

## THIRD DIVISION

**[ G.R. No. 124724, December 22, 1997 ]**

**RENE UY GOLANGCO, PETITIONER, VS. THE COURT OF APPEALS,  
HON. CANDIDO VILLANUEVA, PRESIDING JUDGE OF THE  
REGIONAL TRIAL COURT, BRANCH 144, MAKATI CITY AND  
LUCIA GOLANGCO, RESPONDENTS.  
D E C I S I O N**

**ROMERO, J.:**

This is a petition for review on *certiorari* which seeks to annul and set aside the resolution of the Court of Appeals dated January 10, 1996 in CA-G.R. SP No. 38866, [1] dismissing the petition for violation of Supreme Court Circular No. 28-91 on forum-shopping.

The facts of the case are as follows:

A petition for annulment of marriage was filed by private respondent Lucia Carlos Golangco against petitioner Rene Uy Golangco before the Regional Trial Court of Makati, Branch 144.[2] The couple had two children, Justin Rene and Stefan Rafael. During the proceedings of the case, a hearing for custody pendente lite of the two children was held. In an order dated July 21, 1994,[3] the trial court awarded the two children to Lucia while Rene was given visitation rights of at least one week in a month. Thereafter Rene questioned the order dated July 21, 1994 with the Court of Appeals. The Court of Appeals, however, dismissed the petition and instead affirmed the order of the trial court. Not contented, Rene appealed the resolution of the Court of Appeals affirming the order dated July 21, 1994 before this Court, and the case was docketed as G.R. No. 120831. On July 17, 1995, the Court resolved to dismiss the petition for failure of petitioner Rene to show that grave abuse of discretion had been committed by the appellate court.

On August 15, 1995, Lucia filed with the trial court a motion for reconsideration with prayer for the issuance of a writ of preliminary injunction.[4] She sought redress due to an alleged incident on July 5, 1995, in which her estranged husband physically abused their son Justin. On said date, he allegedly went to the art class of Justin at 2167 Paraiso Street, Dasmarinas Village, Makati. When they met, he asked his son to kiss him, but Justin refused. Irked by his son's reaction, Rene hit him which produced contusions.[5]

Due to the incident, a criminal complaint for slight physical injuries was filed on July 1995 against Rene by his son Justin with the Metropolitan Trial Court of Makati on the basis of Justin's complaint-affidavit. On August 16, 1995, the trial court issued a temporary restraining order[6] against him and set the hearing of the motion. The spouses thereafter presented their respective evidence and witnesses. In an order dated October 4, 1995, [7] the trial court granted the writ of preliminary injunction

restraining Rene from seeing his children.

Aggrieved, Rene filed a petition for certiorari under Rule 65 of the Revised Rules of Court before the Court of Appeals (docketed as CA-G.R. SP. No. 38866), alleging grave abuse of discretion on the part of the trial court in issuing the October 4, 1995 order.

In a resolution dated January 10, 1996, the Court of Appeals dismissed the petition for violation of Circular No. 28-91 on non- forum shopping.<sup>[8]</sup> Hence, this petition.

The issue before us is whether or not petitioner violated the rule on non- forum shopping.

There is forum-shopping whenever, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or *certiorari*) from another. <sup>[9]</sup>

In this case, the Court of Appeals dismissed the petition questioning the order dated October 4, 1995, on the ground that there was a petition for review filed before this Court (G.R. No. 120381) questioning the order dated July 21, 1994 regarding the award of custody of the two children to Lucia.<sup>[10]</sup>

We should first distinguish between what is being questioned in G.R. No. 120381, that is the order dated July 21, 1994 and in CA-G.R. SP No. 38866, the order dated October 4, 1995.

The latter case questioned the October 4, 1995 order of the trial court granting the writ of preliminary injunction prayed for by Lucia, which enjoined her husband from seeing their children. On the other hand, G.R. No. 120381 questioned the order dated July 21, 1994, affirmed by the Court of Appeals, which granted custody pendente lite of the children to their mother.

In the case at bar, the Court of Appeals ruled that there was forum-shopping since the two petitions, (G.R. No. 120381 and CA-G.R. SP No. 38866) dealt with the same question or issue, that is, whether Rene should be prohibited from seeing his children.<sup>[11]</sup>

We disagree.

In assailing the October 4, 1995 order, petitioner was actually questioning the propriety of the issuance of the writ of injunction. He alleged therein that the trial court acted with grave abuse of discretion in issuing the order since it disregarded his right to procedural due process. Moreover the said order restrained him from seeing his children. He, therefore, sought the reinstatement of the July 21, 1994 order wherein he was given visitation rights of at least one week in a month.

On the other hand, in the order dated July 21, 1994, petitioner specifically questioned the award of custody of the children to his wife and prayed for more time to spend with his children.

Thus, it is clear from the foregoing that the issues raised in the two petitions, that is, first questioning the order dated July 21, 1994 and second, the order dated

October 4, 1995 are distinct and different from one another.

In *First Philippine International Bank v. Court of Appeals*,<sup>[12]</sup> this Court had the occasion to lay down the test to determine whether there is a violation of the rule on forum-shopping:

“Consequently, where a litigant (or one representing the same interest or person) sues the same party against whom another action or actions for the alleged violation of the same right and the enforcement of the same relief is/are still pending, the defense of *litis pendentia* in one case is a bar to the others; and, a final judgment in one would constitute *res judicata* and thus would cause the dismissal of the rest. x x x.

x x x

x x x

x x x

Ultimately, what is truly important to consider in determining whether forum-shopping exists or not is the vexation caused the courts and parties-litigant 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. x x x.”

In sum, two different orders were questioned, two distinct causes of action and issues were raised, and two objectives were sought; thus, forum-shopping cannot be said to exist in the case at bar.

As to the issue of the propriety of the writ of injunction, this Court finds the necessity of ruling on the same to expedite the case in the interest of justice and to prevent further delay.

In the case of *Heirs of Crisanta Y Gabriel-Almoradie v. Court of Appeals*,<sup>[13]</sup> this Court ruled:

“It is a rule of procedure for the Supreme Court to strive to settle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation. No useful purpose will be served if a case or the determination of an issue in a case is remanded to the trial court only to have its decision raised again to the Court of Appeals and from there to the Supreme Court (citing *Board of Commissioners vs Judge Joselito de la Rosa and Judge Capulong*, G.R. No. 95122-23).

We have laid down the rule that the remand of the case or of an issue to the lower court for further reception of evidence is not necessary where the Court is in position to resolve the dispute based on the records before it and particularly where the ends of justice would not be subserved by the remand thereof. (*Escudero vs Dulay*, 158 SCRA 69) Moreover, the Supreme Court is clothed with ample authority to review matters, even