MA. IMELDA ARGEL AND HON. DEMETRIO M. BATARIO, JR. IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT OF MANILA, BRANCH 48, PETITIONERS, VS. THE COURT OF APPEALS AND ROSEN...

G.R. No. 128805. October 12, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review, under Rule 45 of the Rules of Court, assails the Decision of the Court of Appeals dated December 20, 1996, in CA-G.R. No. SP 40372, as well as the Resolution on March 31, 1997, denying petitioner's Urgent Motion for Reconsideration. The impugned Decision granted private respondent's petition for certiorari and set aside the Order of the trial court dated December 12, 1995.

The parties do not dispute the essential facts of the present case, as follows:

On August 31, 1995, the Regional Trial Court of Manila, Branch 48 handed down its decision in Special Proc. No. 92-62305. The decretal portion of the said decision, reads:

> "WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff [herein petitioner, Ma. Imelda Argel] and against the defendant [herein respondent, Rosendo G. Guevarra], ordering the latter:
>
> 1. To immediately deliver and assign to his son, Victorio Guevara, the amount of P1,506,545.80, which is one half of the defendant's share in his mother's estate, or the equivalent of ½ share of Victorio in the undivided estate of the defendant's parents (to be deducted from the 2/12 share of the defendant), as the presumptive legitime of Victorio Guevara, without prejudice to his ultimate successional rights. The legitime should be annotated on all the land titles mentioned herein, even if they should still be in the name of the deceased parents of the defendant until such time as a partition has been made between him and his co-heirs. After which specific properties equivalent to his legitime shall be conveyed to Victorio Guevara as may be agreed upon between the defendant and the plaintiff guided always by and for the best interest of the child.
>
> If the presumptive legitime is not delivered within 90 days from the date of judgment, a re-appraisal of the properties comprising the estate at the expense of the defendant shall be made at the option of Victorio Guevara and/or his natural guardian, the plaintiff, prior to actual delivery, in order to account for inflation or deflation.
>
> Failing this, interest at the rate of 12% per annum, is to be imputed on the principal value of the legitime, P1,506,545.80 from the date of this decision until actual delivery of the presumptive legitime to the child. This interest shall be satisfied from the share of the defendant in the rental income of the estate of his parents and paid monthly to Victorio Guevara. Otherwise, the interest not paid monthly will be capitalized and will earn interest at a similar rate.
>
> 2. To immediately transmit to his son, through a trust fund under the care of the plaintiff, a monthly support of P8,000.00 or P96,000.00 per annum for the educational support of his son Victorio;

> 3. To pay the plaintiff actual and compensatory damages in the amount of Thirty Thousand Pesos (P30,000.00), moral damages in the amount of Twenty Thousand Pesos (P20,000.00); cost(s) of suit and attorney's fees in the amount of One Hundred Thousand Pesos (P100,000.00) with interest at 12% per annum until fully paid.

"SO ORDERED."[1]

Petitioner Ma. Imelda Argel's counsel received a copy of the said decision on September 11, 1995. The respondent, in turn, was served a copy only on September 21, 1995.

On September 26, 1995 (the fifteenth day from receipt of the decision), petitioner's counsel filed a pleading captioned as a "Motion for Extension of Time (to File Motion for Reconsideration of the Decision dated August 31, 1995)" with the trial court. The motion prayed "for an extension of five (5) days to file her motion for reconsideration of the decision in this case for the reason that petitioner's counsel is unable to finish her motion for reconsideration which is due tomorrow September 26, 1995...due to her voluminous case load and its deadlines falling within this week."[2]

Petitioner, however, did not wait for the resolution of her motion for extension of time. On September 29, 1995, she filed her motion for reconsideration. Thus, the latter motion was filed on the 18th day counted from her receipt of the trial court's decision.

On October 2, 1995, private respondent Rosendo G. Guevarra, filed his Notice of Appeal with the trial court.

On October 20, 1995, private respondent filed a manifestation and opposition to the petitioner's motion for reconsideration. Private respondent called the trial court's attention to the doctrine in Habaluyas v. Japzon,[3] prohibiting motions for extension of time to file motion for new trial or reconsideration. The said doctrine had been restated and clarified for the guidance of bench and bar in Supreme Court Circular No. 10, dated August 28, 1986, which provides in part:

> "(1) Beginning one month after the promulgation of this Resolution, the rule shall be strictly enforced that no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court (now Court of Appeals). Such a motion may be filed only in cases pending with the Supreme Court as the court of last resort, which may in its sound discretion either grant or deny the extension requested. x x x (Italics in the original)"

On October 30, 1995, the trial court set the hearing of the petitioner's motion for reconsideration.

On December 12, 1995, the trial court issued an order granting the petitioner's "Motion for Extension of Time (to File Motion for Reconsideration dated August 31, 1995)." The trial court's rationale for the order was the fact that petitioner Ma. Imelda Argel was a permanent resident of Australia, and it would take time for her to be notified of the decision and to confer with her counsel.

Said order of the trial court also amended the last three paragraphs of page 14 of his Decision dated August 31, 1995, to read as follows:

> "To grant interest at 20% per annum on the presumptive legitime of P1,506,545.80 from the date of the Decision until actual delivery; and
>
> "To grant her the amount of P1,543,000.00 in actual and compensatory damages and the amount of at least P500,000.00 in moral and exemplary damages.
>
> "SO ORDERED."[4]

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On January 16, 1996, private respondent filed an amended notice of appeal. Private respondent then filed a petition for certiorari and prohibition with a prayer for a temporary restraining order and/or writ of preliminary of injunction with the Supreme Court. The petition was docketed as G.R. No. 126786. It was referred to the Court of Appeals for proper determination by virtue of a Resolution of this Court dated March 11, 1996.[5]

On May 15, 1996, the appellate court gave due course to private respondent's petition. The same was docketed as CA-G.R. SP No. 40372. The Court of Appeals likewise issued, as prayed for, a temporary restraining order.

On December 20, 1996, the Court of Appeals handed down the assailed decision. Its decretal portion provides:

> "WHEREFORE, the instant petition for certiorari, with prayer for a temporary restraining order and/or writ of preliminary injunction is GRANTED, and the order, dated December 12, 1995, of the RTC-Manila, Branch 48, in Civil Case No. 92-62305 is SET ASIDE."
>
> "IT IS SO ORDERED."[6]

On January 18, 1997, petitioner filed her motion for reconsideration of the decision of the appellate court. Said motion was denied by a resolution dated March 31, 1997. Petitioner now seeks our review of both decision and resolution, on the following grounds:

> "(1) The Court of Appeals committed reversible error in holding that the trial court acted with grave abuse of discretion in admitting and entertaining the motion for reconsideration under the facts obtaining in this case.
>
> (2) The Court of Appeals committed reversible error in holding that the private respondent did not violate the rule on forum shopping in simultaneously pursuing the remedy of appeal and remedy of certiorari under Rule 65 of the Rules of Court.
>
> (3) The Court of Appeals committed reversible error in not ordering the dismissal of the petition for certiorari and the appeal as a result of the violation by the private respondent of the rule against forum shopping.
>
> (4) The Decision of the Court of Appeals now sought to be reviewed permanently enjoining the amended judgment for support is harsh, oppressive and contrary to law and established jurisprudence, and must be rectified in fairness and justice to the petitioners, mother and minor child."[7]

To decide this petition, we must resolve two issues: (1) Whether the Court of Appeals erred and abused its discretion in granting respondent's (Rosendo Guevarra's) petition to reverse the trial court's order allowing petitioner's (Ma. Imelda Argel's) motion for reconsideration; and (2) Whether or not private respondent was guilty of forum shopping. Both issues involve the correct application of Circular No. 10-86, in the light of Habaluyas vs. Japzon (142 SCRA 208).

On the first issue, petitioner contends that the Court of Appeals committed a reversible error in holding that the trial court acted with grave abuse of discretion in admitting the petitioner's motion for extension of time to file a motion for reconsideration; that the trial court had the inherent authority and discretion to admit the same under Rule 135, Section 5 (g) of the Rule of Court;[8] that the appellate court should have taken notice of the fact that she is an Australian resident and therefore, needed time to be notified about the trial court's judgement and to confer with her counsel regarding her next move. The doctrine in Habaluyas should not, therefore, be strictly applied to her.

Habaluyas laid down two prohibitions. First, is the doctrine that the 15-day period for filing an appeal is non-extendible. Second, the prohibition against the filing of a motion for extension of time to file a motion for new trial or reconsideration in all courts, except the Supreme Court. The Habaluyas ruling has been continuously reiterated.[9] It has likewise been enshrined in Section 2, Rule 40 and Section 3, Rule 41 of the 1997 Rules of

Civil Procedure. Neither the jurisprudence nor the procedural rules just referred to provide for an exception. Even the situation in the instant case involving a permanent resident of Australia is no exception. The legal maxim "Excepto firmat regulim in casibus, non excepti" applies. Besides, nowhere in the "Motion for Extension of Time to file Motion for Reconsideration was it stated that petitioner is a permanent resident of Australia. We must rule that the Court of Appeals did not err in finding that the trial court acted with grave abuse of jurisdiction for violating the Habaluyas ruling.

We find no reason for the trial court to be unaware of the doctrine in Habaluyas. Whether through mistake or negligence, failure of the trial judge to keep abreast of the latest developments of the law cannot be sanctioned, considering that more than twelve years have passed since the decision in Habaluyas was first promulgated and given the number of times the ruling has been reiterated.[10]

On the second issue, forum shopping involves the institution of two or more cases, actions, or proceedings grounded on the same cause of action on the supposition that one or the other court or tribunal would make a favorable disposition.[11] The practice is deplorable as it degrades the administration of justice, adds to the already congested court dockets, and wreaks havoc upon orderly judicial procedure.[12]

Petitioner alleges that private respondent is guilty of forum shopping. She charges that the private respondent's acts of filing a special civil action for certiorari with the appellate court while his appeal was pending before the same forum constitutes forum shopping. To support her contention, petitioner points to our pronouncement in Silahis International Hotel, Inc. v. National Labor Relations Commission, 225 SCRA 94 (1993).

Petitioner's reliance on Silahis is completely misplaced. The facts in the aforesaid case are entirely different from the present case. In Silahis, the issues involved in the appealed case and the injunction case were found to be interrelated. In view of this finding, the Court ruled the multiple petitions filed in Silahis to be a species of forum shopping.

In our view, respondent appellate court committed no reversible error in refusing to declare private respondent guilty of forum shopping. As correctly pointed out by the respondent court, the special civil action for certiorari and the appeal, did not involve the same issue. The former sought to have the trial court's order of December 12, 1995, declared null and void for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction. The latter assailed the trial court's judgement of August 31, 1995, as well as its order of December 12, 1995, modifying said judgment. The appeal dealt with the correctness and legal soundness of the questioned decision. Private respondent's special civil action for certiorari with the Court of Appeals, thus, sought to prevent the trial court from committing a grave abuse of discretion. It sought to prevent an act that a court has no authority in law to perform. The special civil action of certiorari was therefore proper and in keeping with the sole office of certiorari: the correction of errors of jurisdiction including the commission of grave abuses of discretion amounting to lack of jurisdiction.

In contrast, the appeal sought to correct errors of judgment, which were of a non-jurisdictional nature. What private respondent sought to address in his appeal was the trial court's appraisal and evaluation of the evidence before it and the factual findings based thereon.

From the foregoing, it may be seen that the two remedies relied upon by the private respondent before the Court of Appeals were distinct from each other. They were not availed of in the alternative or in succession. This is consistent with our ruling in Oriental Media, Inc. v. Court of Appeals, 250 SCRA 647 (1995).

Petitioner additionally relies on Collado v. Hernando, 161 SCRA 639 (1988) to advance her cause. We cannot apply the Collado ruling to the present case. The factual circumstances are too different. In Collado, the

petitioners' did not disclose that they had an appeal pending with the Court of Appeals when they filed their petition for certiorari. In the instant case, private respondent never concealed from the appellate court that he had filed a notice of appeal and an amended notice of appeal with it, even as he filed his petition for certiorari. The appellate court was thus aware of the appeal pending before it even as it gave due course to the petition for certiorari under Rule 65. We must, therefore, agree with the appellate court that there was no forum shopping involved on the part of the private respondent.

As a last ditch effort, petitioner asks this Court not to sacrifice the substantial rights of a litigant on the altar of technicalities thus resulting in an impairment of the sound principles of justice. Petitioner cites Alonso v. Villamor, 16 Phil 315 (1910) where we held:

> "...A litigation is not a game of technicalities in which one, more deeply schooled and skilled in the subtle art of movement and position, entraps and destroys the other. It is rather a contest in which each contending party fully and fairly lays before the court the facts in issue and then, brushing aside as wholly trivial and indecisive all imperfections of form and technicalities of procedure, asks that justice be done upon the merits..."[13]

Petitioner is reminded that the private respondent's appeal is still before the appellate court. On appeal, the merits and demerits of the respective positions of the litigants will be reviewed. Petitioner will be afforded every opportunity, during the course of this appeal, to present her side and ask for a favorable ruling. In view of this, there can be no "sacrifice" of the "substantial rights" of the petitioner on the holocaust of technicalities. It is, after all, a time-honored rule of this Court that the rules on technicality were promulgated to secure and not to override substantial justice.[14]

WHEREFORE, the instant petition is DISMISSED for lack of merit. The assailed decision and resolution of the Court of Appeals in CA-G.R. No. SP 40372 are hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Mendoza, and Buena, JJ., concur.

Bellosillo, (Chairman), J., on official leave.

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[1] Rollo, pp. 65-66.

[2] Id. at 82.

[3] 142 SCRA 208 (1986).

[4] Rollo, p. 68.

[5] Id. at 10.

[6] Rollo, p. 44.

[7] Id. at 15-16.

[8] Rule 135, Sec. 5. Inherent power of courts. – Every court shall have power:

> xxx
>
> (g) To ammend and control the process and orders so as to make them conformable to law and justice.
>
> xxx

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[9] See, for instance, Uy v. Court of Appeals, 286 SCRA 343 (1998); Caltex (Phil.) Inc. v. Intermediate Appellate Court, 215 SCRA 580 (1992); Rolloque, et al. v. Court of Appeals, 193 SCRA 47 (1991); Bayaca v. Intermediate Appellate Court, 144 SCRA 161 (1986)

[10] Supra note 9.

[11] Solid Homes, Inc. v. Court of Appeals, 271 SCRA 157, 163 (1997).

[12] Nacurnay v. National Labor Relations Commission, 270 SCRA 9, 16-17 (1997).

[13] 16 Phil. 315, 321-322 (1910).

[14] Lagunzad v. Court of Appeals, 154 SCRA 199, 205 (1987).

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