



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

HELEN L. SAY, GILDA L. SAY,
 HENRY L. SAY, and DANNY L.
 SAY,

Petitioners,

- versus -

GABRIEL DIZON,

Respondent.

G.R. No. 227457

Present:

PERLAS-BERNABE, S.A.J.,
 Chairperson,
 HERNANDO, JR.,
 INTING,
 DELOS SANTOS, and
 GAERLAN,* JJ.

Promulgated:

22 JUN 2020

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DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*¹ assailing the Decision² dated May 13, 2016 and the Resolution³ dated August 24, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 06840, which set aside the Orders dated September 2, 2014⁴ and April 1, 2015⁵ of the Regional Trial Court of Koronadal City, South Cotabato, Branch 24 (RTC) in Civil Case No. 1973-24, declaring that the RTC gravely abused its discretion in allowing the belated submission of the Judicial Affidavits of petitioners Helen, Gilda, Henry, and Danny, all surnamed Say (petitioners), despite

* Designated additional member per Special Order No. 2780 dated May 11, 2020. On leave.

¹ *Rollo*, pp. 5-18.

² Id. at 24-29. Penned by Associate Justice Edgardo T. Lloren with Associate Justices Rafael Antonio M. Santos and Ruben Reynaldo G. Roxas, concurring.

³ Id. at 31-32.

⁴ Id. at 79-80. Penned by Presiding Judge Lorenzo F. Balo.

⁵ Id. at 90-91.

non-compliance with the conditions provided under Section 10 (a) of the Judicial Affidavit Rule (JAR).⁶

The Facts

This case stemmed from a complaint for Declaration of Nullity of the Deed of Absolute Sale filed by respondent Gabriel Dizon (respondent) against one Robert Dizon and petitioners before the RTC, docketed as **Civil Case No. 1973-24**. In an Order dated November 23, 2011, the said complaint was dismissed by the RTC on the ground of forum shopping after it was shown that respondent had filed a similar complaint, docketed as **Civil Case No. 1263-25**, involving the same subject matter, issue, and relief.⁷

After the order of dismissal in Civil Case No. 1973-24 had attained finality, petitioners filed an ***Ex-Parte Motion for Leave of Court to Set Defendants' Counterclaim for Hearing***. In a Notice of Hearing dated November 25, 2013 (Notice of Hearing) signed by the Branch Clerk of Court, the parties were informed that the case was set for hearing on **March 13, 2014**. Claiming that the notice was a mere notification of the hearing, and not a formal order or resolution on their motion, petitioners filed their Judicial Affidavits on **March 12, 2014**, or one (1) day before the scheduled hearing. On the other hand, respondent opposed the same claiming that the Judicial Affidavits were filed out of time as provided under Section 2 (a)⁸ of the JAR, which requires that the same be filed **not later than five (5) days before the scheduled hearing**.⁹

Eventually, the RTC directed the parties to file their respective position papers.¹⁰ Notably, petitioners argued that the March 13, 2014 hearing was for their *ex-parte* motion and not yet the hearing of the counterclaim itself. Hence, the five (5)-day period to file their Judicial Affidavits under the JAR had not yet commenced to run.¹¹

The RTC Ruling

In an Order¹² dated September 2, 2014, the RTC admitted the Judicial Affidavits of petitioners. While the RTC held that the Notice of Hearing sent to the parties was already a confirmation that on the specified date, *i.e.*,

⁶ A.M. No. 12-08-08-SC (January 1, 2013).

⁷ See *rollo*, pp. 7 and 24.

⁸ Section 2. *Submission of Judicial Affidavits and Exhibits in Lieu of Direct Testimonies*. – (a) The parties shall file with the court and serve on the adverse party, personally or by licensed courier service, **not later than five days before** pre-trial or preliminary conference or **the scheduled hearing with respect to motions and incidents** x x x x. (Emphasis supplied)

⁹ See *rollo*, pp. 8-9 and 25.

¹⁰ See *id.* at 9.

¹¹ See *id.* at 26.

¹² *Id.* at 79-80.

March 13, 2014, petitioners' counterclaim will already be heard, it nonetheless allowed the late submission of the Judicial Affidavits pursuant to the rule that technicalities must give way to substantial justice.¹³

Respondent moved for reconsideration¹⁴ but was denied in an Order¹⁵ dated April 1, 2015. The RTC reiterated the rule that technicalities must give way to substantial justice. Further, it cited Section 10 (a)¹⁶ of the JAR which allows the late submission of Judicial Affidavits. Thus, pursuant to the same, the RTC modified its earlier order by directing petitioners to pay a fine of ₱2,500.00 for their late submission.¹⁷

Aggrieved, respondent elevated the matter before the CA via a petition for *certiorari* under Rule 65 of the Rules of Court.¹⁸

The CA Ruling

In a Decision¹⁹ dated May 13, 2016, the CA gave due course to the petition and set aside the RTC's Orders, holding that the RTC gravely abused its discretion when it admitted the belatedly filed Judicial Affidavits of petitioners without proof of compliance with the conditions laid down under Section 10 (a) of the JAR, namely: (a) the delay is for a valid reason; (b) it would not unduly prejudice the opposing party; and (c) the defaulting party pays the specified fine. The CA pointed out that other than the payment of the fine, petitioners failed to show that they had complied with the remaining conditions for the allowance of the late submission of their Judicial Affidavits.²⁰

Petitioners' motion for reconsideration was denied in a Resolution²¹ dated August 24, 2016; hence, this petition.

¹³ See *id.*

¹⁴ See motion for reconsideration dated January 22, 2015; *id.* at 81-83.

¹⁵ *Id.* at 90-91.

¹⁶ Section 10. *Effect of Non-Compliance with the Judicial Affidavit Rule.* – (a) A party who fails to submit the required judicial affidavits and exhibits on time shall be deemed to have waived their submission. The court may, however, allow only once the late submission of the same **provided, the delay is for a valid reason, would not unduly prejudice the opposing party, and the defaulting party pays a fine of not less than ₱1,000.00 nor more than ₱5,000.00, at the discretion of the court.**

x x x x (Emphasis supplied)

¹⁷ See *rollo*, pp. 90-91.

¹⁸ *Id.* at 24.

¹⁹ *Id.* at 24-29.

²⁰ See *id.* at 27-28.

²¹ *Id.* at 31-32.

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The Issue Before the Court

The essential issue for resolution is whether or not the CA erred in finding grave abuse of discretion on the part of the RTC when the latter admitted petitioners' Judicial Affidavits that were belatedly filed.

The Court's Ruling

The petition is meritorious.

It is well-settled that in an action for *certiorari*, the primordial task of the court is to ascertain whether the court *a quo* acted with grave abuse of discretion amounting to excess or lack of jurisdiction in the exercise of its judgment. **The abuse of discretion must be so patent and gross** as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, **as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.**²²

In this case, the CA found grave abuse of discretion on the part of the RTC when it admitted the belatedly filed Judicial Affidavits of petitioners in violation of the JAR.²³ In particular, Section 2 (a) of the JAR mandates the parties to file and serve the Judicial Affidavits of their witnesses, together with their documentary or object evidence, **not later than five (5) days before** pre-trial or preliminary conference or **the scheduled hearing with respect to motions and incidents**, to wit:

Section 2. *Submission of Judicial Affidavits and Exhibits in Lieu of Direct Testimonies.* – (a) The parties shall file with the court and serve on the adverse party, personally or by licensed courier service, **not later than five days** before pre-trial or preliminary conference or **the scheduled hearing** with respect to motions and incidents, the following:

- (1) The judicial affidavits of their witnesses, which shall take the place of such witnesses' direct testimonies; and
- (2) The parties' documentary or object evidence, if any, which shall be attached to the judicial affidavits and marked x x x (Emphases supplied)

Corollary thereto, Section 10 (a) of the same Rule further contains a caveat that the failure to timely submit the Judicial Affidavits and documentary evidence **shall be deemed a waiver of their submission**, thus:

²² *Yu v. Judge Reyes-Carpio*, 667 Phil. 474, 482 (2011).

²³ See *rollo*, pp. 27-28.

Section 10. *Effect of Non-Compliance with the Judicial Affidavit Rule.* – (a) A party who fails to submit the required judicial affidavits and exhibits on time shall be deemed to have waived their submission. **The court may, however, allow only once the late submission of the same provided, the delay is for a valid reason, would not unduly prejudice the opposing party, and the defaulting party pays a fine of not less than ₱1,000.00 nor more than ₱5,000.00 at the discretion of the court.** (Emphasis and underscoring supplied)

However, it bears to note that **Section 10 (a) does not contain a blanket prohibition on the submission of a belatedly filed judicial affidavit.** As also stated in the same provision, the submission of the required judicial affidavits beyond the mandated period **may be allowed once provided that the following conditions were complied,** namely: (a) that the delay was for a valid reason; (b) it would not unduly prejudice the opposing party; and (c) the defaulting party pays a fine of not less than ₱1,000.00 nor more than ₱5,000.00 at the discretion of the court.

In this case, there is no dispute that petitioners complied with the RTC's directive to pay the fine of ₱2,500.00 for the late submission of their Judicial Affidavits.²⁴ What remains at issue is petitioners' compliance with the first two (2) conditions under Section 10 (a) of the JAR.

With respect to the justification for the delay, petitioners consistently pointed out that they were under the belief that the Notice of Hearing they had received was a mere notification of the hearing, and not the formal order or resolution of the presiding judge.²⁵ However, as both the RTC and CA correctly ruled, the Notice of Hearing was already a grant of their *ex-parte* motion and that the March 13, 2014 hearing was the setting for their counterclaim itself. This notwithstanding, the Court observes that petitioners' failure to submit their Judicial Affidavits five (5) days prior to March 13, 2014 was an honest procedural mistake. As the records clearly show, petitioners actually submitted their Judicial Affidavits a day prior to the March 13, 2014 hearing, or on March 12, 2014. While four (4) days late, their submission of the Judicial Affidavits before the hearing itself shows that they had no deliberate intention to flout the rules. Moreover, petitioners' reason for non-compliance was not completely unjustified. As petitioners candidly expressed, while their counsel misconstrued the import of the Notice of Hearing, the error was made in good faith, *viz.:*

In good faith, petitioners' counsel believed that the notice of hearing he received which set a hearing on March 13, 2014 is not yet the approval of their *ex-parte* motion. Petitioners' counsel most respectfully assumes that only the trial judge can formally approve or deny a motion filed in court.

x x x x

²⁴ See id. at 10.

²⁵ See id. at 8-9.

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As can be noted in its words and language, the notice of hearing itself did not require the submission of judicial affidavits.

Normally, when the court sets a case for preliminary or pre-trial conference, the notice always expressly directs the filing of the judicial affidavits and the consequence of non-compliance. In the case at bar, the notice of hearing did not expressly require the submission of judicial affidavits. There was also no caveat of the consequence in the event the petitioners fail to comply with it.

Taken altogether, it is this factual backdrop that led petitioners to sincerely and honestly believe the notice of hearing they received is not yet the formal approval of their *ex parte* motion.²⁶

Thus, with the foregoing in mind, the RTC cannot be said to have gravely abused its discretion in permitting the mere four (4)-day delay in the submission of petitioners' Judicial Affidavits.

At any rate, the admission of petitioners' Judicial Affidavits would not – as it actually did not – unduly prejudice respondent. To be sure, on the scheduled hearing on March 13, 2014, the RTC did not yet allow any presentation of evidence. It was only later, or on April 14, 2015, that the actual hearing for the reception of petitioners' testimonies took place.²⁷ It must be emphasized that the Judicial Affidavits only constitute the evidence of petitioners to prove their counterclaim against respondent. Admitting the same would not necessarily mean that the said counterclaim would already be granted since respondent would still be given the chance to present his own evidence to controvert the same, and based on the evidence presented, the RTC would still rule on the counterclaim's merits. In fact, as the records bear out, respondent did submit his rebuttal evidence,²⁸ thus, this supervening act had, if at all, already negated any supposed prejudice which would have been caused by the allowance of petitioners' Judicial Affidavits.

In contrast, if this Court were to affirm the CA's ruling, then, as petitioners aptly pointed out, they would be the ones who would be unduly prejudiced as a consequence of a simple, and now, innocuous, procedural mistake, *viz.*:

The irreparable harm is on the petitioners if they are forever barred from pursuing their counterclaim. Moreover, there was no wanton or deliberate act on the part of petitioners to violate the rules or delay the proceedings. Striking out their judicial affidavits and depriv[ing] them of their opportunity to pursue their claim would be too harsh a penalty.

Totally preventing the petitioners from presenting their evidence on their counterclaim is to totally deprive them of due process over one minor technicality.

²⁶ Id. at 14-15.

²⁷ See id. at 13.

²⁸ See id.

The decision of the Honorable Court of Appeals if maintained would deny the petitioners of their day in court. They respectfully beg for its reversal. After all, the issue is only about the admission of the judicial affidavits. The trial judge will still have to decide the case on the merits – whether petitioners are indeed entitled to their compulsory counterclaims.²⁹

Jurisprudence explains that “[w]hen no substantial rights are affected and the intention to delay is not manifest with the corresponding [submission] x x x, it is sound judicial discretion to allow the same to the end that the merits of the case may be fully ventilated.”³⁰ In this relation, the Court has held that “[c]ourts have the prerogative to relax procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties’ right to due process. In numerous cases, this Court has allowed liberal construction of the rules when to do so would serve the demands of substantial justice and equity,”³¹ as in this case.

Thus, based on the considerations above-discussed, the Court finds that the RTC did not act in an arbitrary, whimsical, and capricious manner in admitting the subject Judicial Affidavits. Verily, there was no patent abuse of discretion which was so gross in nature amounting to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law. What is only apparent is that the RTC exercised its due discretion in relaxing the rigid application of the JAR in the interest of substantial justice. Accordingly, the CA erred in attributing grave abuse of discretion against it.

WHEREFORE, the petition is **GRANTED**. The Decision dated May 13, 2016 and the Resolution dated August 24, 2016 of the Court of Appeals in CA-G.R. SP No. 06840 are **REVERSED** and **SET ASIDE**. The Orders dated September 2, 2014 and April 1, 2015 of the Regional Trial Court of Koronadal City, South Cotabato, Branch 24 in Civil Case No. 1973-24 are hereby **REINSTATED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice


²⁹ Id. at 17.


³⁰ *Spouses Sibay v. Spouses Bermudez*, 813 Phil. 807, 814 (2017).

³¹ *Ong Lim Sing, Jr. v. FEB Leasing & Finance Corporation*, 551 Phil. 768, 780 (2007).

WE CONCUR:


RAMON PAUL L. HERNANDO
 Associate Justice

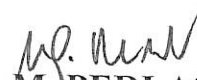

HENRI JEAN PAUL B. INTING
 Associate Justice


EDGARDO L. DELOS SANTOS
 Associate Justice

On leave
SAMUEL H. GAERLAN
 Associate Justice

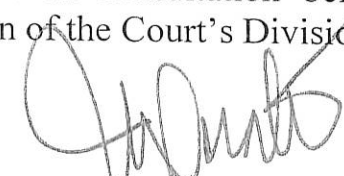
ATTESTATION

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.


ESTELA M. PERLAS-BERNABE
 Senior 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.


DIOSDADO M. PERALTA
 Chief Justice