) laches.¹⁴

On July 10, 2007, petitioners filed a Manifestation stating that they were adopting their Comment/Opposition to Defendant Ortigas' Consolidated Motion to Dismiss and Motion to Cite Plaintiffs and Counsel in Direct Contempt that was previously filed in *Felipe Jhonny Frias, Jr., et al. v. United Laboratories, Inc., et al.* (Civil Case No. MC07-3226) pending in Branch 214 of the Mandaluyong City RTC.¹⁵ The following day, petitioners filed a Comment/Opposition to Motion to Dismiss¹⁶ of First Asia Realty/SM.

On August 13, 2007, Judge Paulita B. Acosta-Villarante, then Presiding Judge of Branch 211, denied the motion to dismiss filed by First Asia Realty/SM.¹⁷

On December 12, 2007, First Asia Realty/SM filed its Motion for Reconsideration Ad Cautelam¹⁸ attaching four separate orders from different branches of the Mandaluyong City RTC involving complaints filed by petitioners:

- 1) October 22, 2007 Order¹⁹ of Branch 208 in MC07-3227 dismissing the case for forum-shopping, *litis pendentia*, prescription and laches;
- 2) October 31, 2007 Order²⁰ of Branch 208 in MC07-3275 dismissing the case for forum-shopping, improper venue, prescription and/or laches;
- 3) July 20, 2007 Order²¹ of Branch 212 in MC07-3237 dismissing the case for laches, prescription and forum-shopping;
- 4) November 12, 2007 Joint Order²² of Branch 214 in MC-07-3226 issued by respondent Judge Edwin D. Sorongon giving petitioner 60 days to pay the proper docket fees, with warning that failure to comply therewith shall cause the dismissal of the complaint.

Due to the retirement of Judge Acosta-Villarante, Civil Case No. MC07-3276, pending before Branch 211, was assigned to respondent judge.

¹⁴ Id. at 691.

¹⁵ Id.

¹⁶ Id. at 357-373.

¹⁷ Id. at 29-30.

¹⁸ Id. at 390-434.

¹⁹ Id. at 435-439.

²⁰ Id. at 440-448.

²¹ Id. at 468-477.

²² Id. at 478-482.

On March 18, 2008, the respondent judge issued the first assailed order, the dispositive portion of which reads:

WHEREFORE, consistent with the Order of November 12, 2007 in Civil Case No. MC07-3226, issued by the undersigned presiding judge, plaintiffs are hereby given a period of sixty (60) days from receipt hereof to pay the proper docket fees, which shall be assessed by the Clerk of Court of the Regional Trial Court of Mandaluyong City, and failure to comply therewith shall cause the 1) DISMISSAL of the complaint on jurisdictional grounds; 2) to DENY plaintiff's motion for receivership for utter lack of merit; and, 3) to CONSIDER the issues raised by the defendant in its respective motion for reconsideration ripe for resolution only after plaintiffs have paid the proper amount of docket fees.

SO ORDERED.²³

Petitioners' motion for reconsideration was denied by respondent judge in the second assailed order. Hence, this petition raising the following issue:

WHETHER OR NOT RESPONDENT JUDGE HAS COMMITTED GRAVE ABUSE OF DISCRETION IN ISSUING THE QUESTIONED ORDER x x x ORDERING PETITIONERS TO PAY THE DOCKET FEES OF THE COMPLAINT AUTHORIZED AND ADMITTED TO BE FILED AS INDIGENTS BY THE EXECUTIVE JUDGE OF THE TRIAL COURT.²⁴

Petitioners argue that respondent judge did not conduct the proper hearing as prescribed under Section 21, Rule 3 of the Rules of Court. They claim that private respondents neither submitted evidence nor were they required by respondent judge to submit evidence in support of their motions on the issue of indigency of petitioners. They contend that respondent judge disregarded their constitutional right to free access to courts by issuing the assailed orders.

First Asia Realty/SM, for its part, argues that the instant petition should be dismissed due to fatal infirmities such as violation of the doctrine of hierarchy of courts; deliberate, willful, and blatant forum-shopping; and arrogant refusal to the proper docket fees in the case *a quo*. It also contends that petitioners are not entitled to be considered as indigent litigants since the evidence on record glaringly shows that petitioners failed to comply with the mandatory requirements of Section 19, Rule 141 of the Rules of Court. First Asia Realty/SM claims that the parties were given sufficient opportunities to support their respective claims and that the assailed orders were issued only after a judicious study of the parties' submissions. It further disagrees that petitioners' right to free access to courts were violated since they were required to pay the proper amount of docket fees only after it was established that they are not qualified as indigent litigants.

²³ Id. at 25.

²⁴ Id. at 658.

Like First Asia Realty/SM, Ortigas also prays for the dismissal of the instant petition. It argues that contrary to petitioners' claims, the records would show that the court *a quo* did in fact hold numerous hearings to assess the issue of petitioners' non-payment of docket fees. There was a hearing scheduled on July 16, 2007 to hear Ortigas' Consolidated Motion to Dismiss and Motion to Cite Plaintiffs and Counsel in Contempt which raised this issue. While said hearing was rescheduled on August 24, 2007, it was nonetheless attended by petitioners' counsel. Petitioners even filed a Manifestation dated July 10, 2007 wherein they adopted their Comment/Opposition to Defendant Ortigas' Consolidated Motion to Dismiss and Motion to Cite Plaintiffs and Counsel in Contempt filed in Civil Case No. MC-07-3226 before Branch 214. Ortigas also points out another opportunity afforded to petitioners to address the issue of non-payment of docket fees during the July 6, 2007 hearing of First Asia Realty/SM's Motion to Dismiss which likewise raised the issue of non-payment of docket fees. Ortigas says that petitioners filed their Comment/Opposition to the motion to dismiss.

The petition has no merit.

At the outset, the instant petition should have been dismissed outright for being filed directly with this Court in blatant violation of the rule on hierarchy of courts. In *Garcia v. Miro, et. al.*,²⁵ citing *Vergara, Sr. v. Suelto*,²⁶ this Court stressed the importance of said rule:

x x x In *Vergara, Sr. v. Suelto*, this Court stressed that "[w]here the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented," thus:

The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition. It cannot and should not be burdened with the task of dealing with causes in the first instance. Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor. Hence, that jurisdiction should generally be exercised relative to actions or proceedings before the Court of Appeals, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another are not controllable by the Court of Appeals. Where the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented. This is, and should continue, to be the policy in this regard, a policy that courts and lawyers must strictly observe. (Emphasis omitted)

²⁵ 601 Phil. 124, 128-129 (2009).

²⁶ 240 Phil 719, 732-733 (1987).

Setting aside said procedural defect, this Court will look into the merit of petitioners' allegation of lack of the required hearing in resolving the issue of indigency.

Petitioners cite Section 21, Rule 3 of the Rules of Court which provides:

SEC. 21. *Indigent party.* – A party may be authorized to litigate his action, claim or defense as an indigent if the court, upon an *ex parte* application and hearing, is satisfied that the party is one who has no money or property sufficient and available for food, shelter and basic necessities for himself and his family.

Such authority shall include an exemption from payment of docket and other lawful fees, and of transcripts of stenographic notes which the court may order to be furnished him. The amount of the docket and other lawful fees which the indigent was exempted from paying shall be a lien on any judgment rendered in the case favorable to the indigent, unless the court otherwise provides.

Any adverse party may contest the grant of such authority at any time before judgment is rendered by the trial court. If the court should determine after hearing that the party declared as an indigent is in fact a person with sufficient income or property, the proper docket and other lawful fees shall be assessed and collected by the clerk of court. If payment is not made within the time fixed by the court, execution shall issue or the payment thereof, without prejudice to such other sanctions as the court may impose.

Respondents, on the other hand, cite Section 19, Rule 141 of the Rules of Court, as amended by A.M. No. 00-2-01-SC and A.M. No. 04-2-04-SC, which reads:

SEC. 19. *Indigent litigants exempt from payment of legal fees.* – Indigent litigants (a) whose gross income and that of their immediate family do not exceed an amount double the monthly minimum wage of an employee and (b) who do not own real property with A FAIR MARKET VALUE AS STATED IN THE CURRENT TAX DECLARATION of more than THREE HUNDRED THOUSAND (P300,000.00) PESOS shall be exempt from the payment of legal fees.

The legal fees shall be a lien on any judgment rendered in the case favorable to the indigent litigant unless the court otherwise provides.

To be entitled to the exemption herein provided, the litigant shall execute an affidavit that he and his immediate family do not earn a gross income abovementioned, and they do not own any real property with the fair value aforementioned, supported by an affidavit of a disinterested person attesting to the truth of the litigant's affidavit. The current tax declaration, if any, shall be attached to the litigant's affidavit.

Any falsity in the affidavit of litigant or disinterested person shall be sufficient cause to dismiss the complaint or action or to strike out the pleading of that party, without prejudice to whatever criminal liability may have been incurred.

In the case of *Spouses Algura v. Local Gov't. Unit of the City of Naga*,²⁷ this Court had the opportunity to explain how the two rules cited by the opposing parties can stand together and are compatible with each other, to wit:

In the light of the foregoing considerations, therefore, the two (2) rules can stand together and are compatible with each other. When an application to litigate as an indigent litigant is filed, the court shall scrutinize the affidavits and supporting documents submitted by the applicant to determine if the applicant complies with the income and property standards prescribed in the present Section 19 of Rule 141—that is, the applicant's gross income and that of the applicant's immediate family do not exceed an amount double the monthly minimum wage of an employee; and the applicant does not own real property with a fair market value of more than Three Hundred Thousand Pesos (Php300,000.00). If the trial court finds that the applicant meets the income and property requirements, the authority to litigate as indigent litigant is automatically granted and the grant is a matter of right.

However, if the trial court finds that one or both requirements have not been met, then it would set a hearing to enable the applicant to prove that the applicant has “no money or property sufficient and available for food, shelter and basic necessities for himself and his family.” In that hearing, the adverse party may adduce countervailing evidence to disprove the evidence presented by the applicant; after which the trial court will rule on the application depending on the evidence adduced. In addition, Section 21 of Rule 3 also provides that the adverse party may later still contest the grant of such authority at any time before judgment is rendered by the trial court, possibly based on newly discovered evidence not obtained at the time the application was heard. If the court determines after hearing, that the party declared as an indigent is in fact a person with sufficient income or property, the proper docket and other lawful fees shall be assessed and collected by the clerk of court. If payment is not made within the time fixed by the court, execution shall issue or the payment of prescribed fees shall be made, without prejudice to such other sanctions as the court may impose.²⁸

In the instant case, based on the list of documents submitted by petitioners in support of their Motion for Leave and to Admit Complaint of Indigent Litigants, it cannot be disputed that petitioners failed to complete the requirements set forth in Section 19, Rule 141 of the Rules of Court. They did not execute their own affidavit as required by said Section 19. And as this Court ruled in *Spouses Algura*,²⁹ if the trial court finds that one or both requirements have not been met, then it would set a hearing to enable the applicant to prove that the applicant has “no money or property sufficient and available for food, shelter and basic necessities for himself and his family.”

As correctly argued by Ortigas, the hearing requirement, contrary to petitioners' claim, was complied with during the hearings on the motions to

²⁷ 536 Phil. 819 (2006).

²⁸ Id. at 835-836.

²⁹ Id. at 836.

dismiss filed by respondents. In said hearings, petitioners' counsel was present and they were given the opportunity to prove their indigency. Clearly, their non-payment of docket fees is one of the grounds raised by respondents in their motions to dismiss and the hearings on the motions were indeed the perfect opportunity for petitioners to prove that they are entitled to be treated as indigent litigants and thus exempted from the payment of docket fees as initially found by the Executive Judge. Moreover, not only were petitioners properly represented during the hearings on the motions to dismiss, they even filed on July 10, 2007 a Manifestation wherein they adopted the Comment/Opposition to Defendant Ortigas' Consolidated Motion to Dismiss and Motion to Cite Plaintiffs and Counsel in Contempt filed in Civil Case No. MC07-3226 before Branch 214 and on July 11, 2007, a Comment/Opposition to Motion to Dismiss of First Asia Realty/SM. Thus, it is erroneous for them to claim that respondents neither submitted evidence nor were they required by respondent judge to submit evidence on the issue of indigency and that respondent judge disregarded their constitutional right to free access to courts. In sum, no grave abuse of discretion can be attributed to respondent judge in issuing the assailed orders.

WHEREFORE, the present petition is **DENIED**. The assailed Orders dated March 18, 2008 and May 30, 2008 of the Regional Trial Court of Mandaluyong City, Branch 211, in Civil Case No. MC07-3276 are **AFFIRMED**.

No costs.

SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:

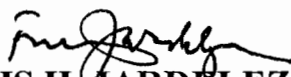

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



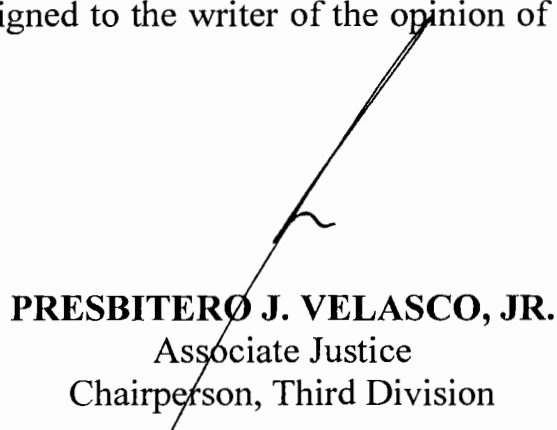
BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
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.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 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

