

**Title:** Lily Lim vs. Kou Co Ping a.k.a. Charlie Co

**Facts:**

- **February 1999:** FR Cement Corporation (FRCC) issued several withdrawal authorities for cement to dealers/ traders Fil-Cement Center and Tigerbilt.
- **February 1999:** Fil-Cement Center and Tigerbilt sold withdrawal authorities for 50,000 bags of cement to Charlie Co (Co) for P3.15 million.
- **February 15, 1999:** Co sold the withdrawal authorities to Lily Lim (Lim) for P3.2 million.
- **February - March 1999:** Lim withdrew 2,800 bags of cement. She sold back withdrawal authorities for 10,000 bags to Co.
- **April 1999:** FRCC halted Lim's withdrawal of the remaining 37,200 bags, citing a price increase unless Lim paid the price difference or accepted fewer bags. Lim objected, contending that the withdrawal authorities were not subject to price changes.
- **April 1999:** Lim demanded that Co resolve the issue with FRCC or refund her money, but Co refused.

**Procedural Posture:**

- **Criminal Case:**
  - **May 1999:** Lim filed a criminal case for Estafa against Co.
  - **November 19, 2003:** Regional Trial Court (RTC) Pasig City acquitted Co for insufficient evidence but scheduled hearing on civil liability.
  - **December 1, 2004:** RTC relieved Co of civil liability.
  - **February 21, 2005:** Lim's motion for reconsideration was denied.
  - **March 14, 2005:** Lim filed a notice of appeal against civil liability dismissal, docketed as CA-G.R. CV No. 85138.
  - **October 20, 2005:** Court of Appeals (CA) Second Division dismissed Lim's appeal due to forum shopping.
- **Civil Case for Specific Performance and Damages:**
  - **April 19, 2005:** Lim filed a civil complaint (Civil Case No. 05-112396) against Co and related parties in RTC Manila asserting breach of contract and abuse of rights.
  - **December 6, 2005:** RTC Manila denied Co's motion to dismiss the civil complaint.
  - **December 2005:** Co filed a petition for certiorari (CA-G.R. SP No. 93395) which was denied by the CA Seventeenth Division on April 10, 2007; case remanded for further proceedings.

- **Supreme Court:**

- **2007:** Both parties filed petitions for review leading to consolidated proceedings.

**Issues:**

1. Did Lim commit forum shopping by simultaneously pursuing related criminal and civil cases?
2. Are the remedies pursued in the criminal case and subsequent civil suit for specific performance and damages mutually exclusive or compatible under Philippine law?

**Court's Decision:**

- The Supreme Court affirmed that Lim did not commit forum shopping. The Court noted that the criminal case's civil aspect arises ex delicto (from criminal liability) while the independent civil complaint arises ex contractu (from contractual breach).

- **Issue 1 Resolution:** The Supreme Court clarified that pursuing both claims does not constitute forum shopping because the causes of action are distinct: one based on a felony (estafa) and the other on breach of contract and torts (abuse of rights).

- **Issue 2 Resolution:** The Court confirmed that under Philippine law, an offended party may pursue both civil liabilities arising from a single wrongful act without conflict, so long as double recovery is avoided.

**Doctrine:**

- **Forum Shopping:** Simultaneous pursuit of criminal civil liability (ex delicto) and separate independent civil claims (ex contractu or for tort) based on the same act is not forum shopping, litis pendentia, or res judicata, provided they arise from distinct causes of action.

- **Civil Liabilities:** Civil liabilities under the Revised Penal Code (Article 100) are separate and distinct from independent civil liabilities under the Civil Code (Articles 31, 33, and 2177). Both can proceed, avoiding double recovery.

**Class Notes:**

- **Forum Shopping Definition:** Filing multiple cases involving identical causes of action to secure a favorable ruling.

- **Article 100, Revised Penal Code:** Criminal liability includes civil liability.

- **Articles 31 and 33, Civil Code:** Allow independent civil actions separate from criminal cases.

- **Article 2177, Civil Code:** Precludes double recovery for the same act/omission.

- **Litis Pendentia Elements:** Identity of parties, rights asserted, reliefs sought, and

preceding judicial authority prevent pendency of related actions.

**\*\*Historical Background:\*\***

- The case underscores the Philippine judicial system's efforts in delineating boundaries between obligations arising from criminal activities vs. those from civil contracts. The decision highlights the legal concept that independent damages can be sought separately in civil and criminal contexts, reflecting a broader protection of various legal interests, notwithstanding the singular wrongful act under scrutiny.