

NELSON P. COLLANTES, PETITIONER, VS. HON. COURT OF APPEALS, CIVIL SERVICE COMMISSION AND DEPARTMENT OF NATIONAL DEFENSE, RESPONDENTS.

G.R. No. 169604. March 06, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

A decision that has acquired finality becomes immutable and unalterable. A final judgment may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law; and whether it be made by the court that rendered it or by the highest court in the land.[1]

What would happen, however, if two separate decisions, irreconcilably conflicting with each other, both attained finality? Quite clearly, to hold that both decisions are immutable and unalterable would cause not only confusion and uncertainty, but utter bewilderment upon the persons tasked to execute these judgments.

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, seeking to set aside the Decision[2] dated 10 March 2005 and the Resolution[3] dated 31 August 2005 of the Court of Appeals in CA-G.R. SP No. 78092.

The undisputed facts of this case are summarized by the Court of Appeals:

Petitioner Nelson Collantes (hereafter, Collantes) was conferred Career Executive Service Eligibility on 29 February 1996. Then President Fidel V. Ramos accorded him the rank of Career Executive Service Officer (CESO) II on 10 February 1997. More than a year later, he was appointed as Undersecretary for Peace and Order of the Department of Interior and Local Government (DILG).

With the change of administration, Collantes allegedly received word from persons close to then President Ejercito Estrada to give up his position so that the President could unreservedly appoint his key officials. As such, Collantes relinquished his post at the DILG.

Thereafter, on 1 July 1998, President Estrada appointed Collantes to the controversial post - Undersecretary for Civilian Relations of the Department of National Defense (DND). As it happened, his stint in the DND was short lived. Collantes was supposedly ordered by then Secretary Orlando Mercado to renounce his post in favor of another presidential appointee, General Orlando Soriano. In deference to the President's prerogative, he resigned from office believing that he will soon be given a new assignment.

Unfortunately, Collantes was not given any other post in the government, as in fact, he received a letter from President Estrada terminating his services effective 8 February 1999. Consequently, on 24 March 1999, Collantes requested the assistance of the Career Executive Service Board relative to the termination of his services as Undersecretary for Civilian Relations of the DND invoking his right to security of tenure as a CESO.

The termination of Collantes' services, notwithstanding, President Estrada accorded Collantes the highest rank

in the CES ranking structure, CESO Rank I, on 17 July 1999. But then, despite this promotion in rank, Collantes did not receive new appointment, and worse, the President appointed Mr. Edgardo Batenga to the much coveted position of Undersecretary for Civilian Relations of the DND.

Taking definite action on the matter, Collantes instituted a Petition for Quo Warranto and Mandamus before Us on 29 January 2001, docketed as C.A. G.R. SP NO. 62874. Collantes maintained that he was constructively dismissed from work, without any cause and due process of law, and thus, his position in the DND was never vacated at all. Accordingly, he prayed that the appointment of Mr. Edgardo Batenga be nullified, and that he be reinstated to his former position with full back salaries. Notably, Collantes also sought for appointment to a position of equivalent rank commensurate to his CESO Rank I if reinstatement to his former position is no longer legally feasible.

Meanwhile, on 13 August 2001, the CSC favorably acted on Collantes' letter-request issuing Resolution No. 011364, and thereby holding that Collantes' relief as Undersecretary of DND amounted to illegal dismissal as he was not given another post concomitant to his eligibility.

Then, on 30 August 2001, We rendered Our Decision in C.A. G.R. SP No. 62874 dismissing the Petition for Quo Warranto and Mandamus filed by Collantes. Significantly, We pronounced:

"By such actuations of the petitioner, the Court finds that he has (sic) effectively resigned from his position as Undersecretary of the DND, and the public respondents are under no compulsion to reinstate him to his old position.

x x x x

"In this case, petitioner has undoubtedly shown his intention to relinquish his public office, and has in fact surrendered such post to the Chief Executive, who, on the other hand, has shown his acceptance of the same by appointing a new person to the position relinquished by the petitioner.

x x x x

Quo warranto, it must be pointed out, is unavailing in the instant case, as the public office in question has not been usurped, intruded into or unlawfully held by the present occupant. Nor does the incumbent undersecretary appear to have done or suffered an act which forfeits his assumption. (Section 1, Rule 66, 1997 Rules of Civil Procedure). Furthermore, it appears that the action for quo warranto, assuming it is available, has already lapsed by prescription, pursuant to Section 11 of the pertinent Rule ...

x x x x

WHEREFORE, premises considered, the instant petition for Quo Warranto and Mandamus is hereby DISMISSED."

The controversy reached the Supreme Court as G.R. No. 149883. Nevertheless, the case was considered closed and terminated when Collantes manifested his desire not to pursue his appeal and withdraw his Petition for Review on Certiorari. Thereafter, Collantes moved for the execution of CSC Resolution No. 011364, which was accordingly granted through CSC Resolution No. 020084 dated 15 January 2002 "directing the DND to give Collantes a position where his eligibility is appropriate and to pay his backwages and other benefits from the time of his termination up to his actual reinstatement."

In a Letter dated 7 February 2002, the Legal Affairs Division of the DND, through Atty. Leticia A. Gloria, urged the CSC to revisit its Resolutions which were entirely in conflict with Our 30 August 2001 Decision in C.A. G.R. SP NO. 62874, which has attained finality pursuant to the Supreme Court's Resolution in G.R. No. 149883.

Consequently, in complete turnabout from its previous stance, the CSC issued Resolution No. 021482 dated 12 November 2002 declaring that had it been properly informed that a Petition for Quo Warranto and Mandamus was

then pending before Us, it would have refrained from ruling on Collantes' quandary, thus:

"WHEREFORE, the Motion for Reconsideration of Assistant Secretary for Legal Affairs Leticia A. Gloria of the department of National Defense (DND) is hereby GRANTED and CSC Resolutions Nos. 01-1364 dated August 13, 2001 and 02-0084 dated January 15, 2002 are reversed. Accordingly, pursuant to the decision of the Court of Appeals, Nelson P. Collantes is deemed effectively resigned from his position as Undersecretary of the DND."

Forthwith, Collantes moved for a reconsideration of this Resolution, but was denied by the CSC in the second assailed Resolution No. 030542 dated 5 May 2003.[4]

On 18 July 2003, herein petitioner Collantes then filed a Petition for Certiorari with the Court of Appeals praying for the reversal of the Civil Service Commission (CSC) Resolutions No. 021482 and No. 030542. Before the Court of Appeals can decide this case, however, petitioner was appointed as General Manager of the Philippine Retirement Authority on 5 August 2004. The Court of Appeals dismissed the Petition for Certiorari in the assailed 10 March 2005 Decision:

WHEREFORE, the Petition for Certiorari is hereby DISMISSED. No grave abuse of discretion may be imputed against the Civil Service Commission for rendering Resolution Nos. 021482 and 030542, dated 12 November 2002 and 5 May 2003, respectively. No pronouncement as to costs.[5]

The Motion for Reconsideration filed by petitioner was denied in the assailed 31 August 2005 Resolution.[6]

Petitioner filed the present Petition for Review, seeking the reversal of the foregoing Decision and Resolution of the Court of Appeals. In view of his 5 August 2004 appointment, however, petitioner's prayer is now limited to seeking the payment of backwages and other benefits that may have been due him from the time of his alleged dismissal on 8 February 1999 to his appointment on 5 August 2004. Petitioner submits the following issues for our consideration:

A.

WHETHER THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR WHEN IT HELD THAT THE DECISION IN CA-G.R. NO. 62874 IN THE COURT OF APPEALS IS A BAR TO IMPLEMENT THE FINAL AND EXECUTORY JUDGMENT OF THE CIVIL SERVICE COMMISSION DATED AUGUST 14, 2001.

B.

WHETHER THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR WHEN IT DID NOT FIND THAT THE CIVIL SERVICE COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT REVERSED ITS VERY OWN DECISION WHICH HAS LONG BECOME FINAL AND EXECUTORY AND IN FLAGRANT VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS.

C.

WHETHER THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR WHEN IT UPHELD THE RESOLUTION OF THE CIVIL SERVICE COMMISSION WHICH HELD THAT PETITIONER MAY BE REMOVED FROM HIS POSITION AS UNDERSECRETARY OF THE DEPARTMENT OF NATIONAL DEFENSE WITHOUT THE CONCOMITANT TRANSFER TO A POSITION EQUIVALENT IN RANK OR BE REMOVED THEN, BE FLOATED PERPETUALLY, WHICH IS TANTAMOUNT TO A CONSTRUCTIVE DISMISSAL, IN VIOLATION OF HIS RIGHT TO SECURITY OF TENURE AS A CAREER EXECUTIVE SERVICE ELIGIBLE.[7]

Both petitioner and herein respondents CSC and Department of National Defense (DND) invoke the doctrine of immutability of final judgments.

Petitioner claims that the 13 August 2001 Resolution of the CSC, which held that petitioner "was illegally removed as Undersecretary of the Department of National Defense and therefore x x x should be given a position where his eligibility is appropriate or sufficient," has attained finality. Petitioner adds that, not only has there been no appeal or motion for reconsideration filed within the allowable periods, the CSC even granted the Motion for Execution filed by petitioner in its Order dated 15 January 2002. Petitioner thereby invokes our ruling that, before a writ of execution may issue, there must necessarily be a final judgment or order that disposes of the action or proceeding.[8] Petitioner also faults the CSC for ruling on a mere letter filed by Atty. Leticia Gloria of the DND, which petitioner claims is fatally defective for failure to comply with the procedural due process clause of the Constitution, the Rules of Court, and the Uniform Rules in Administrative Cases in the Civil Service which require notice to adverse parties.[9]

Respondents, on the other hand, invoke the same doctrine of immutability of final judgments, this time with respect to the 30 August 2001 Decision of the Court of Appeals dismissing the Petition for Quo Warranto and Mandamus filed by petitioner. This Court of Appeals Decision became final and executory when petitioner withdrew the Motion for Extension to File a Petition for Review on Certiorari he filed with this Court.[10]

Forum Shopping, Res Judicata, and Litis Pendentia

Our rules on forum shopping are meant to prevent such eventualities as conflicting final decisions as in the case at bar. We have ruled that what is important in determining whether forum shopping exists or not is the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issues.[11]

More particularly, the elements of forum shopping are: (a) identity of parties or at least such parties as represent the same interests in both actions; (b) identity of the rights asserted and the reliefs prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration.[12]

Forum shopping can be committed in three ways: (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is litis pendentia); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is res judicata); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either litis pendentia or res judicata).[13] If the forum shopping is not considered willful and deliberate, the subsequent cases shall be dismissed without prejudice on one of the two grounds mentioned above. However, if the forum shopping is willful and deliberate, both (or all, if there are more than two) actions shall be dismissed with prejudice.[14]

Petitioner disputes respondents' claim, and the CSC's ruling,[15] that he had lodged two separate actions. Petitioner explains that he never filed a case before the CSC. He merely sought the assistance of the Career Executive Service Board (CESB) in a letter-request dated 24 March 1999. Said letter-request, petitioner claims, did not ask for any ruling.

Petitioner claims that, considering that two years had already lapsed without any response from the CESB, he

filed on 23 January 2001 his Petition for Quo Warranto and Mandamus with the Court of Appeals. Petitioner was surprised when he learned through the 8 February 2001 letter of the CESB that, on 29 November 2000, it referred petitioner's request to the CSC for appropriate action.[16] Petitioner was not required to submit any pleading in support of his request. Apparently, the CSC treated the letter-request as a complaint or petition over which it could exercise its adjudicative powers, as it issued its 13 August 2001 Resolution declaring petitioner to have been illegally removed as Undersecretary of the DND, and should therefore be given a position appropriate or sufficient for his eligibility.[17] As stated above, the Court of Appeals Decision dismissing the Petition for Quo Warranto and Mandamus was rendered 17 days later, on 30 August 2001. Petitioner filed with this Court a motion for an extension of time within which to file a Petition for Review on Certiorari, but he later submitted a Manifestation for the withdrawal of this motion as he decided not to pursue his appeal.[18] Instead, petitioner filed with the CSC on 25 October 2001 a Motion for the Issuance of a Writ of Execution,[19] which the CSC granted on 15 January 2002.[20]

In repeatedly asserting that he did not file two separate actions, petitioner is arguing, without stating it categorically, that he cannot be held liable for forum shopping. However, what one cannot do directly cannot be done indirectly. Petitioner had been aware, through the 8 February 2001 letter of the CESB, that his request for assistance was referred to the CSC on 29 November 2000 for appropriate action. From that point on, he knew that two government agencies - the CSC and the Court of Appeals - were simultaneously in the process of reaching their respective decisions on whether petitioner was entitled to reinstatement or to a position appropriate to his eligibility. Therefore, it cannot be denied that petitioner knew, from the moment of receipt of the 8 February 2001 letter of the CESB, that he had effectively instituted two separate cases, and whatever original intention he had for his letter-request is, by then, forgotten. Petitioner subsequently proceeded to act like a true forum shopper - he abandoned the forum where he could not get a favorable judgment, and moved to execute the Resolution of the forum where he succeeded.

Petitioner's above actuation is, in fact, a violation of his certification against forum shopping with the Court of Appeals, a ground for dismissal of actions distinct from forum shopping itself. As petitioner knew from the receipt of the CESB letter that another claim was pending in a quasi-judicial agency concerning these issues, he was bound by his certification with the Court of Appeals to report such fact within five days from his knowledge thereof. This circumstance - of being surprised by the discovery of another pending claim with another court or quasi-judicial agency - is the very situation contemplated by letter (c) in the first paragraph of Section 5, Rule 7 of the Rules of Court:

Section 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 the same or has been filed or similar action or claim 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. (Emphases supplied.)

Petitioner, however, further asserts that the issues brought in the Petition for Certiorari filed with the Court of Appeals on 18 July 2003 and the Petition for Quo Warranto and Mandamus filed on 29 January 2001 are distinct, and that the Decision of the Court of Appeals in the latter cannot constitute *res judicata* with respect to the former.[21] Petitioner claims that the issues, remedies and reliefs in the two cases are different, citing as basis the textbook definitions of quo warranto, certiorari and mandamus. Petitioner further claims that:

There is a clear distinction between the right of petitioner to the position of Undersecretary for Civilian

Relations and his right to be re-appointed to another position of equivalent rank, in view of his CESO I status. The former issue may have been resolved by the Court of Appeals when it ruled that petitioner Collantes had "effectively resigned from his position as Undersecretary of the DND, and the public respondents are under no compulsion to reinstate him to his old position." The latter issue, or the right of petitioner Collantes to be given a new assignment fitting to his CESO I rank, arises from his right to security of tenure as a Career Executive Service Eligible, and not from his appointment to the DND.[22]

This allegedly clear distinction springs from petitioner's claim that he resigned from his position, but not from his rank as a Career Executive Service Officer (CESO). Petitioner claims that, as a CESO, there is a "great difference between (1) resigning from one's position and (2) resigning or relinquishing one's rank, as position is different from one's rank. POSITION refers to the particular or specific office from which one may be appointed. RANK, on the other hand, refers not to a particular position but to the class to which one belongs in the hierarchy of authority in an organization or bureaucracy." [23] Petitioner cites Cuevas v. Bacal[24]:

[S]ecurity of tenure to members of the CES does not extend to the particular positions to which they may be appointed --- a concept which is applicable only to the first and second-level employees in the civil service --- but to the rank to which they are appointed by the President.

x x x x

Mobility and flexibility in the assignment of personnel, the better to cope with the exigencies of public service, is thus the distinguishing feature of the Career Executive Service. x x x.

and General v. Roco[25]:

In addition, it must be stressed that the security of tenure of employees in the career executive service (except first and second-level employees in the civil service), pertains only to rank and not to the office or to the position to which they may be appointed. Thus, a career executive service officer may be transferred or reassigned from one position to another without losing his rank which follows him wherever he is transferred or reassigned. In fact, a CESO suffers no diminution of salary even if assigned to a CES position with lower salary grade, as he is compensated according to his CES rank and not on the basis of the position or office he occupies.

While there is indeed a distinction between position and rank, such that a CESO may be transferred or reassigned from one position to another without losing his rank, there can be no distinction between resigning from a position and resigning from a rank. The rank of a CESO is deactivated upon separation from the government service, which includes the resignation of a CESO from his position. The CESB has clarified this concept of being in the inactive status in its Resolution No. 554, series of 2002:

Rule II

x x x x

7. CESO in Inactive Status - is a CESO who no longer occupies a position in the CES as a result of any of the modes of separation from the government service, provided that such separation is not due to dismissal from the service for cause.

x x x x

Rule IV

Section 1. Modes of Deactivating a CES Rank. - There are three (3) modes by which the CES Rank of a CESO may be deactivated from the CES:

1. Acceptance of a position by virtue of an appointment outside the coverage of the CES;
2. Dropping from the rolls of government officials and employees; and
3. Other modes of separation from the CES, provided that separation from the CES resulting from dismissal from the service for cause and after due process shall result in the loss of CES rank and shall not be considered as a mode of deactivation.

x x x x

Sec. 2. Effect of Deactivation of CES Rank. - A CESO whose CES rank has been deactivated by the Board loses all the rights and privileges accorded to him/her by law on account of his/her CES rank.

Likewise, it would be absurd for us to rule that a civil servant who resigns from his position can compel the President to appoint him to another position. Such a ruling would effectively derogate the discretion of the appointing authority,[26] as it will give the CESO the option to choose which position he or she wants, by the simple expediency of resigning from the position he or she does not want.

In sum, there is an identity of issues in the two cases which resulted in the two conflicting final and executory decisions. But while, as stated above, the second petition can be dismissed on the ground of either *res judicata* or non-compliance with the undertakings in petitioner's certification against forum shopping, these grounds can only be invoked when the case is still pending. As petitioner points out, the Resolution of the CSC had already become final and executory.

The 30 August 2001 Decision of the Court of Appeals, however, has also attained finality. Hence, we go back to the main issue in this petition: which of the two final and executory decisions should be given effect, the 30 August 2001 Court of Appeals Decision dismissing the petitioner's Petition for Quo Warranto, or the 13 August 2001 CSC Resolution declaring petitioner Collantes to be illegally removed as Undersecretary of the DND.

Two Conflicting Final and Executory Decisions

Jurisprudence in the United States offers different solutions to this problem:

Where there have been two former actions in which the claim or demand, fact or matter sought to be religated has been decided contrarily, the rule that, where there is an estoppel against an estoppel, it "setteth the matter at large" has been applied by some authorities, and in such case both parties may assert their claims anew. Other authorities have held that, of two conflicting judgments on the same rights of the same parties, the one which is later in time will prevail, although it has also been held that the judgment prior in time will prevail. It has been held that a decision of a court of last resort is binding on the parties, although afterward, in another cause, a different principle was declared.[27]

There are thus three solutions which we can adopt in resolving the case at bar: the first is for the parties to assert their claims anew, the second is to determine which judgment came first, and the third is to determine which of the judgments had been rendered by a court of last resort.

As there are conflicting jurisprudence on the second solution, it is appropriate for this Court to adopt either the first or the third solution. The first solution involves disregarding the finality of the two previous judgments and allowing the parties to argue on the basis of the merits of the case anew. The third solution merely involves the determination of which judgment has been rendered by this Court, the court of last resort in this jurisdiction.

Adopting the third solution will result in the denial of this Petition for Certiorari. Whereas the finality of the 13 August 2001 CSC Resolution came about by the failure to file a motion for reconsideration or an appeal within the proper reglementary periods, the finality of the 30 August 2001 Court of Appeals Decision was by virtue of

the 12 November 2001 Resolution[28] of this Court which declared the case closed and terminated upon the manifestation of petitioner that he decided not to pursue his appeal and was thus withdrawing the motion for extension of time to file a petition for review on certiorari.

The better solution, however, is to let the parties argue the merits of the case anew, and decide the case on the basis thereof. We can do this either by remanding the case to a lower court, or by resolving the issues in this disposition. The latter recourse is more appropriate, for three reasons: (1) all the facts, arguments, and pleadings in support of the parties' contentions are now before us, with the parties advancing the very same contentions as those in this Petition; (2) a remand to the Court of Appeals would entail asking the latter to resolve the very same issues it had passed upon twice; and (3) a remand to the Court of Appeals would only entail another unnecessary delay in the termination of the case when the case is now ripe for adjudication before us.

The merits of the case are the focus of petitioner's third assignment of error in the present petition. Petitioner claims that the Court of Appeals committed a grave and reversible error when it upheld the resolution of the CSC which allegedly effectively held "that petitioner may be removed from his position as Undersecretary of the Department of National Defense without the concomitant transfer to a position equivalent in rank or be removed then, be floated perpetually, which is tantamount to a constructive dismissal, in violation of his right to security of tenure as a career executive service eligible." [29]

Petitioner's arguments presuppose that he had been removed from his position as Undersecretary of the DND. He, however, did not present any evidence to that effect, whether in this Petition or in his earlier Petition for Quo Warranto and Mandamus with the Court of Appeals. If he is implying that he was removed from office by virtue of his account that he was approached by persons close to President Joseph Estrada who asked him to relinquish his post, which he did, then this Petition must fail, for, by his own deliberate deed, he resigned from his position.

There are no special legal effects when a resignation is one of a courtesy resignation. The mere fact that the President, by himself or through another, requested for someone's resignation does not give the President the obligation to appoint such person to another position. A courtesy resignation is just as effectual as any other resignation. There can be no implied promises of another position just because the resignation was made out of courtesy. Any express promise of another position, on the other hand, would be void, because there can be no derogation of the discretion of the appointing power,[30] and because its object is outside the commerce of man.[31] As held by the Court of Appeals in its 30 August 2001 Decision:

In the first place, petitioner has not established by any quantum of certainty the veracity of his claim that he was promised an equivalent position in the government. Assuming, however, that such promise was true, petitioner, as a ranking member of the bureaucracy, ought to have known that such promise offers no assurance in law that the same would be complied with. The time-honored rule is that public office is a public trust, and as such, the same is governed by law, and cannot be made the subject of personal promises or negotiations by private persons.[32]

WHEREFORE, the present Petition for Review on Certiorari is DENIED. No costs.

SO ORDERED.

Puno, C.J., no part relationship with counsel of one party.

Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Tinga, Garcia, Velasco, and Nachura, JJ., concur.

Corona, and Nachura, JJ., no part.

Callejo, Sr., J., on leave.

Azcuna, J., on official leave.

- [1] Ramos v. Ramos, 447 Phil. 114, 119 (2003).
- [2] Penned by Associate Justice Japar B. Dimaampao with Associate Justices Renato C. Dacudao and Edgardo F. Sundiam, concurring; rollo, pp. 50-58.
- [3] Id. at 60-61.
- [4] Id. at 51-54.
- [5] Id. at 57-58.
- [6] Id. at 60-61.
- [7] Id. at 197-198.
- [8] Id. at 216.
- [9] Id. at 218.
- [10] Id. at 181.
- [11] Golangco v. Court of Appeals, 347 Phil. 771, 776 (1997).
- [12] Mondragon Leisure and Resorts Corporation v. United Coconut Planters Bank, G.R. No. 154187, 14 April 2004, 427 SCRA 585, 590; Saura v. Saura, Jr., 372 Phil. 337, 349 (1999).
- [13] Ao-As v. Court of Appeals, G.R. No. 128464, 20 June 2006, 491 SCRA 339, 354, citing, for the last part, RULES OF COURT, Rule 2, Section 4; But see Employees Compensation Commission v. Court of Appeals, 327 Phil. 510 (1996), which distinguishes forum shopping from res judicata.
- [14] See Administrative Circular No. 04-94, now incorporated in the Rules of Court under Rule 7, Section 5.
- [15] Rollo, p. 124.
- [16] Id. at 63.
- [17] Id. at 98-102.
- [18] Id. at 111.
- [19] Id. at 112-115.
- [20] Id. at 116-118.
- [21] Petitioner's Memorandum, p. 19, Id. at 202-203.
- [22] Rollo, p. 205.
- [23] Petitioner's Memorandum, pp. 20-21; rollo, pp. 206-207.
- [24] G.R. No. 139382, 6 December 2000, 347 SCRA 338, 351-353.
- [25] G.R. Nos. 143366 & 143524, 29 January 2001, 350 SCRA 528, 533-534.
- [26] See Manalang v. Quioriano, 94 Phil. 903, 911 (1954); Bermudez v. Executive Secretary Torres, 370 Phil. 769 (1999).
- [27] 49 Corpus Juris Secundum - 445, citing Kahl v. Chicago Title & Trust Co., D.C. Ill., 299 F. 793 (U.S.);

Donald v. J. J. White Lumber Co., C.C.A.Miss., 68 F.2d 441 (U.S.); Witty v. Rose, Civ.App., 148 S.W.2d 962 (Tex.); Frost v. Frost, 21 S.C. 501 (S.C.).

[28] CA rollo, p. 104. The Resolution provides:

G.R. No. 149883 (Nelson P. Collantes vs. Hon. Secretary Orlando Mercado, etc., et al.), - The Court Resolves to:

(a) NOTE the manifestation of petitioner that he decided not to pursue anymore his appeal, thus he is withdrawing the motion for extension to file a petition for review on certiorari; and

(b) NOTE WITHOUT ACTION the motion for an extension of thirty (30) days from September 21, 2001 within which to file a petition for review on certiorari in view of the manifestation for the withdrawal of the motion.

This case is deemed CLOSED and TERMINATED.

[29] Rollo, p. 221.

[30] Supra note 26.

[31] Civil Code, Article 1409(4).

[32] Rollo, p. 108.

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