

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**ALLAN M. LOYOLA,
*Petitioner,***

-versus-

**G.R. No. 117186
June 29, 1995**

**COURT OF APPEALS, THE HON.
JUDGE MARIA CARILLO ZALDIVAR,
in her capacity as the Presiding Judge
of the RTC, Kalibo Branch 6; THE HON.
JUDGE EDUARDO R. AVELINO, in his
capacity as the Presiding Judge of the
MCTC, Macato-Tangalan, and ANICETO
FERNANDEZ III,**

Respondents.

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DECISION

DAVIDE, JR., J.:

After the issues were joined with the filing of the comments on the petition, we resolved to decide this case on the merits in view of the novel issue presented, namely, whether the public respondent Court of Appeals committed a reversible error in dismissing the petitioner's petition for review and in upholding (a) the order of the 4th Municipal Circuit Trial Court (MCTC) of Macato-Tangalan, Aklan, of 30 May

1994 denying the petitioner's motion to dismiss Election Protest Case No. 94-02 based on a claim that it was not accompanied by a certification of non-forum shopping required in Administrative Circular No. 04-09 of this Court, and (b) the decision of Branch 6 of the Regional Trial Court (RTC) of Kalibo, Aklan, of 13 June 1994, denying the petitioner's petition for certiorari and mandamus to set aside the order of the MCTC.

It appears that in the barangay election of 9 May 1994, the petitioner was proclaimed on 10 May 1994 by the Barangay Board of Canvassers as the duly elected Punong Barangay of barangay Poblacion of the Municipality of Tangalan, Aklan.

On 18 May 1994, private respondent Aniceto Fernandez III, the defeated candidate for Punong Barangay, filed with the 4th MCTC of Macato-Tangalan an election protest against the petitioner which was docketed as Election Protest Case No. 94-02. On the same date, respondent Judge Eduardo R. Avelino of the said court issued an order directing the issuance of summons to the petitioner, directing the latter to answer the petition within five days from receipt thereof, and setting the hearings of the case for 25 May to 31 1994. The protest was not accompanied by a certification of non-forum shopping required under Administrative Circular No. 04-94 of this Court which took effect on 1 April 1994. However, the following day or on 19 May 1994, in compliance with the said circular, the private respondent submitted to the MCTC his certification of non-forum shopping.

On 25 May 1994, the petitioner filed a motion to dismiss the protest for the private respondent's failure to strictly comply with Administrative Circular No. 04-94. He claims that the filing of the certification on 19 May 1994 was merely the private respondents desperate attempt to cure the jurisdictional flaw of his petition.

On 30 May 1994, the MCTC issued an order denying the motion to dismiss and, in support of the denial, it reasoned thus:

The issues to be resolved are the following:

- “(a) Is Administrative Circular No. 09-94, a substantive Law or merely a procedural law that governs pleading, practice or procedure?
- (b) If it is a procedural law, it is strictly construed in accordance with its terminology or it may be given a literal interpretation to give effect to its spirit and purpose?
- (c) Is it applicable to election protest for barangay offices where public interests are involved?”

In pursuance to the provisions of the Constitution, the Supreme Court promulgated the Rules of Court as a uniform rule governing pleading, practice and procedure in all courts of the Philippines. In the exercise of said power and authority, the Supreme Court issued several amendatory rules, one of which is Administrative Circular No. 04-94. Being a procedural law, the requirements of said circular is not jurisdictional in character.

Rule 1, Sec. 2 of the Revised Rules of Court provides:

“These rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding.”

A perusal of the record shows that protestant Aniceto D. Fernandez, III submitted the required affidavit of Non-Forum Shopping on May 19, 1994, a day after the filing of his petition. Although the affidavit in question was not simultaneously filed with his petition, the Court considers the same as substantial compliance.

If we look into the spirit and purpose of Administrative Circular No. 04-94, it was apparently intended to curtail the pernicious practice of forum shopping, which was considered as one of the factors that caused backlog in the court dockets.

Obviously, a protestant in an election protest for barangay office cannot conduct forum shopping in any other courts because the Omnibus Election Code Confers the exclusive and original jurisdiction to try the same to the Municipal Trial Court.

Election contest involves public interest. It imposed upon the court the imperative duty to ascertain by all means within its command, the real candidate who was chosen by the electorate. It has been postulated as a fundamental principle in election cases, that technicalities or procedural barriers should not be allowed to stand if the same would tend to defeat, rather than promote, the interest of justice.

Rule 143 of the Revised Rules of Court states:

“These rules shall not apply to land registration, cadastral and election cases, naturalization and insolvency proceedings, and other cases, not herein provided for, except by analogy or in a suppletory character and whenever practicable and convenient.”

If the Court believes that the application of Administrative Circular No. 04-94 in its suppletory character is impracticable and inconvenient under the circumstances, the same may not be strictly applied to election cases.

By legislative fiat the trial of election cases shall be conducted in a summary manner without the cumbersome procedure prescribed for ordinary litigations in order that its results may be determined in the shortest time possible.

Contesting the denial of his motion to dismiss, the petitioner filed with Branch 6 of the RTC of Aklan a petition for certiorari and mandamus with damages and attorney's fees. The case was docketed as Special Civil Action No. 4828. He prayed therein that a temporary restraining order be issued enjoining respondent Judge Avelino from proceeding with the hearing, revision, and recount in the election protest case. He also prayed that, after hearing, Judge Avelino be directed to dismiss the election protest and that the private respondent be ordered to pay to the petitioner actual damages, attorney's fees, and litigation expenses.

In a decision rendered on 13 June 1994, the RTC of Aklan, per Judge Maria Carillo Zaldivar, denied the petition for lack of merit.

Regarding the submission of the certification of non-forum shopping a day after the filing of the protest, it held that “amendments and/or supplements to a complaint is a matter of right before the Answer is filed.”

It further ruled that Administrative Circular No. 04-94 does not apply to election cases which are covered by a special law; in any event, the circular is supplementary to the Rules of Court, and Section 2, Rule 1 of the latter provides that the rules shall be liberally construed in order to promote their object and to assist the parties in obtaining a just, speedy, and inexpensive determination of every action and proceeding.

Finally, it opined that since the MCTC in this case is a single sala court, the private respondent cannot go elsewhere but to such court; besides, Administrative Circular No. 04-94 is a formal procedural requirement which could be cured before the actual trial is conducted and that since the certification of non-forum shopping was filed within a reasonable time before the petitioner filed his answer, the Circular was substantially complied with.

His motion to reconsider the decision having been denied by the RTC, the petitioner filed with the Court of Appeals a petition for review, docketed as CA-G. R. SP No. 34695, to set aside the denial order of the MCTC and the decision of the RTC.

In its decision of 22 August 1994, the Court of Appeals dismissed the petition because no error was committed by the MCTC and the RTC. It agreed with the said courts that there was substantial compliance with Administrative Circular No. 04-94. It further stated:

Moreover, while We believe that the Non-Forum Certification is essential under the circular, same is not jurisdictional but only a formal requirement, non-compliance therewith shall cause the dismissal of the action. It is also mandatory but at the same time curable, especially so when timely or seasonably complied with.

Failing in his bid to obtain a reconsideration of the decision, the petitioner instituted the instant petition for review.

The core issues for our determination are (1) whether Administrative Circular No. 04-94 is mandatory and jurisdictional; and (2) whether it is applicable in election cases.

I.

By the clear language of the second sanction imposed by Administrative Circular No. 04-94, to wit:

2. Any violation of this Circular shall be a cause for the dismissal of the Complaint, petition, application or other initiatory pleading, upon motion and after hearing. However any clearly wilful and deliberate forum shopping by any party and his counsel through the filing of multiple complaints or other initiatory pleadings to obtain favorable action shall be a ground for summary dismissal thereof and shall constitute direct contempt of court. Furthermore, the submission of a false certification or non-compliance with the undertaking therein, as provided in Paragraph 1 hereof, shall constitute indirect contempt of court, without prejudice to disciplinary proceedings against the counsel and the filing of a criminal action against the guilty party.

it is evident that the Circular is mandatory.

It is not, however, jurisdictional. jurisdiction over the subject or nature of the action is conferred by law.^[1] Otherwise stated, there is lack of jurisdiction over the nature of the action where the type of action is reposed by law in certain other courts.^[2]

Substantial compliance with the Circular is sufficient. This Circular expanded or broadened the applicability of Circular No. 28-91 of this Court.^[3] In *Gabionza vs. Court of Appeals*,^[4] this Court held that substantial compliance therewith is sufficient for:

It is scarcely necessary to add that Circular No. 28-91 must be so interpreted and applied as to achieve the purposes projected by the Supreme Court when it promulgated that Circular. Circular No. 28-91 was designed to serve as an instrument to promote and facilitate the orderly administration of justice and

should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective or the goal of all rules of procedure — which is to achieve substantial justice as expeditiously as possible.

In this case, it is a fact that the certification of non-forum shopping was filed by the private respondent on 19 May 1994, a day after he filed his election protest. Since the proclamation of the results of the election was made by the barangay board of canvassers on 10 May 1994, the private respondent, pursuant to Section 9 of R.A. 6679,^[5] had ten days therefrom until 20 May 1994 within which to file an election protest. The filing of the certification was therefore still within the period for filing an election protest. Accordingly, although the certification was not filed simultaneously with the initiatory pleading, its filing within the reglementary period was a substantial compliance with Administrative Circular No. 04-94.

The fact that the Circular requires that it be strictly complied with merely underscores its mandatory nature in that it cannot be dispensed with or its requirements altogether disregarded, but it does not thereby interdict substantial compliance with its provisions under justifiable circumstances.

II.

We do not agree with the MCTC that Administrative Circular No. 04-94 is not applicable to election cases because it is merely amendatory of the Rules of Court and the latter, pursuant to Rule 143 thereof, is not applicable to election cases. There is nothing in the Circular that indicates that it does not apply to election cases. On the contrary, it expressly provides that the requirements therein, which are in addition to those in pertinent provisions of the Rules of Court and existing circulars, “shall be strictly complied with in the filing of complainants, petitions, applications or other initiatory pleadings in all courts and agencies other than the Supreme Court and the Court of Appeals.” *Ubi lex non distinguit, nec nos distinguere debemus.*

Nor are we persuaded by its ruling that considering that the MCTC has after all the original and exclusive jurisdiction over the election protest, the certification was unnecessary since the private

respondent could not have filed the case anywhere else. The argument fails to consider the possibility of a party availing, rightly or wrongly, of other legal remedies; or of filing the same election protest in more than one MTC, despite the erroneous venues; or of even being unaware of the original exclusive jurisdiction of the MTC over such protests and filing one of the protests in the RTC by mistake.

WHEREFORE, the instant petition is **DENIED** and the Municipal Circuit Trial Court of Macato-Tangalan, Aklan, is directed to proceed with dispatch in the hearing and resolution of Election Protest Case No. 94-02. This decision is immediately executory.

Cost against the petitioner.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Romero, Bellosillo, Melo, Quiason, Puno, Vitug Kapunan, Mendoza and Francisco, JJ., concur.

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- [1] MANUEL V. MORAN, Comments on the Rules of Court, vol. I, 1979 ed., 480; VICENTE J. FRANCISCO, The Revised Rules of Court in the Philippines, vol. I, 1973 ed., 884.
- [2] FLORENZ D. REGALADO, Remedial Law Compendium, vol. I Fifth Revised Ed., 1988, 152.
- [3] Additional Requisites for Petitions filed with the Supreme Court and the Court of Appeals to Prevent Forum Shopping or Multiple Filing of Petitions and Complaints.
- [4] G. R. No. 112547, Resolution of 18 July 1994, 234 SCRA 192.
- [5] An act to Amend Republic Act No. 6653 to Postpone Barangay elections to March 28, 1989, Prescribing Additional Rules Governing the conduct of Barangay Election and for Other Purposes.