



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 15, 2022** which reads as follows:*

“G.R. No. 256299 (Nestor D. Cabañez, in his personal capacity and as the representative of the Heirs of Spouses Benjamin Cabañez and Leandra Cabañez v. Marie Josephine Cordero Solano a.k.a. Ma. Josephine S. Cabañez); G.R. No. 258991 (Marie Josephine Cordero Solano v. Nestor D. Cabañez, in his personal capacity and as the representative of the Heirs of Spouses Benjamin Cabañez and Leandra Cabañez). – These are two consolidated petitions for review on *certiorari* under Rule 45 of the Rules of Court, as amended, assailing the Resolutions dated October 11, 2019¹ and March 11, 2021² issued by the Court of Appeals (CA) in CA-G.R. SP No. 158941, dismissing the Petition for Annulment of Judgment filed by Nestor Cabañez (Nestor).

Hereunder is the factual backdrop of the case:

Civil Case No. 91-2648

These petitions stemmed from an action for annulment of title and recovery of ownership filed by the late Leandra Cabañez (Leandra) against Marie Josephine Cordero Solano (Solano) with the Regional Trial Court (RTC), Branch 137 of Makati City, and docketed as Civil Case No. 91-2648.³ The properties subject of this case were covered by Transfer Certificates of Title (TCT) Nos. 154626 & 154627 and located in Muntinlupa City (subject properties).⁴

¹ *Rollo* (G.R. No. 256299), pp. 322-329. Penned by Associate Justice Japar B. Dimaampao (now a Member of the Court) with Associate Justices Geraldine C. Fiel-Macaraig and Perpetua Susana T. Atal-Paño concurring.

² *Id.* at 331-332.

³ *Id.* at 189.

⁴ *Id.* at 233-241.

The RTC rendered a Decision⁵ dated July 5, 1993, in favor of Leandra, declaring the subject properties as part of the conjugal properties of spouses Benjamin (Benjamin) and Leandra Cabañez (spouses Cabañez), and ordering Solano to return possession thereof to spouses Cabañez. This was affirmed by the CA in its Decision⁶ dated April 29, 1997 in CA-G.R. CV No. 49446.

Subsequently, however, Leandra and Solano entered into a First Compromise Agreement⁷ dated June 22, 2000, wherein Leandra declared that she will not pursue or implement the RTC's Decision⁸ dated July 5, 1993, and that she is waiving all her property rights and interests over the subject properties in favor of Solano.

In an Order⁹ dated November 23, 2000, the RTC approved said First Compromise Agreement, to wit:

In the interest of justice, and in order to foster peace and harmony among the parties in this case, the Court hereby approves the compromise agreement executed by the parties and renders a new judgment in accordance with the terms and conditions of said compromise agreement, which is hereby made an integral part hereof as Annex A. The parties are hereby admonished to comply with all the terms and conditions of said compromise agreement in all good faith and fairness.

SO ORDERED.¹⁰

CA-G.R. SP No. 110541

A few years after executing the First Compromise Agreement, Benjamin, for himself and as representative of Leandra, filed with the CA a Petition for Annulment of Judgment, praying for the nullification of the First Compromise Agreement and the RTC's Order approving the same.¹¹

During the pre-trial conference, however, Benjamin and Solano entered into a Second Compromise Agreement¹² dated February 18,

⁵ Id. at 189-191.

⁶ Id. at 193-202.

⁷ Id. at 333-335.

⁸ Id. at 189-191.

⁹ Id. at 336.

¹⁰ Id.

¹¹ Id. at 72-73 and *Rollo* (G.R. No. 258991), p. 16.

¹² *Rollo* (G.R. No. 256299), p. 284.

2013, which was approved by the CA in a Resolution¹³ of even date. Hence, the case was declared closed and terminated.

At the time Benjamin entered into the Second Compromise Agreement, Leandra was already deceased, having died on August 20, 2010.¹⁴

CA-G.R. SP No. 158941

Sometime in July 2018, Nestor and his siblings (collectively, the Heirs of Cabañez) discovered the First Compromise Agreement.¹⁵ The Heirs of Cabañez also filed a Petition For Annulment of Judgment¹⁶ with the CA, which was docketed as CA-G.R. SP No. 158941.

In said petition, the Heirs of Cabañez prayed that the CA annul and declare void the First Compromise Agreement and the RTC's Order¹⁷ dated November 23, 2000, on the ground of lack of jurisdiction over the subject matter since said compromise agreement is purportedly contrary to law and public policy.¹⁸

Solano filed a Motion to Dismiss with Motion to Cite [Nestor] for Contempt,¹⁹ to which Nestor filed his Comment/Opposition.²⁰

In its assailed Resolution²¹ dated October 11, 2019, the CA dismissed the petition for annulment of judgment on the ground of forum shopping, but denied the Motion to Cite [Nestor] for Contempt. The dispositive portion of said Resolution reads:

IN LIGHT OF THE FOREGOING, the *Petition for Annulment of Judgment* is **DISMISSED** for violation of the rule against forum shopping. As heretofore adumbrated, the *Motion to Cite Petitioner for Contempt* is **DENIED**.

SO ORDERED.²²

¹³ Id. at 282-283.

¹⁴ Id. at 224.

¹⁵ Id. at 69.

¹⁶ Id. at 208-216.

¹⁷ Id. at 336.

¹⁸ Id.

¹⁹ Id. at 259-269.

²⁰ Id. at 270-281.

²¹ Id. at 322-329.

²² Id. at 329.

In ruling that there was forum shopping, the CA took judicial notice of CA-G.R. SP No. 110541, filed by spouses Cabañez against Solano, for annulment of the First Compromise Agreement and the RTC Order approving the same. According to the CA, there is identity of parties since the petitioners are successors-in-interest of spouses Cabañez. Moreover, both cases involve the rights and interests over the same properties, and seek to annul the same documents, *i.e.*, the First Compromise Agreement and the RTC Order²³ dated November 23, 2000.²⁴

According to the CA, in its Resolution dated February 18, 2013 in CA-G.R. SP No. 110541, it approved the Second Compromise Agreement entered into by Benjamin and Solano, and declared the case closed and terminated. Accordingly, said Second Compromise Agreement constitutes a bar to any subsequent action between the parties and their successors-in-interest. Hence, the CA concluded that there is forum shopping and dismissed the case.²⁵

The parties filed their respective Motion for Reconsideration²⁶ and Motion for Partial Reconsideration,²⁷ which the CA both denied in its second assailed Resolution²⁸ dated March 11, 2021.

Hence, these petitions filed by both parties.

The parties raise the following issues in their respective petitions:

G.R. No. 256299

- I. Whether or not the CA committed reversible error in dismissing the petition for annulment of judgment on the ground of forum shopping.
- II. Whether or not the CA committed reversible error in granting a motion to dismiss, which is a prohibited pleading under the 2019 Amendment to the 1997 Rules of Civil Procedure (2019 Amended Rules of Court).

²³ Id. at 336.

²⁴ Id. at 324-325.

²⁵ Id. at 328.

²⁶ Id. at 145-155

²⁷ Id. (G.R. No. 258991), pp. 111-119.

²⁸ Id. (G.R. No.256299), pp. 331-332.

III. Whether or not the First Compromise Agreement dated June 22, 2000 and the Order dated November 23, 2000 of the RTC are both null and void.²⁹

G.R. No. 258991

Whether or not Nestor should be cited in contempt for deliberately committing forum shopping.³⁰

Both petitions are **denied** outright for lack of merit. The issues will be discussed *in seriatim*.

Forum shopping

There is forum shopping “when a party repetitively avails himself [or herself] of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court.”³¹

An important factor in determining its existence is the vexation caused to the courts and the parties-litigants by the filing of similar cases to claim substantially the same reliefs.³² Forum shopping is an act of malpractice that is prohibited and condemned because it trifles with the courts and abuses their processes. It degrades the administration of justice and adds to the already congested court dockets.³³

The test to determine if it exists is whether the elements of *litis pendentia* are present, or whether a final judgment in one case amounts to *res judicata* in the other.³⁴ Thus, there is forum shopping when the following elements are present, namely: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and 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

²⁹ Id. at 73-74.

³⁰ Id. (G.R. No. 258991), p. 18.

³¹ *Chua v. Metropolitan Bank & Trust Company*, 613 Phil. 143, 153 (2009).

³² *Foronda v. Guerrero*, 479 Phil. 636, 650 (2004).

³³ *Executive Secretary v. Gordon*, 359 Phil. 266, 272 (1998).

³⁴ *Heirs of Marcelo Sotto v. Palicte*, 726 Phil. 651, 654 (2014).

action will, regardless of which party is successful, amounts to *res judicata* in the action under consideration.³⁵

To invoke *res judicata* as a test of whether forum shopping was committed, absolute identity of parties is not required. A substantial identity of parties is sufficient. And there is substantial identity of parties when there is a community of interest between a party in the first case and that in the second one, even if the latter party was not impleaded in the first.³⁶ Where a shared identity of interest is shown by the identity of relief sought by one person in a prior case and the second person in a subsequent case, such was deemed sufficient.³⁷

In these cases, there appears to be identity of parties and identity of rights asserted and reliefs prayed for. Solano is the respondent in both CA-G.R. SP No. 110541 instituted by spouses Cabañez, and CA-G.R. SP No. 158941 filed by the Heirs of Cabañez. Meanwhile, the Heirs of Cabañez are successors-in-interest of spouses Cabañez. The Heirs of Cabañez are merely asserting their supposed rights over the subject properties which form part of the conjugal property of the spouses Cabañez. Also, in both CA-G.R. SP Nos. 110541 and 158941, the relief sought is the nullification of the First Compromise Agreement and the RTC Order approving it.

However, as the Heirs of Cabañez pointed out in their petition (G.R. No. 256299), they instituted CA-G.R. SP No. 158941 as successors-in-interest of **Leandra** who was already deceased at the time Benjamin entered into the Second Compromise Agreement.

In this regard, this Court declared in its Resolution³⁸ dated January 7, 2019 in G.R. No. 200180³⁹ that “their rights to succession [of the heirs of Leandra] became vested when Leandra died in 2010 x x x. Hence, at the time the subject [Second] Compromise Agreement was entered into and approved in 2013, the heirs of Leandra were already co-owners of the subject property. As such, their respective shares in the disputed property may not be validly included in the subject [Second] Compromise Agreement without their knowledge and

³⁵ Id.

³⁶ *Guerrero v. Director, Land Management Bureau*, 759 Phil. 99, 113 (2015).

³⁷ Id.

³⁸ *Rollo* (G.R. No. 256299), pp. 296-299.

³⁹ G.R. No. 200180 entitled, “*Benjamin H. Cabañez v. Marie Josephine Cordero Solano a.k.a. Ma. Josephine S. Cabañez*,” stemmed from a petition for correction of name and marital status of the registered owner of TCT Nos. 154626 and 154627 of the Registry of Deeds for Muntinlupa City.

consent, especially since the said [Second] Compromise Agreement has the effect of disposing of the contested property in favor of third persons.”⁴⁰

Considering that they were not parties to the Second Compromise Agreement despite being co-owners of the subject properties at the time of its execution, the Heirs of Cabañez are **not** bound by said Second Compromise Agreement **insofar as their respective shares in the ownership of the subject properties which became vested on them upon Leandra’s death, or as Leandra’s successors-in-interest**. The CA’s Resolution dated February 18, 2013 in CA-G.R. SP No. 110541 approving the Second Compromise Agreement serves as *res judicata* on the Heirs of Cabañez only to the extent of Benjamin’s rights and interests over the subject properties, as Benjamin’s successors-in-interest.

Clearly, there was no forum shopping in this case since the element of identity of parties was absent. Again, the Heirs of Cabañez filed the petition in CA-G.R. SP No. 158941 to assert their rights as successors-in-interest of Leandra. Whereas, the Second Compromise Agreement, which the CA considered as binding on the Heirs of Cabañez, only applied to Benjamin and his rights and interests over the subject properties.

Nonetheless, these petitions must still be denied outright for lack of merit.

Validity of the First Compromise Agreement and the RTC’s Order dated November 23, 2000

The Heirs of Cabañez insist that the First Compromise Agreement is void because it is allegedly a prohibited donation, *i.e.*, a donation between paramours, under Article 739 of the Civil Code. Consequently, they claim that the RTC has no jurisdiction over the subject matter, hence, the First Compromise Agreement and the RTC Order⁴¹ dated November 23, 2000 must be annulled.

However, a perusal of the First Compromise Agreement undeniably shows that it was executed only by Leandra and Solano.

⁴⁰ *Rollo* (G.R. No. 256299), p. 298.

⁴¹ *Id.* at 336.

Benjamin's signature thereon appears below Leandra's and bears the heading "assisted by."⁴² Clearly, Benjamin's participation thereon was merely to assist Leandra in executing the instrument, and not as a party thereto.

To be sure, a reading of the First Compromise Agreement confirms that only Leandra waived her rights and interests over the subject properties, and not Benjamin. Hence, there could be no donation between paramours. The First Compromise Agreement does not fall under any of the prohibitions under Article 739 of the Civil Code.

Moreover, a compromise agreement is not a donation. A donation is an act of liberality whereby a person disposes gratuitously of a thing or right in favor of another, who accepts it.⁴³ On the other hand, a compromise agreement is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced.⁴⁴

The mere fact that Leandra waived her rights and interests over the subject properties in favor of Solano did not convert said First Compromise Agreement into a donation. The purpose of entering into said agreement was to finally put an end to the controversy between Leandra and Solano involving the subject properties which obviously persisted despite the finality of the RTC's judgment in Civil Case No. 91-2648.

The fact that the RTC previously rendered judgment, which was affirmed by the CA, in favor of Leandra likewise does not bar the parties from entering into a compromise agreement. In *Spouses Garcia v. Spouses Soriano*,⁴⁵ this Court held thus:

The rule of long standing is that rights may be waived or modified through a compromise agreement even after a final judgment has already settled the rights of the contracting parties. The compromise, to be binding, must be shown to have been voluntarily, freely and intelligently executed by the parties, who had full knowledge of the judgment. In consonance with the law on contracts, the compromise must not be contrary to law,

⁴² Id. at 334.

⁴³ CIVIL CODE, Article 725.

⁴⁴ CIVIL CODE, Article 2028.

⁴⁵ G.R. No. 219431, August 24, 2020.

morals, good customs and public policy. (Emphasis supplied; citations omitted)

In view of the foregoing, there is clearly no basis to nullify the First Compromise Agreement and the RTC's Order⁴⁶ dated November 23, 2000 in Civil Case No. 91-2648.

Propriety of entertaining the motion to dismiss

The 2019 Amended Rules of Court, which prohibits the filing of motions to dismiss, was not yet in effect at the time Solano filed the subject motion to dismiss on April 15, 2019. Rule 144 of the 2019 Amended Rules of Court expressly states:

Rule 144
EFFECTIVENESS

x x x x

The 2019 Proposed Amendments to the 1997 Rules of Civil Procedure shall govern all cases filed after their effectivity on May 1, 2020, and also all pending proceedings, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern. (Emphasis supplied)

Nonetheless, even assuming that it could be given retroactive effect, such that it would have applied at the time Solano filed her motion to dismiss, Solano's motion is still expressly allowed under Section 5, Rule 7 and Section 12, Rule 15 of the 2019 Amended Rules of Court, to wit:

Rule 7
Parts and Contents of a Pleading

x x x x

Section 5. *Certification against forum shopping.* – x x x

x x x x

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other

⁴⁶ *Rollo*, p. 336.

initiatory pleading but **shall be cause for the dismissal of the case without prejudice**, unless otherwise provided, **upon motion and after hearing**. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his [or her] counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (Emphasis supplied)

Rule 15
Motions

x x x x

Section 12. *Prohibited motions*. – The following motions shall not be allowed:

(a) Motion to dismiss **except on the following grounds**:

- 1) That the court has no jurisdiction over the subject matter of the claim;
- 2) **That there is another action pending between the same parties for the same cause**; and
- 3) That the cause of action is barred by a prior judgment or by the statute of limitations[.] (Emphasis supplied)

Verily, the CA did not commit any reversible error in entertaining the motion to dismiss.

Citing Nestor in contempt of court

Considering the above discussion that the Heirs of Cabañez did not commit forum shopping since there is no identity of parties and identity of rights, there is no basis for declaring Nestor in contempt of court for supposedly deliberately committing forum shopping.

Section 5, Rule 45 of the 2019 Amendments to the 1997 Rules of Civil Procedure allows the Supreme Court, on its own initiative, to deny a petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. In view thereof, these petitions are denied outright for lack merit regardless of the absence of forum shopping in this case.

WHEREFORE, the petitions are **DENIED** for lack of merit.

SO ORDERED.” (*Dimaampao, J., penned the assailed CA Decision and Resolution; Marquez, J., designated additional Member per Raffle dated December 20, 2021*)

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court^{61st}

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

89-B
AUG 0 5 2022

Atty. Allen Blair Boy
Counsel for Nestor D. Cabañez
Ground Floor, PPSTA Bldg. 1
Banawe St. cor. Quezon Ave.
1106 Quezon City

Court of Appeals (x)
Manila
(CA-G.R. SP No. 158941)

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M. No. 12-7-1-SC)

JAROMAY LAURENTE AND
ASSOCIATES LAW OFFICES
Counsel for Marie Josephine Cordero
Solano
2nd Floor, One Jorama Place
Congressional Ave. cor. San Beda St.
1106 Quezon City

Philippine Judicial Academy (x)
Supreme Court

Ther Presiding Judge
Regional Trial Court, Branch 137
1200 Makati City
(Civil Case No. 91-26448)

Judgment Division (x)
Supreme Court

UR

JLP

