



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**IGLICERIA VDA. DE KARAAN,**  
 Petitioner,

**G. R. No. 182151**

Present:

- versus -

SERENO, *CJ*, Chairperson,  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 PEREZ, and  
 JARDELEZA,\* *JJ*.

**ATTY. SALVADOR AGUINALDO,**  
**MARCELINA AGUINALDO,**  
**JUANITA AGUINALDO AND**  
**SERGIO AGUINALDO,**  
 Respondents.

Promulgated:

**SEP 21 2015**

X -----X

**DECISION**

**SERENO, *CJ*:**

This resolves the Petition for Review on Certiorari filed by petitioner Igliceria vda. de Karaan to assail the Court of Appeals (CA) Decision dated 28 September 2007<sup>1</sup> and Resolution dated 12 March 2008<sup>2</sup> in CA-G.R. SP No. 85862. Petitioner questions the CA's finding of forum shopping, which led to the dismissal of her complaint for damages against respondents Salvador Aguinaldo, Marcelina Aguinaldo, Juanita Aguinaldo and Sergio Aguinaldo.<sup>3</sup>

**FACTUAL ANTECEDENTS**

On 20 September 1999, petitioner filed a Complaint<sup>4</sup> against respondents before the Regional Trial Court (RTC) of Quezon City. The case

\* Designated additional member in lieu of Associate Justice Estela M. Perlas-Bernabe, who is under the Court's Wellness Program from 16-30 September 2015, per S.O. No. 2188 dated 16 September 2015.

<sup>1</sup> *Rollo*, pp. 128-142; penned by Associate Justice Normandie B. Pizzaro and concurred in by Associate Justices Edgardo P. Cruz and Fernanda Lampas-Peralta.

<sup>2</sup> *Id.* at 152-153.

<sup>3</sup> *Id.* at 140-141.

<sup>4</sup> *Id.* at 25-29.

was docketed as Civil Case No. Q-99-38762.<sup>5</sup> In her Complaint, petitioner sought payment of damages for the alleged destruction of the cottages and other structures inside Fine Sand Beach Resort, which she owned and operated.<sup>6</sup> She alleged that respondents destroyed the structures inside her property using a bulldozer in the guise of enforcing a Writ of Demolition issued by the RTC of Balanga in Civil Case Nos. 5702 and 5826.<sup>7</sup> She maintained, however, that the demolition of improvements inside her resort was illegal, since she was not a party to the two civil cases, and her name was not even mentioned in the writ.<sup>8</sup>

On 8 October 1999, respondents filed a Motion to Dismiss<sup>9</sup> the Complaint on the ground of forum shopping. They asserted that petitioner failed to disclose the other actions she had filed against them in her Verification and Certification of Non-Forum Shopping;<sup>10</sup> in particular, the cases she had initiated before the Office of the Ombudsman and the Integrated Bar of the Philippines (IBP).<sup>11</sup> The RTC denied respondents' Motion to Dismiss in a Resolution dated 10 April 2000.<sup>12</sup>

On 27 February 2003, respondents filed a Manifestation and Motion to Dismiss<sup>13</sup> seeking the dismissal of the case on the following grounds: (a) forum shopping;<sup>14</sup> (b) lack of jurisdiction over the person of deceased respondent Angel Aguinaldo and over nonresidents Pedro and Concepcion Aguinaldo;<sup>15</sup> and (c) lack of jurisdiction over the subject matter of the case.<sup>16</sup> Respondents again emphasized the failure of petitioner to disclose the existence of: (i) OMB-1-99-0870 and OMB 1-99-0900, two cases for malicious mischief she had filed against them before the Ombudsman; and (ii) Civil Case No. 7345, a civil action for right of way allegedly involving the same property and the same parties.<sup>17</sup>

The RTC denied the motion of respondents in a Resolution dated 11 April 2003<sup>18</sup> noting that their arguments had already been passed upon by the court in their first motion to dismiss.<sup>19</sup> Their Motion for Reconsideration<sup>20</sup> was likewise denied.<sup>21</sup>

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<sup>5</sup> Id. at 25.

<sup>6</sup> Id. at 26.

<sup>7</sup> Id.

<sup>8</sup> Id. at 25-26.

<sup>9</sup> Id. at 30-32.

<sup>10</sup> Id. at 36.

<sup>11</sup> Id.

<sup>12</sup> Id. at 35-40; penned by Judge Percival Mandap Lopez

<sup>13</sup> Id. at 48-54.

<sup>14</sup> Id. at 49-51.

<sup>15</sup> Id. at 52.

<sup>16</sup> Id. at 51-52.

<sup>17</sup> Id. at 51.

<sup>18</sup> Id. at 69.

<sup>19</sup> Id.

<sup>20</sup> Id. at 70-76.

<sup>21</sup> Id. at 79-80.

On 19 August 2004, respondents filed a Petition for Certiorari<sup>22</sup> with the CA to challenge the RTC Resolution. They contended that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied their Motion to Dismiss. They reiterated petitioner's supposed acts of forum shopping, the absence of a cause of action, and the court's lack of jurisdiction over both the person of respondents and the subject matter of the case.

In a Decision dated 28 September 2007,<sup>23</sup> the CA granted the Petition for Certiorari filed by respondents. While the appellate court rejected the arguments on lack of jurisdiction,<sup>24</sup> it upheld their claim of forum shopping, specifically with respect to Civil Case No. 7345.<sup>25</sup> It noted that this second case involved an identical claim for damages being raised by the same parties and arising from the demolition of the same structures in Bataan.<sup>26</sup> The CA thus considered the filing of the two cases as an act of forum shopping, which warranted the dismissal of the instant suit:

Anent the damages and right of way cases, the requisites for *litis pendentia* are present. Thus, the Public Respondent gravely erred in denying the Petitioners' prayer for the dismissal of the damages case.

The dismissal of the damages case is, therefore, proper under the circumstances by reason of forum-shopping and not on the basis of lack of jurisdiction over the persons of some of the defendants and over the subject matter.

With all the foregoing disquisitions, We find grave abuse of discretion on the part of the Public Respondent in denying the dismissal of the damages case on the ground of forum-shopping.

WHEREFORE, premises considered, the *Petition* is hereby GRANTED. The *Order(s)* dated April 11, 2003 and May 18, 2004 of the Regional Trial Court of Quezon City, Br. 78, in Civil Case No. 99-38762, respectively, are hereby REVERSED and SET ASIDE. Accordingly, the case is ordered DISMISSED. Costs against the Respondents.<sup>27</sup> (Italics and underscoring in the original)

On 11 October 2007, petitioner sought reconsideration of the Decision.<sup>28</sup> Her motion was, however, denied by the CA in a Resolution dated 12 March 2008.<sup>29</sup>

In this Petition for Review, petitioner asserts that the CA grossly erred in finding her guilty of forum shopping and ordering the dismissal of this case.<sup>30</sup> She contends that although her name was included as a plaintiff in

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<sup>22</sup> Id. at 81-112.

<sup>23</sup> Id. at 128-142.

<sup>24</sup> Id. at 134-137.

<sup>25</sup> Id. at 139-140

<sup>26</sup> Id.

<sup>27</sup> Id. at 141.

<sup>28</sup> Id. at 143-150.

<sup>29</sup> Id. at 151-154.

<sup>30</sup> Id. at 14.

Civil Case No. 7345, she was not a party to the case inasmuch as she never consented to her inclusion in the list.<sup>31</sup> She also points out the “glaring divergence in the rights asserted and reliefs prayed for in Civil Case No. 7345 and Civil Case No. 99-38762.”<sup>32</sup> She claims that Civil Case No. 7345 involves a claim arising from the closure by respondents of a road right of way located inside their property in Morong, Bataan, while the instant case centers on the malicious and unlawful demolition of the improvements inside her beach resort.<sup>33</sup>

In their Comment and/or Opposition to the Petition dated 7 September 2008,<sup>34</sup> respondents assert that petitioner committed forum shopping when she filed Civil Case No. 7345 while the instant case for damages was pending.<sup>35</sup> They contend that the same cause of action was utilized in both cases to protest the purportedly illegal eviction of petitioner from the same property in Morong, Bataan.<sup>36</sup> Both cases also allegedly involve a prayer for damages.<sup>37</sup> Respondents further refute petitioner’s supposed lack of knowledge of the filing of Civil Case No. 7345, citing her familiarity with the eventual outcome of the action and her failure to take any legal action against the persons who caused her inclusion as a plaintiff in the case.

In her Reply dated 23 September 2008,<sup>38</sup> petitioner maintains that: (a) she was not a party to Civil Case No. 7345;<sup>39</sup> and (b) there are “obvious differences in the rights asserted and reliefs prayed for” in the two cases.<sup>40</sup>

### ISSUE

The Court is called upon to resolve a single issue: whether the filing of Civil Case No. 7345 constituted forum shopping on the part of petitioner.

### OUR RULING

We **GRANT** the Petition.

Forum shopping is committed when multiple suits involving the same parties and the same causes of action are filed, either simultaneously or successively, for the purpose of obtaining a favorable judgment through means other than appeal or certiorari.<sup>41</sup> In *Guerrero v. Director, Land Management Bureau*,<sup>42</sup> the Court explained the three modes in which forum shopping is committed:

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<sup>31</sup> Id. at 15.

<sup>32</sup> Id. at 16.

<sup>33</sup> Id. at 16-17.

<sup>34</sup> Id. at 156-164.

<sup>35</sup> Id. at 159.

<sup>36</sup> Id. at 160.

<sup>37</sup> Id. at 161.

<sup>38</sup> Id. at 166-172.

<sup>39</sup> Id. at 166-168.

<sup>40</sup> Id. at 169-170.

<sup>41</sup> G.R. No. 186322, 8 July 2015.

<sup>42</sup> G.R. No. 183641, 22 April 2015.

Forum shopping can be committed in three ways: (1) by filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (which makes the cases susceptible to dismissal based on *litis pendentia*); (2) by filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (which makes the subsequent case susceptible to dismissal based on *res judicata*); and (3) by filing multiple cases based on the same cause of action, but with different prayers (which amounts to splitting of causes of action, which renders the cases susceptible to dismissal on the ground of either *litis pendentia* or *res judicata*).

In this case, the CA found petitioner guilty of forum shopping and ordered the dismissal of her Complaint on the basis of *litis pendentia*.<sup>43</sup> It ruled that the parties and the claims raised in this case are identical with those in Civil Case No. 7345:

With regard to the case for damages and the case filed with the RTC of Balanga, Bataan (for right of way), however, there is identity of parties and causes of action. The plaintiffs in the case for damages were the defendants in the right of way case, and the plaintiffs in the right of way case were the Petitioners, with the municipal government of Morong, Batan, the government of Brgy. Nagbalayong, Morong, Bataan as co-plaintiffs. In the same manner, the Petitioners, on the other hand, were the defendants in the damages case. Furthermore, the right of way case includes a claim for damages arising not only from the commencement of the action but also by reason of the demolition undertaken by the Petitioners. From the records, it appears that the case for damages filed with the RTC of Quezon City stemmed from the demolition of the Respondent's constructed structures in Bataan, and the right of way case before the RTC of Bataan also carried with it a claim for damages arising from the same demolition. Thus, in this instance, there is forum shopping.<sup>44</sup>

We reverse.

A finding of *litis pendentia* must be premised on the existence of the following elements: (a) identity of the parties in the two actions; and (b) substantial identity in the causes of action and in the reliefs sought such that any judgment rendered in one case, regardless of which party is successful, would amount to *res judicata* in the other.<sup>45</sup> Of these elements, we find that only the identity of the parties in the two cases has been sufficiently established.

### ***Identity of Parties Established***

Petitioner does not deny that her name appears in the list of plaintiffs in the Complaint<sup>46</sup> filed in Civil Case No. 7345.<sup>47</sup> She nonetheless asserts

<sup>43</sup> *Rollo*, p. 139-141.

<sup>44</sup> *Id.* at 139-140.

<sup>45</sup> *Villamor, Jr. v. Manalastas*, G.R. No. 171247, 22 July 2015.

<sup>46</sup> *Rollo*, p. 55-63.

<sup>47</sup> *Id.* at 15.

that she should not be considered a party to Civil Case No. 7345, because she never agreed to become a plaintiff in the suit and was not even aware that the action had been filed. She also points out that she did not sign the Verification and Affidavit of Non-Forum Shopping attached to the Complaint, or any other document authorizing the lawyer who filed the case to represent her.

The Court is not inclined to believe this denial, particularly in light of petitioner's conduct.

First, the failure of petitioner to allege this defense early causes us to doubt her assertion. We note that in their Manifestation and Motion to Dismiss dated 27 February 2003,<sup>48</sup> respondents first discussed the filing of Civil Case No. 7345 as an act of forum shopping. Although petitioner filed a Comment and/or Opposition<sup>49</sup> to the motion, she never alleged that she had been erroneously included as a plaintiff in the civil case. Respondents subsequently reiterated their discussion of Civil Case No. 7345 in their Motion for Reconsideration<sup>50</sup> filed with the RTC and in their Petition for Certiorari<sup>51</sup> with the CA. In her Comment and/or Opposition (To: Motion for Reconsideration)<sup>52</sup> and Comment and/or Opposition<sup>53</sup> to the petition for certiorari, petitioner again failed to assert that she had been included as a plaintiff in Civil Case No. 7345 without her knowledge and consent. The records of this case show that she first used this particular defense only in her Motion for Reconsideration<sup>54</sup> filed with the CA on 11 October 2007.

Second, there is no indication that petitioner ever conveyed her predicament to the RTC of Balanga, Branch 2 – the court where Civil Case No. 7345 was pending. If it were true that she was included as a plaintiff in the civil action without her knowledge and consent, she would have taken steps to protect herself by manifesting that fact to the RTC or, at the very least, by asking the lawyer who had filed the case to take the necessary steps to cause her removal from the list of plaintiffs. She resorted to neither one of these measures.

### ***No Identity of Causes of Action***

Notwithstanding the established identity of parties, the Court still finds the CA's finding of forum shopping unjustified. There is merit in petitioner's argument that the causes of action and reliefs sought in the two cases differ substantially.

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<sup>48</sup> Id. at 51.

<sup>49</sup> Id. at 66-68.

<sup>50</sup> Id. at 70-76.

<sup>51</sup> Id. at 81-112.

<sup>52</sup> Id. at 77-78.

<sup>53</sup> Id. at 113-126.

<sup>54</sup> Id. at 143-150.

The instant case for damages is premised on a cause of action for *quasi-delict* arising from the demolition of structures inside petitioner's beach resort. This fact is evident from the allegations in the Complaint:

7. Unfortunate, despite the fact that herein plaintiff is not a party to the said two (2) cases and despite the fact that she had not been issued or even the subject of any writ of execution or demolition order made by the Regional Trial Court of Balanga, Bataan, Branch 2, all the herein defendants with the assistance of many PNP Officers who were all fully armed as if they were going into an actual war and coming from the various towns of Bataan as well as hired armed goons illegally and maliciously with the use of brute and naked force and perpetuated with evident and wanton bad faith demolished some of the structures located inside the plaintiff's Fine Sand Beach Resort as clearly shown by the herein attached copies of the pictures showing the said illegal demolition which are hereto attached and marked as Annexes "B" and "B-1", respectively. Plaintiff even tried repeatedly to stop the said naked and brute use of force, but, she was instead threatened with death and simply overpowered then;

8. In view of the said illegal and unjustified act, plaintiff's two (2) air-conditioned cottages plus five (5) cottages as well as one (1) cottage partially damaged including the elevated water tank and the concrete fence were illegally, maliciously and unceremoniously destroyed with the use of a bulldozer driven by defendant Sergio Aguinaldo with the consent, permission, knowledge and upon the instruction of all the herein defendants as well as their lawyers and they were also aided by their PNP Officers, cohorts and hired armed goons at that time;

9. In view of the said unjustified acts committed by all the herein defendants by illegally and maliciously demolishing some of the structures located inside the plaintiff's beach resort, the latter suffered actual damages amounting to around ₱2,000,000.00 including the unearned income or unrealized earnings coming from both domestic and foreign tourists considering that the said illegal demolition was deliberately time [sic] with the peak summer season to cause great damage and prejudice to the herein plaintiff;<sup>55</sup>

On the other hand, Civil Case No. 7345 involves a claim for easement of right of way over respondents' property in Morong, Bataan, based on Article 649 of the Civil Code.<sup>56</sup> The Complaint in that case states:

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<sup>55</sup> *Rollo*, p. 26.

<sup>56</sup> Article 649 of the Civil Code states:

Article 649. The owner, or any person who by virtue of a real right may cultivate or use any immovable, which is surrounded by other immovables pertaining to other persons and without adequate outlet to a public highway, is entitled to demand a right of way through the neighboring estates, after payment of the proper indemnity.

Should this easement be established in such a manner that its use may be continuous for all the needs of the dominant estate, establishing a permanent passage, the indemnity shall consist of the value of the land occupied and the amount of the damage caused to the servient estate.

In case the right of way is limited to the necessary passage for the cultivation of the estate surrounded by others and for the gathering of its crops through the servient estate without a permanent way, the indemnity shall consist in the payment of the damage caused by such encumbrance.



12. Herein private plaintiffs, including defendants in paragraph No. 11, are owner-operators of their respective beach resorts located in Sitio Crossing, Brgy. Nagbalayong, Morong, Bataan.

13. Adjacent to the properties of plaintiffs and defendants in paragraph No. 11 is the property owned by the main defendant, the Aguinaldo family;

14. At the same time, the opposite side of the subject property of defendant Aguinaldo family is the National Road;

15. It goes without mentioning that the properties of the plaintiffs have no adequate outlet to the National Road because they are isolated by the property of the Aguinaldo family;

16. However, more than 30 years ago, even before the issuance of land Titles to the Aguinaldo family, a road-right-of-way, which has a width of at least five (5) meters, has already been in existence and is being used by the residents of the barangay, in general, and the plaintiffs and tourists, in particular, in going to the open seas and the beach resorts. This traverses the property of the Aguinaldo family from the National Road going to the beach resorts and fishing areas of Brgy. Nagbalayong;

x x x x

20. That, for about two dry or summer seasons now, defendants, the Aguinaldo family, refused plaintiffs, in particular, entry to their place of business, and the public or beach-goers, in general. The Aguinaldo family built a toll gate along the road-right-of-way to prevent the plaintiffs, tourists, and the whole community from access to the beach resorts and water resources of the community;

x x x x

27. The plaintiffs' cause of action is based on Article 649 of the Civil Code, and well-settled jurisprudence;<sup>57</sup>

The reliefs sought in the two cases are likewise different. The Complaint in Civil Case No. Q-99-38762 prayed for actual, moral and exemplary damages, as well as attorney's fees, in connection with the demolition of structures inside Fine Sands Beach Resort.<sup>58</sup> The reliefs sought in Civil Case No. 7345, however, pertain exclusively to the right-of-way claim over the Morong property. Although damages were included in the reliefs prayed for in Civil Case No. 7345, the claim referred to attorney's fees and costs of suit, and not to damages caused by the demolition of any structure. The prayer included in the Complaint in Civil Case No. 7345 is reproduced in full below:


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cont..

This easement is not compulsory if the isolation of the immovable is due to the proprietor's own acts.

<sup>57</sup> *Rollo*, pp. 58-60.

<sup>58</sup> *Id.* at 27-28.





WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court that, after notice and hearing, judgment be rendered in favor of the plaintiffs and against the defendants, in the following manner:

- a. Declare the existence of the long-established “road-right-of-way” from the National Road traversing the Aguinaldo property to the shoreline;
- b. Order the measurement or survey of the road-right-of-way;
- c. Order the annotation of the “road-right-of-way” on the Titles of the defendant Aguinaldo family;
- d. Order defendants Aguinaldo family to demolish the gate and structures preventing the ingress and egress in going to and from, the properties of the plaintiffs and stop the illegal collection of toll fees;
- e. Order the amendment of the Aguinaldo land titles by excluding therefrom the road-right-of-way after a survey shall have been done;
- f. Order defendants in Nos. 2 to 9 to share in the indemnity, as may be ordered or determined by the Honorable Court, for the payment of the “road-right-of-way”;
- g. Order each defendant, Nos. 2 to 9, to pay plaintiffs’ counsel the sum of ₱25,000.00 for Acceptance Fee;
- h. Order defendant Aguinaldo family to reimburse plaintiffs the amount of ₱150,000.00 for Acceptance Fee and ₱2,000.00 for Appearance Fee, as and by way of Attorney’s Fees;
- i. Order all defendants, jointly and severally, to pay the cost of this suit;

Other reliefs and remedies are likewise prayed for which are just and equitable under the premises.<sup>59</sup>


Since the causes of action and the reliefs sought in the two cases are completely different, a decision in either case will not amount to *res judicata* in the other.

As there is no basis for the CA’s finding of forum shopping, the Court finds the dismissal of petitioner’s Complaint for damages improper. Accordingly, we resolve to reinstate Civil Case No. Q-99-38762 and to remand it to the RTC for continuation of trial and resolution on the merits.

**WHEREFORE**, the Petition for Review on Certiorari is **GRANTED**. The CA Decision dated 28 September 2007 and Resolution dated 12 March 2008 are hereby **REVERSED** and **SET ASIDE**. Civil Case No. Q-99-38762 is **REINSTATED** and **REMANDED** to the RTC for continuation of proceedings.

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<sup>59</sup> *Id.* at 61-62.



**SO ORDERED.**



**MARIA LOURDES P. A. SERENO**  
Chief Justice, Chairperson

WE CONCUR:

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice


*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Jose Portugal Perez*  
**JOSE PORTUGAL PEREZ**  
Associate Justice

*Francis H. Jardeleza*  
**FRANCIS H. FARDELEZA**  
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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice