

**TOKIO MARINE MALAYAN INSURANCE COMPANY INCORPORATED,
ALMA PEÑALOSA, KIMIO HOSAKA, SUMITOMI NISHIDA, TERESITA H.
QUIAMBAO and ANTONIO B. LAPID, Petitioners, vs. JORGE VALDEZ,
Res...**

G.R. No. 150107. January 28, 2008

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-150107/>

SANDOVAL-GUTIERREZ, J.:

For our resolution are two (2) consolidated petitions for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeking to reverse the Decision[1] of the Court of Appeals dated September 13, 2001 in the consolidated cases CA-G.R. SP No. 52914 and CA-G.R. SP No. 56579.

Tokio Marine Malayan Insurance Company Incorporated (Tokio Marine), petitioner in these cases, is a domestic corporation engaged in the insurance business. The individual petitioners are its corporate officers, except Antonio B. Lapid, one of Tokio Marine's consultants.

Jorge Valdez, respondent in these cases, was a former unit manager of Tokio Marine pursuant to a Unit Management Contract entered into between them on August 16, 1977.

On October 15, 1998, respondent filed with the Regional Trial Court, Branch 35, Manila a complaint for damages against petitioners, docketed as Civil Case No. 98-91356. He alleged therein that petitioners violated the terms of the Unit Management Contract by refusing to pay him, among others, his "commissions," and bonuses. Respondent prayed for the following reliefs: a) actual damages in the total amount of P71,866,205.67 and the corresponding interests; b) moral damages of P10,000,000.00; c) exemplary damages amounting to P10,000,000.00; d) attorney's fees corresponding to 30% of the said amounts; and e) costs of the suit.

Eventually, respondent filed with the trial court an "Urgent Ex Parte Motion For Authority To Litigate As Indigent Plaintiff."

On October 28, 1998, the trial court issued an Order, the pertinent portions of which read:

The Court hereby allows the plaintiff to litigate as pauper there being sufficient showing that he is an indigent. He does not own any real property in the City of Manila or elsewhere.

The Court therefore directs the Clerk of Court to accept the complaint for filing without payment of filing fees computed as SIX HUNDRED FIFTEEN THOUSAND SIX HUNDRED SEVENTY TWO AND EIGHTY-THREE CENTAVOS (P615,672.83) which amount, however, shall constitute a lien upon any judgment to be rendered in favor of the plaintiff.

On December 11, 1998, petitioners filed their separate motions to dismiss the complaint.

On December 17, 1998, respondent manifested before the trial court that he filed various criminal complaints against petitioners with the Office of the City Prosecutor of Makati City.

On January 20, 1999, the trial court issued an Order^[2] denying petitioners' motions to dismiss. They then filed motions for reconsideration, but they were likewise denied.

On March 12, 1999, petitioners filed their "Answer Ad Cautelam" in Civil Case No. 98-91356.

On May 24, 1999, petitioners filed a petition for certiorari with prayer for a temporary restraining order and preliminary injunction with the Court of Appeals assailing the Order of the trial court dated January 20, 1999 denying their motions to dismiss, docketed as CA-G.R. SP No. 52914.

On October 15, 1999, the Court of Appeals issued a Resolution directing the issuance of a writ of preliminary injunction restraining the trial court from conducting further proceedings in Civil Case No. 98-91356 during the pendency of CA-G.R. SP No. 52914.

Then on December 7, 1999, respondent filed with the Court of Appeals an "Urgent Notice of Taking of Deposition Upon Oral Examination of Private Respondent Jorge Valdez For Purposes of the Above-Captioned Pending Case And For Such Other Legal Purposes As May Be Warranted By Existing Law and Jurisprudence." It appears that respondent was already 75 years old and sickly.

On December 13, 1999, petitioners filed with the Court of Appeals a petition to cite respondent in contempt of court, docketed as CA-G.R. SP No. 56579. Petitioners alleged therein that in filing with the appellate court an urgent notice of taking his deposition, respondent violated the preliminary injunction issued by the said court.

Subsequently, CA-G.R. SP No. 56579 was consolidated with CA-G.R. SP No. 52914.

On December 14, 1999, the deposition of respondent was taken by Atty. Alberto A. Aguja, a Notary Public for Manila. On the same date, he filed with the Court of Appeals respondent's deposition.

On September 13, 2001, the Court of Appeals rendered its Decision in the consolidated cases CA-G.R. SP No. 52914 and CA- G.R. SP No. 56579 dismissing the petitions and lifting and dissolving the writ of preliminary injunction previously issued, thus:

WHEREFORE, for lack of merit, the consolidated petitions filed by the petitioners are hereby DISMISSED. The writ of preliminary injunction dated October 18, 1999 issued by this Court enjoining further proceedings in Civil Case No. 98-91356, pending before the Regional Trial Court of Manila, Branch 35 is hereby LIFTED and DISSOLVED.

SO ORDERED.

Hence, the instant consolidated petitions.

Petitioners contend that the Court of Appeals erred: (1) in denying their motion to dismiss respondent's complaint in Civil Case No. 98-91356 for nonpayment of docket fees; (2) for not finding that respondent engaged in forum shopping; and (3) in not declaring that he is guilty of contempt of court.

On the first issue, it is hornbook law that courts acquire jurisdiction over any case only upon payment of the prescribed docket fee.^[3] As we held in *Magaspi v. Ramolete*,^[4] the correct docket fees must be paid before courts can act on a petition or complaint. The exception to the rule on payment of docket fees is provided in Section 21, Rule 3 of the 1997 Rules of Civil Procedure, as amended, thus:

SEC. 21. Indigent party. – A party may be authorized to litigate his action, claim or defense as an indigent if the court, upon an ex parte application and hearing, is satisfied that the party is one who has no money or property sufficient and available for food, shelter and basic necessities for himself and his family.

Such authority shall include an exemption from payment of docket and other lawful fees and of transcripts of

stenographic notes which the court may order to be furnished him. The amount of the docket and other lawful fees which the indigent was exempted from paying shall be a lien on any judgment rendered in the case favorable to the indigent, unless the court otherwise provides.

Any adverse party may contest the grant of such authority at any time before judgment is rendered by the trial court. If the court should determine after hearing that the party declared as an indigent is in fact a person with sufficient income or property, the proper docket and other lawful fees shall be assessed and collected by the clerk of court. If payment is not made within the time fixed by the court, execution shall issue or the payment thereof, without prejudice to such other sanctions as the court may impose.

The guidelines for determining whether a party qualifies as an indigent litigant are provided for in Section 19, Rule 141,[5] of the Revised Rules of Court, which reads:

SEC. 19. Indigent litigants exempt from payment of legal fees. – INDIGENT LITIGANT (A) WHOSE GROSS INCOME AND THAT OF THEIR IMMEDIATE FAMILY DO NOT EXCEED AN AMOUNT DOUBLE THE MONTHLY MINIMUM WAGE OF AN EMPLOYEE AND (B) WHO DO NOT OWN REAL PROPERTY WITH A FAIR MARKET VALUE AS STATED IN THE CURRENT TAX DECLARATION OF MORE THAN THREE HUNDRED THOUSAND PESOS (P300,000.00) SHALL BE EXEMPT FROM THE PAYMENT OF LEGAL FEES.

The legal fees shall be a lien on any judgment rendered in the case favorable to the indigent unless the court otherwise provides.

To be entitled to the exemption herein provided, the litigant shall execute an affidavit that he and his immediate family do not earn a gross income abovementioned nor they own any real property with the fair value aforementioned, supported by an affidavit of a disinterested person attesting to the truth of the litigant's affidavit. The current tax declaration, if any, shall be attached to the litigant's affidavit.

Any falsity in the affidavit of the litigant or disinterested person shall be sufficient cause to dismiss the complaint or action or to strike out the pleading of that party, without prejudice to whatever criminal liability may have been incurred.

For purposes of a suit in forma pauperis, an indigent litigant is not really a pauper, but is properly a person who is an indigent although not a public charge, meaning that he has no property or income sufficient for his support aside from his labor, even if he is self-supporting when able to work and in employment.[6] The term "immediate family" includes those members of the same household who are bound together by ties of relationship but does not include those who are living apart from the particular household of which the individual is a member.[7]

In the instant cases, petitioners maintain that respondent's ex parte motion to litigate as an indigent is defective since it was not accompanied or supported by the affidavits of his children, the immediate members of his family. The argument lacks merit. Section 19 clearly states that it is the litigant alone who shall execute the affidavit. The Rule does not require that all members of the litigant's immediate family must likewise execute sworn statements in support of the petition. *Expressio unius est exclusio alterius*.

Petitioners next argue that respondent's ex parte motion is not supported by sufficient evidence to show his indigent status.[8] Suffice it to state that this Court is, first and foremost, a court of law. It is not its function to analyze and weigh all over again the evidence or premises supportive of factual determination.[9] Thus, petitioners cannot now ask us to review the evidence anew.

Anent the second issue, petitioners insist that respondent committed forum shopping when he failed to report to the trial court that he filed criminal cases against petitioners with the Office of the City Prosecutor of Makati City.

Gatmaytan v. Court of Appeals[10] describes forum shopping as the act of a litigant who "repetitively availed of

several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by some other court...to increase his chances of obtaining a favorable decision if not in one court, then in another.” Differently put, it is “the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment.”[11]

The rationale against forum shopping is that a party should not be allowed to pursue simultaneous remedies in two different courts as it constitutes abuse of court processes, which tends to degrade the administration of justice, wreaks havoc upon orderly judicial procedure, and adds to the congestion of the heavily burdened dockets of the courts.[12]

Section 5, Rule 7 of the 1997 Rules of Civil Procedure, as amended, provides:

SEC. 5. Certification against forum shopping. – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal, or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirement shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

Respondent’s Certificate of Non-Forum Shopping attached to the complaint in Civil Case No. 98-91356 reads:

FURTHER, that he has not heretofore commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency, except the criminal case for SWINDLING (ESTAFRA) under Art. 315, paragraph 1 (b) and for FALSIFICATION BY PRIVATE INDIVIDUALS OF PRIVATE DOCUMENTS under Art. 172, paragraph 2 of the Revised Penal Code to be filed before the Makati Prosecutor’s Office, criminal case for violation of the Insurance Code of the Philippines to be filed before the Makati Prosecutor’s Office, and the administrative case for violation of the Insurance Code Commission; that to the best of his knowledge no such other action is pending in the Supreme Court and Court of Appeals.

We agree with the Court of Appeals that the foregoing certification is a substantial compliance with Section 5 of Rule 7. Moreover, it should be recalled that respondent manifested before the trial court on December 16, 1998 that he actually filed criminal cases against petitioners with the Office of the City Prosecutor of Makati City.

On the final issue, petitioners claim that the deposition of respondent taken on December 14, 1999 violated the injunction issued by the Court of Appeals on October 15, 1999. Such act, petitioners assert, is tantamount to indirect contempt of court.

Contempt of court is “a defiance of the authority, justice or dignity of the court: such conduct as tends to bring the authority and administration of the law into disrespect or to interfere with or prejudice parties litigants or their

witnesses during litigation.”[13] Succinctly, it is the despising of the authority, justice, or dignity of the court.[14] Rule 71 provides for two forms of contumacious acts – direct and indirect.

Indirect contempt refers to contumacious acts perpetrated outside of the sitting of the court and may include misbehavior of an officer of a court in the performance of his official duties or in his official transactions, disobedience of or resistance to a lawful writ, process, order, judgment, or command of a court, or injunction granted by a court or a judge, any abuse or any unlawful interference with the process or proceedings of a court not constituting direct contempt, or any improper conduct tending directly or indirectly to impede, obstruct or degrade the administration of justice.[15] It is governed by Section 3, Rule 71 of the 1997 Rules of Civil Procedure, as amended, which provides:

SEC. 3. Indirect contempt to be punished after charge and hearing. – After a charge in writing has been filed and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or by counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a)

Misbehavior of an officer of court in the performance of his official duties or in his official transactions;

(b)

Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or rejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c)

Any abuse of or any unlawful interference with the process or proceeding of a court not constituting direct contempt under Section 1 of this Rule;

(d)

Any improper conduct tending directly or indirectly to impede, obstruct, or degrade the administration of justice;

(e)

Assuming to be an attorney or an officer of a court and acting as such without authority;

(f)

Failure to obey a subpoena duly served;

(g)

The rescue, or attempted rescue, of any person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

Before one may be convicted of indirect contempt, there must be compliance with the following requisites: (a) a charge in writing to be filed; (b) an opportunity for respondent to comment thereon within such period as may be

fixed by the court; and (c) an opportunity to be heard by himself or by counsel.[16] Records show that these requirements were complied with.

The Court of Appeals, in CA-G.R. SP No. 56579, dismissed the charge for indirect contempt, holding that respondent's deposition was done in good faith, thus:

It should be emphasized that what triggered the holding of private respondent's deposition last December 14, 1999 was the use by the petitioners of the June 09 and 28, 1999 depositions when at that time no orders were issued by Us enjoining any proceedings below. The use of the petitioners of June 09 and 28 depositions have been vigorously objected to by the private respondent, contending that there was a misunderstanding created when the private respondent was cross-examined by the counsel for the petitioners, and in his honest belief to clarify such misunderstanding in the previous depositions, the December 14, 1999 deposition was taken.

We see no reason to depart from the foregoing findings by the appellate court. Moreover, the taking of respondent's deposition is not a part of the court proceedings in Civil Case No. 98-91356, hence, not covered by the writ of injunction issued by the Court of Appeals. Let it be stressed at this point that we have always abided by the dogma that courts must exercise their contempt powers sparingly.

In sum, we rule that the Court of Appeals did not err in dismissing the petitions in CA-G.R. SP No. 52914 and CA-G.R. SP No. 56579.

WHEREFORE, we DENY the petitions. The challenged Decision of the Court of Appeals in CA-G.R. SP No. 52914 and CA- G.R. SP No. 56579 is AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Rollo, pp. 839-855. Per Associate Justice Perlita J. Tria Tirona and concurred in by Associate Justice Eugenio S. Labitoria and Associate Justice Eloy R. Bello, Jr. (all retired).

[2] Id., pp. 150-153.

[3] Manchester Development Corp. v. Court of Appeals, G.R. No. 75919, May 7, 1987, 149 SCRA 562; Sun Insurance Office Ltd., (SIOL) v. Asuncion, G.R. Nos. 79937-38, February 13, 1989, 170 SCRA 274; Tacay v. Regional Trial Court of Tagum, Davao del Norte, G.R. Nos. 88075-77, December 20, 1989, 180 SCRA 433.

[4] G.R. No. 34840, July 20, 1982, 115 SCRA 193, reiterating the doctrine in Lazaro v. Endencia, 57 Phil. 552 (1932), Lee v. Republic, G.R. No. 15027, January 31, 1964, 10 SCRA 65, Malimit v. Degamo, G.R. Nos. 17850-51, November 28, 1964, 12 SCRA 454.

[5] As amended by A.M. No. 04-2-04 SC, which took effect on August 16, 2004.

[6] REGALADO, 1 REMEDIAL LAW COMPENDIUM (1997 ed.) 103.

[7] MORENO, PHILIPPINE LAW DICTIONARY (3rd ed. 1988) 447.

[8] Under Section 16.D of OCA Circular No. 67-2007, the clients of the Public Attorney's Office shall be exempt from payment of docket and other fees incidental to instituting an action in court. However, such exemption shall be subject to the conditions prescribed under Section 19, Rule 141 of the Revised Rules of Court.

[9] Abacus Real Estate Development Corp. v. Manila Banking Corp., G.R. No. 162270, April 6, 2005, 455 SCRA 97, 106, citing PT & T v. Court of Appeals, 412 SCRA 263 (2003).

[10] G.R. No. 123332, February 3, 1997, 267 SCRA 487.

[11] Mondragon Leisure and Resorts Corp. v. United Coconut Planters Bank, G.R. No. 154187, April 14, 2004, 427 SCRA 585, 590, citing T'Boli Agro-Industrial Development, Inc. (TADI) v. Solidapsi, 394 SCRA 269 (2002).

[12] Wee v. Galvez, G.R. No. 147394, August 11, 2004, 436 SCRA 96, 108-109, citing Zebra Security Agency v. National Labor Relations Commission, 337 Phil. 200 (1997); Nacuray v. National Labor Relations Commission, 336 Phil. 749 (1997).

[13] Heirs of Trinidad De Leon Vda. de Roxas v. Court of Appeals, G.R. No. 138660, February 5, 2004, 422 SCRA 101, 114, citing Halili v. CIR, 220 Phil. 507 (1985).

[14] Villavencio v. Lukban, 39 Phil. 778, 809 (1919).

[15] Patricio v. Suplico, G.R. No. 76562, April 22, 1991, 196 SCRA 140, 146.

[16] Lumabas v. Banzon, A.M. No. MTJ-02-1221, August 18, 2005, 467 SCRA 257, 267; Barredo-Fuentes v. Albarracin, A.M. No. MTJ-05-1587, April 15, 2005, 456 SCRA 120, 131, citing Soriano v. Court of Appeals, 431 SCRA 1 (2004).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.