

**HEIRS OF VICTORINA MOTUS PENAVERDE, REPRESENTED BY:
EMMANUEL DE VERA MOTUS, CORAZON RODRIGUEZ MOTUS,
RODOLFO DE VERA MOTUS, DANILO DE VERA MOTUS, SOCORRO DE
VERA MOTUS, FLORENTI...**

G.R. No. 131141. October 20, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

The instant Petition for Review seeks to annul the September 9, 1997 Decision[1] of the Court of Appeals in CA-G.R. SP No. 40003 dismissing the Petition and affirming the order of dismissal[2] of the Regional Trial Court of Quezon City, Branch 218, of Civil Case No. Q-95-24711, on the ground of forum-shopping, and the Resolution[3] of the Court of Appeals denying petitioners' Motion for Reconsideration.

The relevant antecedent facts are as follows:

On February 23, 1994, petitioners Emmanuel De Vera Motus and Corazon Rodriguez Motus filed a Petition for Letters of Administration of the Intestate Estate of the late Mariano Peñaverde,[4] their alleged uncle, which was docketed as Sp. Proc. No. Q-94-19471.

On August 11, 1995, all the herein petitioners filed a Complaint[5] against respondents herein, for Annulment of Affidavit of Self-Adjudication, Title and Reopening of Distribution of Estate with prayer for a writ of preliminary mandatory injunction, which was docketed as Civil Case No. Q-95-24711.

The Complaint alleged that petitioners were the nephews and nieces of the late Victorina Motus Peñaverde, the wife of Mariano Peñaverde who predeceased him. Victorina was the sister of their respective parents. Victorina married Mariano Peñaverde on December 29, 1971. During their marriage, the couple acquired a five hundred (500) square meter parcel of land located in Quezon City, covered by Transfer Certificate of Title No. RT-61118 of the Register of Deeds of Quezon City. The couple had no children. Victorina died on September 2, 1990 while Mariano died on November 3, 1993. Before his death, more specifically on January 29, 1993, Mariano executed an Affidavit of Self-Adjudication, averring that he is the sole heir of Victorina and adjudicating to himself Victorina's estate, consisting of her share in the subject property. Thereafter, Mariano subdivided the land and obtained the corresponding titles for the same. Petitioners, as plaintiffs therein, claim that they were deprived of their rightful share in Victorina's estate.

Instead of filing an Answer to the Complaint, respondents Bernardita Feranil Peñaverde, Marlito F. Peñaverde, Margolfo F. Peñaverde and Marian F. Peñaverde filed a Motion to Dismiss and to Declare Plaintiffs in Contempt of Court,[6] charging petitioners with forum-shopping. Respondents-movants alleged that there are two (2) pending cases before Branch 222 of the Court, the Petition above-mentioned (Sp. Proc. No. Q-94-19471) and Civil Case No. Q-94-19103, a Complaint for recovery of possession and title filed by respondents Catalina Peñaverde, Consuelo Peñaverde Calleja and Victoriano Peñaverde against the respondents Bernardita Feranil and

her children, Marian, Marlito and Margolfo. Plaintiffs in that case averred that Bernardita Feranil and her children had earlier filed a Complaint for Support against Mariano, on the allegation that he sired three children with Bernardita Feranil; namely, Marian, Marlito and Margolfo. The parties reached a compromise agreement whereby Mariano paid them P32,000.00 and, in turn, they executed a written note that upon their receipt of the full payment thereof, they were withdrawing their Complaint for Support and would no longer file any claim relating thereto. When Mariano fell ill, Bernardita and her children offered to take care of him and were allowed to stay in the subject premises. However, after Mariano's death, they refused to vacate the subject property or surrender the titles thereto which they had, in the meantime, gained possession of.

Plaintiffs therein claimed that they were the only surviving heirs of Mariano, as his sister, niece and nephew, respectively. Catalina claimed that from the time Mariano's wife, Victorina, died, she had lived with him in the subject property but, after Mariano's death, she was driven away therefrom by Bernardita and her children.

Petitioners filed their Comment and/or Opposition to the Motion to Dismiss, arguing that forum-shopping is not applicable as there is no identity of cause of action or parties in the three cases.

Meanwhile, the other respondents filed their Answer to the Complaint.

On December 19, 1995, the lower court issued a Resolution^[7] dismissing Civil Case No. Q-95-24711 on the ground of forum-shopping. According to the lower court, all three (3) cases revolved around the issue of who should succeed to the properties of the late Mariano Peñaverde. Petitioners' Motion for Reconsideration was denied by the lower court in its Order dated February 6, 1996.^[8]

Undaunted, petitioners brought a petition for certiorari to the Court of Appeals which, on September 9, 1997, issued the assailed Decision dismissing the Petition, thus affirming the lower court's finding of forum-shopping.

With the denial of their Motion for Reconsideration on October 17, 1997, petitioners filed the instant Petition for Review assailing the Court of Appeals' finding of forum-shopping. Forum-shopping is "the institution of two (2) or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition".^[9]

The two cases filed by petitioners are: (1) Sp. Proc. No. Q-94-19471, which seeks letters of administration for the estate of Mariano Peñaverde; and (2) Civil Case No. Q-95-24711, which seeks the annulment of the Affidavit of Self-Adjudication executed by Mariano Peñaverde and the annulment of titles in his name as well as the reopening of the distribution of his estate.

Evidently, in filing Sp. Proc. No. Q-94-19471, petitioners sought to share in the estate of Mariano, specifically the subject land previously owned in common by Mariano and his wife, Victorina. This is also what they hoped to obtain in filing Civil Case No. Q-95-24711.

Indeed, a petition for letters of administration has for its object the ultimate distribution and partition of a decedent's estate. This is also manifestly sought in Civil Case No. Q-95-24711, which precisely calls for the "Reopening of Distribution of Estate" of Mariano Peñaverde. In both cases, petitioners would have to prove their right to inherit from the estate of Mariano Peñaverde, albeit indirectly, as heirs of Mariano's wife, Victorina.

Under the circumstances, petitioners are indeed guilty of forum-shopping. When their appointment as judicial administrators of the estate of Mariano in Sp. Proc. No. Q-94-19471 was questioned by herein respondent, Bernardita Feranil,^[10] petitioners filed the second case, Civil Case No. Q-95-24711, as an alternative remedy, obviously to fortify their chances of obtaining a share in the same estate.

In the recent case of *Ayala Land, Inc. v. Valisno*,^[11] we had the occasion to explain the concept of

forum-shopping, to wit -

Forum-shopping exists when the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another (*Alejandrino v. Court of Appeals*, 295 SCRA 536, 554 [1998]; *Philippine Woman's Christian Temperance Union, Inc. v. Abiertas House of Friendship, Inc.*, 292 SCRA 785, 794 [1998]). In turn, *litis pendentia* requires the concurrence of the following requisites:

- Identity of parties, or at least such parties as those representing the same interests in both actions;
- Identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and
- Identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res adjudicata* in the other case. (*Philippine Woman's Christian Temperance Union, Inc. v. Abiertas House of Friendship, Inc.*, *supra.*, at 791; citations omitted).

As explained by this Court in *First Philippine International Bank v. Court of Appeals* (252 SCRA 259 [1996]), forum-shopping exists where the elements of *litis pendentia* are present, and where a final judgment in one case will amount to *res judicata* in the other. Thus, there is forum-shopping when, between an action pending before this Court and another one, there exist: "a) identity of parties, or at least such parties as represent the same interests in both actions, b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and c) the identity of the two preceding particulars is such that any judgment rendered in the other action, will, regardless of which party is successful, amount to *res judicata* in the action under consideration; said requisites also constitutive of the requisites for *auter action pendant* or *lis pendens*." Another case elucidates the consequence of forum-shopping: "[W]here 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 still pending, the defense of *litis-pendentia* 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." (*Prubankers Association v. Prudential Bank & Trust Company*, 302 SCRA 74, 83-84 [1999].)

In the case at bar, it cannot be denied that the parties to Sp. Proc. No. Q-94-19471 and Civil Case No. Q-95-24711 are identical. There is also no question that the rights asserted by petitioners in both cases are identical, i.e., the right of succession to the estate of their aunt, Victorina, wife of Mariano. Likewise, the reliefs prayed for --- to obtain their share in the estate of Mariano --- are the same, such relief being founded on the same facts ---their relationship to Mariano's deceased wife, Victorina.

Finally, the judgment rendered in the administration proceedings of Mariano's estate will amount to *res judicata* in the action to annul the Affidavit of Self-Adjudication and the titles in Mariano's name. In the instant case, petitioners' prayer in Civil Case No. Q-95-24711 is for the Affidavit of Self-Adjudication of Mariano as well as the resulting titles in Mariano's name to be declared null and void. Part of petitioners' prayer is for the subject property to be redistributed to the lawful heirs, themselves included. However, these reliefs may very well be ventilated in Sp. Proc. No. Q-94-19471, setting aside petitioners' fear that with the dismissal of Civil Case No. Q-95-24711, they would lose their chance to recover their share in the estate of their aunt, Victorina.

We are not unmindful of the rule that while intestate courts may pass upon the title to a certain property for the purpose of determining whether the same should or should not be included in the inventory, such determination is not conclusive and is subject to final decision in a separate action regarding ownership which may be constituted by the parties.[12] Such limited jurisdiction of intestate courts is not applicable in the case before us, however, considering that petitioners are not total strangers to the intestate proceedings but are, in fact, claimants in the same as heirs, albeit indirect, of Mariano.

The dismissal of Civil Case No. Q-95-24711 is in order, considering our finding that petitioners are guilty of forum shopping. It needs stressing that a party is not permitted to pursue simultaneous remedies in two different fora. This is a practice which ridicules the judicial process, plays havoc with the rules of orderly procedure, and is vexatious and unfair to the other parties to the case.[13]

WHEREFORE, in view of the foregoing, the Petition for Review is DENIED. The Decision of the Court of Appeals in CA-G.R. SP No. 40003 is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Petition, Annex "L"; Rollo, pp. 87-92.

[2] See Resolution, Civil Case No. Q-95-24711; Petition, Annex "G"; Rollo, pp. 76-78.

[3] Petition, Annex "M"; Rollo, p. 94.

[4] Petition, Annex "A"; Rollo, pp. 25-27.

[5] Petition, Annex "B"; Rollo, pp. 28-41.

[6] Petition, Annex "C"; Rollo, pp. 42-54.

[7] See Note 2.

[8] Petition, Annex "K"; Rollo, p. 85.

[9] *Gatmaytan v. Court of Appeals*, G.R. No. 123332, 3 February 1997.

[10] In an Order, dated 9 January 1996, the lower court revoked the letters of administration previously issued to petitioners and in their stead appointed respondent Bernardita Feranil Peñaverde as Judicial Administrator of the Estate of Mariano Peñaverde.

[11] G.R. No. 135899, 2 February 2000.

[12] *Ortañez-Enderes v. Court of Appeals*, G.R. No. 128525, 17 December 1999, citing *Reyes v. Mosqueda*, 187 SCRA 661 [1990].

[13] *Gatmaytan v. Court of Appeals*, G.R. No. 123332, 267 SCRA 487 [1997], citing *Benguet Electric Coop., Inc. v. Nat'l. Electrification Adm.*, 193 SCRA 250 (1991) and *Minister of Natural Resources, et al. v. Heirs of Orval Hughes, et al.*, 155 SCRA 566 (1987).

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