



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BERNARDO S. ZAMORA,
Petitioner,

G.R. No. 216139

- versus -

Present:

CARPIO, J., *Chairperson,*
PERALTA,
PERLAS-BERNABE,
CAGUIOA,
REYES, JR., *JJ.*

EMMANUEL Z. QUINAN, JR.,
EMMANUEL J. QUINAN, SR.,
EFREM Z. QUINAN and EMMA
ROSE Q. QUIMBO.,

Promulgated:

Respondents.

29 NOV 2017
[Signature]

X-----X

DECISION

PERALTA, J.:

Before this Court is the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated January 16, 2015 of petitioner Bernardo S. Zamora that seeks to reverse and set aside the Resolution¹ dated July 31, 2014 and Resolution² dated November 27, 2014 of the Court of Appeals (CA) granting respondents Emmanuel Z. Quinan, Jr., Emmanuel J. Quinan, Sr., Efrem Z. Quinan and Emma Rose Q. Quimbo's motion to dismiss on account of petitioner's act of forum shopping.

The facts follow.

¹ Penned by Associate Justice Gabriel T. Ingles, with the concurrence of Associate Justices Pamela Ann Abella Maxino and Renato C. Francisco; *rollo*, pp. 73-76.

² *Id.* at 16-17.

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Petitioner, on June 19 2006, filed a Complaint for Reconveyance of Title of Real Properties fraudulently obtained with the Regional Trial Court (RTC) of Cebu City, Branch 19 and docketed as Civil Case No. CEB-32448 claiming that he is in possession of the original of the Transfer Certificate of Titles, against respondents, who earlier filed a Petition for the Issuance of New Duplicate Certificate of Title, which was granted by the RTC of Cebu City, Branch 9, in a Resolution dated April 11, 2006.

Pending the resolution of petitioner's complaint, he commenced another action before the Court of Appeals, Cebu City, on November 4, 2008, docketed as CA-G.R. SP. No. 03830 for the Annulment of Judgment of the RTC of Cebu City, Branch 9, which was dismissed based on technicalities in a Resolution dated April 22, 2009.

Then, again, on June 5, 2009, petitioner commenced another civil action before the CA for the Annulment of Judgment of the RTC of Cebu City, Branch 9, and docketed as CA G.R. SP. No. 04278.

On September 1, 2010, the RTC of Cebu City, Branch 19 dismissed Civil Case No. CEB-32448 on the ground of forum shopping.

Thereafter, the respondents filed with the CA a motion to dismiss CA-G.R. SP. No. 04278 claiming that petitioner has resorted to forum shopping, which was granted by the CA in its Resolution dated July 31, 2014, the dispositive portion of which reads, as follows:

IN VIEW OF THE FOREGOING, the motion to dismiss is GRANTED. On account of petitioner Zamora's act of forum shopping, he and his counsel are hereby admonished that a repetition of this abhorrent act shall be dealt with more severely.

SO ORDERED.

According to the CA, petitioner committed forum shopping because there is identity of causes of action, parties and reliefs sought in the action filed by him for reconveyance of real properties instituted before the RTC and the petition for annulment of judgment instituted before the CA.

Thus, petitioner filed a motion for reconsideration, but was denied by the CA in its Resolution dated November 27, 2014.

Hence, the present petition.



Petitioner assigns the following errors:

I

THE COURT OF APPEALS IN CEBU CITY, EIGHTEENTH (18TH) DIVISION SERIOUSLY AND FATALLY ERRED IN DISMISSING CA G.R. CEB SP NO. 04278 FOR ANNULMENT OF JUDGMENT OF THE REGIONAL TRIAL COURT OF CEBU CITY, BRANCH 9, ETC. ON MERE TECHNICALITIES THAT IMPEDED THE CAUSE OF JUSTICE AND THE PARTIES' RIGHT TO AN OPPORTUNITY TO BE HEARD.

II

THE COURT *A QUO* SERIOUSLY AND FATALLY ERRED IN IGNORING AND DISREGARDING THE JURISPRUDENTIAL RULING IN *CAMITAN V. FIDELITY INVESTMENT CORPORATION*, 551 SCRA 540, APRIL 16, 2008, WHICH STATES THAT IF AN OWNER'S DUPLICATE COPY OF A CERTIFICATE OF TITLE HAS NOT BEEN LOST BUT IN FACT IN THE POSSESSION OF ANOTHER PERSON, THE RECONSTITUTED TITLE IS VOID, AS THE COURT RENDERING THE DECISION NEVER ACQUIRES JURISDICTION.

It is the contention of petitioner that the CA should have relaxed the procedural rules so as to give him an opportunity to be heard. Petitioner further argues and insists that the subject owner's duplicated copies of transfer certificate of titles are still in his possession and were never lost as alleged by the respondents and as such, the reconstituted transfer certificate of titles in the name of respondents should be declared void because the RTC of Cebu City, Branch 9 never acquired jurisdiction over the case as held by this Court in *Camitan v. Fidelity Investment Corporation*.³

In a Resolution dated March 18, 2015, this Court denied the present petition for failure of the petitioner to show any reversible error in the challenged resolutions as to warrant the exercise of this Court's discretionary appellate jurisdiction.

Petitioner filed his motion for reconsideration reiterating the arguments he raised in his petition and, on July 29, 2015, this Court ordered the respondents to file their comment on the said motion for reconsideration.

Respondents, in their Comment dated October 2, 2015, insist that petitioner committed forum shopping.



³ 574 Phil. 673, 685 (2008).

On January 18, 2016, this Court granted petitioner's motion for reconsideration and set aside its Resolution dated March 18, 2015.

After careful consideration, this Court finds no merit in the petition.

The rule against forum shopping is embodied in Rule 7, Section 5 of the Revised Rules of Court:

Sec. 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. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

In *City of Taguig v. City of Makati*,⁴ this Court was able to thoroughly discuss the concept of forum shopping through the past decisions of this Court, thus:

*Top Rate Construction & General Services, Inc. v. Paxton Development Corporation*⁵ explained that:

Forum shopping is committed by a party who institutes two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes or to grant the same or substantially the same reliefs, on the supposition that one or the other court would make a favorable disposition or

⁴ G.R. No. 208393, June 15, 2016, 793 SCRA 527, 546-552.

⁵ 457 Phil. 740 (2003) [Per J. Bellosillo, Second Division].

increase a party's chances of obtaining a favorable decision or action.⁶

*First Philippine International Bank v. Court of Appeals*⁷ recounted that forum shopping originated as a concept in private international law:

To begin with, forum-shopping originated as a concept in private international law, where non-resident litigants are given the option to choose the forum or place wherein to bring their suit for various reasons or excuses, including to secure procedural advantages, to annoy and harass the defendant, to avoid overcrowded dockets, or to select a more friendly venue. To combat these less than honorable excuses, the principle of *forum non conveniens* was developed whereby a court, in conflicts of law cases, may refuse impositions on its jurisdiction where it is not the most "convenient" or available forum and the parties are not precluded from seeking remedies elsewhere.

In this light, *Black's Law Dictionary* says that forum-shopping "occurs when a party attempts to have his action tried in a particular court or jurisdiction where he feels he will receive the most favorable judgment or verdict." Hence, according to *Words and Phrases*, "a litigant is open to the charge of 'forum shopping' whenever he chooses a forum with slight connection to factual circumstances surrounding his suit, and litigants should be encouraged to attempt to settle their differences without imposing undue expense and vexatious situations on the courts."⁸

Further, *Prubankers Association v. Prudential Bank and Trust Co.*⁹ recounted that:

The rule on forum-shopping was first included in Section 17 of the Interim Rules and Guidelines issued by this Court on January 11, 1983, which imposed a sanction in this wise: "A violation of the rule shall constitute contempt of court and shall be a cause for the summary dismissal of both petitions, without prejudice to the taking of appropriate action against the counsel or party concerned." Thereafter, the Court restated the rule in Revised Circular No. 28-91 and Administrative Circular No. 04-94. Ultimately, the rule was embodied in the 1997 amendments to the Rules of Court.¹⁰

Presently, Rule 7, Section 5 of the 1997 Rules of Civil Procedure requires that a Certification against Forum

⁶ *Id.* at 747-748, citing *Santos v. Commission on Elections*, 447 Phil. 760, 770-771 (2003) [Per J. Ynares-Santiago, En Banc]; *Young v. Keng Seng*, 446 Phil. 823, 832 (2003) [Per J. Panganiban, Third Division]; *Executive Secretary v. Gordon*, 359 Phil. 266, 271-272 (1998) [Per J. Mendoza, En Banc]

⁷ 322 Phil. 280 (1996) [Per J. Panganiban, Third Division].

⁸ *Id.* at 303-304, citing SALONGA, PRIVATE INTERNATIONAL LAW, p. 56 *et seq.* (1995), *Black's Law Dictionary*, 590 (5th ed., 1979); and 17 *Words and Phrases* 646 (permanent ed.).

⁹ 361 Phil. 744 (1999) [Per J. Panganiban, Third Division].

¹⁰ *Id.* at 754-755.

Shopping be appended to every complaint or initiatory pleading asserting a claim for relief. x x x

x x x x

Though contained in the same provision of the 1997 Rules of Civil Procedure, the rule requiring the inclusion of a Certification against Forum Shopping is distinct from the rule against forum shopping. In *Korea Exchange Bank v. Gonzales*:¹¹

The general rule is that compliance with the certificate of forum shopping is separate from and independent of the avoidance of the act of forum shopping itself. Forum shopping is a ground for summary dismissal of both initiatory pleadings without prejudice to the taking of appropriate action against the counsel or party concerned.¹²

Top Rate Construction discussed the rationale for the rule against forum shopping as follows:

It is an act of malpractice for it trifles with the courts, abuses their processes, degrades the administration of justice and adds to the already congested court dockets. What is critical is the vexation brought upon the courts and the litigants by a party who asks different courts to rule on the same or related causes and grant the same or substantially the same reliefs and in the process creates the possibility of conflicting decisions being rendered by the different fora upon the same issues, regardless of whether the court in which one of the suits was brought has no jurisdiction over the action.¹³

Jurisprudence has recognized that forum shopping can be committed in several ways:

(1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).¹⁴ (Emphasis in the original)

¹¹ 496 Phil. 127 (2005) [Per J. Callejo, Sr., Second Division].

¹² *Id.* at 145, citing *Prubankers Association v. Prudential Bank and Trust Co.*, *supra* note 9.

¹³ *Top Rate Construction & General Services, Inc. v. Paxton Development Corporation*, *supra* note 5, at 748, citing *Joy Mart Consolidated Corp. v. Court of Appeals*, G.R. No. 88705, June 11, 1992, 209 SCRA 738, 745 [Per J. Griño-Aquino, First Division] and *Villanueva v. Adre*, 254 Phil. 882, 888 (1989) [Per J. Sarmiento, Second Division].

¹⁴ *Collantes v. Court of Appeals*, 546 Phil. 391, 400 (2007) [Per J. Chico-Nazario, En Banc], citing *Ao-As v. Court of Appeals*, 524 Phil. 645, 660 (2006) [Per J. Chico-Nazario, First Division].

Similarly, it has been recognized that forum shopping exists "where a party attempts to obtain a preliminary injunction in another court after failing to obtain the same from the original court."¹⁵

The test for determining forum shopping is settled. In *Yap v. Chua, et al.*:¹⁶

To determine whether a party violated the rule against forum shopping, the most important factor to ask is whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another; otherwise stated, the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.¹⁷

For its part, *litis pendentia* "refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious."¹⁸ For *litis pendentia* to exist, three (3) requisites must concur:

The requisites of *litis pendentia* are: (a) the identity of parties, or at least such as representing the same interests in both actions; (b) the identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two cases such that judgment in one, regardless of which party is successful, would amount to *res judicata* in the other.¹⁹

On the other hand, *res judicata* or prior judgment bars a subsequent case when the following requisites are satisfied:

(1) the former judgment is *final*; (2) it is rendered by a court having *jurisdiction* over the subject matter and the parties; (3) it is a judgment or an order *on the merits*; (4) there is — between the first and the second actions — *identity* of parties, of subject matter, and of causes of action.²⁰ (Emphasis in the original)

These settled tests notwithstanding:

Ultimately, what is truly important to consider in determining whether forum-shopping exists or not is the vexation caused the courts and parties-litigant by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or to grant the same

¹⁵ *Executive Secretary v. Gordon*, *supra* note 6, at 272, citing *Fil-Estate Golf and Development, Inc. v. Court of Appeals*, 333 Phil. 465, 486-487 (1996) [Per J. Kapunan, First Division].

¹⁶ 687 Phil. 392 (2012) [Per J. Reyes, Second Division].

¹⁷ *Id.* at. 400, citing *Young v. John Keng Seng*, *supra* note 6, at 833.

¹⁸ *Id.*

¹⁹ *Id.*, citing *Villarica Pawnshop, Inc. v. Gernale*, 601 Phil. 66, 78 (2009) [Per J. Austria-Martinez, Third Division].

²⁰ *Luzon Development Bank v. Conquilla*, 507 Phil. 509, 523 (2005) [Per J. Panganiban, Third Division], citing *Allied Banking Corporation v. Court of Appeals*, 299 Phil. 252, 259 (1994).

or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issue.²¹

A review of the cases, as well as the remedies sought by petitioner in the RTC, as well as in the CA shows that petitioner has, indeed committed forum shopping. There is identity of causes of action, parties and reliefs sought in the action he filed for the reconveyance of properties before the RTC and the petition for annulment of judgment filed before the CA. As correctly observed and ruled by the CA:

There exists between the two actions identity of parties which represent the same interest in both. In petitioner's action for reconveyance, he seeks to recover the property which is wrongfully registered in respondents' name by postulating that respondent Quinan knew fully that petitioner was in possession of the originals of the owner's duplicate copies of the Transfer Certificate of Title No. T-90102 and Transfer Certificate of Title No. 90096 for Lot No. 98-F by virtue of the Deed of Absolute Sale signed by all respondents. Thus petitioner prays for the reconveyance of the said parcels of land in his name and he likewise seeks to be awarded of moral and exemplary damages, litigation expenses and attorney's fees in his favor.

The rights asserted and the reliefs prayed for by the petitioner were reiterated in his petition for annulment of judgment filed before this Court. The petition hinges on the contention that the lower court which renders the decision for the issuance of new owner's duplicate Certificate of Title in respondents' favor never acquires jurisdiction because the reconstituted title is void considering that the duplicate copy of the Certificate of Title has not been lost but it is in fact in the possession of the petitioner. Hence, he is seeking for the nullification of the decision rendered by RTC Branch 9 of Cebu City.

A comparison of the reliefs sought by petitioner in the reconveyance case and the annulment of judgment case under Rule 47 of the Rules of Court confirms that they are substantially similar on two points: (1) revocation and cancellation of the new certificate of titles granted in the name of herein respondents and (2) the recovery or consolidation of title in petitioner's favor. In other words, the rights asserted and the reliefs prayed for are being founded on the same facts. The identity of the two cases filed is such that a favorable judgment rendered in the lower court for the case of reconveyance will amount to *res judicata* in the action under consideration of this Court.

There is a clear violation of the rules on forum-shopping, as this Court is being asked to grant substantially similar reliefs as those that may also be granted by the court a quo while the case was still pending with the latter. In the process, this creates a possibility of creating two separate and conflicting decisions.²²

²¹ *First Philippine International Bank v. Court of Appeals*, *supra* note 7, at 313.
²² *Rollo*, pp. 75-76.

Prudence should have dictated petitioner to await first the decision of the RTC in the reconveyance as it was the first case he filed before seeking other remedies. This Court reminds the petitioner and his lawyer that forum shopping constitutes abuse of court processes, which tends to degrade the administration of justice, to wreak havoc upon orderly juridical procedure, and to add to the congestion of the already burdened dockets of the courts.²³ Further, the rule proscribing forum shopping seeks to foster candor and transparency between lawyers and their clients in appearing before the courts — to promote the orderly administration of justice, prevent undue inconvenience upon the other party, and save the precious time of the courts. It also aims to prevent the embarrassing possibility of two or more courts or agencies rendering conflicting resolutions or decisions upon the same issue.²⁴

Thus, the CA did not commit an error in outrightly dismissing petitioner's petition. It must be remembered that the acts of a party or his counsel, clearly constituting willful and deliberate forum shopping shall be ground for the summary dismissal of the case with prejudice, and shall constitute direct contempt, as well as be a cause for administrative sanctions against the lawyer.²⁵ Also, SC Circular No. 28-91²⁶ states that the deliberate filing of multiple complaints by any party and his counsel to obtain favorable action constitutes forum shopping and shall be a ground for summary dismissal thereof and shall constitute direct contempt of court, without prejudice to disciplinary proceeding against the counsel and the filing of a criminal action against the guilty party. In *Spouses Arevalo v. Planters Development Bank*,²⁷ this Court further reiterated that once there is a finding of forum shopping, the penalty is summary dismissal not only of the petition pending before this Court, but also of the other case that is pending in a lower court.

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated January 16, 2015 of petitioner Bernardo S. Zamora is **DENIED** for lack of merit. Consequently, the Resolution dated July 31, 2014 and Resolution dated November 27, 2014 of the Court of Appeals are **AFFIRMED**.

²³ *Villamor, Jr. v. Hon. Manalastas, et al.*, 764 Phil. 456, 475 (2015), citing *Wee v. Gonzales*, 479 Phil. 737, 750 (2004).

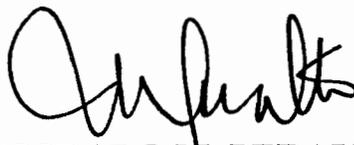
²⁴ *Id.*

²⁵ *Heirs of Marcelo Sotto v. Palicte*, 726 Phil. 651, 662 (2014), citing Section 5, Rule 7, Rules of Court.

²⁶ Supreme Court Administrative Circular No. 28-91, February 8, 1994.

²⁷ 686 Phil. 236 (2012).

SO ORDERED.

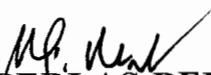


DIOSDADO M. PERALTA
Associate Justice

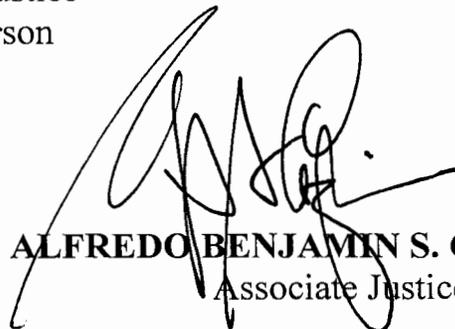
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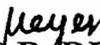
ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ANDRES B. REYES, JR.
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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

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



MARIA LOURDES P. A. SERENO
Chief Justice