VERONIQUE T. HUIBONHOA, PETITIONER, ANGEL D. CONCEPCION, AND HON. RAYMUNDO Z. ANNANG, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF CABANATUAN CITY, BRANCH 8...

G.R. NO. 153785. August 03, 2006

Ponente: TINGA J.

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TINGA J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure assailing the Decision of the Court of Appeals (CA) in CA-G.R. SP No. 65718 promulgated on March 12, 2002 and its Resolution dated May 27, 2002, denying petitioner's motion for reconsideration of said Decision. The CA Decision denied the petition for certiorari filed by Veronique T. Huibonhoa, herein petitioner, which assailed the Orders dated July 13, 2001 and July 17, 2001 issued by Judge Raymundo Annang in his capacity as Acting Executive Judge of the Regional Trial Court (RTC) of Cabanatuan City.

The instant petition stemmed from a complaint for accounting and damages filed by respondent Angel D. Concepcion, Sr. against petitioner Veronique T. Huibonhoa. The complaint was filed with the RTC of Cabanatuan City on July 13, 2001 and prayed for the issuance of a preliminary injunction and preliminary mandatory injunction to immediately restrain Huibonhoa from performing her job as manager of Poulex Supermarket, among others. On the same day the complaint was filed, Judge Annang issued a temporary restraining order (TRO) effective for seventy-two (72) hours. The pertinent portion of the July 13, 2001 Order reads:

> WHEREFORE, premises considered, temporary restraining order is hereby issued effective for seventy two hours from this order restraining and prohibiting defendant Veronique T. Huibonhoa from occupying and performing her position as Manager of the Poulex Supermarket and from suppressing, concealing and falsifying the records; and, further, said defendant is hereby ordered to submit formal turn-over of all cash and other cash items and all management and accounting records accruing for the business operation of the [sic] Poulex Supermarket for the period of, from November, 2000 up to the present. Further, defendant Sphinx Security Agency is hereby ordered to allow the plaintiff or his authorized representative/s to enter the [sic] Poulex Supermarket as Director of the CHAS, Inc., among others, until further order from this Court. Likewise, Sphinx Security Agency is hereby restrained from interfering and/or preventing the implementation of the orders of Angel D. Concepcion, Sr. in his capacity as Chairman-President of CHAS, Inc.[1]

On July 16, 2001, Huibonhoa, along with fellow stockholders of CHAS, Inc., CHAS Enterprise Corporation and CHAS Realty and Development Corporation, filed an intra-corporate and derivative suit and complaint for injunction with a prayer for temporary restraining order and/or writ of preliminary injunction to prevent respondent Concepcion, Sr. and his agents from interfering with the management and operations of the Poulex Supermarket. The complaint was docketed as Civil Case No. 4068-AF.

On July 17, 2001, Huibonhoa filed an Urgent Manifestation and Motion Ex Abundante Ad Cautelam, seeking the issuance of an order certifying the expiration of the TRO. Thus, Judge Annang issued on the same day an order

declaring the expiration of the temporary restraining order but at the same time directing the continuous closure of the supermarket. The July 17, 2001 Order reads in part:

> For being meritorious, it is hereby declared that the seventy-two (72) hour TRO effective for only seventy-two hours from its issuance has already expired on July 16, 2001 at 5:00 p.m.
>
> Considering the fact that the [sic] Poulex Supermarket had already been padlocked on July 16, 2001 after 5:00 P.M. according to the said motion and manifestation of defendant Veronique T. Huibonhoa, the same should remain closed in the interest of justice and in order not to create further confusion. Anyway, this case will be raffled tomorrow, July 18, 2001 at 10:00 A.M. in accordance with the Rules.[2]

On July 18, 2001, respondent Concepcion's complaint for accounting and damages, docketed as Civil Case No. 4065, was raffled to Branch 28 of the RTC-Cabanatuan City, the branch designated to decide cases formerly cognizable by the Securities and Exchange Commission.

On July 20, 2001, Huibonhoa filed a petition for certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 65718. The petition sought to annul the July 13 and July 17 Orders of Judge Annang for having been issued with grave abuse of discretion amounting to lack and/or excess of jurisdiction. Huibonhoa's prayer for the issuance of a temporary restraining order was granted in a Resolution issued on July 23, 2001. The CA Resolution enjoined respondents from implementing and/or enforcing the assailed orders of Judge Annang, including but not limited to the prevention of the breaking of the padlock and reopening of Poulex Supermarket, and interference by respondent Concepcion and his agents with the operations of the supermarket.

On March 12, 2004, the Court of Appeals dismissed Huibonhoa's petition for certiorari assailing the twin orders of Judge Annang on the grounds of pre-maturity and forum shopping. Huibonhoa moved for its reconsideration but in the Resolution issued on May 27, 2002, the Court of Appeals denied her motion.

Hence, Huibonhoa filed the instant petition for review on certiorari imputing the following errors to the Court of Appeals:

I.

> THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN DISMISSING THE PETITION ON THE GROUNDS THAT: (A) PETITIONER FAILED TO MOVE FOR THE DISSOLUTION OF THE TEMPORARY RESTRAINING ORDER WITH THE TRIAL COURT UNDER SECTION 6, RULE 58 OF THE RULES OF COURT; AND THAT (B) PETITIONER IS GUILTY OF FORUM SHOPPING, CONSIDERING THAT:
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> - SECTION 6, RULE 58 OF THE RULES OF COURT IS NOT APPLICABLE TO THE CASE.
>
> - THE FILING OF THE COMPLAINT IN CIVIL CASE NO. 4068-AF COULD NOT, AS IT DID NOT, CONSTITUTE FORUM SHOPPING.
>
> - THE FILING OF THE PETITION FOR CERTIORARI COULD NOT, AND DID NOT CONSTITUTE FORUM SHOPPING.
>
> II.
>
> THE HONORABLE COURT OF APPEALS ERRED IN NOT ISSUING THE WRIT OF CERTIORARI TO ANNUL THE 13 JULY 2001 AND 17 JULY 2001 ORDERS OF THE TRIAL COURT.[3]

After respondent Concepcion and petitioner Huibonhoa filed a Comment and a Reply, respectively, the Court issued a Resolution on September 28, 2005, directing the former to show cause why the instant petition should not

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be dismissed for having become moot and academic. The resolution of the petition is ultimately hinged on the propriety of the issuance of the 72-hour restraining order, which should have expired ipso jure on the twentieth day, a judicial declaration to that effect not being necessary. Thus, the filing of the instant petition almost a year after the issuance of the TRO would be unnecessary.

Huibonhoa submitted a Compliance with Motion to Clarify dated October 25, 2005, conveying the following: (1) Huibonhoa had proposed a settlement for the parties to dismiss their respective claims against each other; (2) upon a Joint Motion to Dismiss by both petitioner Huibonhoa and respondent Concepcion, the trial court issued an order dismissing Civil Case No. 4065, the complaint for accounting and damages filed by respondent Concepcion; (3) notwithstanding the dismissal of the pending cases, the parties did not agree to cause the dismissal of the instant petition; (4) petitioner Huibonhoa is still seeking the reversal of the CA Decision insofar as it ruled that she was guilty of forum shopping and a clarification on whether her counsel will be exposed to administrative liability should the instant petition be dismissed.[4]In dismissing the petition for certiorari, the Court of Appeals found petitioner Huibonhoa guilty of forum shopping when she filed Civil Case No. 4068-AF with the trial court and, thereafter, a petition for certiorari, docketed as CA-G.R. SP No. 65718, with the Court of Appeals. The appellate court believed that the two actions had the same object of nullifying the TRO issued by Judge Annang in Civil Case No. 4065. Petitioner Huibonhoa urges the Court to evaluate the Court of Appeals' finding that she engaged in forum shopping, especially that the appellate court characterized said act as "deliberate." She stresses that said finding and the accompanying characterization have exposed her and her counsel to sanctions.[5]In her defense, Huibonhoa insists that Civil Case No. 4068-AF was filed not for the purpose of defeating the TRO issued by Judge Annang on July 13, 2001 but on account of the acts of disturbance and attempted forcible take-over by respondent Concepcion committed on July 6,7,12 and 13, 2001. She also asserts that Civil Case No. 4068-AF, while filed on July 16, 2001, was signed and verified on July 13, 2001 or before a copy of the July 13, 2001 TRO was served on her counsel.

Furthermore, Huibonhoa contends that in contrast, the petition for certiorari was filed with the Court of Appeals to enjoin or prohibit acts pursuant to the implementation of the July 13 and 17 Orders of Judge Annang, although the TROs separately prayed for in the complaint for injunction and in the petition for certiorari effectively sought to address the interference in the operations of the supermarket by respondent Concepcion.

There is forum shopping when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion, other than by appeal or certiorari in another. There can also be forum shopping when a party 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 and/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.[6]The rationale against forum shopping is that a party should not be allowed to pursue simultaneous remedies in two different fora. Filing multiple petitions or complaints 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. Thus, the rule proscribing forum shopping seeks to promote candor and transparency among lawyers and their clients in the pursuit of their cases before the courts to promote the orderly administration of justice, prevent undue inconvenience upon the other party, and save the precious time of the courts. It also aims to prevent the embarrassing situation of two or more courts or agencies rendering conflicting resolutions or decisions upon the same issue.[7]To determine whether a party violated the rule against forum shopping, the most important question to ask is whether the elements of litis pendentia are present or whether a final judgment in one case will result to res judicata in another. Otherwise stated, to determine forum shopping, the test is to see whether in the two or more cases pending, there is identity of parties, rights or causes of action, and reliefs sought.[8]A plain reading of the allegations in the complaint in Civil Case

No. 4068-AF and those in the petition for certiorari filed with the Court of Appeals would preclude the Court from affirming the Court of Appeals' finding that Huibonhoa had engaged in forum shopping. Not all the elements of litis pendentia concur. There is no identity of parties, rights or causes of action between Civil Case No. 4068-AF and the petition for certiorari. Civil Case No. 4068-AF is a derivative suit and complaint for injunction instituted by the stockholders of the aforementioned corporations while the petition for certiorari was instituted by petitioner in her capacity as manager of Poulex Supermarket. The complaint in Civil Case No. 4068-AF alleges different causes of action, including those relating to interference by respondent Concepcion in the operations of the supermarket and causing damages to the corporations and the stockholders arising from such unlawful interference. The petition for certiorari aims to nullify the two orders of Judge Annang on the ground that they were issued with grave abuse of discretion since only the designated special commercial court has jurisdiction to hear and decide intra-corporate controversies. A resolution on the merits of the petition for certiorari would necessarily have to discuss the authority of respondent Judge Annang to take cognizance of the case, which was allegedly an intra-corporate matter, and the issuance of the mandatory injunction, which was allegedly not sanctioned by any rule. These are the main issues raised in the petition for certiorari but are not raised as issues in Civil Case No. 4068-F.

The reliefs sought in the two actions are also different. In Civil Case No. 4068-F, aside from the main action for a permanent injunction, complainants therein also claimed damages. In the petition for certiorari, Huibonhoa sought the prevention of the implementation of the assailed orders of Judge Annang. The only common thread between the two actions is with respect to the TRO sought to prevent respondent Concepcion from interfering with the operations of the supermarket, but said relief is only incidental and does not constitute the main cause of action in both cases.

All the foregoing points favorable to petitioner's cause notwithstanding, the Court cannot take favorable action on her petition. In the light of the supervening events, particularly the dismissal of Civil Case No. 4065, the instant petition has clearly become moot and academic and, therefore, deserves to be dismissed. With the termination of the case wherein the assailed orders were issued, it is no longer necessary for this Court to resolve whether the Court of Appeals had correctly upheld said orders. In addition, one of said orders directed the issuance of a TRO, which, by sheer force of law, should have expired and did expire after 72 hours, without need of a judicial declaration to that effect.

Likewise, with the settlement reached by the parties which culminated in the dismissal of the cases filed by them against each other, petitioner and her counsel have been liberated from any risk of sanction for their supposed forum shopping.

Courts of justice constituted to pass upon substantial rights will not consider questions where no actual interests are involved. Thus, the well-settled rule that courts will not determine a moot question. Where the issues have become moot and academic, there ceases to be any justiciable controversy, thus rendering the resolution of the same of no practical value. Courts will decline jurisdiction over moot cases because there is no substantial relief to which petitioner will be entitled and which will anyway be negated by the dismissal of the petition. This Court will therefore abstain from expressing its opinion in a case where no legal relief is needed or called for.[9]WHEREFORE, the instant petition for review on certiorari is DENIED for being moot and academic. No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales and Velasco, Jr., JJ., concur.

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[1] Rollo, p. 76.

[2] Id. at 78.

[3] Id. at 23.

[4] Id. at 327.

[5] Supreme Court Revised Administrative Circular No. 28-91, (1994), paragraph 2 states:

> Any violation of this revised Circular will entail the following sanctions; (a) it shall be a cause for the summary dismissal of the multiple petitions or complaints; (b) any willful and deliberate forum shopping by any party and his counsel through the filing of multiple petitions or complaints to ensure favorable action shall constitute direct contempt of court; and (c) the submission of a false certification shall constitute indirect contempt of court, without prejudice to the filing of criminal action against the guilty party and the institution of disciplinary proceedings against the counsel.

[6] Villaluz v. Ligon, G.R. No. 143721, August 31, 2005, 468 SCRA 486, 498.

[7] Wee v. Galvez, G.R. No. 147394, G.R. No. August 11, 2004, 436 SCRA 96, 108.

[8] Villaluz v. Ligon, supra note at 499.

[9] Desaville, Jr. v. Court of Appeals, G.R. No. 128310, August 13, 2004, 436 SCRA 387, 391.

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