SUPREME COURT
THIRD DIVISION

UNITED PULP AND PAPER CO., INC.,
***Petitioner*,**

-versus-

G.R. No. 141117
March 25, 2004

UNITED PULP AND PAPER CHAPTER-FEDERATION OF FREE WORKERS,
***Respondent*.**
x----------x

D E C I S I O N

SANDOVAL-GUTIERREZ, *J.*:

For our Resolution is the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Resolutions dated October 12, 1999[1] and December 10, 1999[2] of the Court of Appeals in CA-G.R. SP No. 55245, entitled "United Pulp and Paper Co., Inc. vs. United Pulp and Paper Chapter-Federation of Free Workers."

The antecedent facts giving rise to the controversy at bar are as follows:

Sometime in July 1991, United Pulp and Paper Co., Inc., petitioner, implemented a "Promotions Policy"[3] that recognizes the excellent

and meritorious work performance of deserving employees during the last twelve (12) months. The "Promotions Policy" sets forth the following guidelines:

"VI. ADMINISTRATIVE GUIDELINES

"1. Except in abnormal situations (subject to approval by the General Manager), promotions shall be made only if a vacancy in the next higher position occurs and Management has decided to fill-up such vacancy through approval of the Personnel Requisition form.

x x x

"9. In case of union employees, the promotional increase shall be 5% compounded for every pay class jump. However, the resulting effect of 5% promotional increase shall not cause the promoted employee's salary to exceed that of the lowest paid incumbent within first, the section, second, department, and third, division. If this constraint will result to a promotional increase of lower than 3% over his previous salary, the employee will receive an increase of 3%.

x x x."[4]

On April 1, 1998, Teodorico Simbulan was promoted from Welder I to Welder II with the corresponding pay class (PC) movement from PC V to PC VIII.

For and in behalf of Simbulan, United Pulp and Paper Chapter-Federation of Free Workers, respondent, questioned the regularity or correctness of the salary increase granted by petitioner. Invoking Section 1, Article XVII of the collective bargaining agreement (CBA),[5] respondent maintains that Simbulan is entitled to a 5% salary increase (for every pay class movement) because such salary increase does not exceed the salary rates of other incumbents. Respondent also contends that petitioner is guilty of discrimination against Simbulan since other employees, like Enrique Cruz and Joselito de Castro who were previously promoted, enjoy the 5% salary increase for their pay class movements.

The controversy was submitted to the grievance machinery, but the parties failed to reach an acceptable settlement.

Thus, the matter was elevated to a panel of Voluntary Arbitrators of the National Conciliation and Mediation Board (NCMB), Regional Branch No. III at San Fernando, Pampanga, docketed as NCMB-AC-583-RB3-10-024-98.

On July 1, 1999, the Voluntary Arbitrators rendered a Decision[6] partly reproduced as follows:

> "In light of all the foregoing, this Panel holds that the promotional increase in the case of union employees is 5% compounded for every pay class jump unless the effect of such increase will be such as to cause the promoted employee's salary to exceed that of the lowest paid incumbent in the same position as that to which the employee is being promoted, in which case the promotional increase shall be limited to not less than 3%.
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> "Consequently, in the case of the subject employee, Teodorico Simbulan, since there is no showing that, for the second and third jumps in his promotion on 1 April 1998, his salary would have exceeded that of the lowest paid incumbent in the pertinent position if granted a 5% promotional increase, he is entitled to a salary increase of 5%+5%+5%, compounded for each pay class, effective as of the said date.
>
> "WHEREFORE, respondent United Pulp and Paper Co., Inc. is hereby ordered to pay Teodorico Simbulan the difference between the promotional increase of 5%+5%+5%, compounded for each pay class, and the salary increase be actually received as a result of his promotion, effective as of 1 April 1998.
>
> "The respondent is also directed to continue implementing the promotions policy, in appropriate cases, in the manner stated in this Decision.
>
> "SO ORDERED."

Petitioner filed a motion for reconsideration but was denied by the Voluntary Arbitrators in a Resolution[7] dated September 3, 1999.

On October 6, 1999, petitioner filed with the Court of Appeals a petition for review under Rule 43 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision and Resolution of the Voluntary Arbitrators.

In a Resolution dated October 12, 1999, the Appellate Court dismissed the petition outright for being insufficient in form, thus:

> "1. The verification and certification of non-forum shopping was signed only by counsel for the petitioner corporation, rather than by a duly-authorized officer thereof;
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> "2. The affidavit of service is inadequate, as the registry receipts evidencing mailing of copies of the petition to the respondent were not attached;
>
> "3. Absence of the mandatory written explanation required under Sec. 11, Rule 13, 1997 Rules of Civil Procedure to explain why personal service upon the respondents of copies of the petition was not resorted to.
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> "The foregoing defects warrant an outright dismissal of the instant petition.
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> "IN VIEW THEREOF, the Petition is hereby DENIED DUE COURSE and DISMISSED.
>
> "SO ORDERED."

On October 29, 1999, petitioner filed a motion for reconsideration but was denied by the Appellate Court in a Resolution dated December 10, 1999.

Hence, this petition for review on certiorari alleging that the Court of Appeals seriously erred in dismissing its petition for review on mere technicalities.

We agree with the Court of Appeals. Section 5, Rule 7 of the same Rules[8] provides that it is the plaintiff or principal party who shall certify under oath in the complaint or other initiatory pleading that he has not commenced any action involving the same issues in any court, tribunal or quasi-judicial agency.

Here, only petitioner's counsel signed the certification against forum-shopping. There is no showing that he was authorized by the petitioner company to represent the latter and to sign the certification.

In Sy Chin vs. Court of Appeals,[9] we held that "the petition is flawed as the certificate of non-forum shopping was signed only by counsel and not by the party." The rule requires that it should be the plaintiff or principal party who should sign the certification, otherwise, this requirement would easily be circumvented by the signature of every counsel representing corporate parties.[10]

Moreover, petitioner's failure to attach with the petition a written explanation why the service or filing was not done personally violates Section 11, Rule 13 of the same Rules.[11] We have ruled that where no explanation is offered to justify the service of pleadings by other modes, the discretionary power of the court to expunge the pleading becomes mandatory.[12] Thus, the Court of Appeals correctly considered the petition as not having been filed, in view of petitioner's failure to present a written explanation why it failed to effect personal service of its petition for review.

In Kowloon House/Willy Ng vs. Hon. Court of Appeals,[13] we held that "rules of procedure exist for a purpose, and to disregard such rules in the guise of liberal construction would be to defeat such purpose. Procedural rules are not to be disdained as mere technicalities. They may not be ignored to suit the convenience of a party. Adjective law ensures the effective enforcement of substantive rights through the orderly and speedy administration of justice. Rules are not intended to hamper litigants or complicate litigation. But they help provide for a vital system of justice where suitors may be heard in the correct form and manner, at the prescribed time in a peaceful though adversarial confrontation before a judge whose

authority litigants acknowledge. Public order and our system of justice are well served by a conscientious observance of the rules of procedure, particularly by government officials and agencies."

WHEREFORE, the petition is **DENIED**. Costs against the petitioner.

SO ORDERED.

Corona, and Carpio-Morales, *JJ.*, concur.
Vitug, *J., (Chairman),* on official leave.

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[1] Annex "A", Petition for Review, Rollo at 51-52.
[2] Annex "B", id. at 57-58.
[3] Annex "C-1", id. at 91-99.
[4] Id. at 94-96.
[5] Section 1. Benefits and Practices. The terms and conditions of employment of employees within the above-defined bargaining unit shall be those as are embodied herein. Benefits and personnel practices not otherwise modified by this Agreement and which are being regularly enjoyed by the employees prior to the date of effectivity of this Agreement shall continue to be enjoyed by them.
[6] Annex "A", Petition for Review, Rollo at 146-154.
[7] Annex "B", id. at 161-165.
[8] Section 5. Certification against forum shopping. – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. x x x.
[9] G.R. No. 136233, November 23, 2000, 345 SCRA 673, 684.
[10] See Zulueta vs. Asia Brewery, G.R. No. 138137, March 8, 2001, 354 SCRA 100, 109.

[11] Section 11. Priorities in modes of service and filing. – Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.

[12] See Zulueta vs. Asia Brewery, Inc., supra, citing Solar Team Entertainment, Inc. vs. Ricafort, 293 SCRA 661 (1998).

[13] G.R. No. 140024, June 18, 2003 at 4-5 citing Favila vs. Second Division,, 308 SCRA 303 (1999) and CIR vs. CA, 351 SCRA 436 (2001).