

SECOND DIVISION

[G.R. No. 151081, September 11, 2003]

**TOP RATE CONSTRUCTION & GENERAL SERVICES, INC.,
PETITIONER, VS. PAXTON DEVELOPMENT CORPORATION AND
BAIKAL REALTY CORPORATION, RESPONDENTS.**

R E S O L U T I O N

BELLOSILLO, J.:

Forum shopping is committed by a party who institutes two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes or to grant the same or substantially the same reliefs, 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.

[1] It is an act of malpractice for it trifles with the courts, abuses their processes, degrades the administration of justice and adds to the already congested court dockets. [2] What is critical 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, regardless of whether the court in which one of the suits was brought has no jurisdiction over the action. [3]

In the instant case, we probe what is perceived to be a blatant demonstration of forum shopping, outrageous abuse of judicial process and gross disrespect for the authority of this Court.

For a flashback on the factual backdrop of this case: Five (5) civil actions involving the ownership of Lots Nos. 5763 and 5765 -New situated in Salawag, Dasmariñas, Cavite, were jointly tried by RTC-Br. 21, Imus, Cavite. [4] One of the complaints was filed by respondent Paxton Development Corporation against petitioner Top Rate Construction and General Services, Inc., and against respondent Baikal Realty Corporation and the Register of Deeds of Cavite, for declaration of nullity of the Torrens Title for Lots Nos. 5763-A and 5763-B as part and parcel of Lot No. 5763, docketed as Civil Case No. 1124-95, with prayer for damages. TOP RATE was represented in this civil case by the **Gana Law Office through Attys. Luis Ma. Gil L. Gana and/or Elmer E. Manlangit.**

On 13 March 1998 the trial court rendered a *Joint Decision* on the five (5) civil actions, which included Civil Case No. 1124-95 -

x x x declaring Paxton Development Corporation's TCT No. T-557274 which covers and describes Lot No. 5763 (5763-A and 5763-B) and TCT No. T-559147 which covers and describes Lot No. 5765-New as the lawful and valid certificates of title evidencing the lawful ownership of Paxton

Development Corporation over said lots and improvements thereon x x x x declaring Top Rate Construction and General Services, Inc.'s TCT No. T-147755 for Lot 5763-A and TCT No. T-147756 for Lot 5763-B as null and void and of no force and effect x x x x directing Top Rate x x x to peacefully surrender possession of these lots to Paxton, in the event that they are in possession of said lots x x x x directing the Register of Deeds for the province of Cavite to cancel the aforementioned titles of Top Rate x x x x^[5]

TOP RATE and the other parties in the five (5) civil cases, Baikal Realty Corporation and Hi-Tone Marketing Corporation, filed their respective notices of appeal from the *Joint Decision*,^[6] docketed as CA-G.R. No. CV-60656. TOP RATE was represented in the appeal by the **Gana Law Office through Attys. Luis Ma. Gil L. Gana and/or Elmer E. Manlangit**.

On 21 May 2001 the Court of Appeals promulgated its *Decision* on the various appeals affirming *in toto* the *Joint Decision* of the trial court.^[7]

On 28 June 2001 TOP RATE moved for reconsideration of the CA *Decision* where it was represented by the **Gana Law Office through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit**.^[8] In due time, the other party-appellants followed suit.^[9] Despite notice PAXTON did not file its *Comment*,^[10] while Baikal as one of the appellants moved on 27 November 2001 for the early resolution of the pending motions for reconsideration.^[11]

On 14 December 2001 the appellate court promulgated a *Resolution* denying all motions for reconsideration.^[12]

On 26 December 2001 TOP RATE through a *Manifestation* informed the Court of Appeals that it filed on 21 December 2001 by registered mail a *Manifestation and Motion* of even date which was attached as annex thereof.^[13] The *Manifestation and Motion* prayed -

x x x x 2. That due to compelling reasons, the Resolution dated December 14, 2001 be RECALLED and SET ASIDE x x x x 4. That thereafter, this Honorable Court squarely resolve on the merits the issues raised by Toprate, Baikal and Hi-Tone in their separate Motions for Reconsideration; and 5. That the Motion for Reconsideration filed by Toprate and the reliefs prayed for therein be granted.

The *Manifestation and Motion* was signed and filed in behalf of TOP RATE by the same counsel of record **Gana & Manlangit Law Office through lawyers Luis Ma. Gil L. Gana and Elmer E. Manlangit**.^[14] Incidentally, on 14 January 2002 the Court of Appeals received the *Manifestation and Motion* from the postal service.^[15]

On 7 January 2002, despite the *Manifestation and Motion* of 21 December 2001 pending with the Court of Appeals, TOP RATE filed with this Court a motion for extension of time to file a petition for review from the adverse CA *Decision* and *Resolution*. The motion was signed by TOP RATE's counsel of record **Gana & Manlangit Law Office through Attys. Luis Ma. Gil L. Gana and Elmer E.**

Manlangit.^[16] Furthermore, the motion contained a "*Verification/Certification*" under oath executed by one Alfredo S. Hocson, President of TOP RATE, that -

x x x x I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or different Divisions thereof, or any other tribunal or agency; to the best of my 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; if I should thereafter learn that a similar action or proceeding has been filed or pending before the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency, I undertake to report this fact to this Honorable Court within five days from notice thereof.

It may be observed that the *Verification/Certification* did not mention the pending *Manifestation and Motion* dated 21 December 2001 filed with the Court of Appeals.

Earlier, the other appellants BAIKAL and Hi-Tone filed before this Court their respective motions for extension of time to file a petition for review of the adverse *CA Decision and Resolution.*^[17]

On 30 January 2002 this Court denied TOP RATE's motion for extension of time to file petition for review "for lack of service of a copy of the motion on the Court of Appeals x x x."^[18] Also in separate *Resolutions* of even date, this Court denied the motions for extension of time to file petition for review separately filed by BAIKAL and Hi-Tone on the identical ground - "for lack of showing that petitioner has not lost the fifteen (15) - day reglementary period to appeal x x x it appearing that the date of filing of the motion for reconsideration of the assailed judgment is not stated in the motion."^[19]

On 4 February 2002, regardless of the denial of its motion for extension of time to file petition for review, and the *Manifestation and Motion* of 21 December 2001 still to be resolved by the Court of Appeals, TOP RATE filed with this Court its *Petition for Review* assailing the *CA Decision* of 21 May 2001 and *Resolution* of 14 December 2001, and praying that -

x x x the Decision dated May 21, 2001 of the Court of Appeals in CA G.R. CV No. 60656 be set aside and a new one issued x x x confirming TOP RATE's lawful ownership of Lots 5763-A and 5763-B, Imus Estate, as well as the validity and authenticity of its TCT Nos. T-147755 (Lot 5763-A) & T-147756 (Lot 5763-B), both issued by the Cavite Register of Deeds x x x x Declaring as absolutely null and void and no force and effect Paxton's TCT No. 557274 (Lot 5763), Serapio Cuenca's 1995 TCT 541994 (Lot 5763), and Baikal's TCT 542566 (Lot 5763-B) x x x x Awarding TOP RATE the damages as prayed for in the Answer.^[20]

The *Petition for Review* dated 4 February 2002 was signed by the same law office of **Gana & Manlangit through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit.**^[21] The petition included a "Secretary's Certificate" executed by TOP RATE Corporate Secretary Luis Ma. Gil L. Gana stating thus -

RESOLVED, as it is hereby resolved, that the Corporation elevate to the Supreme Court the adverse resolution of the Court of Appeals in CA G.R. CV No. 60656 entitled "Paxton Development Corporation v. Top Rate Const. & General Services, Inc., et al.," and "Hi-Tone Marketing Corp. v. The Estate and/or Heirs of Serapio Cuenca, et al." and that its President, Arch. Alfredo S. Hocson be authorized to represent the Corporation and sign the Petition for Review on Certiorari and all the pleadings to be filed therein.^[22]

The petition also contained a *Verification/Certification* signed under oath by TOP RATE President Alfredo S. Hocson declaring in relevant parts –

x x x x I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or different Divisions thereof, or any other tribunal or agency; to the best of my 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; if I should thereafter learn that a similar action or proceeding has been filed or pending before the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency, I undertake to report this fact to this Honorable Court within five days from notice thereof.^[23]

For the second time, TOP RATE's *Verification/Certification* did not state that its *Manifestation and Motion* dated 21 December 2001 was then still pending with the Court of Appeals.

On 18 February 2002 Baikal filed with this Court a *Manifestation and Motion* alleging that it "opts to wait for whatever decision the x x x Court of Appeals may render in the x x x Manifestation and Motion filed [with the Court of Appeals] by Top Rate Construction and General Services, without prejudice, however, to such remedies as may be available to [Baikal Realty Corporation] in case of an adverse decision of the Court of Appeals."

On 6 March 2002 this Court resolved to deny TOP RATE's *Petition for Review* "for petitioner's failure to take the appeal within the reglementary period of fifteen (15) days in accordance with Section 2, Rule 45 in relation to Section 5 (a), Rule 56, in view of the denial of petitioner's motion for extension of time to file petition in the resolution of 30 January 2002."^[24]

On 15 March 2002 TOP RATE moved for reconsideration of this Court's *Resolution* of 30 January 2002 "by granting Top Rate's timely filed motion for extension of time, and requiring the respondent PAXTON to comment on the timely filed Petition for Review on Certiorari."^[25] The motion, which was signed again by the same **Gana and Manlangit Law Office through Attys. Luis Ma. Gil L. Gana and Elmer E. Manlangit**, did not mention the *Manifestation and Motion* of 21 December 2001 awaiting decision in the Court of Appeals.^[26]

Surprisingly, on 3 April 2002, TOP RATE filed a *Manifestation and Motion to Withdraw Petition for Review on Certiorari* dated 2 April 2002 contending that the filing of its petition before this Court was "premature." For the first time, TOP RATE bared to this Court the existence of its *Manifestation and Motion* dated 21 December

2001 pending in the Court of Appeals which had allegedly superseded its *Petition for Review* filed with this Court as the *Manifestation and Motion* was taken up by a Division of Five of the Court of Appeals composed of Associate Justices Portia Aliño-Hormachuelos, Mercedes Gozo-Dadole, Eriberto U. Rosario, Jr., with Associate Justices Teodoro P. Regino and Mariano C. del Castillo as additional members.^[27] The *Manifestation and Motion to Withdraw Petition for Review on Certiorari* prayed for the withdrawal of TOP RATE's petition for review without prejudice to its refiling in the future if warranted.

On 24 April 2002 this Court denied with finality TOP RATE's motion for reconsideration of the *Resolution* dated 30 January 2002, and noted without action its *Manifestation and Motion to Withdraw Petition* dated 2 April 2002. It also appears that the denial of the motions for extension of time to file petition for review separately filed by Baikal and Hi-Tone had become final and executory.^[28]

Meanwhile, on 22 April 2002 the Division of Five of the Court of Appeals resolved to defer action on the *Manifestation and Motion* dated 21 December 2001 "until after the Supreme Court has acted on [Top Rate's] `Manifestation and Motion to Withdraw Petition for Review on Certiorari.'"^[29]

On 31 May 2002, apparently in response to the above-mentioned *Resolution* of the Court of Appeals, TOP RATE filed with the appellate court a *Manifestation* informing the Division of Five that it may now proceed to resolve TOP RATE's *Manifestation and Motion* dated 21 December 2001 in light of the *Resolution* of the Supreme Court dated 24 April 2002 which "noted without action" its *Manifestation and Motion to Withdraw Petition for Review on Certiorari* of 2 April 2002.^[30] The *Manifestation* was signed by TOP RATE's lawyer of record **Gana & Manlangit Law Office through the same lawyers Luis Ma. Gil L. Gana and Elmer E. Manlangit.**^[31]

On 3 May 2002 this Court made an entry of judgment for its *Resolution* of 6 March 2002 denying TOP RATE's *Petition for Review on Certiorari*.^[32]

On 2 August 2002, notwithstanding the previous denial with finality of TOP RATE's motion for extension of time to file petition for review and its *Petition for Review* itself, the Division of Five of the Court of Appeals promulgated an *Amended Decision* granting the appeal of TOP RATE and modifying the *Joint Decision* of RTC-Br. 21 of Imus, Cavite, thus -

(1) TOPRATE is hereby declared to be the true and lawful owners (sic) of Lots 5763-A and 5763-B, and the Transfer Certificates of Title Nos. 147755 for Lot No. 5763-A, and 147756 for Lot No. 5763-B, issued in the name of defendant-appellant TOPRATE, are hereby proclaimed to be valid and lawfully issued by the Register of Deeds of Cavite; and (2) The Cavite Register of Deeds is hereby **ORDERED** to cancel PAXTON's Transfer Certificate of Title No. T-557274 for Lot 5763 of the Imus Estate, and **any** and **all** titles issued covering the subject properties, for being spurious and void, and of no force and effect (*underscoring and emphasis in the original*).^[33]

Associate Justice Portia Aliño-Hormachuelos penned a *Dissenting Opinion* averring that the *Manifestation and Motion* dated 21 December 2001 of TOP RATE should