



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**SECOND DIVISION**

**SPOUSES ADRIANO SALISE AND  
NATIVIDAD PAGUDAR, SPOUSES  
TEODORO VIRTUDAZO AND  
NECITAS SALISE, JEROME G.  
DIOLANTO, SPOUSES EULALIO D.  
DAMASING AND POTENCIANA  
LABIA, SPOUSES FRANCISCO AND  
SIMPLICIA BABAYA-ON, SPOUSES  
RUFINO BUTIHIN AND CECILIA  
CAGNO, SPOUSES EFITACIO G.  
PAMISA AND VIRGELIA  
VIRTUDAZO, DELFIN B. SARINAS,  
SPOUSES FELIPE C. VIRTUDAZO, JR.  
AND GRACE TUTO, SPOUSES ANGEL  
BARBOSA AND FLORENCIA SALISE,  
SPOUSES FRANKLIN AND LEONORA  
PAMISA, SPOUSES MARCELO  
MANIQUE AND CECILIA CARBON,  
LARRY PAMISA, SPOUSES ENRIQUE  
CARBON AND ERLINDA SOMO,  
SPOUSES WILFREDO A. JUANILO  
AND MINDA VILLARMIA, SPOUSES  
FELIX REQUILME AND CERINA  
SALVO, SPOUSES CARLITO FABE  
AND EMELITA MANGGANA, LUIBEN  
MAGTO, SPOUSES SERAFIN AND  
LILIA SURIGAO, SPOUSES HILARIO  
BACABIS AND RETIFICACION  
DABLO, SPOUSES REYNALDO S.  
SALUCOT AND ANECITA  
DESCALLAR, SPOUSES HAGENIO  
PAUG AND EVELITA VIRTUDAZO,  
SPOUSES MAXIMO BORREZ AND  
VILMA SALISE, SPOUSES FELIMON  
V. SALVO, JR. , EVA MACATOL AND  
RITA V. SALVO,**

**G.R. No. 202830**

Petitioners,

Present:

CARPIO, J., *Chairperson*,  
BRION,  
DEL CASTILLO,\*  
MENDOZA, and  
LEONEN, JJ.

Promulgated:

20 JUN 2016



Respondents.

**DEPARTMENT OF AGRARIAN  
REFORM ADJUDICATION BOARD  
REGION X ADJUDICATOR ABETO  
SALCEDO, JR. and RICARDO  
GACULA,**

- versus -

X-----X

**DECISION**

**BRION, J.:**

Before us is a petition for review on *certiorari*<sup>1</sup> assailing the resolutions dated May 4, 2012<sup>2</sup> and July 12, 2012<sup>3</sup> of the Court of Appeals (CA), Cagayan de Oro City Station, in CA-G.R. SP No. 04425-MIN. On technical grounds, the CA dismissed the appeal (Petition for Review) filed by the petitioners against the resolutions of the Department of Agrarian Reform Adjudication Board (DARAB) Region X in DARAB Case No. UDK-0001-04.

**Antecedent Facts**

On January 17, 1996, respondent Ricardo Gacula filed a petition<sup>4</sup> to cancel the Certificates of Land Ownership Award (CLOA) issued to petitioners:<sup>5</sup> Spouses Adriano Salise and Natividad Pagudar, Spouses Teodoro Virtudazo and Necitas Salise, Jerome G. Diolanto, Sps. Eulalio D. Damasing and Potenciana Labia, Sps. Francisco and Simplicia Babaya-on, Sps. Rufino Butihin and Cecilia Cagno, Sps. Efitacio G. Pamisa and Virgelia Virtudazo, Delfin B. Sarinas, Sps. Felipe C. Virtudazo, Jr. and Grace Tuto, Sps. Angel Barbosa and Florencia Salise, Sps. Franklin and Leonora Pamisa, Sps. Marcelo Manique and Cecilia Carbon, Larry Pamisa, Sps. Enrique Carbon and Erlinda Somo, Sps. Carlito Fabe and Emelita Manggana, Luiben Magto, Spouses Serafin and Lilia Surigao, Spouses Hilario Bacabis and Retificacion Dablo, Spouses Reynaldo S. Salucot and Anecita Descallar, Spouses Hagenio Paug and Evelita Virtudazo, Spouses Maximo Borrez and Vilma Salise, Spouses Wilfredo A. Juanilo

\* On Leave.  
<sup>1</sup> Filed under Rule 45 of the Rules of Court.  
<sup>2</sup> Penned by Associate Justice Maria Elisa Sempio Diy, with Associate Justices Romulo V. Borja and Zenaida T. Galapate-Laguilles, concurring; *rollo*, pp. 25-26.  
<sup>3</sup> *Rollo*, pp. 28-32.  
<sup>4</sup> Docketed as DARAB Case No. X(06)-904.  
<sup>5</sup> A total of 47 individual-petitioners.



and Minda Villarmia, Spouses Felix Requilme and Cerina Salvo, Spouses Felimon V. Salvo, Jr. and Eva Macatol, and Rita V. Salvo, over a 30-hectare land in the upper lands of Lomboy, Indahag, Cagayan de Oro City.

On October 23, 1996, Provincial Agrarian Reform Adjudicator (PARAD) Leandricia Monsanto dismissed *without prejudice* the petition for cancellation, due to a pending prior application made by Gacula for the exemption of the subject land from the Comprehensive Agrarian Reform Program (CARP). Gacula appealed the dismissal of his petition to the Department of Agrarian Reform Adjudication Board (DARAB) Central Office in Diliman, Quezon City.

On January 14, 1998, pending Gacula's appeal with the DARAB, then Department of Agrarian Reform (DAR) Secretary Ernesto Garilao granted Gacula's application to exempt the subject land from the CARP. One of the petitioners, Jerome G. Diolanto, filed a motion for reconsideration to Sec. Garilao's order.

On March 4, 1999, DAR Secretary Horacio "Boy" Morales granted Diolanto's motion and declared the subject land not exempt from CARP. Gacula moved to reconsider this ruling.

On December 1, 1999, Acting DAR Secretary Conrado Navarro reversed Sec. Morales' order and upheld Sec. Garilao's order that declared the subject land exempt from CARP.

On October 15, 2001, DARAB Director Delfin B. Samson issued an Order of Finality to the December 1, 1999 order of Sec. Navarro.

*Gacula's Manifestation  
before the DARAB*

On January 12, 2001, the DARAB Central Office dismissed Gacula's appeal to the dismissal of his petition for cancellation of the CLOAs.

On March 10, 2003, despite the dismissal of the cancellation proceedings, Gacula still filed a Manifestation that he was no longer interested in pursuing his appeal and suggested that the October 23, 1996 decision of PARAD Monsanto (that dismissed without prejudice his petition to cancel the petitioners' CLOAs) be considered final. In the same manifestation, Gacula requested that Sec. Navarro's December 1, 1999 order be implemented.

Acting on Gacula's manifestation, Adjudicator Abeto Salcedo, Jr. of DARAB Region X issued, on November 27, 2003, an order<sup>6</sup> cancelling the petitioners' CLOAs and placing Gacula in possession of the 30-hectare

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<sup>6</sup> *Rollo*, pp. 73-79

property. The petitioners claimed that Adjudicator Salcedo's November 27, 2003 order was issued without proper notice and hearing.<sup>7</sup>

On December 1, 2003, Adjudicator Salcedo issued a Writ of Execution<sup>8</sup> to implement Sec. Navarro's December 1, 1999 order. The petitioners alleged that on the day following the issuance of the writ of execution, DARAB Sheriff Bienvenido Maestro, together with armed men claiming to be security guards and policemen, immediately fenced the subject land with barbed wire, preventing access to and from their properties.<sup>9</sup>

The petitioners, represented by new counsel, timely filed an entry of appearance and notice of appeal to Adjudicator Salcedo's November 27, 2003 order. Another motion for reconsideration to the same order was filed by a certain Atty. Antonio Zoilo Velez, a former DAR lawyer who had represented two of the petitioners in earlier proceedings.

In an order<sup>10</sup> dated December 18, 2003, Adjudicator Salcedo denied the petitioners' notice of appeal and entry of appearance due to improper substitution of counsel. Also, he denied the motion for reconsideration filed by Atty. Velez because his November 27, 2003 order cancelling the petitioners' CLOAs was, according to him, not appealable.<sup>11</sup>

*Petitioners' Urgent Motion  
with the DARAB*

On December 30, 2003, the petitioners filed with the DARAB Central Office an Urgent Motion<sup>12</sup> to restrain Adjudicator Salcedo from acting on the incidents of the case and from further executing his November 27, 2003 order. **The petitioners contended that Adjudicator Salcedo's orders were illegal and patently null and void for having been issued in excess of authority and in gross violation of the petitioners' rights to due process.**

Almost seven years later, the DARAB, in a resolution<sup>13</sup> dated April 26, 2011, dismissed the petitioners' urgent motion for lack of jurisdiction. It held that, in alleging that Adjudicator Salcedo had exceeded his authority in issuing the questioned orders, the petitioners' motion was, in effect, a petition for *certiorari* under Rule 65 of the Rules of Court over which the DARAB has no jurisdiction.

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<sup>7</sup> Id. at 41.

<sup>8</sup> Id. at 80-81

<sup>9</sup> *Rollo*, p. 99.

<sup>10</sup> Id. at. 88-91.

<sup>11</sup> Id. at 91.

<sup>12</sup> Id. at 92-108.

<sup>13</sup> Id. at 55-61.

The petitioners moved to reconsider but the DARAB denied their motion in a resolution<sup>14</sup> dated August 1, 2011; hence, they filed a Petition for Review with the CA pursuant to Section 1, Rule XV of the 2009 DARAB Rules of Procedure.

### **Proceedings before the CA**

In a resolution<sup>15</sup> dated September 9, 2011, the CA (Cagayan de Oro City Station) **partially dismissed the petition for review** insofar as the following sixteen (16) petitioners were concerned: Jerome G. Diolante, Sps. Carlito G. Fabe and Emelita Manggana, Luiben N. Magto, Sps. Serafin and Lilia Surigao, Sps. Hilario S. Bacabis and Retificacion Dablo, Sps. Reynaldo S. Salucot and Anecita Descallar, Sps. Hagenio Paug and Evelita Virtudazo, Sps. Maximo M. Borres and Vilma Salise, and Sps. Felimon V. Salvo, Jr. and Eva Macatol, **for their failure to sign the Verification and Certification of Non-Forum Shopping** attached to the petition.

In the same resolution, **the CA directed the other remaining petitioners**, through their counsel, **to correct the procedural defects of their petition**: (a) failure to furnish the DARAB Central Office with a copy of their petition, and (b) failure to allege the dates of their receipt of the DARAB's April 26, 2011 resolution and of the filing of their motion for reconsideration thereto.

#### *Petitioners' 1st Compliance with Motion to Admit Joint Affidavits of Merit*

On September 22, 2011, the petitioners filed with the CA their compliance<sup>16</sup> with motion to admit the joint affidavits of merit executed by the 16 petitioners named in the September 9, 2011 resolution of the CA. The affidavits stated the reasons why the 16 petitioners failed to sign the verification and certification of non-forum shopping attached to the petition for review.

In a resolution dated May 4, 2012, the **CA noted the petitioners' compliance** but observed another defect on the verification and certification of non-forum shopping, *i.e.*, **some of the affiants failed to present competent evidence of identity that the notarization required**. Thus, **the CA directed the petitioners-affiants who failed to provide the necessary proof of identity to submit the required proof within ten (10) days from receipt of its resolution**; otherwise, their petition for review shall be dismissed.

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<sup>14</sup> Id. at 64-65.

<sup>15</sup> Id. at 22-23.

<sup>16</sup> *Rollo*, pp. 114-128.

In the same resolution, the **CA denied the petitioners' motion to admit** because the affidavits of merit attached to the motion also lacked the required proof of identity from the affiants.

The petitioners received a copy of the CA's May 4, 2012 resolution on May 16, 2012.

On May 25, 2012, the petitioners filed a motion for extension of time of twenty (20) days or until June 15, 2012, within which to submit a new verification and certification of non-forum shopping.

*Petitioners' 2nd Compliance with  
Motion for Reconsideration*

On June 7, 2012, the petitioners filed their compliance with motion for reconsideration (to the denial of their motion to admit) with the CA.

In a resolution dated July 12, 2012, the **CA denied the petitioners' compliance with motion for reconsideration** because: (1) the filing thereof was seven (7) days late considering that the petitioners received its May 4, 2012 resolution on May 16, 2012 and had only ten (10) days or until May 31, 2012 within which to file their compliance; and (2) the signatures on the new verification and certification showed "some variations" with those found in the verification and certification previously submitted by the petitioners. **Consequently, the CA dismissed outright the petitioners' petition for review**, prompting the petitioners to file a petition for review on *certiorari* before this Court.

**The Petition**

**In the present petition, the petitioners mainly pray for the liberal application of the Rules of Procedure to their case. They contend that the CA erred in dismissing their petition for review purely on technical grounds, without consideration of the substantive issues raised in their petition.**

Citing *Altres, et.al. v. Empleo, et al. (Altres)*,<sup>17</sup> the petitioners allege that the verification and certification of non-forum shopping attached to their petition for review with the CA **substantially complied** with the Rules, despite the missing signatures and the lack of proof of identity of some of them. They particularly argue that the incompleteness of the verification did not render their petition for review fatally defective, and that the signature of only one of them in the certification of non-forum shopping is sufficient because they invoke a common cause of action (or defense) against the same respondent.

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<sup>17</sup> G.R. No. 180986, December 10, 2008, 573 SCRA 583-585.

## **OUR RULING**

**We find for the petitioners and GRANT the present petition.**

The Court in *Altres* outlined, for the bar and the bench, the guidelines in determining compliance (or noncompliance) with the verification and certification of non-forum shopping, to wit:

1) A distinction must be made between noncompliance 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**, noncompliance 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, noncompliance 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. (*emphasis supplied*)

Our pronouncements in *Altres*, however, do not apply to the resolution of this case. The dismissal of the petitioners’ petition for review with the CA did not result from the incomplete signatures of the petitioners in the Verification and Certification on non-forum shopping. A closer look into the facts of the case reveals that the real cause of the CA’s dismissal of the

petition for review was the petitioners' belated filing of their compliance with the CA's May 4, 2012 resolution.

Recall that in the assailed May 4, 2012 CA resolution, the petitioners who actually signed the verification and certification of non-forum shopping were directed to submit competent evidence of identity that the notarization required, within ten (10) days from May 16, 2012 – the date of petitioners' receipt of the resolution, or until May 31, 2012. Due to the difficulty in individually locating the petitioners, the petitioners' counsel requested an extension of twenty (20) more days from March 25, 2012, or until June 15, 2012, within which to submit proof of the petitioners-affiants' identities. But the petitioners' motion for extension of time was not acted upon by the CA. The petitioners filed their compliance only on June 7, 2012.

The rule is that a motion not acted upon in due time is deemed denied.<sup>18</sup> Thus, the filing of the petitioners' compliance with the CA on June 7, 2012, was, indeed, out of time.

**In view, however, of the circumstances of this case and the substantive issues raised by the petitioners, we find justification to liberally apply the rules of procedure to the present case and admit the petitioners' compliance though belatedly filed.**

Rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice; their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed.<sup>19</sup>

The present petitioners, who are farmers-beneficiaries of the CARP, cry for substantial justice as they claim to have been denied due process in the cancellation of their CLOAs. The petitioners were occupants of the subject land since the 1950s and were issued CLOAs over their respective farm-lots in 1992. They mainly contend that Adjudicator Salcedo's November 27, 2003 order cancelling their CLOAs was issued without proper notice and hearing.

The cancellation of CLOAs issued to farmer-beneficiaries under the CARP involves the filing of a *petition* for such purpose with the DARAB Provincial Adjudicator,<sup>20</sup> and requires that the petition be served upon each

<sup>18</sup> *Orosa v. Court of Appeals*, G.R. No. 118696, September 3, 1996, 261 SCRA 376.

<sup>19</sup> *Ginete v. Court of Appeals*, 357 Phil. 36, at 51-53 (1998).

<sup>20</sup> Section 1.6, Rule II of the 2003 DARAB Rules of Procedure, the rules applicable to this case, provides:

SECTION 1. *Primary and Exclusive Original Jurisdiction.* The Adjudicator shall have primary and exclusive original jurisdiction to determine and adjudicate the following cases:

XXXX

1.6 Those involving the correction, partition, cancellation, secondary and subsequent issuances of Certificates of Land Ownership



of the defendants or respondents named therein.<sup>21</sup> The petition is then heard in a quasi-judicial proceeding before the Provincial Adjudicator, whose decision may be appealed to the DARAB, and then to the CA through a Petition for Review under Rule 43 of the Rules of Court.

**In the petitioners’ case, the cancellation of their CLOAs was prompted by a mere Manifestation filed by Gacula.** A mere manifestation can hardly be equated with a petition that the DARAB Rules of Procedure require for the cancellation of CLOAs. In his manifestation, Gacula merely stated that he was no longer interested in pursuing his appeal to PARAD Monsanto’s October 23, 1996 decision and asked for the implementation of Sec. Navarro’s December 1, 1999 order. Under these facts, Gacula’s manifestation stated no cause of action.

Also, it is worth noting that, at the time Gacula filed his Manifestation in 2003, the petition for cancellation that he previously filed with PARAD Monsanto had long been dismissed, on appeal, by the DARAB in 2001. Thus, Gacula’s Manifestation stood independently, as there was no longer a pending petition for cancellation of the petitioners’ CLOAs with the DARAB.

**These circumstances, to our minds, cast an overwhelming doubt on the validity and authority of Adjudicator Salcedo to issue the order**

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Award (CLOAs) and Emancipation Patents (EPs) which are registered with the Land Registration Authority.  
xxxx

And Section 1, Rule IV of the same Rules provides:

**SECTION 1. *Complaint or Petition.* An action before the Adjudicator shall be initiated by filing a sworn complaint or verified petition with the Adjudicator in the Province where the land involved is located. (emphasis supplied)**  
xxx

<sup>21</sup> The rest of Section 1, Rule IV of the 2003 DARAB Rules of Procedure provides:

**SECTION 1. *Complaint or Petition.* xxx**

Upon the filing of the complaint or petition, the hour, day, month and year when it was filed shall be stamped thereon.

The complaint shall include the affidavit(s) of witnesses and documentary evidence, if any. The complaint or petition shall be duly signed by the complainant or petitioner, or his counsel, or by one who can show a special power of attorney to represent the complainant or petitioner.

It shall state the area of the land involved and the Barangay where the land is located, or if the land is located in two (2) or more barangays, the barangay where the larger portion of the land is located.

It shall also state the name and residence of the complainant or petitioner and that of the defendant or respondent, the facts constituting the cause of action, and the relief being sought.

**Two (2) copies of the complaint or petition, and its annexes or attachments, and as many copies required to be served upon each of the defendants or respondents, shall be filed. (emphasis supplied)**

**that cancelled the petitioners' CLOAs.** These same circumstances now cause us to recognize the present case as an exception from the Court's policy of strict compliance with procedural rules.

We reiterate that rules of procedure are promulgated to help secure, not override substantial justice. Thus, the petitioners' petition for review with the CA should not have been dismissed outright purely on technical grounds considering that they have raised a substantially meritorious case for appeal. In *Aguam v. Court of Appeals*,<sup>22</sup> we enunciated that:

"Dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice."<sup>23</sup>

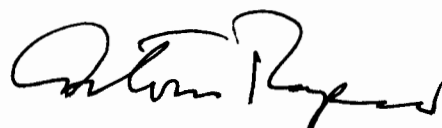
**WHEREFORE**, premises considered, we hereby **GRANT** the present petition for review on *certiorari* and **REVERSE** and **SET ASIDE** the resolutions dated May 4, 2012, and July 12, 2012, of the Court of Appeals, Cagayan de Oro City, in CA-G.R. SP No. 04425-MIN.

The CA is ordered to admit the Compliance dated June 7, 2012, filed by the petitioners, reinstate the petitioners' Petition for Review, and to decide with dispatch the present case on its merits.

**SO ORDERED.**

  
ARTURO D. BRION  
Associate Justice

**WE CONCUR:**

  
ANTONIO T. CARPIO  
Associate Justice  
Chairperson

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<sup>22</sup> 388 Phil. 587 (2000).

<sup>23</sup> Id. at 593-594.


(On Leave)  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**MARVIC M.V.F. LEONEN**  
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, Second Division

### 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