



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated July 18, 2022 which reads as follows:*

**“A.C. No. 13170 (*Maytan Estate Company vs. Atty. Apolonia A. Comia-Soguilon*).** - Before the Court is an administrative complaint<sup>1</sup> filed by Maytan Estate Company (MEC) against Atty. Apolonia A. Comia-Soguilon for violating the Code of Professional Responsibility (CPR) on the rule against forum shopping.

The case arose from a dispute over properties located in Quezon City covered by Transfer Certificates of Title (TCT) Nos. N-54701, N-54702, and N-54703.

On 01 December 2015, MEC filed an administrative complaint against respondent with the Integrated Bar of the Philippines (IBP). MEC alleged that respondent acted as counsel for Gliceria C. Regalado (Regalado) and Spouses Herminiano and Digna Cuyas (Spouses Cuyas) in four civil complaints filed against MEC concerning the subject properties. The four civil complaints were filed in different venues. The civil complaints are of the following nature:

1. Civil Case No. Q-12-70760 (First Case) - filed by Regalado against MEC, et al., for Declaration of Nullity of the Contract of Lease over the subject properties, Recovery of the Certificates of Title, Repossession of Properties, Inventory and Accounting of Income, Damages with Application for Writ of Preliminary Mandatory or Prohibitory Injunction.<sup>2</sup>
2. Civil Case No. 73770-TG (Second Case) - instituted by Ferdinand P. Lopez (Lopez) against Regalado and her spouse, Bonifacio, where Regalado and Spouses Cuyas respectively filed a third-party complaint

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<sup>1</sup> *Rollo*, pp. 1-12.

<sup>2</sup> IBP Report and Recommendation dated 28 February 2020, p. 5.

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and cross-claims against MEC. In the third-party complaint, Regalado prayed that MEC be directed to: (a) turn over the possession, operation and management of the subject properties; (b) turn over the TCTs of the subject properties; (c) render an inventory and accounting of all the income derived from the subject properties; (c) pay the amount as may be determined from the accounting with legal interest; (d) declare the Contract of Lease over the subject properties null and void; (e) order the Register of Deeds to cancel the annotation of the lease on the TCTs over the subject properties; (f) declare the Deed of Absolute Sale over the subject properties null and void; and (g) pay damages.<sup>3</sup> Meanwhile, Spouses Cuyas, as intervenors in the case, prayed in their cross-claim that MEC be directed to: (a) turn over the TCTs of the subject properties; and (b) render an accounting and pay all income derived from the subject properties with legal interest.<sup>4</sup>

3. Civil Case No. 14-06759-CV (Third Case) - filed by Lopez against Regalado, Spouses Cuyas and MEC. Regalado and Spouses Cuyas filed their respective cross-claims against MEC reiterating their reliefs in the Second Case.<sup>5</sup>
4. Civil Case No. 15-05511-SC (Fourth Case) - an unlawful detainer case filed by Spouses Cuyas against MEC.<sup>6</sup>

In the proceedings before the IBP, MEC alleged that respondent violated Canon 12, Rule 12.02 of the CPR which prohibits a lawyer from filing multiple actions arising from the same cause. MEC argued that respondent is liable for forum shopping and explained that forum shopping exists when the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another. Here, the issues and reliefs prayed for by Regalado and Spouses Cuyas over the subject properties have already been resolved by a previous judgment. In fact, the First Case instituted by Regalado was dismissed on the ground of *res judicata*. Accordingly, the same reliefs prayed for in the Second, Third and Fourth Cases should be barred. As respondent is the counsel for Regalado and Spouses Cuyas in all four civil complaints, she cannot claim that filing for the same reliefs in the different cases was involuntary and unintentional.<sup>7</sup>

Respondent, on the other hand, countered that she did not violate the rule on forum shopping. Contrary to MEC's claim, she argued that the First Case was not dismissed on the ground of *res judicata* but for lack of jurisdiction. She emphasized the ruling of the Regional Trial Court (RTC) that there was failure to allege the assessed value of the subject properties in the

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<sup>3</sup> *Rollo*, pp. 33-36.

<sup>4</sup> *Id.* at 104-105.

<sup>5</sup> *Id.* at 128-130 and 140-141.

<sup>6</sup> *Id.* at 184-187.

<sup>7</sup> IBP Report and Recommendation dated 28 February 2020, pp. 2-3.

complaint, which prevented the RTC from determining whether it had original and exclusive jurisdiction over the subject matter of the case. Thus, such dismissal did not bar her clients from raising the same reliefs in the other civil actions. Furthermore, there is no identity of parties in the First, Second and Third Cases. Respondent explained that the First Case was instituted by Regalado as plaintiff against MEC, while the Second and Third Cases were instituted by Lopez as plaintiff, with Regalado and Spouses Cuyas as defendants. Thus, filing the same claims in the third-party complaint and cross-claims in both cases by her clients against MEC can hardly be considered as forum shopping. Further, the Fourth Case is an action for unlawful detainer which is an entirely independent cause of action from the First, Second, and Third Cases.<sup>8</sup>

In his Report and Recommendation dated 28 February 2020,<sup>9</sup> the IBP Investigating Commissioner recommended the dismissal of the administrative complaint for lack of merit, and submitted that respondent did not violate Rule 12.02 or the prohibition on lawyers from filing multiple actions arising from the same cause. The Investigating Commissioner discussed that forum shopping may be committed in three ways: (1) filing of multiple cases based on the same causes of action and with the same prayer, the previous case not having been resolved yet (*litis pendentia*); (2) filing multiple cases based on the same cause of action with the same prayer, the previous case having been finally resolved (*res judicata*); and (3) filing multiple cases based on the same cause of action but with different prayers or splitting causes of action.<sup>10</sup> Further, forum shopping must have been employed wilfully or deliberately.<sup>11</sup>

The Investigating Commissioner agreed with respondent that the First Case was not dismissed due to *res judicata* but for lack of jurisdiction. Thus, respondent's clients are not precluded from asserting the same rights and reliefs in the Second and Third Cases. There is no identity in the parties in the First, Second and Third Cases. The Second and Third Cases were primarily instituted by Lopez and not by Regalado nor Spouses Cuyas. The subsequent pleadings filed by respondent for her clients against MEC are only a third-party complaint and cross-claims. Finally, the causes of action of Regalado and Spouses Cuyas are different and independent from one another. As for the Fourth Case or the unlawful detainer suit, this case was instituted by Spouses Cuyas against MEC and is an independent cause of action from the First, Second, and Third Cases.<sup>12</sup>

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<sup>8</sup> Id. at 3-4.

<sup>9</sup> *Rollo*, pp. 243-250.

<sup>10</sup> IBP Report and Recommendation dated 28 February 2020, p. 6.

<sup>11</sup> Id. at 7.

<sup>12</sup> Id.

In a Resolution dated 13 June 2020,<sup>13</sup> the IBP Board of Governors approved and adopted the IBP Investigating Commissioner's recommendation to dismiss the administrative complaint against respondent.

Forum shopping exists when as a result of an adverse decision in one forum, or in anticipation thereof, a party seeks a favorable opinion in another forum through means other than an appeal or certiorari.<sup>14</sup> Our laws prohibit the exercise of forum shopping to promote the orderly administration of justice in that once a judgment becomes final, the winning party should not be deprived of that verdict by the misuse of the legal process.<sup>15</sup> Thus, lawyers and party litigants should not file several actions or petitions arising from the same cause or seeking substantially identical reliefs as those that had already been finally disposed.<sup>16</sup>

Guided by the foregoing principles, the Court shall first review if a final judgment had been rendered in relation to the dispute of the parties on the subject properties. MEC claimed that the First Case was dismissed on the ground of *res judicata*. However, the Court finds that in the RTC Order dated 18 April 2013,<sup>17</sup> the complaint of Regalado was dismissed for lack of jurisdiction. The RTC essentially declared that it had no jurisdiction over the subject matter of the case considering that the assessed value of the property could not be determined from the allegations of the complaint and the evidence appended therein.<sup>18</sup> As jurisdiction is the power and authority of the court to hear, try and decide the case,<sup>19</sup> the RTC in the First Case, without acquiring jurisdiction over the subject matter, did not possess the authority to dispose of the case on the merits. The only power the RTC had was to dismiss the action. Any act performed or judgment rendered by the RTC, other than the dismissal of the case, would be null and void, and without any binding legal effect.<sup>20</sup> Moreover, a dismissal for lack of jurisdiction over the subject matter is a dismissal without prejudice. Hence, the action may be refiled.

While the action may be refiled considering that the dismissal in the First Case is one without prejudice, this does not mean however that respondent may subsequently refile the same claims in multiple actions. The Court emphasizes that forum shopping also exists when there is a filing of multiple cases based on the same causes of action and with the same prayer, the previous case not having been resolved (*litis pendentia*).<sup>21</sup> There is *litis pendentia* when the following elements are present: (a) identity of parties, or

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<sup>13</sup> *Rollo*, pp. 241-242.

<sup>14</sup> *Teodoro III v. Gonzales*, 702 Phil. 422, 428 (2013), citing *Polanco v. Cruz*, 598 Phil. 952, 958 (2009).

<sup>15</sup> Agpalo R., *Legal and Judicial Ethics*, p. 160 (Eighth Edition 2009).

<sup>16</sup> *Id.*

<sup>17</sup> *Rollo*, pp. 197-207.

<sup>18</sup> *Id.* at 206-207.

<sup>19</sup> *Bilag v. Ay-ay*, 809 Phil. 236, 243 (2017).

<sup>20</sup> *Id.*

<sup>21</sup> IBP Report and Recommendation dated 28 February 2020 citing *Heirs of Sotto v. Palicte*, 726 Phil. 651 (2013).

at least such parties that represent the same interests in both actions, (b) identity of rights or causes of action, and (c) identity of reliefs sought.<sup>22</sup> Proscribing this form of forum shopping aims to prevent the embarrassing situation of two or more courts or agencies rendering conflicting resolutions or decisions upon the same issues.<sup>23</sup>

Here, insofar as the Second and Third Cases are concerned, the Court finds that respondent resorted to forum shopping as all the elements discussed above are present. *First*, there is identity of parties. Albeit that Lopez initially instituted the foregoing complaints, respondent filed separate pleadings on behalf of her clients by way of a third-party complaint<sup>24</sup> and cross-claims<sup>25</sup> in the Second and Third Cases.<sup>26</sup> These pleadings are initiatory.<sup>27</sup> In fact, respondent was aware that the pleadings she filed were initiatory and separate from those of Lopez as she, as the authorized representative of her clients, executed the mandated Verification and Certification against Forum Shopping appended to the pleadings.<sup>28</sup> In the foregoing pleadings filed by respondent, Regalado and Spouses Cuyas were, in both cases, plaintiffs or claimants against MEC.

*Second*, there is identity of causes of action. The test of identity of causes of action does not depend on the form of an action taken, but on whether the same evidence would support and establish the former and the present causes of action.<sup>29</sup> Upon review of the pleadings filed by respondent in the Second and Third Cases, it is evident that the issues of Regalado's ownership over the subject properties and Spouses Cuyas' right of redemption have to be decided by the trial courts. Allegations in the pleadings filed by respondent for both cases are substantially the same in that Regalado and MEC executed a Memorandum of Agreement for the management of the subject properties; MEC misrepresented the Contract of Lease as not binding but only to aid the possession of MEC over the subject properties; Regalado did not execute a Deed of Sale over the subject properties; Regalado and Spouses Cuyas executed a Deed of Assignment of Right of Redemption; and Spouses Cuyas timely redeemed the subject properties sold at public auction.

From the foregoing, the initiating parties' claim in the two cases depended on the issues concerning the propriety of the Memorandum Agreement, Contract of Lease, and Deed of Absolute Sale, all supposedly executed by Regalado and MEC, and Spouses Cuyas' right over the subject properties pursuant to an assigned right of redemption. Thus, the evidence necessary to prove the claims of respondent's clients are the same.

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<sup>22</sup> *Teodoro III v. Gonzales*, supra note 14, at 428.

<sup>23</sup> *Zamora v. Quinan, Jr.*, 821 Phil. 1009, 1020 (2017).

<sup>24</sup> *Rollo*, pp. 13-38.

<sup>25</sup> *Id.* at 88-106.

<sup>26</sup> *Id.* at 125-132 and 133-143.

<sup>27</sup> Supreme Court Administrative Circular 04-94 (1994).

<sup>28</sup> *Rollo*, pp. 130-131, 142 and 157.

<sup>29</sup> *Teodoro III v. Gonzales*, supra note 14, at 428-429.

Anent the Fourth Case or the unlawful detainer case against MEC filed by Spouses Cuyas, the Court does not find the same as violative of forum shopping with the Second and Third Cases. It is settled that a pending action involving ownership of the same property does not bar the filing or consideration of an ejectment suit, nor suspend the earlier proceedings. This is so because an ejectment case is simply designed to summarily restore physical possession of a piece of land or building to one who has been illegally or forcibly deprived thereof, without prejudice to the settlement of the parties' opposing claims of juridical possession in appropriate proceedings.<sup>30</sup>

*Finally*, there is identity of reliefs in the Second and Third Cases. As discussed, the causes of action for both cases are the same and a ruling in one case would have resolved the other, and *vice versa*. Relatedly, Regalado and Spouses Cuyas, in both cases, ultimately seek the annulment of contracts executed with MEC, payment of income derived from the subject properties, and the declaration that they are the true owners of the subject properties.

All the elements of *litis pendentia* are present. In fine, respondent committed forum shopping when she filed the third-party complaint and cross-claims in the Second Case and cross-claims in the Third Case. Indicating in the verification and certification against forum shopping the fact that there is a pending suit for the same cause of action and reliefs will not exonerate the act of forum shopping. The rule against forum shopping requires a twofold compliance, and this covers both the non-commission of forum shopping itself, and the submission of the certification against forum shopping.<sup>31</sup> Here, respondent failed to comply with the first requirement.

While lawyers owe entire devotion to the interests of their client, they should not forget that they are also officers of the court with the primary duty of assisting in the speedy and efficient administration of justice.<sup>32</sup> This is one of the reasons that the rule against forum shopping is embodied in Canon 12, Rule 12.02 of the CPR. Any conduct that tends to delay, impede or obstruct the administration of justice contravenes the lawyer's obligation to respect the legal processes. Considering that she misused court processes in contravention of the express rule against forum shopping and violated her duty as an officer of the court to assist in the speedy and efficient administration of justice, respondent may be censured, a penalty usually imposed for an isolated act of misconduct of a lesser nature.<sup>33</sup>

**WHEREFORE**, the Court finds respondent Atty. Apolonia A. Comia-Soguilon **LIABLE** for violating Canon 12, Rule 12.02, Code of Professional

<sup>30</sup> *Bradford United Church of Christ, Inc. v. Dante Ando*, 785 Phil. 769, 782 (2016), citing *Malabanan v. Rural Bank of Cabuyao Laguna*, 605 Phil. 523, 530 (2009).

<sup>31</sup> *Id.* at 779.

<sup>32</sup> Agpalo R., *Legal and Judicial Ethics*, p. 161 (Eighth Edition 2009).

<sup>33</sup> *Teodoro III v. Gonzales*, supra note 14, at 432.

Responsibility. She is meted with the penalty of **CENSURE** and **WARNED** that any future violation of her duties as a lawyer will be dealt with more severely.

Let a copy of this Resolution be attached to Atty. Apolonia A. Comia-Soguilon’s file with the Office of the Bar Confidant.

The letter dated August 4, 2021 of the Commission on Bar Discipline, Integrated Bar of the Philippines (IBP), transmitting to this Court the documents pertaining to this case; and Notice of Resolution dated June 13, 2020 of the IBP Board of Governors are both **NOTED**.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
*sh 2/16*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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**FEB 17 2023**

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