



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

DOROTEA CATAYAS,
Petitioner,

G.R. No. 166660

Present:

- versus -

PERALTA, J., *Acting Chairperson*,*
ABAD,
VILLARAMA, JR.,**
PEREZ,*** and
MENDOZA, JJ.

HON. COURT OF APPEALS,
SPECIAL FORMER
TWENTIETH (20TH)
DIVISION, CEBU CITY,
HON. PRESIDING JUDGE
OF THE REGIONAL TRIAL
COURT, BRANCH 58,
NEGROS OCCIDENTAL,
HON. PRESIDING JUDGE
OF THE MUNICIPAL TRIAL
COURT IN CITIES,
ESCALANTE CITY, NEGROS
OCCIDENTAL AND THE
INTESTATE ESTATE OF
JUAN CAMINOS, represented
by FELOMINO CAMINOS,
PERLA VARCA, CRISPINA
ESPARCIA AND AMADO
PARREÑO, JR.,

Respondents.

Promulgated:

29 August 2012

Alcaraz

X ----- X

* Per Special Order No. 1290 dated August 28, 2012.

** Designated acting member, in lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order No. 1291 dated August 28, 2012.

*** Designated additional member, per Special Order No. 1299 dated August 28, 2012.

RESOLUTION

MENDOZA, J.:

Before the Court is a petition for *certiorari* under Rule 65 of the Rules of Court seeking the reversal of the April 30, 2004¹ and October 25, 2004² Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 83191, which denied petitioner Dorotea Catayas' (*Catayas*) second motion for extension of time to file petition. The October 25, 2004 Resolution denied her motion for reconsideration thereof.

The Facts:

Juan Caminos (*Caminos*) was the registered owner of several real properties located in Escalante City, Negros Occidental, specifically: Lot No. 3928 covered by Original Certificate of Title (*OCT*) No. N-993; Lot No. 2466, covered by OCT No. N-1008; and Lot No. 3924, covered by OCT No. N-991.

When Caminos died, the administrators of his estate filed with the Municipal Trial Court in Cities, Escalante City, Negros Occidental (*MTCC*) a complaint for ejectment against several individuals (*defendants*) who were occupying the above-stated real properties. One of the defendants was Catayas, who was occupying Lot No. 3928. For failure of the defendants to show their legal right to occupy the subject lot, the MTCC, on December 18, 2001, rendered a judgment³ ordering the defendants, including Catayas, to

¹ *Rollo*, pp. 159-160. Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Estela M. Perlas-Bernabe (now member of this Court) and Ramon M. Bato, Jr., concurring.

² *Id.* at 220-221.

³ *Id.* at 81-98.

vacate the subject lot and to turn over the possession of the estate of Caminos to the administrators.

On appeal, the Regional Trial Court, Branch 58, San Carlos City, Negros Occidental (*RTC*), in its Decision,⁴ dated December 4, 2002, affirmed *in toto* the Decision of the MTCC.

On March 31, 2004, Catayas filed before the CA, a motion⁵ for extension of time to file a petition. In its Resolution, dated April 20, 2004, the CA granted the motion and gave Catayas a 15-day extension or until April 2, 2004 within which to file it.

On April 21, 2004, Catayas filed a *second* motion for extension of time to file the petition. This time, the CA, in its April 30, 2004 Resolution, denied the motion for being violative of Section 1, Rule 42 of the Rules of Court, which generally allowed only one extension, reasoning out that the right to appeal was a statutory right that must be exercised only in a manner provided by law. The CA observed that Catayas was represented by two counsels, thus, the inability of one counsel to do the pleadings within the time specified by law was not a compelling reason to grant another extension because Catayas had another counsel who could have completed and filed the petition.

Catayas filed a motion for reconsideration, but it was denied in the October 25, 2004 Resolution.⁶

⁴ Id. at 99-116.

⁵ Id. at 39-41.

⁶ Id. at 220-221.

On February 1, 2005, Catayas filed this petition for certiorari contending that the CA acted with grave abuse of discretion when it denied the motion for second extension to file the petition for review. She asserts that the negligence of her counsel, who allowed the 15-day extension to lapse, should not bind her. She claims that she was neither a lawyer nor a law student; thus, she did not know how detrimental to her case was the failure of her counsel to file the petition within the time allowed by law.

In their memorandum,⁷ the private respondents moved for the dismissal of the Petition on the ground that Catayas was engaging in forum shopping. They claimed that Catayas had previously filed a petition for review under Rule 45 before this Court, docketed as G.R. No. 166396, questioning the same CA resolutions which was already denied by the Court in its Resolution, dated January 24, 2005.

The Court resolves to dismiss the petition.

“Forum shopping is an act of a party, against whom an adverse judgment or order has been rendered in one forum, of seeking and possibly getting a favorable opinion in another forum, other than by appeal or special civil action for *certiorari*. It may also be the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition. The established rule is that for forum shopping to exist, both actions must involve the same transactions, same essential facts and circumstances, and must raise identical causes of actions, subject matter, and issues.”⁸

⁷ Id. at 456-477.

⁸ *Cruz v. Caraos*, G.R. No. 138208, April 23, 2007, 521 SCRA 510, 520-521.

Forum shopping exists where the elements of *litis pendentia* are present, namely: (a) there is identity of parties, or at least such parties representing the same interests in both actions; (b) there is identity of rights asserted and relief prayed for, the relief being founded on the same set of facts; and (c) the identity of the two preceding particulars is such that any judgment rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other.⁹

In this case, Catayas clearly violated the rule on forum shopping when she filed this petition before the Court on February 1, 2005. A verification of the records would show that Catayas indeed filed a petition for review before this Court on January 18, 2005, as claimed by the private respondents, involving the same parties and questioning the same resolutions issued by the CA in CA-G.R. SP No. 83191. It further disclosed that the said petition, docketed as G.R. No. 166396, was denied by the Court in its January 24, 2005 Resolution,¹⁰ and became final and executory on March 9, 2005.¹¹ The filing of an action simultaneously with another, involving the same resolutions, is an act of malpractice precisely prohibited by the rules against forum shopping because it adds to the congestion of the dockets of the Court, trifles with the Court's rules, and hampers the administration of justice.¹²

In the case of *Prubankers Association v. Prudential Bank & Trust Company*,¹³ the Court explained the consequences of forum shopping in this wise:

⁹ *Sameer Overseas Placement Agency, Inc. v. Santos*, G.R. No. 152579, August 4, 2009, 595 SCRA 67, 76-77.

¹⁰ *Rollo* (G.R. No. 166396), p. 98.

¹¹ *Id.* at 113.

¹² *Mendoza v. Comelec*, G.R. No. 191084, March 25, 2010, 616 SCRA 443, 502.

¹³ 361 Phil. 744 (1999).

xxx. Where a litigant sues the same party against whom another action or actions for the alleged violation of the same right and the enforcement of the same relief is/are pending, the defense of *litis pendency* in one case is a bar to the others; and, a final judgment in one would constitute *res judicata* and thus would cause the dismissal of the rest.¹⁴

“The grave evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate and contradictory decisions. Unscrupulous party litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several different *fora* until a favorable result is reached. To avoid the resultant confusion, this Court strictly adheres to the rules against forum shopping, and any violation of these rules results in the dismissal of a case.”¹⁵

WHEREFORE, the petition is DENIED.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

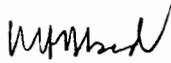
¹⁴ *Id.* at 755.

¹⁵ *Dy v. Mandy Commodities Co., Inc.*, G.R. No. 171842, July 22, 2009, 593 SCRA 440, 450.

WE CONCUR:



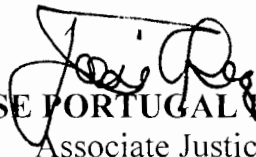
DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson



ROBERTO A. ABAD
Associate Justice



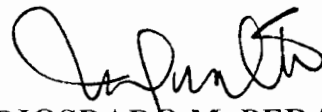
MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Third 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 Resolution 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