



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 17, 2020** which reads as follows:*

“G.R. No. 237617 – MANUEL A. DELFINO AND ELFLEDA DELFINO LANTICAN-GESMUNDO, IN THEIR OWN BEHALF AND IN BEHALF OF SOME OF THE HEIRS OF THE LATE DOMINADOR TIONGCO DELFINO, petitioners, versus ZENECITA A. BARRINUEVO, RORY A. DELFINO, ISABELITA VITA A. DELFINO, THE REGISTER OF DEEDS FOR THE PROVINCE OF LAGUNA, CALAMBA CITY BRANCH AND MOLDEX REALTY INC., respondents.

After a careful review of the instant Petition, the Comments, and their annexes, as well as the Decision¹ dated August 1, 2017 and Resolution² dated January 25, 2018 of the Court of Appeals (CA), in CA-G.R. SP No. 136313, the Court resolves to **DENY** the Petition for the following reasons:

First, only petitioner Manuel A. Delfino executed the required Certificate of Non-Forum Shopping.³ It is a threshold principle that “the certificate of non-forum shopping should be signed by all the petitioners or plaintiffs in a case, and that the signing by only one of them is insufficient. The attestation on non-forum shopping requires personal knowledge by the party executing the same, and the lone signing petitioner cannot be presumed to have personal knowledge of the filing or non-filing by his co-petitioners of any action or claim the same as similar to the current petition.”⁴

- over – five (5) pages ...

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¹ *Rollo*, pp. 33-46. Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Priscilla J. Baltazar-Padilla and Marie Christine Azcarraga-Jacob.

² *Id.* at 47-49.

³ *Id.* at 32.

⁴ *Athena Computers, Inc. v. Reyes*, G.R. No. 156905, September 5, 2007, 532 SCRA 343, 350-351.

Second, the Certificate of Non-Forum Shopping executed by petitioner Manuel A. Delfino was itself defective as it failed to disclose the existence of Civil Case No. B-9194 pending before the Regional Trial Court of Biñan City, Laguna (RTC), Branch 75, an action intimately related to the instant case, in clear violation of Rule 45, Section 4⁵ in relation to Rule 7, Section 5 of the Rules of Court.⁶

Finally, petitioners are guilty of forum shopping.⁷ The Court notes that both the instant petition for annulment of judgment and Civil Case No. B-9194 were filed by herein petitioners based on substantially the same facts and circumstances. Both cases ultimately involve the same parties, issues, and reliefs.

In the instant case, petitioners seek to nullify the Decision⁸ dated July 17, 2006 of the RTC, Branch 24 in Civil Case No. B-7146,

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⁵ RULES OF COURT, Rule 45, Sec. 4 provides:

SEC. 4. Contents of petition. — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. (2a)

⁶ RULES OF COURT, Rule 7, Sec. 5 provides:

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)

⁷ See *Zamora v. Quinan, Jr.*, 821 Phil. 1009 (2017), where the Court found petitioner guilty of forum shopping for simultaneously filing an action for the reconveyance before the Regional Trial Court and a petition for the annulment of a judgment granting the opposing party's petition for the issuance of a new duplicate certificate of title.

⁸ *Rollo*, pp. 91-98.

which cancelled Transfer Certificate of Title (TCT) No. T-491115 (Delfino TCT) and effectively recognized the validity of TCT Nos. T-324613, T-324614, and T-324615 (respondents' TCTs).⁹ In Civil Case No. B-9194, petitioners seek to nullify respondents' TCTs on the basis of the previously cancelled Delfino TCT. If the Court were to grant the instant petition for annulment of judgment and order the RTC, Branch 24 to re-try Civil Case No. B-7146, two different RTCs would be called upon to resolve the very same question, *i.e.*, which between the respondents' TCTs and the Delfino TCT is valid? The possibility of conflicting decisions being rendered by the different courts upon the same or intimately related issues is precisely what the rule on forum shopping seeks to prevent. The Court has held, "notwithstanding the difference between two pending actions as regards the nature of the case and the assigned errors, if the reliefs sought are identical and would produce the same legal effect, then the party who instituted the actions may be held liable for forum shopping."¹⁰

In any event, the Court agrees with the CA that petitioners failed to prove that the judgment or final order sought to be annulled 1) was obtained through extrinsic fraud or 2) was issued without jurisdiction.¹¹ After a careful review of the records of the instant case, the Court agrees with the following disquisition of the CA:

Petitioners failed to clearly show how private respondents employed extrinsic fraud against them. Private respondents remained unwavering in their statements that they never knew petitioners nor their respective residences. Except for their bare allegations, petitioners did not provide any clear explanation as to how they knew each other. It should be stressed that for the instant petition for annulment of judgment to prosper, the burden is upon petitioners to prove that private respondents employed fraud and deceit to deprive them from participating in the case, and they miserabl[y] failed in this respect.

Indeed, like in other civil cases, the allegation of extrinsic fraud must be fully substantiated by a preponderance of evidence in order to serve as basis for annulling a judgment. Extrinsic fraud has to be definitively established by the claimant as mere allegation does not instantly warrant the annulment of a final judgment. *Ei incumbit probatio qui dicit, non qui negat*. He who asserts, not he who denies, must prove.

More importantly, there is no showing that the person reflected in TCT No. T-491115 is indeed "Dominador Tiongco"

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⁹ Id. at 98.

¹⁰ See generally, *Heirs of Arania v. Intestate Estate of Sangalang*, 822 Phil. 643, 665 (2017).

¹¹ RULES OF COURT, Rule 47, Sec. 2.

Delfino”, the alleged predecessor-in-interest of the petitioners. A close examination of the said TCT indicated the registered owner simply as “Dominador Delfino, Filipino, of legal age, single.” It should be pointed out that the said TCT was issued in favor of “Dominador Delfino” on January 21, 2002, while “Dominador Tiongco Delfino” died way back [on] July 11, 1931, or more than seventy (70) years before the issuance of the title. Further, the dorsal side of TCT No. T-491115 shows that the subject property was sold to “Dominador Delfino” under Certificate of Sale No. 173 dated July 23, 1990. This Court cannot fathom how the subject property can be sold in 1990 to “Dominador Tiongco Delfino”, who already died in 1931. These circumstances, which are highly unusual, put into doubt whether the registered owner in TCT No. T-491115 is indeed “Dominador Tiongco Delfino.” **This issue is significant considering that it places serious questions on the personality of the petitioners, who are purportedly heirs of Dominador Tiongco Delfino, to institute the instant Petition for Annulment of Judgment.** x x x¹²

In other words, the records are bereft of any proof that the “Dominador Delfino” referred to in TCT No. T-491115 was actually petitioners’ grandfather, Dominador Tiongco Delfino. In fact, the records appear to prove otherwise, *i.e.*, that the “Dominador Delfino” referred to in TCT No. T-491115 was actually Dominador Alinsunurin Delfino, Jr.¹³

In view of the foregoing, the Court agrees with the CA that petitioners manifestly failed to prove 1) that they possess the requisite personality to file the instant petition and 2) that they are entitled to the relief sought.¹⁴

It bears emphasis that a petition for annulment of judgment under Rule 47 of the Rules of Court is a recourse equitable in character and allowed only in exceptional cases where the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of petitioner.¹⁵ As it is an **extraordinary remedy**, it should not be granted indiscriminately by the courts.¹⁶ The reason for this is to prevent this extraordinary action from being used by a losing party to make a complete farce of a duly promulgated decision that has long become final and executory.¹⁷

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¹² *Rollo*, pp. 41-42. Italics in the original; emphasis and underscoring supplied.

¹³ *Id.* at 41-43.

¹⁴ *Id.* at 43-45.

¹⁵ *City Government of Tagaytay v. Guerrero*, G.R. Nos. 140743 & 140745 & 141451-52, September 17, 2009, 600 SCRA 33, 51.

¹⁶ *Republic v. Technological Advocates for Agro-Forest Programs Association, Inc.*, G.R. No. 165333, February 9, 2010, 612 SCRA 76, 85.


¹⁷ *Id.* at 85-86.

The courts adopt an attitude of judicial reluctance towards the remedy for it disregards the time-honored doctrine of immutability and inalterability of final judgments, a solid cornerstone in the dispensation of justice by the courts.¹⁸

In view of the foregoing, the instant Petition is hereby **DENIED**.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court 

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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¹⁸ *Dare Adventure Farm Corp. v. Court of Appeals*, G.R. No. 161122, September 24, 2012, 681 SCRA 580, 587.

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