

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

RAMONITO TANTOY, SR.,
Petitioner,

-versus-

G.R. No. 141427
April 20, 2001

**COURT OF APPEALS, OSCAR IBAY,
MEYNARDO GONZALES, RICARDO
JAVIER, ROMEO MEDINA and
RODOLFO SESE in their capacity as
Chairman and Members of the Ad Hoc
Committee created by the Sangguniang
Panlungsod of Makati, ABNER D.
DREU, JOSE BIAZON, SR., NELSON
CABAHUG, MARIO FREO, SALVADOR
MADRIDEO and GENARO ORCULLO,**
Respondents.

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DECISION

BELLOSILLO, J.:

Petitioner Ramonito Tantoy Sr., in this Petition for Mandamus with Very Urgent Prayer for Issuance of a Temporary Restraining Order, urges this Court to enjoin the continuance of the administrative case against him and to compel the Court of Appeals to resolve his plea for a temporary restraining order for the same purpose.

Petitioner is the Punong Barangay of Brgy. Rizal, Makati City. In July 1999 respondents Abner D. Dreu, Jose Biazon Sr., Nelson Cabahug, Mario Freo, Salvador Madrideo and Genaro Orcullo, members of the Sangguniang Barangay of Brgy. Rizal, filed an administrative case against petitioner before the Office of the Ombudsman for violation of Secs. 366 and 368 of The Local Government Code, and Sec. 3, par. (i), of The Anti-Graft and Corrupt Practices Act, as well as falsification of public document.

The case stemmed from the emergency purchase in 1998 by petitioner of chemicals used for spraying the canals in Brgy. Rizal due to the outbreak of dengue. On 2 August 1999 the Assistant Ombudsman referred the case to the Sangguniang Panlungsod of Makati City.

On 31 August 1999 the Sangguniang Panlungsod approved City Resolution No. 99-175 creating an Ad Hoc Committee to investigate the case against petitioner. Appointed to the Committee were respondent City Councilor Oscar Ibay as Chairman, respondent City Councilor Meynardo Gonzales as Vice-Chairman, and respondent City Councilors Ricardo Javier, Romeo Medina and Rodolfo Sese as Members. On 17 September 1999 petitioner filed his Answer denying any liability. On 4 November 1999 the Committee sponsored City Resolution No. 99-221 placing petitioner under preventive suspension. On 23 November 1999 the Resolution was approved by the Sangguniang Panlungsod.

On 17 December 1999 petitioner filed a Motion for Inhibition directed against the Chairman and all Members of the Committee on the ground of bias since they already arrived at a finding of guilt in City Resolution No. 99-221. On 5 January 2000 the Committee denied the motion and set the next hearing on 18 January 2000.

On 17 January 2000 petitioner filed with the Court of Appeals a Petition for Certiorari and Prohibition with prayer for a temporary restraining order and writ of preliminary injunction, docketed as CA-G.R. SP No. 56735, praying that the Committee be restrained from hearing the case and that the 5 January 2000 Order be annulled.^[1]

On 18 January 2000 petitioner requested the Committee to defer the hearing to give the Court of Appeals sufficient time to study and act on his petition. But the Committee considered the case submitted for decision. On 19 January 2000 petitioner thus filed a Very Urgent Petition for Issuance of a Temporary Restraining Order in his pending petition before the Court of Appeals. On 21 January 2000 the Committee sponsored Resolution No. 2000-014 recommending that petitioner be removed from office based on its finding that he was guilty as charged. Consequently, petitioner filed on 26 January 2000 before the Court of Appeals a Supplement to his Very Urgent Petition. He asserted that the Resolution would be discussed on second reading on 1 February 2000 and its approval would serve as the final act.

On 28 January 2000 petitioner came to us seeking that (a) a temporary restraining order be issued preventing the Committee from proceeding further with the administrative case against him; (b) a writ of preliminary injunction be issued for the same purpose; and, (c) judgment be rendered commanding the Court of Appeals to resolve his plea for a temporary restraining order.

Private respondents contend that petitioner is guilty of forum shopping for filing before different tribunals two (2) petitions against them involving the same issues and seeking the same reliefs. Also, they assert that the present petition has been rendered moot and academic since the Sangguniang Panlungsod adopted on 1 February 2000 the recommendation of the Committee regarding petitioner's removal from office. The recommendation was approved by Mayor Elenita S. Binay apparently on the same day.^[2]

Private respondents Ibay, Gonzales, Javier, Medina and Sese, in their respective capacities as Chairman, Vice-Chairman, and Members of the Ad Hoc Committee created by the Sangguniang Panlungsod stress that indeed the instant petition has become moot on the ground that

their Committee already ceased to exist upon submission of its report to the Sangguniang Panlungsod and that petitioner already appealed his removal from office before the Office of the President.

Petitioner asserts in his Reply that his petition was precipitated by the continued failure of the Court of Appeals to act on his prayer for a temporary restraining order or writ of injunction. But the main thrust of his petition before the Court of Appeals was the denial of due process to him because of the bias of the members of the Ad Hoc Committee. He claims that he refrained from raising the issue involved in his petition when he appealed to Office of the President since the matter was within the exclusive jurisdiction of the judiciary.

But we are constrained to dismiss the petition on the ground of forum shopping and the case being moot and academic.

A party is guilty of forum shopping when he repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely, by some other court.^[3] And what is truly important to consider in determining whether forum shopping exists is the vexation caused the courts and the litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issues.^[4]

Petitioner herein claimed before the Court of Appeals that the Chairman and Members of the Ad Hoc Committee investigating the administrative case against him were biased such that he was seeking that —

2. A temporary Restraining Order be issued restraining Respondents from participating in the hearing of the administrative case against petitioner;

3. A Writ of Preliminary Injunction be issued restraining Respondents from participating in the hearing of the administrative case against petitioner;
4. Judgment be rendered: (a) Annulling the Order of January 5, 2000; (b) Prohibiting Respondents perpetually from participating in the hearing and in deciding the administrative case against petitioner; and, (c) Making any Temporary Restraining Order or Writ of Preliminary Injunction permanent.^[5]

In support thereof, petitioner alleged that —

Due process requires that whoever will hear a case must possess the cold neutrality of an impartial judge. (The last introductory clause of City Resolution No. 99-221) indicates that the Chairman and the Members of the Ad Hoc Committee have all made a finding even before petitioner has presented his evidence and even before the investigation has been completed that the evidence of his guilt is strong. In the light of this development they should inhibit themselves from further participation in the investigation of the administrative case against petitioner. Since the Ad Hoc Committee is precisely supposed to investigate the Complaint filed against petitioner, it cannot be involved in gathering evidence to prove the case against petitioner. This violates due process.^[6]

To compare, petitioner is asserting in the present petition that the Court of Appeals has not acted on his prayer for a temporary restraining order; consequently, he asks that it be commanded to resolve his plea. At the same time, however, he seeks the same prayer in his pending petition before the Court of Appeals. i.e., that the Ad Hoc Committee be restrained from proceeding further with the administrative case against him^[7] based on the same allegations quoted in the immediately preceding paragraph.^[8] His willful attempt to obtain a temporary restraining order or writ of preliminary injunction before this Court after his efforts before the original court did not merit immediate response,^[9] thereby pursuing simultaneous remedies in two (2) courts based on the same facts and raising the same issues, constitutes forum shopping, no less.

Forum shopping has been characterized as an act of malpractice that is prohibited and condemned as trifling with the courts and abusing their processes. It constitutes improper conduct which tends to degrade the administration of justice. It has also been aptly described as deplorable because it adds to the congestion of the heavily burdened dockets of the courts.^[10] In petitioner's deliberate attempt to obtain the same reliefs in two (2) different courts, he was obviously shopping for a "friendly" forum which would capitulate to his improvident plea for a temporary restraining order and was thus trifling with the judicial process.^[11]

Revised Circular No. 28-91^[12] provides these pertinent sanctions for forum shopping: (a) summary dismissal of the multiple petitions; and, (b) direct contempt of court. Conformably therewith, this Court orders the dismissal of the present petition as well as CA-G.R. SP No. 56735. In addition, this Court warns petitioner and his counsel that insisting on their petition and pursuing it before this Court might make them liable for contempt, the latter being tasked with assisting the courts in the speedy and efficient administration of justice.^[13]

Besides, the petition has already become moot and academic. It should be recalled that on 1 February 2000 the Sangguniang Panlungsod of Makati City, through City Resolution No. 2000-014, recommended the removal from office of petitioner who was found guilty by the Ad Hoc Committee of the charge against him. The City Resolution was duly approved by Mayor Elenita S. Binay. Moreover, petitioner has already filed an appeal before the Office of the President. The issuance at this stage of the temporary restraining order or writ of injunction to restrain the Ad Hoc Committee from proceeding further with the case, on the assumption that it is proper, would no longer serve any useful purpose.

WHEREFORE, the instant Petition for Mandamus and CA-G.R. SP No. 56735 are **DISMISSED** for forum shopping and for being moot and academic, with the warning to petitioner and his counsel that to pursue the petition any further may make them liable for contempt of court.

SO ORDERED.

**Mendoza and Buena, *JJ.*, concur.
Quisumbing and De Leon, Jr., *JJ.*, are on leave.**

- [1] Annex “A” of Petition; Rollo, pp. 18-31.
- [2] Annex “2” of Comment; *id.*, pp. 104-108.
- [3] *Gatmaytan vs. Court of Appeals*, G. R. No. 123332, 3 February 1997, 267 SCRA 487.
- [4] *Golangco vs. Court of Appeals*, G. R. No. 124724, 22 December 1997, 283 SCRA 493.
- [5] Rollo, p. 29.
- [6] *Id.*, pp. 22-25.
- [7] *Id.*, p. 15.
- [8] *Id.*, pp. 11-12.
- [9] *Fil-Estate Golf and Development, Inc. vs. Court of Appeals*, G. R. No. 120958, 16 December 1996, 265 SCRA 614.
- [10] *Solid Homes, Inc. vs. Court of Appeals*, G. R. No. 108451, 11 April 1997, 271 SCRA 157.
- [11] *Benguet Electric Cooperative, Inc. vs. Flores*, A. C. No. 4058, 12 March 1998, 287 SCRA 449.
- [12] Effective 1 April 1994.
- [13] Canon 12, Code of Professional Responsibility.