

GAUDENCIA NAVARRO VDA. DE TAROMA, BENEDICTO N. TAROMA, ANGELINA T. GUARDION, CONSOLACION T. CABUTE, OFELIA N. TAROMA AND NOEL N. TAROMA, PETITIONERS, VS. SPS. FELINO N. TAROMA A...

G.R. NO. 160214. December 16, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Court has said quite often enough that although a party may avail himself of the remedies prescribed by the Rules of Court, he is not free to resort to these remedies simultaneously lest he be guilty of forum shopping. Neither is he free to wage a battle already long lost as this is proscribed by the rule on finality of judgments.

Before us is a petition filed under Rule 45 of the Rules of Court seeking the nullification of a Resolution of the Court of Appeals dated 03 October 2003 in CA-G.R. SP No. 70017 which noted without action petitioners' "Brief Motion for Reconsideration" on the ground that it had already lost jurisdiction over the case upon the filing by petitioners of a Petition for Review on Certiorari with the Supreme Court.

As culled from the records of the case, the facts are as follows:

On 25 August 1997, herein petitioners Gaudencia Navarro Vda. De Taroma, Benedicto N. Taroma, Angelina T. Guardion, Consolacion T. Cabute, Ofelia N. Taroma and Noel N. Taroma instituted a complaint for annulment of title and damages against herein private respondents before the Municipal Circuit Trial Court (MCTC) of Moncada, Tarlac. After trial on the merits, the MCTC dismissed the complaint. The dispositive portion of the decision reads:

WHEREFORE, premises considered, let this case be DISMISSED. With costs against plaintiffs.[1]

Petitioners appealed before the Regional Trial Court (RTC) of Paniqui, Tarlac. On 26 March 2002, the RTC affirmed the decision of the MCTC, Presiding Judge Cesar M. Sotero disposing that:

WHEREFORE, in view of all the foregoing, the appealed decision is AFFIRMED.[2]

A copy of the RTC decision was received by petitioners, thru counsel, on 27 March 2002. A motion for extension of time to file petition for review was thereafter filed. On 24 April 2002, within the period of extension, petitioners, through their counsel Atty. Leonel L. Yasay, filed a Petition for Review.[3] In a Resolution dated 30 May 2002, the Court of Appeals directed private respondents to file their comment to the petition without necessarily giving due course thereto.[4] On 13 June 2002, petitioners, through collaborating counsel, Atty. Esmeraldo U. Guloy, filed an "Urgent Motion Ex-Parte" to amend the petition attaching therewith the said Amended Petition.[5] On 12 July 2002, private respondents filed their Comment to the original petition.[6]

In a Resolution dated 06 August 2002, the Court of Appeals, among other things, required counsel for private respondents to comment on the Amended Petition.[7] Private respondents filed their comment to the amended

petition on 06 September 2002.[8]

On 27 February 2003, the Court of Appeals rendered its Decision,[9] the dispositive portion of which reads:

WHEREFORE, premises considered, the Petition is DISMISSED for lack of merit and the assailed 26 March 2002 Decision of the Regional Trial Court in Civil Case No. 556 is hereby AFFIRMED in toto. No costs.[10]

A copy of the decision was received by petitioners, through their counsels, on 06 March 2003. On 19 March 2003, they filed a motion for reconsideration of said decision before the Court of Appeals essentially arguing that the decision was invalid as it was based on the original petition for review and not on the amended petition filed soon thereafter.[11]

The next day, or on 20 March 2003, petitioners filed before the Supreme Court a "Petition (Ex-Abundante Cautela)" under Rule 45 of the Rules of Court seeking to annul and set aside the very same decision under reconsideration in the Court of Appeals.[12] This case was docketed as G.R. No. 157393 and was raffled to the First Division of this Court.

On 28 April 2003, the First Division resolved to deny the petition for failure to submit proof of authority to sign the verification and certification on non-forum shopping.[13] Petitioners moved for reconsideration on 03 June 2003.[14] On 25 June 2003, the petition was denied with finality.[15]

Refusing to accept the Court's ruling, petitioners filed on 29 July 2003 a "Motion for Referral of the Case to the Supreme Court En Banc in the Interest of Justice and for the Maintenance of the Rule of Law." [16] Among the reasons cited by petitioners for their request was the pendency of the motion for reconsideration of the 27 February 2003 Decision before the Court of Appeals. In a Resolution dated 13 August 2003, the First Division noted without action the motion for referral, "the petition for review on certiorari having been denied in the resolution of April 28, 2003 and the motion for reconsideration thereof denied with finality in the resolution of June 25, 2003." [17]

In the meantime, on 20 August 2003, the Court of Appeals resolved the motion for reconsideration filed therein by declaring the same as abandoned in accordance with Section 15, Rule VI of the 2002 Internal Rules of the Court of Appeals.[18]

Still undeterred by the resolutions of both the Supreme Court and the Court of Appeals, petitioners subsequently did the following:

- Before the Court of Appeals: On 04 September 2003, petitioners filed a "Brief Motion for Reconsideration" of the 20 August 2003 Resolution essentially arguing that in filing a petition for review in the Supreme Court, they cannot be deemed to have abandoned their motion for reconsideration before the Court of Appeals as different subject matters were involved; [19] and

- Before the Supreme Court en banc: On 17 September 2003, petitioners transmitted a copy of the 13 August 2003 Resolution of the First Division in the hope that the Court en banc will accept their motion for referral. [20]

In response to this latest barrage by petitioners, the First Division of this Court held in a Resolution dated 01 October 2003 that:

The transmittal of counsel for petitioners of the resolution of August 13, 2003 to the Court En Banc for referral thereto is NOTED WITHOUT ACTION.

Let an ENTRY of judgment in this case be made in due course.

NO FURTHER pleadings shall be entertained herein. [21]

In the meantime, on 22 July 2003, the Decision in G.R. No. 157393 became final and executory and was thereafter recorded in the Book of Entries of Judgment.[22]

For its part, the Court of Appeals resolved petitioners' "Brief Motion for Reconsideration" in this wise:

Petitioners filed an Amendment Petition for Review and respondents were made to comment thereon, but the Court has taken no action on said prayer for admission of the Amended Petition for Review.

Moreover, Sec. 15 of Rule VI of the IRCA clearly provides that if a petition is filed with the Supreme Court subsequent to the filing of a Motion for Reconsideration with this Court, the latter should be deemed ABANDONED. Clearly, when petitioner filed the Supreme Court Petition, on the justification that it has to be filed within 15 days otherwise the decision will become final, the pending Motion for Reconsideration is deemed ABANDONED.

The Motion for Reconsideration seeks for the nullification of the 27 February 2003 Decision rendered by the Former Sixth Division. The Petition for Review on Certiorari filed with the Supreme Court likewise prays for the nullification of the same decision. Thus, the Brief Motion for Reconsideration filed by the petitioners is NOTED without action considering that this Court already lost jurisdiction over the case upon filing of the petition with the Supreme Court by herein petitioners.[23]

The aforecited Court of Appeals Resolution, dated 03 October 2003, is the subject matter of the instant petition whereby petitioners replicate their argument that contrary to the ruling of the Court of Appeals, their filing of a petition for review on certiorari in the Supreme Court in G.R. No. 157393 did not result in the abandonment of their motion for reconsideration filed before the Court of Appeals. Petitioners contend that –

With all due respect to the Honorable Court of Appeals, the herein petitioners sincerely believe that they have never abandoned their AMENDED PETITION FOR REVIEW dated May 30, 2002, which was filed on June 13, 2002, neither has the Court lost jurisdiction over it. They also contend that the Court rendered a wrong decision on February 27, 2003, because it was a decision of the Petition for Review dated April 24, 2002, which has been earlier amended.[24]

In support of their arguments, petitioners argue that under Section 2, Rule 10 of the Rules of Court, they can amend their petition as a matter of right before a responsive pleading is served upon them or, in case of a reply, at any time within ten (10) days after it is served. Thus, they alleged that the Court of Appeals' failure to admit their amended petition was probably due to the clerk of court's inadvertence and that "abandonment" as a ground for dismissing their motion for reconsideration was merely an afterthought.

We are not convinced.

The "Brief Motion for Reconsideration" partakes of a second motion for reconsideration of the Court of Appeals Decision dated 27 February 2003 as the first motion for reconsideration of said decision was already denied by the Court of Appeals in its resolution dated 20 August 2003. The Court of Appeals thus correctly noted without action the "Brief Motion for Reconsideration" considering that under Section 2, Rule 52 of the Rules of Court, such motions shall not be entertained by the Court.[25]

Be that as it may, and if only to disabuse the minds of petitioners, we shall state, once and for all, that from a perusal of the records, it is starkly clear that the Court of Appeals never admitted the Amended Petition, which explains why its Decision of 27 February 2003 was based on the original Petition. That private respondents were asked to comment to the Amended Petition does not mean that the same was given due course. If at all, the records are deafeningly silent as to the action taken by the Court which legally means that the Amended Petition was denied. Thus, petitioners' reliance on Section 2, Rule 10 of the Rules of Court[26] is misplaced as this refers to an amendment made before the trial court. The applicable provision is Section 6, Rule 42 on petitions for

review from the RTC in the exercise of its appellate jurisdiction which states:

Section 6. Due Course. – If upon the filing of the comment or such other pleadings as the court may allow or require, or after the expiration of the period for the filing thereof without such comment or pleading having been submitted, the Court of Appeals finds prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the appealed decision, it may accordingly give due course to the petition. (Emphasis supplied.)

The Court of Appeals, therefore, is vested with discretion to admit or deny the Amended Petition filed before it. In herein case, when it passed upon the matter sub-silentio, such can only be construed as a denial of the said Amended Petition.

Our discussion does not end here, however. We need to stress that notwithstanding the foregoing discussion on the issue presented for resolution by petitioners, which is but a mere concession to petitioners in the interest of substantial justice, the present case must be denied on a more fundamental level.

Under the undisputed facts of the case, the existence of forum shopping is self-evident and seals the fate of the petition as a lost cause. It must be remembered that from the Decision dated 27 February 2003, petitioners sought reconsideration with the Court of Appeals. Twenty-four hours later, the same petitioners sought the reversal of the same decision, this time before this Court on petition for review. As the records would reveal, petitioners actively pursued both actions before the two courts so much so that they were filing pleadings in both courts with the same end-view in mind, i.e., to reverse the Decision of the Court of Appeals dated 27 February 2003. When the First Division of this Court declared that no further pleadings by petitioners would be entertained in G.R. No. 157393, petitioners went around the proscription by filing instead the instant case.

There is forum shopping when a party repetitively avails himself 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 court.[27] A party should not be allowed to present simultaneous remedies in two different forums for it degrades and wreaks havoc to the rule on orderly procedure.[28] Thus:

. . . A party may avail of the remedies prescribed by the Rules of Court for the myriad reliefs from the court. However, such party is not free to resort to them simultaneously or at his pleasure or caprice. Such party must follow the sequence and hierarchical order in availing such remedies and not resort to shortcuts in procedure or playing fast and loose with the said rules. Forum shopping, an act of malpractice, is considered as trifling with the courts and abusing their processes. It is improper conduct and degrades the administration of justice. If the act of the party or its counsel clearly constitutes willful and deliberate forum shopping, the same shall constitute direct contempt, and a cause for administrative sanctions, as well as a ground for the summary dismissal of the case with prejudice.[29]

Finally, it is also to be pointed out that at the heart of the instant petition is an attempt to resurrect the issue of the validity of the 27 February 2003 Court of Appeals Decision which was already sought to be annulled in petitioners' dismissed "Petition (Ex-Abundante Cautela)," a dismissal by this Court which had already attained finality; hence unassailable. We thus remind petitioners that by choosing their forum, and by unfortunately losing their claim thereat, they are nevertheless bound by such adverse judgment on account of finality of judgment, otherwise, there will be no end to litigation.[30] Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final, the issue or cause therein should be laid to rest.[31]

WHEREFORE, premises considered, the instant petition is DENIED for lack of merit. Costs against petitioners.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] CA Rollo, p. 31.

[2] Id., p. 47.

[3] Id., pp. 7-16.

[4] Id., p. 58.

[5] Id., pp. 61-171.

[6] Id., pp. 172-187.

[7] Id., p. 188.

[8] Id., pp. 189-191.

[9] CA-G.R. SP No. 70017, penned by Associate Justice Andres B. Reyes, Jr. with Associate Justices Delilah Vidallon-Magtolis and Regalado E. Maambong, concurring; Id., pp. 193-204.

[10] Id., pp. 193-205.

[11] Id., pp. 206-224.

[12] Id., pp. 231-272; See also Rollo in G.R. No. 157393, pp. 3-43.

[13] Rollo in G.R. No. 157393, p. 44.

[14] Id., pp. 45-53.

[15] Id., p. 54.

[16] Id., pp. 67-74.

[17] Id., p. 88.

[18] Per Resolution of Associate Justice Andres B. Reyes, Jr. with Associate Justices Delilah Vidallon-Magtolis and Regalado E. Maambong, concurring (CA Rollo, p. 274).

[19] Id., pp. 275-282.

[20] Supra, note 13, pp. 85-87.

[21] Id., p. 89.

[22] Id., p. 90.

[23] Supra, note 1, p. 291.

[24] Rollo, p. 6.

[25] Section 2, Rule 52. Second Motion for Reconsideration. – No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.

[26] Section 2, Rule 10. Amendments as a matter of right. – A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) days

after it is served.

[27] ELCEE Frams, Inc. v. Semillano, G.R. No. 150286, 17 October 2003, 413 SCRA 677, citing Gatmaytan v. Court of Appeals, G.R. No. 123332, 03 February 1997, 267 SCRA 487.

[28] Balite v. Court of Appeals, G.R. No. 140931, 26 November 2004, 444 SCRA 410, 422.

[29] Ibid.

[30] Reyes v. Court of Appeals, G.R. No. 120817, 04 November 1996, 264 SCRA 35, 45.

[31] Ibid.

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