

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
THIRD DIVISION**

**BA SAVINGS BANK,  
*Petitioner,***

***-versus-***

**G.R. No. 131214  
July 27, 2000**

**ROGER T. SIA, TACIANA U. SIA and  
JOHN DOE,**

***Respondents.***

X-----X

**DECISION**

**PANGANIBAN, J.:**

The certificate of non-forum shopping required by Supreme Court Circular 28-91 may be signed, for and on behalf of a corporation, by a specifically authorized lawyer who has personal knowledge of the facts required to be disclosed in such document. Unlike natural persons, corporations may perform physical actions only through properly delegated individuals; namely, its officers and/or agents.

## **The Case**

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the August 6, 1997 Resolution<sup>[1]</sup> of the Court of Appeals (CA) in CA-GR SP No. 43209.<sup>[2]</sup>

Also challenged by petitioner is the October 24, 1997 CA Resolution<sup>[3]</sup> denying its Motion for Reconsideration.

## **The Facts**

On August 6, 1997, the Court of Appeals issued a Resolution denying due course to a Petition for *Certiorari* filed by BA Savings Bank, on the ground that “the Certification on anti-forum shopping incorporated in the petition was signed not by the duly authorized representative of the petitioner, as required under Supreme Court Circular No. 28-91, but by its counsel, in contravention of said circular.”

A Motion for Reconsideration was subsequently filed by the petitioner, attached to which was a BA Savings Bank Corporate Secretary’s Certificate,<sup>[4]</sup> dated August 14, 1997. The Certificate that the petitioner’s Board of Directors approved a Resolution on May 21, 1996, authorizing the petitioner’s lawyers to represent it in any action or proceeding before any court, tribunal or agency; and to sign, execute and deliver the Certificate of Non-forum Shopping, among others.

On October 24, 1997, the Motion for Reconsideration was denied by the Court of Appeals on the ground that Supreme Court Revised Circular No. 28-91 “requires that it is the petitioner, not the counsel, who must certify under oath to all of the facts and undertakings required therein.”

Hence, this appeal.<sup>[5]</sup>

## **Issue**

In its Memorandum, petitioner submits the following issues for the consideration of the Court:

- “I Whether or not petitioner-corporation’s lawyers are authorized to execute and sign the certificate of non-forum shopping.
- “II Whether or not the certification of petitioner’s authorized lawyers will bind the corporation.
- “III Whether or not the certification by petitioner corporation’s lawyers is in compliance with the requirements on non-forum shopping.”<sup>[6]</sup>

Simply stated, the main issue is whether Supreme Court Revised Circular No. 28-91 allows a corporation to authorize its counsel to execute a certificate of non-forum shopping for and on its behalf.

### **The Court’s Ruling**

The Petition is meritorious.

#### ***Main Issue: Authority of Counsel***

A corporation, such as the petitioner, has no powers except those expressly conferred on it by the Corporation Code and those that are implied by or are incidental to its existence. In turn, a corporation exercises said powers through its board of directors and/or its duly authorized officers and agents. Physical acts, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate bylaws or by a specific act of the board of directors. “All acts within the powers of a corporation may be performed by agents of its selection; and, except so far as limitations or restrictions which may be imposed by special charter, by-law, or statutory provisions, the same general principles of law which govern the relation of agency for a natural person govern the officer or agent of a corporation, of whatever status or rank, in respect to his power to act for the corporation; and agents once appointed, or members acting in their stead, are subject to the same rules, liabilities and incapacities as are agents of individuals and private persons.”<sup>[7]</sup>

In the present case, the corporation’s board of directors issued a Resolution specifically authorizing its lawyers “to act as their agents

in any action or proceeding before the Supreme Court, the Court of Appeals, or any other tribunal or agency[;] and to sign, execute and deliver in connection therewith the necessary pleadings, motions, verification, affidavit of merit, certificate of non-forum shopping and other instruments necessary for such action and proceeding.” The Resolution was sufficient to vest such persons with the authority to bind the corporation and was specific enough as to the acts they were empowered to do.

In the case of natural persons, Circular 28-91 requires the parties themselves to sign the certificate of non-forum shopping. However, such requirement cannot be imposed on artificial persons, like corporations, for the simple reason that they cannot personally do the task themselves. As already stated, corporations act only through their officers and duly authorized agents. In fact, physical actions, like the signing and the delivery of documents, may be performed, on behalf of the corporate entity, only by specifically authorized individuals.

It is noteworthy that the Circular does not require corporate officers to sign the certificate. More important, there is no prohibition on against authorizing agents to do so.

In fact, not only was BA Savings Bank authorized to name an agent to sign the certificate; it also exercised its appointing authority reasonably well. For who else knows of the circumstances required in the Certificate but its own retained counsel. Its regular officers, like its board chairman and president, may not even know the details required therein.

Consistent with this rationale, the Court en banc in *Robern Development Corporation vs. Judge Jesus Quitain*<sup>[8]</sup> has allowed even an acting regional counsel of the National Power Corporation to sign, among; others, the certificate of non-forum shopping required by Circular 28-91. The Court held that the counsel was “in the best position to verify the truthfulness and the correctness of the allegations in the Complaint” and “to know and to certify if an action had already been filed and pending with the courts.”<sup>[9]</sup>

Circular 28-91 was prescribed by the Supreme Court to prohibit and penalize the evils of forum shopping. We see no circumvention of this rationale if the certificate was signed by the corporation's specifically authorized counsel, who had personal knowledge of the matters required in the Circular. In *Bernardo vs. NLRC*,<sup>[10]</sup> we explained that a literal interpretation of the Circular should be avoided, if doing so would subvert its very rationale. Said the Court:

“Indeed, while the requirement as to certificate of non-forum shopping is mandatory, nonetheless the requirements must not be interpreted too literally and thus defeat the objective of preventing the undesirable practice of forum-shopping.”

Finally, we stress that technical rules of procedure should be used to promote, not frustrate, justice.<sup>[11]</sup> While the swift unclogging of court dockets is a laudable objective, the granting of substantial justice is an even more urgent ideal.

**WHEREFORE**, the Petition is **GRANTED** and the appealed Resolution is **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the Court of Appeals, which is directed to continue the proceedings in CA-G.R. SP. No. 43209 with all deliberate speed. No costs.

**SO ORDERED.**

**Melo, Vitug, Purisima and Gonzaga-Reyes, JJ., concur.**

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[1] Penned by J. Quirino D. Abad Santos Jr., Division chairman; with the concurrence of JJ. Conchita Carpio Morales and B.A. Adefuin-dela Cruz, members.

[2] Rollo, p. 16. The text of the Resolution reads as follows:  
“It appearing that the Certification on anti-forum shopping incorporated in the petition was signed not by the duly authorized representative of the petitioner, as required under Supreme Court Circular No. 28-91, but by its counsel, in contravention of said circular, the instant petition for certiorari and mandamus with urgent prayer for issuance of a writ of preliminary injunction and/or temporary restraining order is hereby **DENIED DUE COURSE** and ordered **DISMISSED** pursuant to paragraph 2 of Supreme Court Circular No. 28-91.”

- [3] Rollo, pp. 18-19. The text of the Resolution reads as follows:  
“For resolution is the Motion for Reconsideration filed by petitioner to Our Resolution dated August 6, 1997, dismissing petitioner’s petition for certiorari and mandamus for failure to comply with Supreme Court Circular No. 28-91, it appearing that the Certification on anti-forum shopping incorporated in the petition was signed not by the duly, authorized representative of the petitioner, but by its counsel, in contravention of the requirement of said Circular.  
“In this motion for reconsideration, petitioner justifies said failure by claiming that counsel for petitioner was the duly authorized representative of the petitioner by virtue of a Resolution issued by the Board of Directors of the petitioner.  
“We deny the motion for reconsideration.  
“Supreme Court Revised Circular No. 28-91 is clear that:  
‘ . . . in every petition filed with the Supreme Court or the Court of Appeals, the petitioner, aside from complying with pertinent provisions of the Rules of Court and existing circulars, must certify under oath to all of the following facts or undertaking, . . . ’  
“Said Circular specifically requires that it is the petitioner, not the counsel, who must certify under oath to all of the facts and undertakings required therein. The rationale behind the requirement is that a counsel might not have personal knowledge of any and all matters relative to the historical background of the case, and therefore counsel would only be relying on what his client has told him, and thus the certification executed by the counsel would not bind the client.  
“WHEREFORE, foregoing considered, the Motion for Reconsideration is hereby DENIED.”
- [4] Annex ‘C,’ Petition; rollo, p. 20.
- [5] The case was deemed submitted for resolution on December 16, 1999, upon receipt by this Court of petitioner’s Memorandum, which was signed by Atty. Rainer H.T. Defante. Respondent’s 4-page Memorandum, signed by Atty. Rotelio U. Lumjod, had been filed earlier, on July 19, 1999.
- [6] Petitioner’s Memorandum, pp. 2-3; rollo, pp. 71-72.
- [7] Yao Ka Sin Trading vs. Court of Appeals, 209 SCRA 763, June 15, 1992, per Davide, Jr., J. (now CJ). See also Citibank, N.A. vs. Chua, 220 SCRA 75, March
- [8] GR No. 135042, September 23, 1999, per Panganiban, J.
- [9] Ibid., pp. 12-13.
- [10] 255 SCRA 108, 117, March 15, 1996, per Mendoza, J.
- [11] Cf. Cusi-Hernandez vs. Diaz, GR No. 140436, July 18, 2000.