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THIRD DIVISION

[G.R. No. 175020. October 4, 2007]

RURAL BANKERS ASSOCIATION OF THE PHILIPPINES, represented herein by FRANCIS S. GANZON and WILLIAM K. HOTCHKISS III, *petitioners, vs.* **MA. ROSARIO TANGHAL-SALVAÑA,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; PARTIES TO CIVIL ACTIONS; REAL PARTY IN INTEREST; CIVIL ACTIONS MAY BE BROUGHT TO COURT ONLY BY A REAL PARTY IN INTEREST; EXPLAINED.— Basic is the rule in remedial law that civil actions may be brought to court only by a real party in interest, as identified in Rule 3, Section 2 of the Rules of Court, which reads: "**SEC. 2**. *Parties in interest.* — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest." This Court in *Oco v. Limbaring*, expounded on the said provision as follows: "As applied to the present case, this provision has two requirements: 1) to institute an action, the plaintiff must be the real party in interest; and 2) the action must be prosecuted in the name of the real party in interest. Necessarily, the purposes of this provision are 1) to prevent the prosecution of actions by persons without any right, title or interest in the case; 2) to require that the actual party entitled to legal relief be the one to prosecute the action; 3) to avoid a multiplicity of suits; and 4) to discourage litigation and keep it within certain bounds, pursuant to sound public policy. Interest within the meaning of the Rules means material interest or an interest in issue to be affected by the decree or judgment of the case, as distinguished from mere curiosity about the question involved. One having no material interest to protect cannot invoke the jurisdiction of the court as the plaintiff in an action. When the plaintiff is not the real party in interest, the case is dismissible on the ground of lack of cause of action."

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2. ID.; ID.; ID.; ID.; DEFINED.— In *Shipside Incorporated v. Court of Appeals*, this Court stated that to qualify a person to be a real party in interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to enforced. A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. And by real interest is meant a present substantial interest, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest. The requirement that the party instituting a civil case must be a real party in interest must consequently extend to a party filing an appeal of a civil case to the higher courts.

3. ID.; ID.; PLEADINGS; CERTIFICATE OF NON-FORUM SHOPPING; THE REQUIREMENT TO FILE A CERTIFICATE OF NON-FORUM SHOPPING IS MANDATORY, AND FAILURE TO COMPLY THEREWITH CANNOT BE EXCUSED.— The requirement to file a certificate of non-forum shopping is mandatory, and failure to comply therewith cannot be excused. The certification is a peculiar and personal responsibility of the party, an assurance given to the court or other tribunal that there are no other pending cases involving basically the same parties, issues and causes of action. Hence, the certification must be accomplished by the party himself because he has actual knowledge of whether or not he has initiated similar actions or proceedings in different courts or tribunals.

4. ID.; ID.; ID.; ID.; GUIDELINES FOR COMPLIANCE WITH THE REQUIRED CERTIFICATE OF NON-FORUM SHOPPING IN CASES WHERE THE PETITIONER IS A CORPORATION AND/OR THERE ARE SEVERAL PETITIONERS.— In *Fuentebella v. Castro*, this Court laid down additional guidelines for compliance with the required certificate of non-forum shopping, particularly, in cases where the petitioner is a corporation and/or there are several petitioners, to wit — "This requirement is intended to apply to both natural and juridical persons as Supreme Court Circular No. 28-91 and Section 5, Rule 7 of the Rules of Court do not make a distinction between natural and juridical persons. Where the petitioner is a corporation, the certification against forum shopping should be signed by its duly authorized director or representative. This was enunciated in *Eslaban, Jr. v. Vda. de*

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Onorio, where the Court held that if the real party-in-interest is a corporate body, an officer of the corporation can sign the certification against forum shopping so long as he has been duly authorized by a resolution of its board of directors. Likewise, where there are several petitioners, it is insufficient that only one of them executes the certification, absent a showing that he was so authorized by the others. That certification requires personal knowledge and it cannot be presumed that the signatory knew that his co-petitioners had the same or similar actions filed or pending. Hence, a certification which had been signed without the proper authorization is defective and constitutes a valid cause for the dismissal of the petition. This holds true in the present case where the Court of Appeals accordingly dismissed the petition for lack of proper authorization of the one signing it on behalf of petitioners. Lourdes Pomperada, the Administrative Manager of petitioner corporation, who signed the verification and certificate on non-forum shopping, initially failed to submit a secretary's certificate or a board resolution confirming her authority to sign for the corporation, and a special power of attorney to sign on behalf of co-petitioner Art Fuentebella, who was sued jointly and solidarily with the corporation in his capacity as officer of the latter."

5. ID.; PROCEDURAL RULES; THE LIBERALITY IN THE INTERPRETATION AND APPLICATION OF THE RULES APPLIES ONLY IN PROPER CASES AND UNDER JUSTIFIABLE CAUSES AND CIRCUMSTANCES.— Obedience to the requirements of procedural rules is needed if the parties are to expect fair results therefrom, and utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction. Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.

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APPEARANCES OF COUNSEL

Tabalingcos & Associates Law Office for petitioners.
Pacito M. Pineda, Jr. & Dennis C. Espejo for respondent.

R E S O L U T I O N

CHICO-NAZARIO, *J.*:

Assailed before this Court, in a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, are the Resolutions, dated 15 August 2006 and 13 October 2006, of the Court of Appeals in CA-G.R. SP No. 95516, which granted, respectively, herein respondent Ma. Rosario Tanghal-Salvaña's (Salvaña) prayer for the Issuance of a Temporary Restraining Order (TRO) and preliminary injunction.

The present Petition stems from a dispute involving the election of the members of the Board of Directors of petitioner Rural Bankers Association of the Philippines (RBAP).

RBAP is a non-stock, non-profit organization composed of rural bankers throughout the Philippines. Its Board of Directors is composed of 15 members elected annually based on regional representations of rural bankers from all over the country. The newly constituted Board of Directors, in turn, will elect from among its members the officers of RBAP.

The annual election of members of the RBAP Board of Directors is administered and supervised by an Electoral Board composed of five members. In 2005, the members of the Electoral Board were Paz Radaza, Jaime Narvaez, Randolf Ritch, Huberto Rebong, and Aurora Santos. In the first quarter of 2006, Huberto Rebong and Aurora Santos resigned, while the term of Randolf Ritch expired. Considering the election of the Board of Directors scheduled on 18 May 2006, petitioner William Hotchkiss III (Hotchkiss), then RBAP President, appointed the following as Interim Members of the Electoral Board: Leticia Laguinario and Odilon Bautista, appointed on 5 April 2006; and Edwin Fojas, appointed on 21 April 2006.

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RBAP members who were interested to run in the 2006 election then filed their respective Certificates of Candidacy. After evaluation of the Certificates of Candidacy, the Electoral Board requested the two members interested to run for the position of RBAP Director for Region XII, namely, respondent Salvaña and Charles D. Tan (Tan), to submit Position Papers to justify why they were qualified to run as such. Respondent Salvaña and Tan submitted their respective Position Papers. On 18 May 2006, the day of the election, the Electoral Board announced the list of candidates for Director for the 2006-2007 Board. The Electoral Board named Tan as the only qualified candidate for RBAP Director for Region XII considering that he was endorsed by the Federation of Caraga. According to the Electoral Board, there is an existing arrangement between the federations of rural bankers of Central Mindanao and Caraga, wherein they agreed to alternately endorse candidates to run for and occupy the position of Director for Region XII, and it was now the turn of Caraga to endorse its candidate in the person of Tan.

The election proceeded on 18 May 2006, and the candidates in the list announced by the Electoral Board were elected as members of the Board of Directors of RBAP for 2006-2007. The new Board of Directors then held a special meeting to elect the RBAP officers for 2006-2007, and petitioner Francis S. Ganzon (Ganzon) was thus elected RBAP President for 2006-2007.

The foregoing incidents prompted respondent Salvaña to file a Complaint with the Regional Trial Court (RTC), Branch 46, of Manila, for Intra-Corporate Dispute, Injunction with Prayer for Preliminary Injunction, and Damages, docketed as Civil Case No. 06-115260. Respondent Salvaña alleged in her Complaint that the appointment by petitioner Hotchkiss of Interim Members to the Electoral Board was in violation of the RBAP Election Code, which provides that only the RBAP Board of Directors can fill the vacancies in the Electoral Board. She also averred that she was the only qualified candidate to run for RBAP Director for Region XII since she was a board member of the Rural Bank of Cotabato City, Inc. and endorsed by the First Central Mindanao Federation of Rural Banks. The Electoral

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Board blatantly disregarded the By-Laws and Election Code of the RBAP when it chose to uphold the candidacy of Tan when the latter is clearly disqualified to run for RBAP Director for Region XII when; (1) Tan's Certificate of Candidacy showed that he was representing Region X; (2) Tan was a board director of the Rural Bank of Tagub City, Inc., a rural bank which is not a member of any rural bank federation in Region XII, but rather, a member of the Federation of Northwestern Mindanao in Region X; (3) Neither is the Rural Bank of Tagub City, Inc., of which Tan is a board director, a member of the Federation of Caraga, consequently, the latter cannot endorse Tan to run for RBAP Director for Region XII; and (4) The purported arrangement between the federations of Central Mindanao and Caraga to alternately field their candidates to run for and occupy the position of RBAP Director for Regional XII is but an unwritten internal arrangement from which the First Central Mindanao Federation of Rural Bankers already withdrew.

In support of her prayer for preliminary injunction, respondent Salvaña further made the following allegations:

> 3.48. [Herein respondent Salvaña] is entitled to the relief of preliminary injunction enjoining the "newly-elected" Board of Directors and officers of RBAP from taking their oath of office, from assuming the same, and from performing any and all acts in connection with or in relation to the position of director or officer of RBAP.
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> 3.49. When the improperly constituted Electoral Board nullified her candidacy with manifest partiality and unfairness, she was deprived of her indubitable right to be elected director of RBAP representing Region XII. Such disqualification worked (sic) grave injustice to her.
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> 3.50. Furthermore, to allow Charles D. Tan to assume the directorship in the RBAP representing Region XII, despite his obvious ineligibility to be elected in such position, is another patent violation of [respondent Salvaña]'s right to be elected and to assume the directorship. It is also a violation of the right of the rural bankers in Region XII to have a qualified director of their own to represent them in the board of RBAP. It is also a violation of the right of RBAP as an institution to have a qualified director to direct and manage its affairs.

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3.51. Great and irreparable injury will likewise be caused to RBAP if the improperly elected Board of Directors and officers will be allowed to direct and manage the affairs of RBAP. All their subsequent actions will be put into doubt and subject to attack on the ground of nullity, if the issue of their qualification and valid election will not be immediately resolved.

3.52. Thus, unless a writ of preliminary injunction is issued, the taking of oath of office by the Board of Directors and officers of RBAP, and subsequent assumption of office, and the performance of any and all in connection with or in relation to the position as director or officer of RBAP will surely work injustice not only to the [respondent Salvaña], but also to the rural bankers of Region XII and to the RBAP as an institution.

3.53. There is urgency in the issuance of the writ of preliminary injunction being prayed for as the oathtaking of the newly-elected Board of Directors and officers is set on 30 June 2006, and they will assume their office thereafter. Such acts will greatly prejudice the [respondent Salvaña], the rural bankers of Region XII, and the RBAP, and will render the relief being prayed for in this complaint ineffectual.

3.54. [Respondent Salvaña] hereby offers a bond in such amount as the Honorable Court may deem proper to indemnify the defendants for any damage that they may suffer if it may be found out later that the issuance of the writ is not warranted.[1]

In connection with her foregoing application for the issuance of a writ of preliminary injunction, respondent Salvaña prayed that the RTC, immediately upon receipt of her Complaint, hold hearing for the purpose of issuing a writ of preliminary injunction to enjoin the newly-elected RBAP Board of Directors and officers from assuming their office, from taking their oath of office, and from performing any and all acts in connection with or in relation to the position of RBAP director or officer.

Respondent Salvaña subsequently filed with the RTC a Verified Motion/Application for the Issuance of Temporary Restraining Order essentially reiterating the allegations and arguments in

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[1] *Rollo*, pp. 113-115.

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support of her application for the issuance of a writ of preliminary injunction.

Petitioner Hotchkiss, by special appearance, filed with the RTC a Motion to Dismiss the Complaint in Civil Case No. 06-115260 based on the following grounds: (1) The RTC has no jurisdiction over the persons of the defendants, named as the Board of Directors of RBAP (Fiscal Year 2006-2007), Officers of RBAP (Fiscal Year 2006-2007), Electoral Board of RBAP, and petitioner Hotchkiss, since they have yet to receive proper summons individually; (2) Respondent Salvaña failed to exhaust the remedies and to comply with the reglementary periods as provided in the Interim Rules of Procedure Governing Intra-Corporate Controversies Under Republic Act No. 8799 and the RBAP Election Code; and (3) Respondent Salvaña's Complaint is merely intended to harass the defendants and impede the operations of RBAP to its detriment.

In its Order, dated 29 June 2006, the RTC issued a TRO effective for 20 days.[2] After several hearings on respondent Salvaña's application for issuance of a writ of preliminary injunction, the RTC issued another Order, dated 21 July 2006,[3] denying the writ since respondent Salvaña miserably failed to convince the trial court that she was entitled to the same.

Aggrieved, respondent Salvaña filed with the Court of Appeals a Petition for *Certiorari* under Rule 65 of the Rules of Court, docketed as CA-G.R. SP No. 95516, asserting that the RTC acted with patent and grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its Order, dated 21 July 2006, denying her application for issuance of a writ of preliminary injunction. The Court of Appeals, in a Resolution, dated 15 August 2006,[4] issued a TRO in this wise:

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[2] As alleged in petitioners' Petition for Review (*Rollo*, p. 17), but no copy thereof was submitted to this Court.

[3] Penned by Presiding Judge Aida E. Layug, *id*. at 73-86.

[4] Penned by Associate Justice Marina L. Buzon with Associate Justices Regalado F. Maambong and Lucenito N. Tagle, concurring; *id*. at 57-58.

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In order not to render the petition moot and academic and to preserve the rights of [herein respondent Salvaña], let a temporary restraining order issue, upon the filing by [respondent Salvaña] of a bond in the amount of ₱50,000.00 to answer for damages which [Board of Directors of RBAP, *et al.*] may sustain by reason thereof, enjoining [Board of Directors of RBAP, *et al.*] from holding their induction on August 18, 2006 and from further performing acts and functions in relation to their office.

[Board of Directors of RBAP, *et al.*] are directed to show cause, within ten (10) days from notice, why the injunction should not be granted.[5]

Petitioners Hotchkiss and Ganzon filed with the Court of Appeals an Urgent Motion (for Reconsideration and to Lift and/or Dissolve Temporary Restraining Order). The Court of Appeals, in a Resolution, dated 13 October 2006,[6] denied their motion for reconsideration and resolved to issue the writ of preliminary injunction, reasoning thus:

The purpose of a preliminary injunction is to prevent threatened or continuous irremediable injury to some of the parties before their claims can be thoroughly studied and adjudicated. Its sole aim is to preserve the *status quo* until the merits of the case can be heard fully. (*Medina vs. Greenfield Development Corporation*, 443 SCRA 150, 159). Thus, to give this Court sufficient time to thoroughly study the arguments of the parties regarding the validity of the appointments of three (3) members of the Electoral Board of RBAP made by Hotchkiss III and the disqualification of petitioner to run as Director of Region XII, the *status quo* should be preserved.

WHEREFORE, let a writ of preliminary injunction issue, under the same bond of ₱50,000.00, enjoining [Board of Directors of RBAP, *et al.*] from holding their induction as officers and members of the Board of Directors of RBAP and from performing acts and functions in relation to their office.[7]

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[5] *Id.* at 58.

[6] *Id.* at 62-65.

[7] *Id.* at 64-65.

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Hence, the present Petition was filed on 30 October 2006 in the name of petitioners RBAP, Hotchkiss, and Ganzon, raising the following issues:

I

Whether the Respondent has a right to be protected by law and the Petitioners have violated such right.

II

Whether the Respondent will suffer grave and irreparable injury.

III

Whether Petitioner Hotchkiss III illegally appointed members of the Electoral Board.

IV

Whether the action of the Respondent to question the appointment of the Electoral Board and election of the Members of the Board of Directors has expired.[8]

They seek the following reliefs from this Court:

WHEREFORE, premises considered, it is hereby most respectfully prayed unto this Honorable Supreme Court that the instant Petition for Review be given due course and credence and thereafter a Resolution BE ADOPTED:

1. By setting aside and nullifying the assailed Resolution of the Honorable Court of Appeals dated August 15, 2006 and the Resolution dated October 13, 2006;

2. By rendering a new decision denying the Prayer for Injunction by the Respondent.

Other reliefs just and equitable under the premises are likewise prayed for.[9]

Petitioners subsequently filed on 10 November 2006, an Urgent Motion in which they again prayed that their Petition for the

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[8] *Id.* at 20.

[9] *Id.* at 48.

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lifting of the injunction be resolved, and should this not be possible, then the members of the RBAP Board of Directors for 2006-2007, be authorized to call for a general assembly meeting for the purpose of determining whether the corporate life of the RBAP shall be extended or not.

Respondent Salvaña in her Manifestation and Motion, filed on 10 January 2007, a Comment and Motion (On Petitioners' *Urgent Motion* dated 10 November 2006), filed on 12 January 2007, argues that petitioners Hotchkiss and Ganzon have no authority to represent RBAP since petitioner Hotchkiss is not a member of the current Board of Directors of RBAP, while petitioner Ganzon is enjoined from performing his functions as director and officer of RBAP pursuant to the writ of preliminary injunction issued by the Court of Appeals in CA-G.R. SP No. 95516. The Secretary's Certificate stating that the RBAP Board of Directors held a special meeting on 17 October 2006, in which, petitioners Hotchkiss and Ganzon were appointed and constituted as Attorneys-in-Fact of the corporation is a falsity. The said Secretary's Certificate, dated 27 October 2006, was executed by Atty. Bede S. Tabalingcos, as the Acting Corporate Secretary of RBAP, from which arises questions as to whether there was basis for the appointment of Atty. Tabalingco as Acting Corporate Secretary when the RBAP has an existing Corporate Secretary in the person of Huberto Rebong, and whether his appointment by the enjoined Board of Directors was valid. Moreover, there can be no special meeting of the Board of Directors on 17 October 2006, since there is a standing preliminary injunction against the said Board enjoining the members thereof from performing their functions and duties, and no notice of such meeting was sent to the members of the Board at least one day prior thereto as required by Section 53 of the Corporation Code. Assuming for the sake of argument that there was, indeed, a special board meeting that took place on 17 October 2006, the same was done in violation of the writ of preliminary injunction issued by the Court of Appeals, and it is still not a valid reason to misrepresent before this Court that petitioners Hotchkiss and Ganzon were duly authorized to file the instant Petition. For these reasons, respondent Salvaña

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seeks the denial of the Petition at bar as its filing was not authorized by the RBAP.

In another Urgent Motion, filed on 29 January 2007, petitioners aver that because of the preliminary injunction issued by the Court of Appeals in CA-G.R. SP No. 95516 against the Board of Directors of RBAP, the association has encountered difficulties in the conduct of its ordinary course of business. Thus, they pray that the officers and members of the Board of Directors of RBAP be allowed to temporarily discharge their duties and functions as such for the last quarter or remaining months of February to May 2007 of their terms of office before the election of the new board members and officers for the fiscal year 2007-2008.

On the same day, 29 January 2007, respondent Salvaña filed with this Court a Manifestation and Motion contending that petitioners' Urgent Motion, dated 10 November 2006, had become moot and academic in light of the fact that the petitioners, without waiting for the resolution of their motion, already proceeded with the RBAP special general membership meeting and national management conference on 28-29 November 2006, for the purpose of extending the corporate life of RBAP. She then requests from this Court that the period within which she is to file her comment and/or opposition to the present Petition be suspended pending resolution of her Manifestation and Motion, filed on 8 January 2007, wherein she seeks the denial of the Petition due to the lack of authority of petitioners Hotchkiss and Ganzon to file the same on behalf of RBAP. The request was granted by this Court in a Resolution, dated 26 February 2007.

Petitioners next filed on 11 April 2007, a Comment (On the Manifestation and Motion of the Respondent) With Urgent Motion (to Resolve the Lifting of the Injunction). In their Comment, petitioners explain that they did not commit a violation of the preliminary injunction issued by the Court of Appeals in CA-G.R. SP No. 95516, because the purpose of the special meeting held on 17 October 2006, was merely to agree on the filing of the present Petition with this Court and in view of the urgency in filing the said Petition, Atty. Tabalingco was appointed by

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petitioner Ganzon as Acting Corporate Secretary to record the minutes of the meeting. They likewise pointed out that it has almost been a year since the RBAP Board of Directors was elected and, yet, it has not functioned and no disbursement has been made for the payment of rentals, electricity, and employees' salaries. Thus, they beg this Court to immediately resolve the issue of injunction.

In her latest pleading, filed on 16 May 2007, respondent Salvaña comments on petitioners' allegation that without a Board of Directors, the RBAP has been encountering difficulties in the conduct of its regular business. She points out that when the petitioners opposed her motion for the appointment of a management committee, filed before the Court of Appeals in CA-G.R. SP No. 95516, petitioners themselves asserted that there is no paralysis of the business operations of RBAP and no current service of the RBAP has been denied to the member banks by virtue of the temporary closure of the RBAP office. Respondent Salvaña further informs this Court that the past five Presidents of the RBAP have already filed before the Securities and Exchange Commission a Petition, supported by various rural bank federations and confederations, for the conduct of the RBAP annual general membership meeting or convention in order to elect a new set of directors and officers.

At the onset, it must be made clear that this Court has yet to determine whether the petition at bar should be granted because it must resolve, preliminarily, the issue raised by respondent Salvaña as to whether the petition should be denied for lack of authority of petitioners Hotchkiss and Ganzon to file the same on behalf of RBAP. An affirmative answer to the latter would render unnecessary the determination of the former.

Basic is the rule in remedial law that civil actions may be brought to court only by a real party in interest, as identified in Rule 3, Section 2 of the Rules of Court, which reads:

SEC. 2. *Parties in interest.* — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise

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authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

This Court in *Oco v. Limbaring*,[10] expounded on the said provision as follows:

> As applied to the present case, this provision has two requirements: 1) to institute an action, the plaintiff must be the real party in interest; and 2) the action must be prosecuted in the name of the real party in interest. Necessarily, the purposes of this provision are 1) to prevent the prosecution of actions by persons without any right, title or interest in the case; 2) to require that the actual party entitled to legal relief be the one to prosecute the action; 3) to avoid a multiplicity of suits; and 4) to discourage litigation and keep it within certain bounds, pursuant to sound public policy.
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> Interest within the meaning of the Rules means material interest or an interest in issue to be affected by the decree or judgment of the case, as distinguished from mere curiosity about the question involved. One having no material interest to protect cannot invoke the jurisdiction of the court as the plaintiff in an action. When the plaintiff is not the real party in interest, the case is dismissible on the ground of lack of cause of action.

In *Shipside Incorporated v. Court of Appeals*,[11] this Court stated that to qualify a person to be a real party in interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to enforced. A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. And by real interest is meant a present substantial interest, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest.

The requirement that the party instituting a civil case must be a real party in interest must consequently extend to a party filing an appeal of a civil case to the higher courts. Guided by the foregoing procedural rule and jurisprudence, this Court now

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[10] G.R. No. 161298, 31 January 2006, 481 SCRA 348, 358.

[11] 404 Phil. 981, 998-1000 (2001).

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proceeds to determining whether RBAP, Hotchkiss, and Ganzon may properly file the present Petition.

Petitioner RBAP

It is indubitable that the present controversy involving the composition of its Board of Directors directly affects the RBAP, and that the RBAP has substantial interest in the resolution thereof. However, the more relevant question herein is not whether RBAP has substantial interest in the present petition, but whether it has actually authorized the filing of the same on its behalf through the other petitioners, Ganzon and Hotchkiss.

This Court rules in the negative.

The power of the corporation to sue and be sued in any court is lodged with the Board of Directors that exercises its corporate powers.[12] How then could the RBAP, through its Board of Directors, validly authorize the filing of the present petition when the very same Board that granted the authority on its behalf is enjoined by a competent court from acting as such? There can be no logical answer to this question.

The preliminary injunction was issued by the Court of Appeals on 13 October 2006, and the special meeting of the RBAP Board of Directors was conducted on 17 October 2006. Regardless of whether the Court of Appeals erred in issuing the preliminary injunction, the fact is, that the said preliminary injunction was already in effect when the RBAP Board of Directors held its special meeting. The preliminary injunction issued by a competent court should be binding on the parties until and unless it is subsequently lifted.

The supposed special meeting of the RBAP Board of Directors on 17 October 2006, was conducted in blatant violation of the preliminary injunction issued against the members thereof by the Court of Appeals in its Resolution, dated 13 October 2006. The excuse propounded by petitioners Hotchkiss and Ganzon,

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[12] *Premium Marble Resources, Inc. v. Court of Appeals*, 332 Phil. 10, 18 (1996).

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that, the RBAP Board of Directors met for the sole purpose of authorizing them to file the instant petition deserves scant credit. The words of the appellate court in the said Resolution are simple and clear, and leave no room for interpretation: the officers and members of the Board of Directors of the RBAP are enjoined from holding their induction and from performing acts and functions in relation to their office. It provides no qualification or exception.

Equally unconvincing is petitioners Hotchkiss and Ganzon's assertion that they would not have been able to appeal to this Court the Resolution, dated 13 October 2006, of the Court of Appeals, unless the Board of Directors of the RBAP met to authorize them to do so. The officers and members of the Board of Directors of the RBAP elected in the 18 May 2006 elections, are only enjoined by the appellate court from acting as such on behalf of the association; they are not, however, precluded from appealing the 13 October 2006 Resolution of the Court of Appeals in their individual and personal capacities. This is their proper recourse, especially considering that the preliminary injunction pertains to the officers and members of the Board of Directors of the RBAP, and not to the RBAP as an association. Indeed, in his Motion to Dismiss the Complaint in Civil Case No. 06-115260, petitioner Hotchkiss himself argued that the RBAP was not a party in the said case, and that the service of summons must be made on the individual officers and members of the Board of Directors of RBAP. There is no basis then to say that the Board of Directors needed to meet on 17 October 2006 so that the RBAP can authorize the filing of the instant petition.

Petitioner Hotchkiss

Petitioner Hotchkiss, in addition to his being the alleged authorized representative of RBAP, also joins in this appeal as the former President of RBAP. This Court, however, finds that he has no real and substantial interest in the Petition at bar. On appeal before this Court, is the issuance by the Court of Appeals of a preliminary injunction against the officers and

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members of the Board of Directors of the RBAP, who won in the elections of 18 May 2006. They are enjoined from being inducted as officers and members of the Board of Directors and from performing acts and functions in relation to their office. The said preliminary injunction does not personally affect petitioner Hotchkiss in any way. Not being an officer or member of the Board of Directors elected on 18 May 2006, he is not being enjoined from doing anything. He does not stand to be benefited or prejudiced by the judgment of this Court in the present petition.

Petitioner Ganzon

Just like petitioner Hotchkiss, petitioner Ganzon joins the petition at bar as the authorized representative of RBAP, as well as in his personal capacity as board member and President of RBAP. This Court already ruled that petitioner Ganzon could not validly file this Petition on behalf of the RBAP. Nonetheless, he is a real party in interest when he asserts his personal right to act as an officer and member of the Board of Directors of RBAP, having won in the 18 May 2006 elections. The preliminary injunction certainly impedes him from the exercise of such a right and he may, therefore, appeal the same to this Court.

Even given that one out of the three petitioners herein can be considered a real party in interest, it cannot cure the defect of the instant petition and save it from outright denial. To still give due course to the petition would be to condone, and even encourage, the shotgun or trial-and-error approach adopted herein by the petitioners, leaving it to chance that the appeal may be given due course, at least, as to one of them. The parties and especially, their counsel, are expected to act with more circumspection in identifying the real parties in interest who can appeal the adverse judgment. Moreover, to allow the petition to proceed, even as to petitioner Ganzon alone, is to tolerate the attempt of petitioners Ganzon and Hotchkiss and the other officers and members of the Board of Directors of RBAP to circumvent the preliminary injunction issued by the Court of

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Appeals against them, because they will still be able to achieve what they set out to do in their prohibited meeting on 17 October 2006, which is to file and pursue the instant petition seeking the lifting of the said preliminary injunction.

The petition at bar should likewise be denied for lack of proper certification against forum shopping.

Respondent Salvaña's Petition for *Certiorari* in CA-G.R. SP No. 95516, before the Court of Appeals assails only the Order, dated 21 July 2006, of the RTC in Civil Case No. 06-115260 which denied her prayer for the issuance of a writ of preliminary injunction. Respondent Salvaña's other claims in Civil Case No. 06-115260 based on the four causes of action she raised in her complaint remains pending with the RTC. When the Court of Appeals issued the writ of preliminary injunction in its Resolution, dated 13 October 2006, effectively reversing the RTC Order, dated 21 July 2006, in Civil Case No. 06-115260, it had already completely and finally disposed of respondent Salvaña's Petition for *Certiorari* in CA-G.R. SP No. 95516. Thus, the Resolution, dated 13 October 2006, of the appellate court may be appealed before this Court *via* a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court.

Appeal by *certiorari* to this Court, may be instituted in the following manner —

SECTION 1. *Filing of petition with Supreme Court.* — A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

x x x x x x x x x

SECTION 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall xxx (e) contain

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a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42.[13]

In relation to the afore-quoted provisions, Section 2, Rule 42 of the Rules of Court reads as follows:

SECTION 2. *Form and contents.* — x x x.

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency, if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

Non-compliance with the verification and certification requirements may be a ground for the denial of the petition for review.[14]

The requirement to file a certificate of non-forum shopping is mandatory, and failure to comply therewith cannot be excused. The certification is a peculiar and personal responsibility of the party, an assurance given to the court or other tribunal that there are no other pending cases involving basically the same parties, issues and causes of action. Hence, the certification must be accomplished by the party himself because he has actual

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[13] Rule 45, The 1997 Revised Rules of Civil Procedure.

[14] According to Section 5, Rule 45 of the Rules of Court:

SECTION 5. *Dismissal or denial of petition.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

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knowledge of whether or not he has initiated similar actions or proceedings in different courts or tribunals.[15]

In *Fuentebella v. Castro*,[16] this Court laid down additional guidelines for compliance with the required certificate of non-forum shopping, particularly, in cases where the petitioner is a corporation and/or there are several petitioners, to wit —

> This requirement is intended to apply to both natural and juridical persons as Supreme Court Circular No. 28-91 and Section 5, Rule 7 of the Rules of Court do not make a distinction between natural and juridical persons. Where the petitioner is a corporation, the certification against forum shopping should be signed by its duly authorized director or representative. This was enunciated in *Eslaban, Jr. v. Vda. de Onorio*, where the Court held that if the real party-in-interest is a corporate body, an officer of the corporation can sign the certification against forum shopping so long as he has been duly authorized by a resolution of its board of directors.
>
> Likewise, where there are several petitioners, it is insufficient that only one of them executes the certification, absent a showing that he was so authorized by the others. That certification requires personal knowledge and it cannot be presumed that the signatory knew that his co-petitioners had the same or similar actions filed or pending.
>
> Hence, a certification which had been signed without the proper authorization is defective and constitutes a valid cause for the dismissal of the petition.
>
> This holds true in the present case where the Court of Appeals accordingly dismissed the petition for lack of proper authorization of the one signing it on behalf of petitioners. Lourdes Pomperada, the Administrative Manager of petitioner corporation, who signed the verification and certificate on non-forum shopping, initially failed to submit a secretary's certificate or a board resolution confirming her authority to sign for the corporation, and a special power of attorney to sign on behalf of co-petitioner Art Fuentebella, who

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[15] *Expertravel & Tours, Inc. v. Court of Appeals*, G.R. No. 152392, 26 May 2005, 459 SCRA 147, 157.

[16] G.R. No. 150865, 30 June 2006, 494 SCRA 183, 190-191.

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was sued jointly and solidarily with the corporation in his capacity as officer of the latter.

In the present Petition, the attached certificate of non-forum shopping was signed only by petitioners Hotchkiss and Ganzon. They did not have the proper authority to sign for RBAP, their supposed co-petitioner. While this Court acknowledges that there can be no instance when the RBAP can give authorization to petitioners Hotchkiss and Ganzon to sign the certification of non-forum shopping on its behalf, in view of the preliminary injunction against its Board of Directors, this Court can not soften its stance, bearing in mind that petitioners Hotchkiss and Ganzon brought the problem unto themselves by including RBAP as co-petitioner herein.

In sum, the petition at bar is being denied for failure to comply with fundamental rules of procedure.

Obedience to the requirements of procedural rules is needed if the parties are to expect fair results therefrom, and utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.[17] Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.[18]

WHEREFORE, premises considered, the instant Petition for Review is hereby *DENIED*, and the Regional Trial Court,

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[17] *Clavecilla v. Quitain*, G.R. No. 147989, 20 February 2006, 482 SCRA 623, 631.

[18] *Garbo v. Court of Appeals*, 327 Phil. 780, 784 (1996).

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Branch 46, of Manila, is hereby *ORDERED* to proceed with the trial of Civil Case No. 06-115260, and to immediately resolve the same with deliberate dispatch. Costs against the petitioners.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Nachura, and *Reyes, JJ.*, concur.