



Republic of the Philippines  
Supreme Court  
Manila

**SECOND DIVISION**

**TERESA P. SIERRA,** A.C. No. 9162  
Complainant, [Formerly CBD Case No. 06-1698]

-versus-

**ATTY. JOSEPH ANTHONY  
M. ALEJANDRO AND  
ATTY. CARMINA A.  
ABBAS,**  
Respondents.

**Members:**  
LEONEN, S.A.J., Chairperson,  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO JR., JJ.

**Promulgated:**

**AUG 23 2023**

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**RESOLUTION**

**LAZARO-JAVIER, J.:**

**Antecedents**

By Complaint<sup>1</sup> dated March 14, 2006, Teresa P. Sierra (Sierra) charged respondents Atty. Joseph Anthony M. Alejandro (Atty. Alejandro) and Atty. Carmina A. Abbas (Atty. Abbas)<sup>2</sup> before the Integrated Bar of the Philippines

<sup>1</sup> *Rollo*, pp. 1-19.

<sup>2</sup> Referred as Ma. Carmina A. Abbas in some parts of the *rollo*.

Commission on Bar Discipline (IBP-CBD) with violation of the rules of professional conduct for “willful and deliberate forum shopping which constitutes abuse of the court processes.”

Sierra essentially alleged that per Memorandum of Agreement (MOA) dated June 18, 2004, she agreed to sell her townhouse unit in Ecology Village, Makati City to Atty. Alejandro for PHP 3,800,000.00.<sup>3</sup> Atty. Alejandro agreed to immediately pay a deposit of PHP 200,000.00, and later on, the balance of PHP 3,600,000.00, once the documents shall have been verified.<sup>4</sup>

Upon receipt of the deposit and the signed MOA, Sierra turned over the keys to Atty. Alejandro. When the latter’s contractor applied for permits to renovate the unit, he discovered that the property was already foreclosed and even due for demolition.<sup>5</sup>

Meantime, upon her request, Atty. Alejandro delivered to Sierra a manager’s check worth PHP 800,000.00 as advance payment, while his broker delivered to her a check worth PHP 2,800,000.00.<sup>6</sup>

Atty. Alejandro, however, had a change of heart and decided to back out of the transaction. As such, he left the second check unfunded and asked her to return the PHP 800,000.00.<sup>7</sup>

For her part, Sierra demanded that Atty. Alejandro vacate the property.<sup>8</sup>

On August 12, 2004, Atty. Alejandro, through his counsel, Atty. Abbas, filed a petition for declaratory relief to determine whether he indeed was rightfully entitled to a refund of his payment. He also prayed for the issuance of a writ of mandatory injunction to give him access to the property pending litigation.<sup>9</sup> The case was docketed as Civil Case No. Q-04-53435 (first case) and raffled to Regional Trial Court, Branch 220 of Quezon City (Branch 220-Quezon City).<sup>10</sup>

On August 23, 2004, respondents filed an amended petition impleading Ecology Village Homeowner’s Association and one Benelinda M. De Guzman. This time, respondents applied for a writ of preliminary injunction.<sup>11</sup>

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<sup>3</sup> *Id.* at 106.

<sup>4</sup> *Id.* at 231.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 232.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*



By Order dated November 9, 2004, Branch 220-Quezon City denied the application for writ of preliminary injunction.<sup>12</sup>

On November 23, 2004, respondents moved to convert the case from a special civil action for declaratory relief to an ordinary civil action for specific performance with damages. They prayed anew for a writ of preliminary mandatory injunction.<sup>13</sup>

On December 8, 2004, respondents sought the reconsideration of the Order dated November 9, 2004,<sup>14</sup> but it was denied for lack of merit. Branch 220-Quezon City, nonetheless, granted the motion to convert the case to an ordinary action, admitted the amended complaint, but again denied the application for injunctive relief in view of its earlier denial.<sup>15</sup>

Subsequently, Atty. Alejandro, through Atty. Abbas, filed a notice of dismissal pursuant to Rule 17, Section 1 of the Rules of Court.<sup>16</sup> Since the case involved a property located in Makati City and had already been converted into an ordinary civil action for specific performance, the proper venue allegedly should be Makati City, and not Quezon City. By order dated February 15, 2005,<sup>17</sup> Branch 220-Quezon City confirmed the dismissal of the case.<sup>18</sup>

On March 14, 2005, Atty. Alejandro, through Atty. Abbas, then filed an action for specific performance with damages, which was eventually raffled to Regional Trial Court, Branch 62 of Makati City (Branch 62- Makati City) and docketed as Civil Case No. 05-228 (second case).<sup>19</sup>

The following day, Atty. Alejandro, through Atty. Abbas, filed an urgent motion for issuance of a temporary restraining order and/or preliminary injunction with Branch 62-Makati City.<sup>20</sup>

On March 21, 2005, Sierra was served with summons by Branch 62-Makati City directing her to answer the complaint for specific performance with damages within 15 days from notice.<sup>21</sup>

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<sup>12</sup> *Id.* at 233.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> **Section 1. Dismissal upon notice by plaintiff.** — A complaint may be dismissed by the plaintiff by filing a notice of dismissal at any time before service of the answer or of a motion for summary judgment. Upon such notice being filed, the court shall issue an order confirming the dismissal. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a notice operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in a competent court an action based on or including the same claim.

<sup>17</sup> *Rollo*, p. 167.

<sup>18</sup> *Id.* at 233.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

*J*

By order dated April 1, 2005, Branch 62-Makati City granted Atty. Alejandro's prayer for a writ of preliminary mandatory injunction with temporary restraining order, effectively restoring him in possession of the property.<sup>22</sup>

In her answer filed in the second case, Sierra invoked the affirmative defense of forum shopping. She pointed out that respondents pursued a subsequent action for preliminary mandatory injunction in the second case, after the same was already denied in the first case.<sup>23</sup>

Both Atty. Alejandro and Atty. Abbas responded to the administrative complaint for disbarment. They asserted that the issue of forum shopping is for the trial court to decide, specifically Branch 62-Makati City. To be sure, complainant herself raised the same as an affirmative defense in the second case. By filing the complaint before Branch 62, Regional Trial Court of Makati City, the jurisdiction over the charge of forum shopping got vested in the said court. It cannot be divested of such jurisdiction by the mere filing of an administrative case before the IBP-CBD.<sup>24</sup>

Respondents further countered that it was Sierra who committed forum shopping by filing the present administrative complaint while the matter was still pending before the trial court.

Finally, respondents claimed that they did not commit forum shopping when the special civil action for declaratory relief was converted into an ordinary civil action with the same prayer for preliminary injunction. Since the first case was already dismissed sans any adjudication on the merits. There was no overlap between the two cases.<sup>25</sup>

### **Ruling of the IBP-CBD**

Through the Report issued by its Investigating Commissioner, the IBP-CBD agreed with Sierra that the pending issue of forum shopping before the trial court did not in any way preclude the filing of an administrative action against respondents. It confirmed its jurisdiction to resolve administrative matters regardless of the identity of the issue in the civil case pending before Branch 62-Makati City.<sup>26</sup>

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 236.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 239.

J

The IBP-CBD stressed that the main action in the administrative proceeding before them is not for forum shopping per se, but the conduct or behavior of a member of the Bar in the practice of their profession and/or violation of their duties as such. To determine if respondents truly violated this, the IBP-CBD itself had to review the records to find out for itself if there was, indeed, forum shopping.<sup>27</sup>

Further, it agreed with Sierra that respondents committed forum shopping, emphasizing that the ancillary remedy of preliminary injunction which they sought anew in the second case had already been denied in the first case. Hence, *res judicata* had already set in.

In sum, the IBP-CBD recommended that respondents be either reprimanded or suspended from the practice of law for a period of not less than two months, *viz.*:<sup>28</sup>

In view of the foregoing finding that respondent is guilty of forum shopping, it is hereby recommended that respondents Atty. Joseph Anthony M. Alejandro and Atty. Carmina A. Abbas either be REPRIMANDED or SUSPENDED for a period of not less than two (2) months in the practice of law.<sup>29</sup>

### **Resolutions of the IBP Board of Governors**

By Resolution No. XVIII-2008-178,<sup>30</sup> dated June 15, 2008, the IBP Board of Governors (IBP-BOG) resolved to adopt the recommendation of the IBP-CBD.<sup>31</sup> It denied the motion for reconsideration under Resolution<sup>32</sup> dated June 26, 2011.

### **Proceedings before the Court**

Under Resolutions dated June 22, 2022<sup>33</sup> and September 14, 2022,<sup>34</sup> the Court required the parties to inform it of any supervening circumstances which would otherwise affect the present case and its disposition. On December 16, 2022, respondents submitted their Compliance,<sup>35</sup> informing the Court, among others, of the final Decision<sup>36</sup> dated June 25, 2010 in the second case (Civil Case No. 05-228) for specific performance. As it was, Branch 62-Makati City held that Atty. Alejandro, as represented by Atty. Abbas, did not

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<sup>27</sup> *Id.* at 238.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 229-230.

<sup>31</sup> *Id.* at 229.

<sup>32</sup> *Id.* at 290.

<sup>33</sup> *Id.* at 416.

<sup>34</sup> *Id.* at 423-429.

<sup>35</sup> Temporary *collo.*

<sup>36</sup> *Id.*

commit forum shopping when he filed the said case and prayed for a writ of preliminary injunction. While he also prayed for the same relief in the first case for declaratory relief, he already withdrew the main case where he prayed for such ancillary relief, hence, that first case was already dismissed by Branch 220-Quezon City before he filed the second case for specific performance with prayer for preliminary injunction.

### Issue

Does the IBP-CBD or IBP-BOG have jurisdiction over the issue of forum shopping which the Branch 62-Makati City already took cognizance of and resolved with finality?

### Our Ruling

The Court disagrees with the factual findings, legal conclusions, and recommendations of both the IBP-CBD and IBP-BOG.

### **The trial court has exclusive jurisdiction over the issue of forum shopping**

At the outset, being the court which first took cognizance of the issue of forum shopping, Branch 62-Makati City shall have exclusive jurisdiction over the same and the main case where it arose until its final termination. It is settled that the body or agency that first takes cognizance of the complaint shall exercise jurisdiction to the exclusion of the others. Such jurisdiction does not only apply to the principal remedies prayed for, but also to all the incidents or ancillary remedies sought.<sup>37</sup>

Here, since the second case, Civil Case No. 05-228, was filed with Branch 62-Makati City, the same court acquired jurisdiction over the case to the exclusion of all others, including all the incidents thereof such as the issue of forum shopping raised by complainant in her answer. Consequently, when the IBP later on took cognizance and resolved the same issue against respondents, it did so without jurisdiction and with grave abuse of discretion.

Notably, Branch 62-Makati City already resolved with finality the issue of forum shopping per its Decision<sup>38</sup> dated June 25, 2010, ordaining that respondents did not commit forum shopping, thus:

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<sup>37</sup> *Begnaen v. Spouses Caliguan*, 793 Phil. 289 (2016) [Per C.J. Sereno, First Division].

<sup>38</sup> *Rollo*, pp.423-429.

A perusal of the allegations of defendant Sierra in support of his claim for Forum Shopping, this Court finds that no forum shopping was committed. Plaintiff explained that before an Answer was filed in the case pending before the RTC-Quezon City after the declaratory relief was converted into an ordinary action, he already interposed a notice of dismissal based on venue since the property subject of the action is located in Makati City, hence the jurisdiction over the subject matter would naturally pertain to Makati City.

For forum shopping to exist it is well settled that there should be two or more cases simultaneously involving the same parties, the same subject matter and the same cause of action or that a party, after an adverse judgment has been rendered in one forum, would seek a favorable opinion in another forum other than by appeal or the special civil action of certiorari or the institution of two or more actions or proceedings grounded on the same cause of action on the supposition that one or the other Court would make favorable disposition. [Vitnorics Computers Inc -versus-RTC, Branch 63, Makati, 217 SCRA 618; Ortigas – versus – Velasco, G.R. No. 108645, July 25, 1994, 53 SCAD 531, 234 SCRA 455]<sup>39</sup>

This is not the same situation obtaining herein. There is no dispute that at the time the case was filed with Branch 62-Makati City, the dismissal of the action filed in Branch 220-Quezon City pursuant to Section 1 of Rule 17 of the Rules of Court has already been confirmed.

Surely, neither the IBP-CBD nor the IBP-BOG has jurisdiction to preempt the aforesaid disposition of the trial court, much less reverse the same. Besides, whatever disciplinary sanctions may be imposed on the erring party is as much within the jurisdiction of the court which took cognizance of the main case as well as the incident of forum shopping.

Going now to respondents' claim that it was Sierra herself who committed forum shopping by first raising it in Civil Case No. 05-228, and later on raising it again before another forum, the complainant is liable for contempt of court and must be sanctioned with a fine of PHP 20,000.00 with stern warning that a repetition of the same will be dealt with more severely. In *Rizalado v. Presiding Judge Bollozos*,<sup>40</sup> we imposed the same penalty on the complainant who was found guilty of contempt for filing multiple cases against the same respondent judge arising from the same disposition rendered by him in a land dispute.

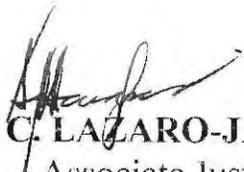
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<sup>39</sup> *Id.*

<sup>40</sup> 811 Phil. 20 (2017) [Per J. Perlas-Bernabe, First Division].

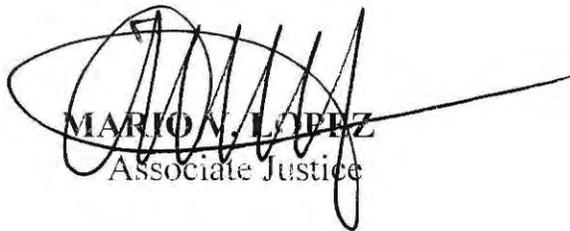
**ACCORDINGLY**, the present complaint for serious violation of the rules of professional conduct on account of forum shopping against respondents Atty. Joseph Anthony M. Alejandro and Atty. Ma. Carmina A. Abbas is **DISMISSED**. Petitioner Teresa P. Sierra is found **guilty** of contempt of court for committing forum shopping and **FINED PHP 20,000.00**, with a **STERN WARNING** that a repetition of the same shall be dealt with more severely.

**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

**WE CONCUR:**

  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson

  
**MARION N. LOPEZ**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

  
**ANTONIO T. RHO, JR.**  
*Associate Justice*