

TOP RATE CONSTRUCTION & GENERAL SERVICES, INC., PETITIONER, VS. PAXTON DEVELOPMENT CORPORATION AND BAIKAL REALTY CORPORATION, RESPONDENTS.

G.R. No. 151081. September 11, 2003

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Forum shopping is committed by a party who institutes two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes or to grant the same or substantially the same reliefs, on the supposition that one or the other court would make a favorable disposition or increase a party's chances of obtaining a favorable decision or action.[1] It is an act of malpractice for it trifles with the courts, abuses their processes, degrades the administration of justice and adds to the already congested court dockets.[2] What is critical is the vexation brought upon the courts and the litigants by a party who asks different courts to rule on the same or related causes and grant the same or substantially the same reliefs and in the process creates the possibility of conflicting decisions being rendered by the different fora upon the same issues, regardless of whether the court in which one of the suits was brought has no jurisdiction over the action.[3]

In the instant case, we probe what is perceived to be a blatant demonstration of forum shopping, outrageous abuse of judicial process and gross disrespect for the authority of this Court.

For a flashback on the factual backdrop of this case: Five (5) civil actions involving the ownership of Lots Nos. 5763 and 5765 -New situated in Salawag, Dasmariñas, Cavite, were jointly tried by RTC-Br. 21, Imus, Cavite.[4] One of the complaints was filed by respondent Paxton Development Corporation against petitioner Top Rate Construction and General Services, Inc., and against respondent Baikal Realty Corporation and the Register of Deeds of Cavite, for declaration of nullity of the Torrens Title for Lots Nos. 5763-A and 5763-B as part and parcel of Lot No. 5763, docketed as Civil Case No. 1124-95, with prayer for damages. TOP RATE was represented in this civil case by the Gana Law Office through Attys. Luis Ma. Gil L. Gana and/or Elmer E. Manlangit.

On 13 March 1998 the trial court rendered a Joint Decision on the five (5) civil actions, which included Civil Case No. 1124-95 -

x x x declaring Paxton Development Corporation's TCT No. T-557274 which covers and describes Lot No. 5763 (5763-A and 5763-B) and TCT No. T-559147 which covers and describes Lot No. 5765-New as the lawful and valid certificates of title evidencing the lawful ownership of Paxton Development Corporation over said lots and improvements thereon x x x x declaring Top Rate Construction and General Services, Inc.'s TCT No. T-147755 for Lot 5763-A and TCT No. T-147756 for Lot 5763-B as null and void and of no force and effect x x x x directing Top Rate x x x to peacefully surrender possession of these lots to Paxton, in the event that they are in possession of said lots x x x x directing the Register of Deeds for the province of Cavite to cancel the aforementioned titles of Top Rate x x x x[5]

TOP RATE and the other parties in the five (5) civil cases, Baikal Realty Corporation and Hi-Tone Marketing Corporation, filed their respective notices of appeal from the Joint Decision,[6] docketed as CA-G.R. No. CV-60656. TOP RATE was represented in the appeal by the Gana Law Office through Attys. Luis Ma. Gil L. Gana and/or Elmer E. Manlangit.

On 21 May 2001 the Court of Appeals promulgated its Decision on the various appeals affirming in toto the Joint Decision of the trial court.[7]

On 28 June 2001 TOP RATE moved for reconsideration of the CA Decision where it was represented by the Gana Law Office through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit.[8] In due time, the other party-appellants followed suit.[9] Despite notice PAXTON did not file its Comment,[10] while Baikal as one of the appellants moved on 27 November 2001 for the early resolution of the pending motions for reconsideration.[11]

On 14 December 2001 the appellate court promulgated a Resolution denying all motions for reconsideration.[12]

On 26 December 2001 TOP RATE through a Manifestation informed the Court of Appeals that it filed on 21 December 2001 by registered mail a Manifestation and Motion of even date which was attached as annex thereof.[13] The Manifestation and Motion prayed -

x x x x 2. That due to compelling reasons, the Resolution dated December 14, 2001 be RECALLED and SET ASIDE x x x x 4. That thereafter, this Honorable Court squarely resolve on the merits the issues raised by Toprate, Baikal and Hi-Tone in their separate Motions for Reconsideration; and 5. That the Motion for Reconsideration filed by Toprate and the reliefs prayed for therein be granted.

The Manifestation and Motion was signed and filed in behalf of TOP RATE by the same counsel of record Gana & Manlangit Law Office through lawyers Luis Ma. Gil L. Gana and Elmer E. Manlangit.[14] Incidentally, on 14 January 2002 the Court of Appeals received the Manifestation and Motion from the postal service.[15]

On 7 January 2002, despite the Manifestation and Motion of 21 December 2001 pending with the Court of Appeals, TOP RATE filed with this Court a motion for extension of time to file a petition for review from the adverse CA Decision and Resolution. The motion was signed by TOP RATE's counsel of record Gana & Manlangit Law Office through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit.[16] Furthermore, the motion contained a "Verification/Certification" under oath executed by one Alfredo S. Hocson, President of TOP RATE, that -

x x x x I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or different Divisions thereof, or any other tribunal or agency; to the best of my knowledge no such action or proceeding is pending in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if I should thereafter learn that a similar action or proceeding has been filed or pending before the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency, I undertake to report this fact to this Honorable Court within five days from notice thereof.

It may be observed that the Verification/Certification did not mention the pending Manifestation and Motion dated 21 December 2001 filed with the Court of Appeals.

Earlier, the other appellants BAIKAL and Hi-Tone filed before this Court their respective motions for extension of time to file a petition for review of the adverse CA Decision and Resolution.[17]

On 30 January 2002 this Court denied TOP RATE's motion for extension of time to file petition for review "for lack of service of a copy of the motion on the Court of Appeals x x x." [18] Also in separate Resolutions of even

date, this Court denied the motions for extension of time to file petition for review separately filed by BAIKAL and Hi-Tone on the identical ground - "for lack of showing that petitioner has not lost the fifteen (15) - day reglementary period to appeal x x x it appearing that the date of filing of the motion for reconsideration of the assailed judgment is not stated in the motion." [19]

On 4 February 2002, regardless of the denial of its motion for extension of time to file petition for review, and the Manifestation and Motion of 21 December 2001 still to be resolved by the Court of Appeals, TOP RATE filed with this Court its Petition for Review assailing the CA Decision of 21 May 2001 and Resolution of 14 December 2001, and praying that -

x x x the Decision dated May 21, 2001 of the Court of Appeals in CA G.R. CV No. 60656 be set aside and a new one issued x x x confirming TOP RATE's lawful ownership of Lots 5763-A and 5763-B, Imus Estate, as well as the validity and authenticity of its TCT Nos. T-147755 (Lot 5763-A) & T-147756 (Lot 5763-B), both issued by the Cavite Register of Deeds x x x x Declaring as absolutely null and void and no force and effect Paxton's TCT No. 557274 (Lot 5763), Serapio Cuenca's 1995 TCT 541994 (Lot 5763), and Baikal's TCT 542566 (Lot 5763-B) x x x x Awarding TOP RATE the damages as prayed for in the Answer. [20]

The Petition for Review dated 4 February 2002 was signed by the same law office of Gana & Manlangit through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit. [21] The petition included a "Secretary's Certificate" executed by TOP RATE Corporate Secretary Luis Ma. Gil L. Gana stating thus -

RESOLVED, as it is hereby resolved, that the Corporation elevate to the Supreme Court the adverse resolution of the Court of Appeals in CA G.R. CV No. 60656 entitled "Paxton Development Corporation v. Top Rate Const. & General Services, Inc., et al.," and "Hi-Tone Marketing Corp. v. The Estate and/or Heirs of Serapio Cuenca, et al." and that its President, Arch. Alfredo S. Hocson be authorized to represent the Corporation and sign the Petition for Review on Certiorari and all the pleadings to be filed therein. [22]

The petition also contained a Verification/Certification signed under oath by TOP RATE President Alfredo S. Hocson declaring in relevant parts –

x x x x I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or different Divisions thereof, or any other tribunal or agency; to the best of my knowledge no such action or proceeding is pending in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if I should thereafter learn that a similar action or proceeding has been filed or pending before the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency, I undertake to report this fact to this Honorable Court within five days from notice thereof. [23]

For the second time, TOP RATE's Verification/Certification did not state that its Manifestation and Motion dated 21 December 2001 was then still pending with the Court of Appeals.

On 18 February 2002 Baikal filed with this Court a Manifestation and Motion alleging that it "opts to wait for whatever decision the x x x Court of Appeals may render in the x x x Manifestation and Motion filed [with the Court of Appeals] by Top Rate Construction and General Services, without prejudice, however, to such remedies as may be available to [Baikal Realty Corporation] in case of an adverse decision of the Court of Appeals."

On 6 March 2002 this Court resolved to deny TOP RATE's Petition for Review "for petitioner's failure to take the appeal within the reglementary period of fifteen (15) days in accordance with Section 2, Rule 45 in relation to Section 5 (a), Rule 56, in view of the denial of petitioner's motion for extension of time to file petition in the resolution of 30 January 2002." [24]

On 15 March 2002 TOP RATE moved for reconsideration of this Court's Resolution of 30 January 2002 "by

granting Top Rate's timely filed motion for extension of time, and requiring the respondent PAXTON to comment on the timely filed Petition for Review on Certiorari."^[25] The motion, which was signed again by the same Gana and Manlangit Law Office through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit, did not mention the Manifestation and Motion of 21 December 2001 awaiting decision in the Court of Appeals.^[26]

Surprisingly, on 3 April 2002, TOP RATE filed a Manifestation and Motion to Withdraw Petition for Review on Certiorari dated 2 April 2002 contending that the filing of its petition before this Court was "premature." For the first time, TOP RATE bared to this Court the existence of its Manifestation and Motion dated 21 December 2001 pending in the Court of Appeals which had allegedly superseded its Petition for Review filed with this Court as the Manifestation and Motion was taken up by a Division of Five of the Court of Appeals composed of Associate Justices Portia Aliño-Hormachuelos, Mercedes Gozo-Dadole, Eriberto U. Rosario, Jr., with Associate Justices Teodoro P. Regino and Mariano C. del Castillo as additional members.^[27] The Manifestation and Motion to Withdraw Petition for Review on Certiorari prayed for the withdrawal of TOP RATE's petition for review without prejudice to its refiling in the future if warranted.

On 24 April 2002 this Court denied with finality TOP RATE's motion for reconsideration of the Resolution dated 30 January 2002, and noted without action its Manifestation and Motion to Withdraw Petition dated 2 April 2002. It also appears that the denial of the motions for extension of time to file petition for review separately filed by Baikal and Hi-Tone had become final and executory.^[28]

Meanwhile, on 22 April 2002 the Division of Five of the Court of Appeals resolved to defer action on the Manifestation and Motion dated 21 December 2001 "until after the Supreme Court has acted on [Top Rate's] Manifestation and Motion to Withdraw Petition for Review on Certiorari."^[29]

On 31 May 2002, apparently in response to the above-mentioned Resolution of the Court of Appeals, TOP RATE filed with the appellate court a Manifestation informing the Division of Five that it may now proceed to resolve TOP RATE's Manifestation and Motion dated 21 December 2001 in light of the Resolution of the Supreme Court dated 24 April 2002 which "noted without action" its Manifestation and Motion to Withdraw Petition for Review on Certiorari of 2 April 2002.^[30] The Manifestation was signed by TOP RATE's lawyer of record Gana & Manlangit Law Office through the same lawyers Luis Ma. Gil L. Gana and Elmer E. Manlangit.^[31]

On 3 May 2002 this Court made an entry of judgment for its Resolution of 6 March 2002 denying TOP RATE's Petition for Review on Certiorari.^[32]

On 2 August 2002, notwithstanding the previous denial with finality of TOP RATE's motion for extension of time to file petition for review and its Petition for Review itself, the Division of Five of the Court of Appeals promulgated an Amended Decision granting the appeal of TOP RATE and modifying the Joint Decision of RTC-Br. 21 of Imus, Cavite, thus -

(1) TOPRATE is hereby declared to be the true and lawful owners (sic) of Lots 5763-A and 5763-B, and the Transfer Certificates of Title Nos. 147755 for Lot No. 5763-A, and 147756 for Lot No. 5763-B, issued in the name of defendant-appellant TOPRATE, are hereby proclaimed to be valid and lawfully issued by the Register of Deeds of Cavite; and (2) The Cavite Register of Deeds is hereby ORDERED to cancel PAXTON's Transfer Certificate of Title No. T-557274 for Lot 5763 of the Imus Estate, and any and all titles issued covering the subject properties, for being spurious and void, and of no force and effect (underscoring and emphasis in the original).^[33]

Associate Justice Portia Aliño-Hormachuelos penned a Dissenting Opinion averring that the Manifestation and Motion dated 21 December 2001 of TOP RATE should have been dismissed since it was a prohibited second motion for reconsideration under Sec. 2, Rule 52, of the 1997 Rules of Civil Procedure.^[34]

On 23 August 2002 PAXTON filed a Motion for Reconsideration of the Amended Decision.[35] This was followed on 13 September 2002 by a Partial Motion for Reconsideration filed by BAIKAL.[36]

On 22 October 2002 the Court of Appeals received a Letter of Transmittal from the Judicial Records Office of this Court directing the Clerk of Court of the appellate court to "return the records of [the instant case] to the x x x court of origin and to submit to this Court proof of such remand, both within five (5) days from notice hereof." [37]

On 8 November 2002 TOP RATE filed with this Court an Urgent Motion to Recall Entry of Judgment through the same Gana & Manlangit Law Office as represented by Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit.[38]

On 9 December 2002 this Court denied TOP RATE's Urgent Motion to Recall Entry of Judgment and required TOP RATE and its counsel to show cause why they should not be held liable for forum shopping within five (5) days from notice.[39]

On 27 January 2003 TOP RATE represented by its President Alfredo S. Hocson and its lawyer Gana & Manlangit Law Office through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit filed their Compliance asserting that they had no intention to commit the "abhorrent and detestable practice of forum shopping;" assuming that there was forum shopping, they did so neither willfully nor deliberately but solely to protect the interest of TOP RATE as shown by the filing of the Manifestation and Motion to Withdraw Petition for Review on Certiorari dated 2 April 2002 as soon it was certain that their Petition for Review on Certiorari was premature; the Manifestation and Motion dated 21 December 2001 filed with the Court of Appeals could have been denied as a prohibited second motion for reconsideration, and with such denial TOP RATE would have also lost its period to file an appeal by certiorari to this Court; and, finally, neither *litis pendentia* nor *res judicata* would have arisen in the instant case since the Supreme Court may still review the pertinent decision or resolution of the Court of Appeals on their Manifestation and Motion dated 21 December 2001.[40]

On 4 February 2003 TOP RATE filed a Motion for Reconsideration of our Resolution dated 9 December 2002, praying that its motion to recall entry of judgment be granted.

In the meantime, on 27 March 2003, the Court of Appeals promulgated a Resolution directing its Clerk of Court to "return the records of this case to the court of origin," without however making any ruling on what the "court of origin" would be executing as the final and executory decision, nor any statement on the status of PAXTON's Motion for Reconsideration of the Amended Decision.[41] This Resolution seems to be a belated response to the Letter of Transmittal coming from the Judicial Records Office of this Court directing the Clerk of Court of the Court of Appeals to return the records of the instant case to the trial court.

On 3 April 2003 PAXTON filed a Manifestation informing this Court of the 27 March 2003 Resolution of the Court of Appeals purportedly setting aside its Amended Decision of 2 August 2002, although nothing in that Resolution validated PAXTON's submission.

On 6 May 2003 PAXTON filed another Manifestation with this Court alleging that TOP RATE moved for the issuance of a writ of execution with RTC-Br. 21 of Imus, Cavite, which was signed this time by a certain Atty. Carmelo M. Mendoza in behalf of TOP RATE.

On 16 June 2003 this Court issued a Resolution denying with finality TOP RATE's motion for reconsideration of the Resolution of 9 December 2002 which in turn denied petitioner's urgent motion to recall entry of judgment, and further requiring TOP RATE to comment on the twin Manifestations of PAXTON.

In its Comment dated 18 July 2003, TOP RATE asserted that nowhere was it stated in the 27 March 2003

Resolution of the Court of Appeals that the appellate court was invalidating its Amended Decision of 2 August 2002, and that since the filing of its Petition for Review with this Court was premature, the subsequent dismissal thereof did not set aside the Amended Decision, which allegedly stands as the decision to be executed by the trial court.

The issues to be resolved herein are: (a) whether Top Rate Construction and General Services, Inc., and its counsel Gana & Manlangit Law Office through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit are guilty of forum shopping, and whether such transgression is willful and deliberate; (b) whether Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit are administratively liable for violation of the Code of Professional Responsibility; and, (c) whether the Amended Decision of 2 August 2002 may be reversed and set aside in the instant proceedings for being void on its face.

We have no doubt that Top Rate Construction and General Services, Inc. and its lawyer Gana & Manlangit Law Office through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit are guilty of forum shopping. Although TOP RATE as principal party executed the several certifications of non-forum shopping, Attys. Gana and Manlangit cannot deny responsibility therefor since Atty. Manlangit notarized the certifications and both of them definitely knew the relevant case status after having invariably acted as counsel of TOP RATE before the trial court, the Court of Appeals and this Court.

Clearly, in seeking to reverse the 13 March 1998 Joint Decision of the trial court and the 21 May 2001 Decision of the appellate court and to perfect ownership of Lots 5763-A and 5763-B upon similar causes and the same reliefs, TOP RATE and its lawyers committed forum shopping when they resorted simultaneously to both this Court by means of their Petition for Review on Certiorari and the Court of Appeals through their Manifestation and Motion dated 21 December 2001. This misdeed amounts to a wagering on the result of their twin devious strategies, and shows not only their lack of faith in this Court in its evenhanded administration of law but also their expression of disrespect if not ridicule for our judicial process and orderly procedure.

Furthermore, while TOP RATE and its counsel moved to withdraw their Petition for Review for whatever such maneuver was worth, they did so only after they had been rebuffed in this Court. In doing so, they themselves proved that their coordinated actions were carried out purposely to increase their chances of securing a favorable decision. As has been held, a party is said to have sought to improve his odds of obtaining a sympathetic decision or action where after an unfavorable decision has been rendered against him in any of the cases he has brought before the courts, he seeks to abandon the adverse proceeding and concentrate his attention on the remaining case.[42]

The instant case is similar to *E. Razon, Inc. v. Philippine Ports Authority*.^[43] In *E. Razon, Inc.*, petitioners after filing a petition for certiorari with prayer for the issuance of a temporary restraining order in the Supreme Court filed an hour later a similar petition before the Regional Trial Court and, having been assured of a favorable action by the latter court, then sought the withdrawal of the petition in this Court. Petitioners were found guilty of forum-shopping, the Court holding that "(t)he acts of petitioners constitute a clear case of forum-shopping, an act of malpractice that is proscribed and condemned as trifling with the courts and abusing their processes."^[44]

What aggravates the transgression perpetrated by TOP RATE and its lawyers is that they deceived the highest court of the land. In all the certificates of non-forum shopping they presented to this Court, they did not reveal the existence of their Manifestation and Motion dated 21 December 2001 which they claimed was still pending before the Court of Appeals. They divulged this "secret" only after their motion for extension of time to file a petition for review and their Petition for Review on Certiorari were denied by this Court, and only after they had filed their motion for reconsideration of such denials.

If TOP RATE and its counsel genuinely believed that their recourse to this Court was "premature," why then did they still ask for a reconsideration of the Resolutions denying their motion for extension and Petition for Review? Evidently they were venturing on two (2) fronts, and presumably simply "awaiting" auspicious word or two on their Manifestation and Motion of 21 December 2001 before finally disclosing their "real intent."

Worse, in their attempt to extricate themselves from the prejudicial Resolutions of this Court, TOP RATE and its counsel had the temerity to ask for the withdrawal of their Petition for Review, again on the insolent assertion that their resort to this Court was "premature." For the record, it took them four (4) months from 21 December 2001 when they filed their Manifestation and Motion up to 3 April 2002 when they submitted their Manifestation and Motion to Withdraw Petition for Review on Certiorari, to concoct the theory of "prematurity!"

To be sure, there is no merit in the claim that the Petition for Review initiated by TOP RATE and its lawyers was "premature." TOP RATE and its lawyers are estopped from claiming that this initiatory pleading was "premature" for it was their unwavering representation before this Court that the Court of Appeals had already rendered a final and appealable decision when they filed their motion for extension of time and ultimately their Petition for Review. The filing of such petition presupposes the finality of the judgment subject of appeal.

In any event, Sec. 15 of the 2002 Internal Rules of the Court of Appeals (which is a restatement of Sec. 8, Rule 9, of the old Revised Internal Rules of the Court of Appeals) explicitly provides that "(n)o motion for reconsideration or rehearing shall be acted upon if the movant has previously filed in the Supreme Court a petition for review on certiorari or a motion for extension of time to file such petition. If such petition or motion is subsequently filed, the motion for reconsideration pending in this Court shall be deemed abandoned." Verily, although a motion for reconsideration is still before the Court of Appeals, the motion is deemed vacated once the jurisdiction of this Court is invoked.

The lawyers of TOP RATE are not excused from engaging in forum shopping for the reason that their client's interests were then paramount. On the contrary, this assertion coming as it does from their Compliance of 25 January 2003 in reply to our show cause order, very well confirms the identical causes and their reliefs of their Petition for Review on Certiorari and Manifestation and Motion dated 21 December 2001 as both were calculated to quash the adverse decisions of the Court of Appeals.

It bears stressing that a lawyer truly worth his oath pledges allegiance not only to his clients but also to society, the legal profession and the courts, for the client's cause is not all encompassing nor perpetually overriding. Moreover, if their purpose in filing the Petition for Review even while the Manifestation and Motion was pending with the Court of Appeals is to protect some entitlements of TOP RATE, are they implying that the Supreme Court is incapable of defending such asserted right? But the court a quo can? We certainly cannot unfold our compassionate mantle in this instance, and instead, we must lay our disciplinary hand to strike down the reprehensible ploy employed by TOP RATE and Attys. Gana and Manlangit.

TOP RATE and its lawyers cannot rectify their forum shopping by arguing that *litis pendentia* and *res judicata* would not have arisen in the instant case since the Supreme Court may still review the pertinent decision or resolution of the Court of Appeals on their Manifestation and Motion dated 21 December 2001.

This argument is patently misplaced. For precisely, the concurrent pleadings of TOP RATE and its lawyers exhibit the element of *litis pendentia* and *res judicata* alleged by them to be absent, i.e., the result of the first action is determinative of the second action in any event and regardless of which party is successful, since the action of this Court on the Petition for Review will surely bind the other pending action on the same cause in the court a quo. Moreover, how can this Court still resolve on appeal such "subsequent" decision when it has already decided with finality the same cause upon which the "later" decision was supposedly based? The purported review

by this Court of the "ensuing" decision would have been barred by *res judicata*. Incidentally, in *Crisostomo v. Securities and Exchange Commission*[45] where forum shopping was detected, the infringing cases were filed with the Court of Appeals and the Supreme Court.

We also rule that the forum shopping pulled off by TOP RATE and its lawyers is willful and deliberate. As reflected in the "Secretary's Certificate" authorizing the President of TOP RATE to file the necessary pleadings in court to question the adverse decisions of the Court of Appeals, Atty. Luis Ma. Gil L. Gana as TOP RATE Corporate Secretary attested to the collective desire to file the Petition for Review even while the Manifestation and Motion of 21 December 2001 was still pending with the Court of Appeals.

In addition, the Manifestation and Motion filed with the Court of Appeals which prayed for the same reliefs as the Petition for Review before this Court was deemed filed as early as 21 December 2001, yet its existence was disclosed to this Court only on 3 April 2002 when TOP RATE and its lawyers submitted their Manifestation and Motion to Withdraw Petition for Review on Certiorari. What is more, this underhanded sense of honesty was triggered only after the adverse Resolutions of this Court were promulgated. Prior to this confession, TOP RATE as abetted by its lawyers executed certificates of non-forum shopping in its motion for extension of time to file petition for review and its Petition for Review itself, which contained no reference to the filing or pendency of the Manifestation and Motion filed with the Court of Appeals. In fact, even as TOP RATE moved to reconsider the denial of its motion for time and Petition for Review, there was no mention whatsoever of its existence.

We also keenly observe how Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit instigated the Court of Appeals to rule on their Manifestation and Motion of 21 December 2001, thereby consummate and realize the fruits of their forum shopping, when they nonchalantly alleged in one of their Manifestations before the Court of Appeals that the appellate court may already proceed to resolve TOP RATE's Manifestation and Motion despite their knowledge that their Petition for Review had been denied with finality and that their motion to withdraw such petition was not granted.

Obviously, under the foregoing state of facts, forum shopping was crafted willfully and deliberately with the sole objective of endorsing whichever proceeding would yield favorable consequences to TOP RATE's interests.

On the second issue, we hold that Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit of the Gana and Manlangit Law Office, counsel of record of TOP RATE, are administratively liable for grotesque violations of the Code of Professional Responsibility. In arriving at this conclusion, we strongly note how Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit prompted the Court of Appeals to rule on their Manifestation and Motion of 21 December 2001 and thereby complete the process of forum shopping, despite their knowledge that their Petition for Review had been denied with finality and that their motion to withdraw such petition was not granted.

Under Sec. 5, Rule 7, of the 1997 Rules of Civil Procedure, willful and deliberate forum shopping constitutes direct contempt of court and a cause for administrative sanctions, which may both be resolved and imposed in the same case where the forum shopping is found.[46]

The lawyers of record of TOP RATE, as all other lawyers, should be reminded that their primary duty is to assist the courts in the administration of justice. Any conduct which tends to delay, impede or obstruct the administration thereof contravenes their oath of office.

"A lawyer shall uphold the Constitution, obey the laws of the land, promote respect for law and legal processes;[47] shall not counsel or abet activities aimed at defiance of the law or at lessening the confidence in the legal system;[48] shall observe the rules of procedure and not misuse them to defeat the ends of justice;[49] shall not file multiple actions arising from the same cause;[50] shall impress upon his client compliance with the laws

and the principles of fairness;^[51] shall represent his client with zeal within the bounds of the law;^[52] and, shall employ only fair and honest means to attain the lawful objectives of his client x x x"^[53]

This Court has time and again warned counsel of litigants not to abuse court processes, especially not to resort to forum shopping for this practice clogs the court dockets. Regrettably, TOP RATE's counsel of record failed to internalize and observe with due regard the honorable tenets of the legal profession and the noble mission of our courts of justice.

In previous cases^[54] the penalties imposed upon erring lawyers who engaged in forum shopping ranged from severe censure to suspension from the practice of law. In the instant case, the suspension of Attys. Gana and Manlangit from the practice of law for six (6) months from finality of this Resolution should make them realize the seriousness of the consequences and implications of their abuse of judicial process and disrespect for judicial authority.

Finally, on the third issue, this Court has no choice but to reverse and set aside the Amended Decision of the Court of Appeals promulgated on 2 August 2002 for being void on its face. To be sure, the instant proceeding is a collateral attack on such decision since the issue of its validity is involved in this action only as a mere incident.^[55] Of course, this attack is proper only when the assailed judgment is null on its face, as where it is patent that the court which rendered the judgment in question has no jurisdiction.^[56] Parenthetically, forum shopping is consummated although the court in which one of the suits was brought has no jurisdiction over the action.^[57]

In *Macabingkil v. People's Homesite and Development Corporation*^[58] we held that a collateral attack is proper against a challenged judgment which is void upon its face or where the nullity of the judgment is apparent by virtue of its own recitals. The nullity must be shown from the averments of the questioned decision or the documents in the record itself, and not upon mere errors of judgment but on the ground that the court had no power or authority to grant the relief or no jurisdiction over the subject matter or the parties or both.^[59] A proceeding for contempt of court is an appropriate collateral vehicle for declaring a judgment void, provided that the aforementioned requisites for such action are present.^[60]

When the Division of Five of the Court of Appeals promulgated the Amended Decision of 2 August 2002, TOP RATE had already filed with this Court its motion for extension of time to file petition for review and thereafter its Petition for Review. What is worse, even before the Amended Decision was handed down, this Court had already denied TOP RATE's motion for extension of time to file petition for review "for lack of service of a copy of the motion on the Court of Appeals x x x x;" thereafter denied its Petition for Review "for petitioner's failure to take the appeal within the reglementary period of fifteen (15) days in accordance with Section 2, Rule 45 in relation to Section 5 (a), Rule 56, in view of the denial of petitioner's motion for extension of time to file petition in the resolution of 30 January 2002;" and, denied with finality TOP RATE's motion for reconsideration of the adverse Resolutions, as well as noted without action its Manifestation and Motion to Withdraw Petition dated 2 April 2002.

Under the foregoing circumstances, the Court of Appeals has lost jurisdiction to rule on the Manifestation and Motion of 21 December 2001. As earlier mentioned, Sec. 15 of the 2002 Internal Rules of the Court of Appeals bluntly affirms that "no motion for reconsideration or rehearing shall be acted upon if the movant has previously filed in the Supreme Court a petition for review on certiorari or a motion for extension of time to file such petition. If such petition or motion is subsequently filed, the motion for reconsideration pending in this Court shall be deemed abandoned." As the jurisdiction of this Court had been summoned, it was too late in the day for the appellate court to act upon the Manifestation and Motion and enter a new decision on the merits.

Our ruling in *Joy Mart Consolidated Corp. v. Court of Appeals*[61] is instructive. In that case, the trial court granted plaintiff a writ of preliminary injunction against defendants, which the latter challenged before the Court of Appeals on petition for certiorari and prohibition with prayer for the immediate lifting thereof. While the certiorari petition to review the writ was still pending in the appellate court, defendants filed in the trial court a joint petition to dissolve the writ, offering to post a counterbond for that purpose. As prayed for, the trial court dissolved the writ and denied plaintiff's motion for reconsideration. Meanwhile, the Court of Appeals upon being apprised of the trial court's action dismissed the petition for certiorari for having become moot and academic.

The issue in *Joy Mart Consolidated Corp.* was whether the trial court continued to have control of the writ of preliminary injunction even after the same had been raised to the Court of Appeals for review. This Court ineluctably ruled -

The answer is no. After the LRTA and Phoenix had elevated the writ of preliminary injunction to the Court of Appeals for determination of the propriety of its issuance x x x the trial court (notwithstanding the absence of a temporary restraining order from the appellate court) could not interfere with or preempt the action or decision of the Court of Appeals on the writ x x x whose annulment was sought therein by Phoenix and the LRTA. In petitioning the trial court to lift the writ x x x Phoenix and the LRTA engaged in forum-shopping. After the question of whether the writ x x x should be annulled or continued had been elevated to the Court of Appeals for determination, the trial court lost jurisdiction or authority to act on the same matter x x x They improperly tried to moot their own petition in the Court of Appeals - a clear case of trifling with the proceedings in the appellate court or of disrespect for said court x x x Judicial courtesy behooved the trial court to keep its hands off the writ x x x and defer to the better judgment of the Court of Appeals the determination of whether the writ should be continued or discontinued x x x The private respondents' application to the trial court for the dissolution of the writ x x x that was pending review in the Court of Appeals was a form of forum shopping which this Court views with extreme disapproval. The lower court's proceeding being void for lack of jurisdiction, the writ of preliminary injunction should be reinstated, and the petition to annul the writ x x x should be dismissed on the ground of forum shopping x x x[62]

The absence of jurisdiction on the part of the court a quo is manifest not only from the voluminous rollo compiled by the Court of Appeals but also from the four corners of the Amended Decision. From the case record, we will find copies of TOP RATE's motion for extension of time to file petition for review, its Petition for Review, the adverse Resolutions of this Court denying the motion for extension of time to file petition for review and the Petition for Review itself. The case record also informs us of the denial with finality of TOP RATE's motion for reconsideration of the unfavorable Resolutions of this Court as well as the noting without action of its Manifestation and Motion to Withdraw Petition dated 2 April 2002. From these circumstances alone, we can clearly infer lack of jurisdiction of the Court of Appeals to promulgate the Amended Decision.

Moreover, in the 22 April 2002 Resolution of the Division of Five, action on the Manifestation and Motion dated 21 December 2001 was deferred "until after the Supreme Court has acted on [Top Rate's] Manifestation and Motion to Withdraw Petition for Review on Certiorari." [63] This implies that the appellate court was well-aware that TOP RATE had summoned the authority of this Court. Finally, in the Dissenting Opinion which forms an integral part of the Amended Decision, there are unmistakable references to the Petition for Review which was filed with this Court while the Manifestation and Motion was still pending in the Court of Appeals –

On April 24, 2002 this Court deferred action on appellant TOP RATE's Manifestation and Motion dated December 21, 2001 x x x due to the pendency in the Supreme Court of TOP RATE's Motion to Withdraw the Petition for Review on Certiorari it earlier filed therein x x x On June 7, 2002 this Division received a copy of the Supreme Court's Resolution dismissing with finality TOP RATE's Motion for Reconsideration of its Resolution dismissing TOP RATE's Petition for Review x x x

Undoubtedly, we can nullify the Amended Decision in the instant case since the dearth of jurisdiction of the Court of Appeals to rule upon the Manifestation and Motion can be plainly discerned not only from the case record but also from the text of the assailed decision itself.

WHEREFORE, we Resolve to (a) REVERSE and SET ASIDE the Amended Decision of 2 August 2002 of the Court of Appeals in CA-G.R. No. CV-60656 and REINSTATE its Decision of 21 May 2001 (affirming in toto the Joint Decision of 13 March 1998 of the RTC-Br. 21, Imus, Cavite); (b) DECLARE Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit of the Gana and Manlangit Law Office as well as its client Top Rate Construction and General Services, Inc., in CONTEMPT of this Court and DIRECT Atty. Luis Ma. Gil L. Gana, Atty. Elmer E. Manlangit and Top Rate Construction and General Services, Inc., to each pay a fine of P10,000.00 within five (5) days from finality of this Resolution; and, (c) SUSPEND from the practice of law Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit for six (6) months effective from finality of this Resolution, with warning that any future violation of their duties as lawyers will be dealt with more severely.

Top Rate Construction and General Services, Inc. shall PAY double costs in this instance.

Let copies of this Resolution be attached to the Bar records of Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit, and served upon the Court of Appeals, the RTC-Br. 21, Imus, Cavite, the Office of the Bar Confidant of this Court, and the Integrated Bar of the Philippines, for proper dissemination among its chapters all over the country, and for whatever appropriate action they may deem proper to take under the premises.

SO ORDERED.

Quisumbing, Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur

[1] Santos v. Commission on Elections, G.R. No. 155618, 26 March 2003; Young v. Keng Seng, G.R. No. 143464, 5 March 2003; Executive Secretary v. Gordon, 359 Phil. 266 (1998).

[2] Ibid.

[3] Joy Mart Consolidated Corp. v. Court of Appeals, G.R. No. 88705, 11 June 1992, 209 SCRA 738; Villanueva v. Adre, G.R. No. 80863, 27 April 1989, 172 SCRA 876.

[4] The civil cases were docketed as Civil Case No. 1124-95 for Declaration of Nullity of Torrens Title with Damages, "Paxton Development Corporation v. Top Rate Construction and General Services, Inc., Baikal Realty Corporation and the Register of Deeds for the Province of Cavite;" Civil Case No. 1125-95 for Declaration of Nullity of Torrens Title with Damages and Preliminary Injunction, "Paxton Development Corporation v. Hi-Tone Marketing Corporation, Baikal Realty Corporation and the Register of Deeds for the Province of Cavite;" Civil Case No. 1134-95 for Cancellation of Title with Damages, "Hi-Tone Marketing Corporation v. The Estate and/or the Heirs of Serapio Cuenca, represented by Francisco Cuenca, Paxton Development Corporation, Abelardo G. Palad, Jr., in his capacity as Director of Lands Management Bureau, and the Register of Deeds of Cavite;" Civil Case No. 1224-95 for Annulment of Titles and Quieting of Titles, "Baikal Realty Corporation v. Hi-Tone Marketing Corporation, Paxton Development Corporation, Top Rate Construction and General Services, Inc. and Register of Deeds of Cavite;" and, Civil Case No. 1286-96 for Declaration of Nullity of T.C.T. No. 11258 of the Register of Deeds of Cavite and Damages, "Paxton Development Corporation v. Hi-Tone Marketing Corporation and the Register of Deeds for Cavite;" CA Rollo, pp. 7-8.

[5] Penned by Judge Roy S. del Rosario, RTC-Br. 21, Imus, Cavite; CA Rollo, pp. 70, 77.

[6] CA Rollo, pp. 81, 91.

[7] Penned by Associate Justice Portia Aliño-Hormachuelos and concurred in by Associate Justices Fermin A. Martin, Jr. and Mercedes Gozo-Dadole of the Second Division; CA Rollo, pp. 477-494.

[8] CA Rollo, pp. 522-536.

[9] Id., pp. 537-545, 548-559.

[10] Id., p. 560.

[11] Id., p. 575.

[12] Penned by Associate Justice Portia Aliño-Hormachuelos and concurred in by Associate Justices Mercedes Gozo-Dadole and Eriberto U. Rosario, Jr. of the Seventeenth Division; CA Rollo, pp. 578-580.

[13] CA Rollo, pp. 581-588.

[14] Id., p. 587.

[15] Id., pp. 602-608.

[16] Rollo, pp. 3-6.

[17] CA Rollo, pp. 590-592, 594-597.

[18] Rollo, p. 7.

[19] CA Rollo, pp. 914, 915.

[20] Id., pp. 613-692; Rollo, pp. 9-83.

[21] Ibid.

[22] Rollo, p. 43.

[23] Id., p. 41.

[24] Id., p. 84.

[25] Id., pp. 86-93.

[26] Id., p. 91.

[27] Id., pp. 94-98.

[28] CA Rollo, pp. 1089-1090, 1115.

[29] Promulgated by the Division of Five composed of Associate Justice Portia Aliño-Hormachuelos as Chairman with Associate Justices Teodoro P. Regino, Mercedes Gozo-Dadole, Eriberto U. Rosario, Jr. and Mariano C. del Castillo, as members; CA Rollo, p. 922.

[30] CA Rollo, pp. 927-928.

[31] Id., p. 928.

[32] Rollo, p. 111.

[33] Penned by Associate Justice Eriberto U. Rosario, Jr. and concurred in by Associate Justices Teodoro P. Regino and Mariano C. del Castillo; CA Rollo, pp. 943-964, 959.

- [34] Concurred in by Associate Justice Mercedes Gozo-Dadole; CA Rollo, pp. 965-968.
- [35] CA Rollo, pp. 975-992.
- [36] *Id.*, pp. 1002-1011.
- [37] *Id.*, p. 1035.
- [38] Rollo, pp. 116-154.
- [39] *Id.*, p. 166.
- [40] *Id.*, p. 181.
- [41] Penned by Associate Justice Teodoro P. Regino and concurred in by Associate Justices Delilah Vidallon-Magtolis, Portia Aliño-Hormachuelos, Rodrigo V. Cosico and Mercedes Gozo-Dadole; CA Rollo, pp. 1132-1137.
- [42] *Executive Secretary v. Gordon*, *supra*.
- [43] Resolution in G.R. No. 75197, 31 July 1986 (unrep.).
- [44] *Ibid.*
- [45] G.R. Nos. 89095 and 89555, 6 November 1989, 179 SCRA 146.
- [46] *Benguet Electric Cooperative, Inc. v. National Electrification Administration*, G.R. No. 93924, 23 January 1991, 193 SCRA 250; *Villanueva v. Adre*, *supra*; *Vda. de Tolentino v. De Guzman*, G.R. No. 61756, 19 April 1989, 172 SCRA 555; Resolution in *E. Razon, Inc. v. Philippine Ports Authority*, *supra*.
- [47] Canon 1, Code of Professional Responsibility.
- [48] *Id.*, Canon 1.02.
- [49] *Id.*, Canon 10.03.
- [50] *Id.*, Canon 12.02.
- [51] *Id.*, Canon 15.07.
- [52] *Id.*, Canon 19.
- [53] *Id.*, Canon 19.01.
- [54] See Note 46.
- [55] *Co v. Court of Appeals*, G.R. No. 93687, 6 May 1991, 196 SCRA 705.
- [56] *Ibid.*
- [57] *Joy Mart Consolidated Corp. v. Court of Appeals*, *supra*; *Villanueva v. Adre*, *supra*.
- [58] No. L-29080, 17 August 1976, 72 SCRA 326.
- [59] *People v. Pareja*, G.R. No. 59979, 30 August 1990, 189 SCRA 143.
- [60] See e.g. *People v. Pareja*, *supra*; *Montinola v. Gonzales*, G.R. No. 36155, 26 October 1989, 178 SCRA 677.
- [61] See Note 41.

[62] *Id.*, pp. 745-747.

[63] Promulgated by the Division of Five composed of Associate Justice Portia Aliño-Hormachuelos as Chairman with Associate Justices Teodoro P. Regino, Mercedes Gozo-Dadole, Eriberto U. Rosario, Jr. and Mariano C. del Castillo, as members; CA Rollo, p. 922.

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