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Republic of the Philippines

Supreme Court

Manila

SECOND DIVISION

**SPOUSES FERNANDO C. CRUZ
and AMELIA M. CRUZ and
MILLIANS SHOE, INC.,**
Petitioners,

G.R. No. 212862

Present:

PERLAS-BERNABE, *Acting Chairperson*,
JARDELEZA,*
GESMUNDO,**
REYES, J. JR., and
LAZARO-JAVIER, JJ.

- versus -

**ONSHORE STRATEGIC ASSETS
(SPV-AMC), INC., UNITED
OVERSEAS BANK
PHILIPPINES (formerly
WESTMONT BANK),*
REGIONAL TRIAL COURT,
BRANCH 263-MARIKINA CITY,
REGISTER OF DEEDS,
MARIKINA CITY,**

Promulgated:

17 JUN 2019

Respondents.

x-----x

DECISION

REYES, J. JR., J.:

The Facts and the Case

Before this Court is a Petition for Review on *Certiorari* seeking to annul and set aside the July 25, 2013 Decision¹ and June 9, 2014 Resolution² of the Court of Appeals (CA) in CA-G.R. CV No. 99062 which dismissed the appeal of petitioners spouses Fernando C. Cruz and Amelia M. Cruz, and Millians Shoe, Inc., relative to the September 21, 2011 and March 19, 2012 Orders³ of the Regional Trial Court (RTC) of Marikina City, Branch 263, which dismissed petitioners' complaint.

* Also referred to as "West Bank" in the Petition.

* Designated additional member per Raffle dated February 18, 2019 in lieu of Senior Associate Justice Antonio T. Carpio who recused himself from the case due to close association to the counsel of a party.

** Designated additional member per Raffle dated April 15, 2019 in lieu of Associate Justice Alfredo Benjamin S. Caguioa who recused himself from the case as his son works in the law firm representing a party.

¹ Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Ramon R. Garcia and Danton Q. Bueser, concurring; *rollo*, pp. 39-45.

² Id. at 47-48.

³ Id. at 401-402, 415a.

On March 17, 2011, petitioners filed a Complaint for Annulment of Extrajudicial Foreclosure Sale, Loan Documents, Accounting and Damages against respondents Onshore Strategic Assets (SPV-AMC), Inc. (OSAI), United Overseas Bank Philippines, as well as the Office of the Clerk of Court and Ex-Officio Sheriff, RTC of Marikina City and the Register of Deed of Marikina City.⁴

Instead of filing its Answer, OSAI moved for the dismissal of the complaint on the following grounds: (a) failure of the lawyer for the petitioners to comply with Bar Matter No. 1922, particularly the requirement for the counsel to indicate in every pleading that will be filed in court, the counsel's Mandatory Continuing Legal Education (MCLE) Compliance Number for the immediately preceding compliance period; (b) violation of the prohibition against forum shopping as there is another action pending between the same parties for the same cause; (c) lack of legal capacity to sue on the part of petitioner Millians Shoe, Inc. by reason of the revocation of its Articles of Incorporation by the Securities and Exchange Commission.⁵

In their Opposition/Comment to the Motion to Dismiss,⁶ petitioners alleged that Atty. Michelle D. Martinez (Atty. Martinez), their counsel, had no intention to derogate the rules. They admitted that their counsel had only complied with the MCLE requirement for the second compliance period, and that she has a two-hour deficiency for the third compliance period brought about by her occupied time in attending to client calls in various domestic destinations and trips to Australia to attend to important filial obligations. Hence, they prayed that the complaint should not be dismissed due to their counsel's excusable negligence and honest oversight. Petitioners further claimed that they are not guilty of forum shopping because the case pending before the appellate court is a corporate rehabilitation proceedings initiated by petitioner Millians Shoe, Inc., which is separate and distinct from the present action.⁷

On September 21, 2011, the RTC issued an order granting the motion to dismiss. It held:

A careful perusal of the records of the case shows that counsel for the plaintiff Atty. Michelle D. Martinez failed to comply with her third MCLE the deadline for the MCLE III compliance period was on April 14, 2010. The complaint was filed on March 17, 2011. Counsel for the plaintiffs knowingly ignored Bar Matter No. 1922 and still filed the instant complaint despite knowing that she has not yet comply [sic] with MCLE III. Counsel has more than a year to comply with the said rule but opted not to for the simple reason that she has to attend various client calls and her in and out trips to Australia. For Plaintiff's [sic] counsel's failure

⁴ Id. at 127-145.

⁵ Id. at 380-385.

⁶ Id. at 392-399.

⁷ Id.

*to comply with Bar Matter No. 1922 the instant case should be dismissed and expunge [sic] from the records. This Court will not delve on the issue of forum-shopping as the complaint should be dismissed outright.*⁸

Petitioners moved for reconsideration but the same was still denied by the RTC in an Order dated March 19, 2012.⁹

Not accepting defeat, petitioners appealed the matter before the CA.

In a Decision¹⁰ dated July 25, 2013, the CA found the appeal to be without merit and dismissed the same. It held that:

Bar Matter No. 1922, requires lawyers to indicate their MCLE Certificate of Compliance or Certificate of Exemption in all pleadings filed before the courts, thus:

• x x x x

In the present case, when the plaintiffs-appellants' counsel filed the complaint, she did not indicate her MCLE compliance for the immediately preceding compliance period, the third compliance period. She indicated her MCLE Certificate Number for the second compliance period. The complaint was filed on March 17, 2011 and the deadline for the completion of MCLE III was on April 14, 2010. More than a year has passed after the deadline and still the counsel did not comply. This is not a mere or simple inadvertence as claimed by the appellants.

Clearly, under Bar Matter No. 1922, the failure of a practicing lawyer to disclose the number and date of issue of his MCLE Certificate of Compliance or Certificate of Exemption in his pleadings in court "would cause the dismissal of the case and the expunction of the pleadings from the records." Thus, the trial court did not commit a reversible error in dismissing the complaint.

x x x x

In the case at hand, there is absolutely no compliance with Bar Matter No. 1922. While the appellants claim that there was a deficiency of two hours or two units, no proof was proffered.¹¹

The appellate court refused to apply liberality in the interpretation and application of the subject Bar Matter for failure of the counsel to give an adequate explanation for her failure to abide by the rule. Moreover, it ruled that appeal to the appellate court of the Orders of the RTC was not the proper remedy. Pursuant to Section 1(h) of Rule 41 of the Revised Rules of Court, no appeal may be taken from an order dismissing an action without prejudice. Instead of filing an appeal, petitioners should have refiled the

⁸ Id. at 41.

⁹ Supra note 3, at 415a.

¹⁰ Supra note 1.

¹¹ Id. at 42-43.

case, signed by a counsel who has complied with Bar Matter No. 1922.¹²

Petitioners moved for reconsideration, but the CA denied it in a Resolution¹³ dated June 9, 2014.

Undaunted, petitioners are now before this Court in the present Petition for Review on *Certiorari*, raising the following issues for this Court's consideration:

The Issues

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN DENYING THE MOTION FOR RECONSIDERATION AND DISMISSING THE PETITION NOTWITHSTANDING THE FACT THAT IT WAS CLEARLY SHOWN THAT THE PETITIONERS HAVE BEEN ABSOLUTELY DENIED THE CONSTITUTIONALLY GUARANTEED RIGHT TO DUE PROCESS.

II.

WHETHER OR NOT THE REGIONAL TRIAL COURT, BRANCH 263, OF MARIKINA CITY ERRED IN CONCLUDING THAT THE NEGLIGENCE AND MISTAKE OF COUNSEL BIND THE CLIENT.¹⁴

Arguments of the Parties

Petitioners contended that their counsel did not fail to disclose the information required under Bar Matter No. 1922 since she indicated in the pleadings she filed before the court her MCLE Certificate of Compliance number for the second compliance period. She has actually attended the MCLE lectures for the third compliance period and lacked only 2 units to be fully compliant thereto. Thus, the complaint should not have been dismissed and expunged from the records for the excusable negligence and/or honest oversight of Atty. Martinez.

They likewise averred that the negligence and mistake of their counsel should not prejudice them given the merits of their complaint. The court should have relaxed the rules in order not to cause injustice to the petitioners commensurate to the degree of their counsel's thoughtlessness in complying with the rules, and so as not to deprive them of their property right without due process of law. The strict application of the rules should be relaxed in the interest of substantial justice.¹⁵ Petitioners also claimed

¹² Id. at 43-44.

¹³ Supra note 2.

¹⁴ Id. at 17.

¹⁵ Id. at 11-31.

that they are not guilty of forum shopping since the actions for the nullification of foreclosure proceedings pending in Marikina City and Antipolo City do not involve the same properties.¹⁶

For these reasons, petitioners prayed that the ruling of the CA be reversed and the case be remanded to the RTC for a full blown trial.

For their part, respondents argued that the dismissal of petitioners' complaint was in accordance with Bar Matter No. 1922. Respondents contended that petitioners and their counsel are not at liberty to seek an exception to the clear mandate of Bar Matter No. 1922 by simply invoking jurisprudence on liberal construction given that petitioners' counsel did not only fail to indicate her MCLE Compliance Certificate Number for the immediately preceding compliance period, which is the third compliance period, she also unabashedly admitted to have failed to complete her MCLE requirements for the third compliance period which had already ended almost a year prior to the filing of the subject complaint. Worse, petitioners and their counsel did not even lift a finger to rectify their counsel's blatant non-compliance with the rules, but instead persisted in demanding that their counsel's non-compliance should just be excused as a mere inadvertence. Even after petitioners' attention had been called to the fact that the complaint did not comply with Bar Matter No. 1922, petitioners' counsel still proceeded to file a similarly defective Opposition/Comment, again without indicating her MCLE Compliance Certificate Number for the immediately preceding compliance period. The obstinate refusal of their counsel to comply with the MCLE requirements and Bar Matter No. 1922 make it all the more preposterous for petitioners to demand that said non-compliance be excused as a matter of course simply by making empty invocations of substantial justice.

Respondents also averred that the dismissal of the complaint did not violate petitioners' right to due process, considering that the dismissal was without prejudice; hence, the case could have just been refiled by a counsel who was duly compliant with Bar Matter No. 1922.

Lastly, respondents claimed that even assuming that the violation of Bar Matter No. 1922 is brushed aside, the petition should still be dismissed outright for violation of the proscription against forum shopping; for being accompanied by a false certification against forum shopping; and for failure to attach documents material for the proper resolution thereof.¹⁷

¹⁶ Id. at 470.

¹⁷ Id. at 81-123.

Ruling of the Court

Non-compliance with Bar Matter No. 1922 of petitioners' counsel correctly resulted to the dismissal of the complaint filed in court.

Bar Matter No. 1922¹⁸ requires lawyers to indicate in all the pleadings and motions they file before the courts, the number and date of their MCLE Certificate of Completion or Exemption. It provides:

Bar Matter No. 1922. – Re: Recommendation of the Mandatory Continuing Legal Education (MCLE) Board to Indicate in All Pleadings Filed with the Courts the Counsel's MCLE Certificate of Compliance or Certificate of Exemption. – The Court Resolved to **NOTE** the Letter, dated May 2, 2008, of Associate Justice Antonio Eduardo B. Nachura, Chairperson, Committee on Legal Education and Bar Matters, informing the Court of the diminishing interest of the members of the Bar in the MCLE requirement program.

The Court further Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to **REQUIRE** practicing members of the bar to **INDICATE** in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. **Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records.** (Emphasis in the original)

There is no dispute that when the subject complaint was filed before the RTC, petitioners' counsel failed to indicate the date and number of her MCLE Compliance Certificate for the immediately preceding period, which is the third compliance period in this case, as required by Bar Matter No. 1922.

The obligation to disclose the information required under Bar Matter No. 1922 is not a useless formality. The inclusion of information regarding compliance with (or exemption from) MCLE seeks to ensure that legal practice is reserved only for those who have complied with the recognized mechanism for “keep[ing] abreast with law and jurisprudence, maintain[ing] the ethics of the profession[,] and enhance[ing] the standards of the practice of law.”¹⁹

¹⁸ Re: Number and Date of MCLE Certificate of Completion/Exemption Required in All Pleadings/Motions, dated June 3, 2008.

¹⁹ *Intestate Estate of Jose Uy v. Maghari, III*, 768 Phil. 10, 25 (2015); *Malixi v. Baltazar*, G.R. No. 208224, November 22, 2017.

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Thus, the dismissal of petitioners' complaint for non-compliance therewith was proper.

Liberal application of the rule is not justified in this case

In a plethora of cases, this Court has consistently held that 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.²⁰ However, it must be stressed that the liberal application of the rules of procedure can be invoked only in proper cases and under justifiable causes and circumstances.²¹

The Court finds no compelling reason to relax the application of the subject rule to the case at bench. The counsel's busy schedule in attending to her clients' needs, as well as to her personal concerns, is not a sufficient justification to excuse the non-compliance with the subject rule. No evidence was also offered to show that petitioners' counsel made a conscious effort to at least substantially comply with what was required by Bar Matter No. 1922. While they claim that their counsel only lacked two units to be fully compliant with the MCLE requirement for the third compliance period, no evidence whatsoever was presented to prove the same. It must also be taken into account that in the undated Opposition/Comment (to the Motion to Dismiss) that petitioners filed before the RTC, Atty. Martinez stated that she only had to attend the May 2011 MCLE lecture in order to make up for her two-unit deficiency for the third compliance period. From the time the said Opposition/Comment was filed until the September 21, 2011 Order of the RTC which dismissed the complaint for non-compliance with the subject Bar Matter was issued, petitioners' counsel certainly had a longer period than the promised May 2011 date to comply with the MCLE requirement, but she still stubbornly refused to do so. Her obstinate refusal to comply with the rule should not be countenanced and should not be rewarded with the relaxation of the rule.

The Court is aware that Bar Matter No. 1922 has been amended by the Supreme Court *En Banc* in a Resolution dated January 14, 2014 by repealing the phrase "*Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records*" and replacing it with "*Failure to disclose the required information would subject the counsel to appropriate penalty and disciplinary action,*" such that under the amendatory resolution, the failure of counsel to indicate in the pleadings the number and date of issue of his or her MCLE Compliance

²⁰ *Spouses Salise v. Salcedo, Jr.*, 787 Phil. 586, 596 (2016); *Peñoso v. Dona*, 549 Phil. 39, 46 (2007); *Curammeng v. People*, 799 Phil. 575, 582 (2016); *Heirs of Amada Zaulda v. Zaulda*, 729 Phil. 639, 652 (2014).

²¹ *Land Bank of the Philippines v. CA*, 789 Phil. 577, 583 (2016).

Certificate will no longer result in the dismissal of the case and the expunction of the pleadings from the records, but will only subject the counsel to the prescribed fine and/or disciplinary action; and that in *Doble, Jr. v. ABB, Inc./Nitin Desai*,²² the Court applied the aforementioned *En Banc* Resolution even if the pleading prepared by the non-compliant counsel was filed before Bar Matter No. 1922 was amended, and thus refused to dismiss the case. In this case, however, the counsel complied, albeit belatedly, with the MCLE requirement and exerted honest effort to correct the procedural defect. Such is not obtaining in this case. Hence, there is no reason to apply the same liberality in this case.

Petitioners' right to due process had not been violated by the dismissal of the complaint

It must be stressed that the dismissal was brought about by their counsel's non-observance of Bar Matter No. 1922. Be that as it may, such dismissal did not prejudice petitioners' cause or rights because the same complaint may be re-filed with complete compliance of the rules as it had not been adjudicated on the merits. Moreover, such dismissal could not be considered a violation of due process as rights were never deprived or taken away from the petitioners.

Negligence of counsel binds petitioners

The doctrinal rule is that the negligence of counsel binds the client. Otherwise, there would be no end to a suit so long as a new counsel could be employed who would allege and show that the prior counsel had not been sufficiently diligent, experienced, or learned. "However, this rule admits certain exceptions, such as: (1) where reckless or gross negligence of counsel deprives the client of due process of law; (2) when its application will result in outright deprivation of the client's liberty or property; or (3) where the interests of justice so requires."²³ None of these exceptions obtain here. As discussed above, petitioners' right to due process was not violated because the dismissal was without prejudice and can be corrected by the re-filing of the complaint that complies with the prescribed rules. Since the court has not even taken cognizance of the case and has not yet ruled on the merits, petitioners could not be said to have been outrightly deprived of their property. The failure of the petitioners to advance meritorious reasons to support their plea of the relaxation of the subject rule will not suffice to override the stringent implementation of the rule on the bare invocation of the interest of substantial justice.²⁴

²² 810 Phil. 210 (2017).

²³ *Spouses Friend v. Union Bank of the Philippines*, 512 Phil 810, 815 (2005).

²⁴ *Asia United Bank v. Goodland Company, Inc.*, 650 Phil 174, 185 (2010).

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Appeal to the appellate court from the RTC's Orders of dismissal was not proper.

As aptly observed by the CA, petitioners availed of the wrong remedy when they appealed the Orders of the RTC which dismissed their complaint without prejudice. This is explicitly provided in Section 1, Rule 41 of the 1997 Revised Rules of Civil Procedure which states:

Sec. 1. Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

- (a) An order denying a motion for new trial or reconsideration;
- (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
- (c) An interlocutory order;
- (d) An order disallowing or dismissing an appeal;
- (e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;
- (f) An order of execution;
- (g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
- (h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

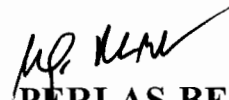
Since the dismissal of the action was without prejudice as petitioners are not precluded from refiling the same complaint, Section 1, Rule 41 of the Rules of Court is clear that the proper recourse is not an appeal, but to file the appropriate special civil action under Rule 65. Hence, the CA correctly dismissed the appeal for being the wrong remedy.

WHEREFORE, premises considered, the petition is **DENIED**. The assailed July 25, 2013 Decision and June 9, 2014 Resolution of the Court of Appeals in CA-G.R. CV No. 99062 are **AFFIRMED**.

SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Associate Justice
Acting Chairperson



FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

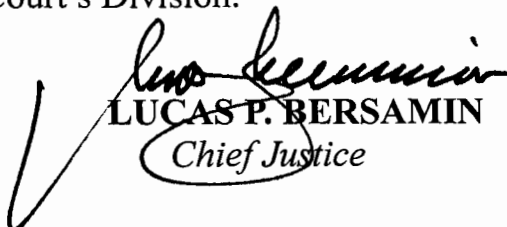
ATTESTATION

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
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.


LUCAS P. BERSAMIN
Chief Justice