



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

THE HEIRS OF INOCENTES
MAMPO and RAYMUNDO A.
MAMPO, represented by
AZUCENA C. MAMPO, Jra.,
Petitioners,

- versus -

JOSEFINA MORADA,
Respondent.

G.R. No. 214526

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

Promulgated:

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DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court (Rules) assailing the Decision² dated December 20, 2013 (Assailed Decision) and Resolution³ dated September 1, 2014 (Assailed Resolution) of the Court of Appeals⁴ (CA), in CA-G.R. SP No. 123523.

Facts

Petitioners are the surviving wives and children of deceased Inocentes Mampo (Inocentes) and Raymundo Mampo (Raymundo) (collectively, Heirs of Mampos). Inocentes and Raymundo instituted a Complaint⁵ dated August 28, 2000 before the office of the Provincial Agrarian Reform Adjudicator (PARAD) against Nelida and Alex Severo for Recovery of Possession of five parcels of land in Baras, Canaman, Camarines Sur (subject lots) which were

¹ Rollo, pp. 12-25.

² Id. at 29-39. Penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Socorro B. Inting and Melchor Quirino C. Sadang.

³ Id. at 41.

⁴ Special Eleventh Division and Former Special Eleventh Division, respectively.

⁵ Rollo, pp. 92-95.

covered by Emancipation Patents (EPs).⁶ The complaint was dismissed and appealed to the Department of Agrarian Reform Adjudication Board (DARAB) Central Office.

In its Decision⁷ dated January 16, 2008, the DARAB set aside the PARAD's Decision and ruled in favor of the Heirs of Mampos, thus:

WHEREFORE, premises considered, the appealed decision is hereby **SET ASIDE** and a **NEW JUDGMENT** is the (*sic*) thus rendered as follows:

1. Ordering the respondents-appellees, and all persons acting for, and in their behalf, to immediately vacate the subject landholdings;
2. Ordering the respondents-appellees to restore the possession of the subject landholdings to the complainants-appellants; and
3. Ordering the respondents-appellees to thereafter, respect and maintain the peaceful possession and cultivation of the complainants-appellants of the subject landholdings.

SO ORDERED.⁸

Said decision became final and executory on August 9, 2008. On November 14, 2008, upon motion of the Heirs of Mampos, a Writ of Execution⁹ was issued by the PARAD.

On May 7, 2009, herein respondent Josefina Mampo Morada (Morada) filed a Third-Party Claim¹⁰ dated May 7, 2009, which was granted by the PARAD in its Order dated February 26, 2010.¹¹ Consequently, the PARAD ordered the parties to respect Morada's possession and the recall of the Writ of Execution dated November 14, 2008,¹² to wit:

WHEREFORE, premises considered, finding merit to the instant third party claim, the same is hereby **GRANTED**. Parties are hereby ordered to respect third party claimant Josefina Mampo Morada in her peaceful possession and cultivation of the subject premises. The prayer to stay the enforcement of the decision rendered in the above-entitled case is **GRANTED**, the Writ of Execution dated November 14, 2008 is hereby ordered **RECALLED**.

SO ORDERED.¹³

⁶ Id. at 92-94.

⁷ Id. at 96-101.

⁸ Id. at 100.

⁹ Id. at 102-104.

¹⁰ Id. at 105-108.

¹¹ Id. at 109-111.

¹² Id. at 31.

¹³ Id. at 110-111.



The PARAD gave credence to the claim of Morada that she was the actual tiller. Moreover, she is preferred to be awarded the same as against Inocentes who, at one time, voluntarily relinquished, for a fee, his tenancy over a landholding.

The Heirs of Mampos filed a Motion for Reconsideration, but the same was denied by the PARAD.¹⁴ Thereafter, they filed with the DARAB a Manifestation with Motion for the Implementation of the Decision Dated January 16, 2008.¹⁵ This was dismissed by the DARAB for lack of jurisdiction, as the same was, in essence, a special civil action under Rule 65 of the Rules.

However, in its Resolution¹⁶ dated September 19, 2011, the DARAB later granted the Heirs of Mampos' Motion for Reconsideration, ordered the revival of the Writ of Execution dated November 14, 2008 and directed the immediate implementation thereof. It ruled, among others, that Morada's Third-Party Claim was, in reality, a protest against the identification and qualification of the Heirs of Mampos as beneficiaries of the awarded landholdings; hence, it should have been dismissed for lack of jurisdiction inasmuch as the determination of such questions belongs to the exclusive jurisdiction of the Department of Agrarian Reform (DAR) Secretary under the DARAB Rules of Procedure.¹⁷ Morada moved for reconsideration but the same was denied.¹⁸

On January 6, 2012, Morada filed the first subject action — a Petition for *Certiorari*¹⁹ under Rule 65 of the Rules with the CA, docketed as CA-G.R. SP No. 123033 (Rule 65 action), and was assigned to the CA Sixth Division. Therein, she sought to annul the DARAB Decision dated September 19, 2011 for allegedly having been issued with grave abuse of discretion, and to affirm the DARAB Decision dated February 11, 2011.²⁰

Thereafter, on February 9, 2012, Morada instituted the second subject action — a Petition for Review²¹ under Rule 43, likewise before the CA, which was docketed as CA-G.R. SP No. 123523 (Rule 43 action) and raffled to the CA 12th Division.²² Here, she prayed that the DARAB Decision dated September 19, 2011 be reversed and that the Decision of the PARAD dated February 26, 2010 be affirmed.²³

¹⁴ Id. at 31.

¹⁵ Id. at 112-120.

¹⁶ Id. at 43-48.

¹⁷ Id. at 46-48.

¹⁸ Id. at 34.

¹⁹ Id. at 49-59; entitled "*Josefina Mampo v. DARAB Board, namely MARIE FRANCES PESAYCO AQUINO, JIM G. CULETO, MA. PATRICIA RUALO-BELLO & ARNOLD C. ARRISTA, in their capacity as DARAB MEMBERS and Inocentes Mampo and Raymundo Mampo.*"

²⁰ Id. at 58.

²¹ Id. at 60-79; entitled "*Inocentes Mampo and Raymundo Mampo v. Nelida Severo and Alex Severo and Josefina Morada (as third party claimant).*"

²² Id. at 81; as mentioned by the CA Sixth Division in its Resolution dated September 28, 2012.

²³ Id. at 78.



On August 12, 2012, petitioners filed, in the Rule 65 action, a Manifestation and Motion to Dismiss for Violation Against the Rule on Forum Shopping²⁴ dated August 12, 2012. They prayed therein that both the Rules 65 and 43 actions be dismissed for being violative of the rule against forum shopping.²⁵ Morada filed a Comment²⁶ dated August 17, 2012, asserting that she has not violated forum shopping rules as the two cases have different issues — one, being a Rule 65 case, involving the question of whether the DARAB committed grave abuse of discretion, and the other, being a Rule 43 case, involving questions of both facts and law.²⁷

The CA Sixth Division, in its Resolution²⁸ dated September 28, 2012, granted the motion and dismissed the Rule 65 action. The relevant portion of the Resolution reads:

It bears stressing that forum shopping exists when two or more actions involve the same transactions, essential facts and circumstances, and raise identical causes of action, subject matter, and issues. Another test of forum shopping is when the elements of *litis pendencia* are present or where a final judgment in one case will amount to *res judicata* in another.

The records show that G.R. SP No. 123523 and CA G.R. SP No. 123033, present the same set of facts and issues and the remedies sought in both cases are also the same. In both petitions, petitioner questioned not only the merits of the decision but also the order of public respondent DARAB in granting execution pending appeal. It is clear therefore that a ruling of this Court in CA G.R. SP No. 123523 would undoubtedly constitute *res judicata* on the identical issue raised in G.R. SP No. 123033. Petitioner cannot avoid violation of the rule against forum shopping by varying the forms of the action or adopting a different mode of presenting one's case. For being violative of the rule against forum shopping, the instant petition for [*certiorari*] docketed as G.R. SP No. 123033 should therefore be dismissed.

WHEREFORE, the Motion to Dismiss is **GRANTED** and the petition, **DISMISSED**, for violation against the rule on forum shopping.

SO ORDERED.²⁹

The same became final and executory on November 15, 2012.

Meanwhile, Morada, in the Rule 43 action, filed a Manifestation³⁰ dated October 31, 2012, notifying the CA 12th Division of the Resolution dated September 28, 2012 of the CA Sixth Division which dismissed the Rule 65 action for forum shopping. Morada likewise manifested that “[s]he is not

²⁴ Id. at 127-130.

²⁵ Id. at 129.

²⁶ Id. at 165-166.

²⁷ Id. at 165.

²⁸ Id. at 81-82.

²⁹ Id. at 82.

³⁰ Id. at 163-164.



appealing said decision and, [instead], pursues her legal remedies with this Honorable Court in CA-G.R. SP No. 123523.”³¹

On March 9, 2013, petitioners also filed a Manifestation in the Rule 43 action, praying that the same be dismissed to pave the way for the implementation of the DARAB Decision dated January 8, 2008.³²

On December 20, 2013, the CA, in the Rule 43 action, issued the assailed Decision, granting Morada’s petition, thus:

WHEREFORE, premises considered, the instant petition for review is **GRANTED**. The assailed September 19, 2011 Resolution is hereby **NULLIFIED** and the February 26, 2010 Order of the PARAD **STANDS**.

SO ORDERED.³³

According to the CA, Morada’s third-party claim was valid pursuant to Rule 39, Section 16 of the Rules which allows third-party claims as a remedy for third parties having claims on a property levied during the execution stage. Moreover, the CA ruled that the Order dated February 26, 2010 of the PARAD which granted Morada’s third-party claim was not appealed by petitioners. Instead, they filed a Manifestation with Motion for the Implementation of the Decision dated January 16, 2008 with the DARAB. Hence, said PARAD Order became final and executory.³⁴ The Assailed Decision is silent as to the matter of forum shopping manifested in the case by both parties.

Petitioners filed a motion for reconsideration but the same was denied in the Assailed Resolution.

Hence, the present recourse, wherein the merits of the Assailed Decision are no longer challenged. Instead, petitioners submit that since Morada committed forum shopping as ruled in the CA’s Resolution dated September 28, 2012 in the Rule 65 action, which Resolution later became final and executory, Morada’s Rule 43 action should have likewise been dismissed.³⁵

Morada filed her Comment³⁶ dated March 9, 2015, wherein she asserts that she has not violated the rules on forum shopping because the two petitions she filed with the CA involved different issues and that she has manifested the dismissal of the Rule 65 action to the CA 12th Division in the Rule 43 action, as well as her intention to pursue the latter case as a legal remedy.

Petitioners filed their Reply to Respondent’s Comment³⁷ dated October 12, 2015.

³¹ Id. at 163.

³² Id. at 18.

³³ Id. at 39.

³⁴ Id. at 36-39.

³⁵ Id. at 21.

³⁶ Id. at 146-150.

³⁷ Id. at 171-176.



Issue

Petitioners raise the lone issue: whether or not the CA is correct in nullifying the resolution of the DARAB dated September 19, 2011 and reinstating the Order of the PARAD dated February 26, 2010 despite the violation against the rule on forum shopping.³⁸ Stated differently, they ask the Court if the CA erred in failing to likewise dismiss the Rule 43 action for forum shopping.

Ruling

There is merit in the petition.

Forum shopping is committed by a party who institutes two or more suits involving the same parties for the same cause of action, either simultaneously or successively, 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.³⁹ It is an act of malpractice that is prohibited and condemned because it trifles with the courts, abuses their processes, degrades the administration of justice, and adds to the already congested court dockets.⁴⁰

At present, the rule against forum shopping is embodied in Rule 7, Section 5 of the Rules, thus:

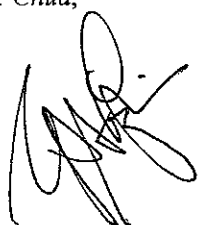
SEC 5. Certification against forum shopping. – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced 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 similar action or claim has been filed or 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.

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

³⁸ Id. at 19.

³⁹ See *Zamora v. Quinan, Jr.*, G.R. No. 216139, November 29, 2017, 847 SCRA 251, 257; *Yap v. Chua*, G.R. No. 186730, June 13, 2012, 672 SCRA 419, 427-428.

⁴⁰ *Heirs of Sotto v. Palicte*, G.R. No. 159691, February 17, 2014, 716 SCRA 175, 178.



There are two rules on forum shopping, separate and independent from each other, provided in Rule 7, Section 5: 1) compliance with the certificate of forum shopping and 2) avoidance of the act of forum shopping itself.⁴¹

To determine whether a party violated the rule against forum shopping, the most important factor is whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another. Otherwise stated, the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.⁴²

Hence, forum shopping can be committed in several 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*).⁴³

These tests notwithstanding, what is pivotal is the vexation brought upon the courts and the litigants by a party who asks different courts to rule on the same or related causes and grant the same or substantially the same reliefs and, in the process, creates the possibility of conflicting decisions being rendered by the different fora upon the same issues.⁴⁴

Forum shopping is a ground for summary dismissal of both initiatory pleadings without prejudice to the taking of appropriate action against the counsel or party concerned.⁴⁵ This is a punitive measure to those who trifle with the orderly administration of justice.⁴⁶

Guided by the foregoing settled doctrines, the Court rules that the CA erred in failing to dismiss the Rule 43 action for forum shopping.

Morada is guilty of forum shopping by committing two distinct acts thereof: (1) she willfully and deliberately instituted two actions in two different divisions of the CA to avail of remedies founded on similar facts; and (2) she submitted false certifications of non-

⁴¹ See *Korea Exchange Bank v. Gonzales*, G.R. Nos. 142286-87, April 15, 2005, 456 SCRA 224, 243; *City of Taguig v. City of Makati*, G.R. No. 208393, June 15, 2016, 793 SCRA 527, 549.

⁴² *Yap v. Chua*, supra note 39.

⁴³ *Zamora v. Quinan, Jr.*, supra note 39 at 260, citing *City of Taguig v. City of Makati*, supra note 41 at 550.

⁴⁴ *Yap v. Chua*, supra note 39 at 428.

⁴⁵ See *Korea Exchange Bank v. Gonzales*, supra note 41 at 243.

⁴⁶ See *Ley Construction & Development Corporation v. Philippine Commercial & International Bank*, G.R. No. 160841, June 23, 2010, 621 SCRA 526, 537.

forum shopping and did not observe the undertakings therein mandated by Rule 7, Section 5.

a. Morada filed multiple suits seeking identical reliefs.

To recall, in its Resolution dated September 28, 2012, the CA dismissed the Rule 65 action upon the finding that Morada committed forum shopping in instituting the same and the Rule 43 action, thus:

The records show that G.R. SP No. 123523 and CA G.R. SP No. 123033, present the same set of facts and issues and the remedies sought in both cases are also the same. In both petitions, petitioner questioned not only the merits of the decision but also the order of public respondent DARAB in granting execution pending appeal. It is clear therefore that a ruling of this Court in CA G.R. SP No. 123523 would undoubtedly constitute *res judicata* on the identical issue raised in G.R. SP No. 123033. Petitioner cannot avoid violation of the rule against forum shopping by varying the forms of the action or adopting a different mode of presenting one's case. **For being violative of the rule against forum shopping, the instant petition for [certiorari] docketed as G.R. SP No. 123033 should therefore be dismissed.**⁴⁷

It is not disputed that the foregoing Resolution of the CA was purposely not appealed by Morada, and thus became final and executory on November 15, 2012. Hence, it is conclusive as to the issue of whether or not Morada committed forum shopping in connection with her filing of the Rules 65 and 43 actions. As to this issue, *res judicata*⁴⁸ — the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on points and matters determined in the former suit⁴⁹ — has set in.

Res judicata embraces two aspects — “bar by prior judgment” or the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action and “conclusiveness of judgment” which ordains that issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action.⁵⁰ As to the latter, which is relevant to the issue of commission of forum shopping in the present case, the Court has held:

Conclusiveness of judgment finds application when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction. **The fact or question settled by final judgment or order binds the parties to that action (and persons in priority with them or their successors-in-**

⁴⁷ *Rollo*, p. 82. Emphasis supplied.

⁴⁸ The aspect of *res judicata* relevant to the present case is set forth in Section 47, Rule 39 of the Rules.

⁴⁹ See *Degayo v. Magbanua-Dinglasan*, G.R. No. 173148, April 6, 2015, 755 SCRA 1, 8-9.

⁵⁰ See *Ley Construction & Development Corporation v. Philippine Commercial and International Bank*, supra note 46 at 535.

interest), and continues to bind them while the judgment or order remains standing and unreversed by proper authority on a timely motion or petition; **the conclusively settled fact or question furthermore cannot again be litigated in any future or other action between the same parties or their privies and successors-in-interest, in the same or in any other court of concurrent jurisdiction, either for the same or for a different cause of action.** Thus, only the identities of *parties* and *issues* are required for the operation of the principle of conclusiveness of judgement.⁵¹

Conclusiveness of judgment proscribes the re-litigation in a second case of a fact or question already settled in a previous case. The second case, however, may still proceed provided that it will no longer touch on the same fact or question adjudged in the first case. Conclusiveness of judgment requires only the identity of issues and parties, but not of causes of action.⁵²

Hence, as the parties to the present case and the Rule 65 action are the same, the issue of whether forum shopping was committed by Morada, which was already decided with finality in the latter case, may no longer be re-litigated herein.

Nevertheless, even if the Court passes upon this issue, it will arrive at the same conclusion as the CA did in the Rule 65 action — that Morada committed forum shopping. Worse, the same was willful and deliberate.

In denying that she had violated the rule, Morada claims that the Rules 65 and 43 actions involve different issues — that the Rule 65 action is a petition for *certiorari* while the Rule 43 action is a petition for review. Hence, the former involves the question of whether the DARAB committed grave abuse of discretion and the latter raises questions of facts and law. Moreover, the two cases allegedly involve different parties — in the Rule 65 action, the respondent is the DARAB while in the Rule 43 action, the respondents are the petitioners herein.

These contentions do not hold water.

As mentioned, the test for determining the existence of forum shopping is whether the elements of *litis pendentia* are present, or whether a final judgment in one case amounts to *res judicata* in another. Thus, there is forum shopping when the following elements are present: (a) identity of parties, or at least such parties as representing 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 action will, regardless of which party is successful, amount to *res judicata* in the action under consideration. Said requisites are also constitutive of the requisites for *auter action pendant* or *lis pendens*.⁵³

⁵¹ *Degayo v. Magbanua-Dinglasan*, supra note 49 at 12. Emphasis supplied; citations omitted.

⁵² *Ley Construction & Development Corporation v. Philippine Commercial & International Bank*, supra note 46 at 536.

⁵³ *Dy v. Mandy Commodities Co., Inc.*, G.R. No. 171842, July 22, 2009, 593 SCRA 440, 451.



In the case before the Court, the first element is present — the parties were the same in both the Rules 65 and 43 actions, albeit in the former, the DARAB was added as a public respondent. The Court has held that absolute identity of parties is not required, it being enough that there is substantial identity of the parties or at least such parties represent the same interests in both actions.⁵⁴

As to the second element, while the remedies of petition for *certiorari* and appeal are substantially different in that the former's purpose is to correct errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction and the latter to correct a mistake of judgement or errors of law or fact,⁵⁵ a plain reading and comparison of Morada's prayers in the two petitions she filed reveal that they involve the same rights asserted and reliefs asked for:

| CA-G.R. SP No. 123033 (Rule 65 petition for <i>certiorari</i>) | CA-G.R. SP No. 123523 (Rule 43 petition for review) |
|--|--|
| <p>WHEREFORE, it is most respectfully prayed of this Honorable Court to issue the writ of [<i>certiorari</i>] ANNULING and SETTING ASIDE its decision dated September 19, 2011 rendered by the Public Respondents in DARAB CASE NO. 12176 for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction and affirming en (<i>sic</i>) toto public respondents' decision dated February 11, 2011.⁵⁶</p> | <p>WHEREFORE, it is most respectfully prayed of this Honorable Court that (<i>sic</i>) decision of the Appellate Board (DARAB) dated September 19, 2011 be reversed and affirming (<i>sic</i>) en (<i>sic</i>) toto the decision of the Lower Board (PARAD) dated February 26, 2010.⁵⁷</p> |

Clearly, both petitions challenged and prayed for the reversal of the DARAB Resolution dated September 19, 2011, ultimately, to prevent the execution of the PARAD Decision dated January 16, 2008 which awarded possession of the subject lots to the Heirs of Mampos.⁵⁸ Thus, there exists between the two actions, identity as to parties, rights asserted and reliefs sought, to a degree that a judgment in either action will amount to *res judicata* in the other.

Similar to this case, *Ley Construction and Development Corporation v. Hyatt Industrial Manufacturing Corporation*⁵⁹ (*Ley Construction*) involved a special civil action for *certiorari* and an appeal which practically sought the same reliefs. The case stemmed from a civil action for specific performance

⁵⁴ *Brown-Araneta v. Araneta*, G.R. No. 190814, October 9, 2013, 707 SCRA 440, 451.

⁵⁵ *Madrigal Transport, Inc v. Lapanday Holdings Corporation et al.*, G.R. No. 156067, August 11, 2004, 436 SCRA 123, 134.

⁵⁶ *Rollo*, p. 58. Emphasis supplied.

⁵⁷ *Id.* at 78. Emphasis supplied.

⁵⁸ *Id.* at 52-53.

⁵⁹ G.R. No. 133145, August 29, 2000, 339 SCRA 223.

filed by Ley Construction against Hyatt Industrial. The trial court ordered the cancellation of all the depositions set for hearing, prompting Ley Construction to file before the CA a petition for *certiorari* assailing said order. Pending the Rule 65 petition, the trial court dismissed Ley Construction's action for specific performance which was then appealed to the CA. Later, the CA likewise dismissed the Rule 65 petition, which dismissal was taken on appeal to the Court. In denying the appeal, the Court ruled:

Third, petitioner's submission that the Petition for *Certiorari* has a practical legal effect is in fact an admission that the two actions are one and the same. Thus, in arguing that the reversal of the two interlocutory Orders "would likely result in the setting aside of the dismissal of petitioner's amended complaint," petitioner effectively contends that its Petition for *Certiorari*, like the appeal, seeks to set aside the *Resolution and the Orders*.

Such argument unwittingly discloses a recourse to forum shopping, which has been held "as the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition." Clearly, by its own submission, petitioner seeks to accomplish the same thing in its Petition for *Certiorari* and in its appeal: both assail the two interlocutory Orders and both seek to set aside the RTC Resolution.

Hence, even assuming that the Petition for *Certiorari* has a practical legal effect because it would lead to the reversal of the Resolution dismissing the Complaint, it would still be denied on the ground of forum shopping.⁶⁰

Moreover, the Court denied Ley Construction's allegation that the two actions are distinct, thus:

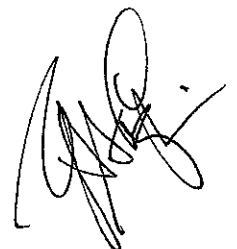
x x x The tortuous explanation of petitioner cannot refute the clear fact that the relief sought in the Petition for *Certiorari* is also prayed for in the appeal. In the latter, it questioned not only the propriety of the Resolution dismissing the Complaint, but also the two interlocutory Orders denying its recourse to the discovery procedure.⁶¹

Hence, guided by *Ley Construction*, that the two cases filed by Morada before the CA involved two separate remedies — one a petition for *certiorari* and the other, an appeal — does not refute the fact that the reliefs she prayed for in said cases were identical: to have the DARAB Resolution dated September 19, 2011 reversed and set aside in order to prevent the execution of the PARAD Decision dated January 16, 2008 which awarded possession over the subject lots to the Heirs of Mampos.

Therefore, Morada's claim that the actions involve different remedies and parties are specious. At any rate, as has been repeatedly held by the Court, what is truly important to consider in determining the existence of forum shopping is the vexation caused the courts and parties-litigant by the party

⁶⁰ Id. at 229-230. Underscoring supplied.

⁶¹ Id. at 31. Underscoring supplied.



who instituted different actions seeking the same reliefs in different fora, thereby creating the possibility of conflicting decisions on the same issue.⁶²

b. Morada submitted false certifications of non-forum shopping and did not observe the undertakings therein mandated by Rule 7, Section 5.

Aside from seeking identical reliefs from different divisions of the CA, Morada made false representations in her Certifications of Non-forum Shopping and did not observe the mandatory undertakings therein. *First*, in her Certification in the Rule 43 action, she falsely certified that she has not previously commenced a similar action in another court. *Second*, in the same Rule 43 Certification, she did not disclose the pendency of the Rule 65 action — a prior action which involved the same issues then pending with the CA Sixth Division. *Third*, in connection with her Certification in her Rule 65 action, she did not report to the court her filing of the Rule 43 action with the CA 12th Division within five days therefrom.

These acts violate the rule on forum shopping under Rule 7, Section 5, which provides for the following undertakings:

SEC. 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 similar action or claim has been filed or 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.

x x x x (Underscoring supplied)

The CA erred in failing to likewise dismiss the Rule 43 action.

The Rules 65 and 43 actions, having been commenced in violation of the rules on forum shopping, were both dismissible.

Morada insists that she was pursuing her legal remedies in the Rule 43 action, and continuously here in the present appeal of such action, in light of the dismissal with finality of her Rule 65 action for forum shopping. Stated differently, she seems to be under the impression that in multiple cases

⁶² See *City of Taguig v. City of Makati*, supra note 41 at 553.

constituting forum shopping, only one of such cases is dismissible and that the litigant may choose which legal remedy to maintain.

She is mistaken. **Where there is forum shopping, the penalty is dismissal of both actions.**⁶³ This is so because twin dismissal is a punitive measure to those who trifle with the orderly administration of justice.⁶⁴

As discussed, there exists, in forum shopping, the elements of *litis pendentia* or a final judgement in one case being *res judicata* in the other. Consequently, where there is forum shopping, the defense of *litis pendentia* in one case is a bar to the other; and a final judgment in one would constitute *res judicata* and thus would cause the dismissal of the rest. **In either case, forum shopping could be cited by the other party as a ground to ask for summary dismissal of the two (or more) complaints or petitions.**⁶⁵

In an abundance of cases, the Court has adhered to the multiple dismissal rule.

In *Buan v. Lopez*,⁶⁶ finding that forum shopping was committed by petitioners when they instituted before the Court a special civil action for prohibition while another special civil action for “prohibition with preliminary injunction” was pending before the Regional Trial Court (RTC) of Manila,⁶⁷ the Court dismissed both actions, to wit:

Indeed, the petitioners in both actions, described in their petitions as vendors of religious articles, herbs and plants, and sundry merchandise around the Quiapo Church or its “periphery,” **have incurred not only the sanction of dismissal of their case before this Court in accordance with Rule 16 of the Rules of Court but also the punitive measure of dismissal of both their actions, that in this Court and that in the Regional Trial Court as well.**⁶⁸

In *Zamora v. Quinan, Jr.*,⁶⁹ the CA dismissed an action for Annulment of Judgment of the RTC on the ground of forum shopping in relation to a complaint for Reconveyance of Title filed with the RTC Cebu. Prior to this, the RTC has likewise dismissed the reconveyance suit before it for forum shopping. On petition for review, the Court sustained the CA’s dismissal, ruling that “once there is finding of forum shopping, the penalty is summary dismissal not only of the petition pending before [this Court], but also of the other case that is pending in a lower court.”⁷⁰

⁶³ See *Dy v. Mandy Commodities Co, Inc.*, supra note 52 at 453; *City of Taguig v. City of Makati*, supra note 40 at 549; *Korea Exchange Bank v Gonzales*, supra note 40 at 243.

⁶⁴ *Dy v. Mandy Commodities Co, Inc.*, supra note 52 at 453.

⁶⁵ See *First Philippine International Bank v. Court of Appeals*, G.R. No. 115849, January 24, 1996, 252 SCRA 259, 284.

⁶⁶ G.R. No. 75349, October 13, 1986, 145 SCRA 34.

⁶⁷ Id. at 73.

⁶⁸ Id. at 38. Emphasis supplied and underscoring supplied.

⁶⁹ Supra note 39.

⁷⁰ Id. at 265.

In *First Philippine International Bank v. Court of Appeals*,⁷¹ an action for specific performance was brought to the Court on petition for review. While the same was pending, another action denominated as a derivative suit was filed before the RTC Makati. The Court dismissed both the action before it and the one pending in the RTC, ruling that as there was forum shopping, the only sanction was the dismissal of both cases with prejudice.

*Dy v. Mandy Commodities Co., Inc.*⁷² involves an action for Forcible Entry filed by respondent against petitioner that was eventually appealed by the latter to the CA. Pending the same, petitioner filed an Unlawful Detainer case against respondent before the Metropolitan Trial Court (MeTC) Manila. The CA dismissed petitioner's appeal then pending before it as well as her Unlawful Detainer case which was then pending on appeal with the RTC Manila. The Court sustained the twin dismissal ordered by the CA and rejected petitioner's claim that assuming she was guilty of forum shopping, the CA should have dismissed only the Forcible Entry case and allowed her unlawful Detainer case to be first decided by the lower court. The Court pronounced:

The grave evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate and contradictory decisions. Unscrupulous party litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several different fora until a favorable result is reached. To avoid the resultant confusion, **this Court adheres strictly to the rules against forum shopping and any violation of these rules results in the dismissal of a case.** x x x

x x x x

Petitioner insist that, assuming *arguendo* he (*sic*) is guilty of forum shopping, the Court of Appeals should have dismissed CA-GR SP No. 86478 (Respondent's Forcible Entry Case) and allowed Petitioner Unlawful Detainer Case be decided first by the MeTC.

Petitioner's argument is inaccurate.

Once there is a finding of forum shopping, the penalty is summary dismissal not only of the petition pending before this Court, but also of the other case that is pending in a lower court. This is so because twin dismissal is a punitive measure to those who trifle with the orderly administration of justice.

x x x x

Taking our cue from these cases, the Court of Appeals' action of dismissing petitioner's appeal relative to Respondent's Forcible Entry Case and Petitioner's Unlawful Detainer Case is, therefore, warranted.⁷³

⁷¹ Supra note 65.

⁷² Supra note 53.

⁷³ Id. at 450-454. Emphasis and underscoring supplied; citations omitted.

Likewise, the earlier rules on forum shopping explicitly provide for multiple dismissals. The Interim Rules and Guidelines of the Court dated January 11, 1983 — where the rule on forum shopping was first written in the Philippine jurisdiction — provided that a violation of said rules “shall constitute contempt of court and shall be a cause for the summary dismissal of both petitions, without prejudice to the taking of appropriate action against counsel or party concerned.”⁷⁴ Thereafter, Revised Circular No. 28-91 and Administrative Circular No. 04-94 provided that a violation thereof “shall be a cause for the summary dismissal of the multiple petitions or complaints.”

The dismissal of all cases involved in forum shopping is a **punitive measure** against the deplorable practice of litigants of resorting to different fora to seek similar reliefs, so that their chances of obtaining a favorable judgment is increased. This results in the possibility of different competent tribunals arriving at separate and contradictory decisions. Moreover, it adds to the congestion of the heavily burdened dockets of the courts.⁷⁵ To avoid this grave evil, the Court has held that the rules on forum shopping must be strictly adhered to.⁷⁶

Notably, in a number of cases, the Court has distinguished between forum shopping that is not willful and deliberate and those which are.⁷⁷ In the former, the subsequent cases shall be dismissed without prejudice on the ground of either *litis pendentia* or *res judicata*, while in the latter, all actions shall be dismissed.⁷⁸ Upon the other hand, there is likewise *Daswani v. Banco de Oro Universal Bank*,⁷⁹ where the Court observed that from the nature of forum shopping, it appears to be *always* willful and deliberate, thus:

In *Yap v. Chua*, the Court elaborately explained the nature of forum shopping, to wit:

Forum shopping is the institution of two or more actions or proceedings involving the same parties for the same cause of action, either simultaneously or successively, **on the supposition that one or the other court would make a favorable disposition.** Forum shopping [is] resorted to by any party against whom an adverse judgment or order has been issued in one forum, **in an attempt to seek a favorable opinion in another, other than by appeal or a special civil action for [certiorari].**

Following this line of reasoning, one can conclude that forum shopping is always willful and deliberate on the part of the litigant. To secure a higher percentage of winning, a party resorts to the filing of the

⁷⁴ See *Prubankers Association v. Prudential Bank and Trust Company*, G.R. No. 131247, January 25, 1999, 302 SCRA 74, 83.

⁷⁵ See *Dy v. Mandy Commodities Co., Inc.*, supra note 53; *Solid Homes, Inc v. CA*, G.R. No. 108452, April 11, 1997, 271 SCRA 157, 163.

⁷⁶ See *Dy v. Mandy Commodities Co., Inc.*, id. at 450.

⁷⁷ See *Heirs of Sotto v. Palicte*, supra note 40 at 188; *Rev. Ao-As v. Court of Appeals*, 524 Phil. 645 (2006).

⁷⁸ Id. at 188.

⁷⁹ G.R. No. 190983, July 29, 2015, 764 SCRA 160.

same suits in various fora, without any regard for the resulting abuse to the courts, to the other party, and to our justice system. This malicious ulterior motive compels a party to violate the rules against forum shopping notwithstanding its pernicious effects.⁸⁰

In the present case, applying either doctrine would still lead the Court to rule against Morada, as it finds that she engaged in willful and deliberate forum shopping.

While the CA resolution finding forum shopping in the Rule 65 action was silent as to the willfulness and deliberateness of the act, the circumstances of this case overwhelmingly suggest that it was. As exhaustively discussed above, the identity in the reliefs sought by Morada in the Rules 65 and 43 actions is so glaring that any reasonably prudent person may readily see the similarity, thus negating any claim of good faith in their filing. Both petitions literally prayed for the reversal of the DARAB Decision dated September 19, 2011, such that the possibility of different decisions rendered by the concerned CA divisions would readily be apparent, if not intentionally sought.

Hence, both the Rule 65 and Rule 43 actions were dismissible. The CA 12th Division that was hearing the Rule 43 Petition erred in failing to dismiss the action before it, even as its attention was repeatedly called to the existence of the Rule 65 action and its subsequent dismissal, with finality, on the ground of forum shopping, not just by petitioners⁸¹ but also by Morada herself.⁸²

The predecessors to the present rules on forum shopping, Revised Circular No. 28-91 and Administrative Circular No. 04-94, enlighten on the intent of the Court to cover multiple dismissals of cases pending before same-level courts, tribunals or agencies, such as different divisions of the CA as in the instant case, thus:

1. To avoid the foregoing, in every petition filed with the Supreme Court or the Court of Appeals, the petitioner, aside from complying with pertinent provisions of the Rules of Court and existing circulars, must certify under oath all of the following facts or undertakings: (a) he has not theretofore commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agencies; (b) to the best of his knowledge, no such action or proceeding is pending in the Supreme Court, **the Court of Appeals, or different Divisions thereof**, or any other tribunal or agency; (c) if there is such other action or proceeding pending, he must state the status of the same, and (d) if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, **the Court of Appeals, or different Divisions thereof**, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and such other tribunal or agency of that fact within five (5) days therefrom.

⁸⁰ Id. at 168. Emphasis and underscoring supplied; citations omitted.

⁸¹ Via "Manifestation" with prayer to dismiss dated March 9, 2013; *rollo*, pp. 18-19.

⁸² Via Manifestation dated October 31, 2012; id. at 163-164.



2. 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; x x x. (Emphasis and underscoring supplied)

Considering that the grave evil sought to be avoided by the proscription against forum shopping — the risk of conflicting decisions from different courts and the unnecessary clogging of their dockets — is present even when the cases concerned are pending in equal-level courts, there is no reason why such courts should not be empowered to exact the full measure of penalty against this unscrupulous practice by dismissal of all such cases pending before them. Otherwise, the forum shopping rules may easily be circumvented as litigants may avoid dismissal of their multiple identical actions by simply filing them in same-level courts or in different divisions of the same court.

In sum, the Court finds that the CA erred in failing to dismiss the Rule 43 action or CA-G.R. SP No. 123523 for forum shopping.

A final word: Rule 7, Section 5 provides that, apart from being a ground for summary dismissal with prejudice, willful and deliberate forum shopping shall constitute direct contempt and is a cause for administrative sanctions.⁸³

Here, Morada's counsel, Guzman and Associates represented by Atty. Godofredo B. Guzman (Atty. Guzman), appears to be guilty of forum shopping as much as their client was. The records show that Atty. Guzman was the same counsel who filed the subject Rules 65 and 43 petitions. In fact, Atty. Guzman, being a lawyer and hence familiar with court processes and the Rules of Court, is expected to be much more circumspect than his client. In the interest of due process, the Court will allow Atty. Guzman to explain his role in this pernicious practice of forum shopping before imposing upon him any sanctions.⁸⁴

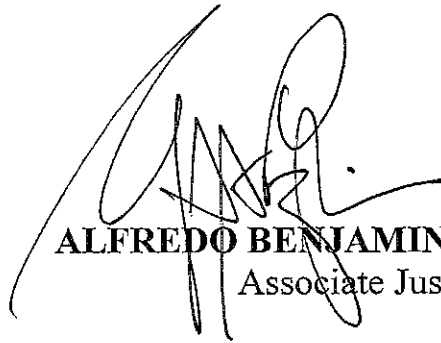
WHEREFORE, premises considered, the petition is **GRANTED**. The Decision dated December 20, 2013 and Resolution dated September 1, 2014 of the Court of Appeals in CA-G.R. SP No. 123523 are **REVERSED** and **SET ASIDE**. The September 19, 2011 Resolution of the Department of Agrarian Reform Adjudication Board is **REINSTATED**.

The Court **DIRECTS** Atty. Godofredo B. Guzman and respondent to show cause in writing within ten (10) days from notice why they should not be cited for direct contempt for committing willful and deliberate forum shopping in the filing of multiple suits asserting the same claims.

⁸³ Also see *City of Taguig v. City of Makati*, supra note 41 at 567.

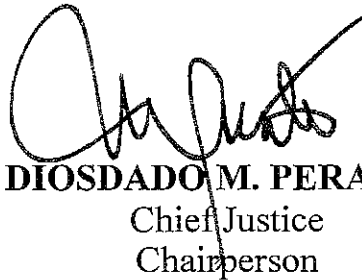
⁸⁴ See *Heirs of Sotto v. Palicte*, supra note 39 at 180-181 where the Court, despite finding that petitioners were guilty of "unmitigated forum shopping," still directed their counsel to explain why he should not be sanctioned.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

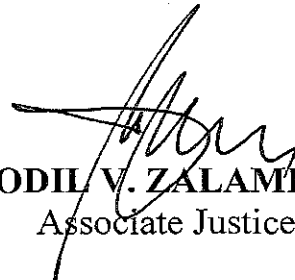
WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson



ROSMARID. CARANDANG
Associate Justice



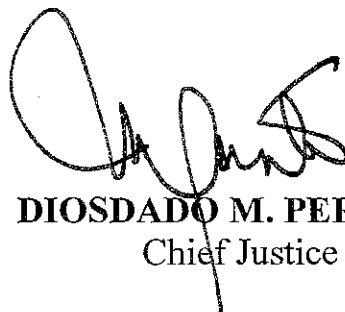
RODIL V. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice