



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**ALFREDO L. VILLAMOR, JR.,**  
 Petitioner,

**G.R. No. 171247**

Present:

- versus -

CARPIO, *J.*, Chairperson,  
 BRION,  
 DEL CASTILLO,  
 MENDOZA, and  
 LEONEN, *JJ.*

**HON. AMELIA C. MANALASTAS,**  
**PRESIDING JUDGE, RTC-PASIG**  
**CITY, BRANCH 268, and LEONARDO**  
**S. UMALE [deceased] substituted by his**  
**spouse, CLARISSA VICTORIA**  
**UMALE,**

Promulgated:

JUL 22 2015

Respondents.

X-----X

**DECISION**

**BRION, *J.*:**

We resolve the present petition for review on *certiorari*<sup>1</sup> assailing the January 31, 2006 resolution<sup>2</sup> of the Court of Appeals (*CA*) in CA-G.R. SP No. 91940.

**Factual Antecedents**

This case stemmed from the complaint<sup>3</sup> filed by Leonardo S. Umale<sup>4</sup> (*respondent*) against Alfredo L. Villamor, Jr. (*petitioner*) and others<sup>5</sup> with the Regional Trial Court (*RTC*) of Pasig City. The complaint sought to

<sup>1</sup> *Rollo*, pp. 3-75. The petition is filed under Rule 45 of the Rules of Court.  
<sup>2</sup> *Id.* at 79-82. The resolution was penned by Associate Justice Rodrigo V. Cosico and concurred in by Associate Justice Regalado E. Maambong and Associate Justice Lucenito N. Tagle.  
<sup>3</sup> *Id.* at 83-103. The complaint filed on January 13, 2005, was docketed as Civil Case No. 70251.  
<sup>4</sup> *Id.* at 613. The respondent died during the pendency of the present petition and was substituted by his wife, Clarissa Victoria Umale. This Court in a resolution dated September 20, 2006, granted the motion for substitution of Leonardo S. Umale by his wife.  
<sup>5</sup> The other defendants were Banco de Oro Main Branch, Banco de Oro Greenhills LS Branch, and John Does.

compel the petitioner to account for, pay, and deliver to the respondent the rental payments allegedly in the petitioner's possession.<sup>6</sup>

The case was originally raffled to Branch 155 presided over by Judge Luis R. Tongco, who voluntarily inhibited from hearing the case upon the respondent's motion.<sup>7</sup> The case was later re-raffled to Branch 268 in the sala of Judge Amelia C. Manalastas (*Judge Manalastas*).<sup>8</sup>

Subsequently, the petitioner filed a Motion for Inhibition,<sup>9</sup> Supplemental Motion for Inhibition,<sup>10</sup> and Second Supplemental Motion for Inhibition<sup>11</sup> (collectively, *Motions for Inhibition*) to disqualify Judge Manalastas, on the following grounds:

- (i) That defendant Villamor [petitioner] has obtained information that the presiding Judge [Judge Manalastas] has stood, together with plaintiff [respondent], as godparents to a child of common friend; and
- (ii) That the Law Firm of Ponce Enrile Reyes and Manalastas, for and in behalf of their client Mr. Hernando Balmores, wrote defendant Villamor [petitioner] on a purported claim which appears to be the very same claims asserted by plaintiff [respondent].<sup>12</sup>

Judge Manalastas issued Omnibus Order<sup>13</sup> dated October 17, 2005, which denied, among others, the Motions for Inhibition, thus:

The allegations of defendant-movant [petitioner] in seeking inhibition of the presiding Judge fall short of the proof required to overcome the presumption that the judge will undertake her noble role to dispense justice according to law and evidence without fear and favor.

On November 7, 2005, the petitioner filed a **Petition for Certiorari** with the Court of Appeals (CA) assailing the Omnibus Order insofar as it denied his Motions for Inhibition.<sup>14</sup>

The petitioner claimed that Judge Manalastas's resolutions,<sup>15</sup> *not* pertaining to his Motions for Inhibition, were not included in the Petition for **Certiorari** as they were the subject of a **Motion for Reconsideration with**

<sup>6</sup> *Rollo*, p. 102.

<sup>7</sup> *Id.* at 4. This claim is neither supported by any document on record nor disputed by the respondent.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* at 145-148.

<sup>10</sup> *Id.* at 149-150.

<sup>11</sup> *Id.* at 158-163.

<sup>12</sup> Signatory to the said letter was Jesus M. Manalastas, husband of Judge Manalastas, and a partner in the Law Firm of Ponce Enrile Reyes and Manalastas.

<sup>13</sup> *Id.* at 168-171.

<sup>14</sup> *Id.* at 172-207. Filed under Rule 65 of the Rules of Court.

<sup>15</sup> *Id.* at 14. These include the declaration of petitioner in default and the matter of jurisdiction *vis-à-vis* payment of the correct amount of docket and filing fees and other grounds raised in the petitioner's (defendant therein) Motion to Dismiss dated February 18, 2005, and Supplemental Motion to Dismiss dated February 18, 2005.

**Motion to Lift Order of Default** (*MR with Motion to Lift Default Order*)<sup>16</sup> filed with the RTC on November 3, 2005.

On November 16, 2005, the CA issued a resolution requiring respondent to comment on the petition. The respondent filed his comment on December 14, 2005.<sup>17</sup>

The parties, however, had already filed with the CA the following manifestations and motions before the issuance of the November 16, 2005 resolution:

1. On November 11, 2005, the respondent filed a Manifestation with Motion to Dismiss Petition on the ground of forum shopping, pointing out the pendency of the MR with Motion to Lift Default Order filed by the petitioner with the RTC assailing Judge Manalastas's Omnibus Order.
2. The petitioner filed his comment in opposition to the Manifestation with Motion to Dismiss Petition. He argued that the MR with Motion to Lift Default Order did not include the subject matter of the Petition for *Certiorari*, i.e., the refusal of Judge Manalastas to inhibit from hearing the civil case.<sup>18</sup>
3. Meanwhile, the petitioner filed with the RTC a **Motion for Inhibition of Presiding Judge on Account of Institution of Administrative Case** (*Motion for Inhibition on Account of Administrative Case*)<sup>19</sup> on November 12, 2005, on the basis of an Administrative Complaint for Gross Ignorance of the Law or Procedure and for Bias and Partiality (*administrative complaint*)<sup>20</sup> filed with this Court through the Office of the Court Administrator on November 11, 2005. In this regard, the petitioner filed with the CA a Manifestation of Filing of Administrative Complaint for Gross Ignorance of the Law or Procedure and for Bias and Partiality on November 14, 2005.

Subsequently, on November 18, 2005, the respondent filed a Supplemental Manifestation/Motion to Dismiss Petition (reiterating his claim that the petitioner engaged in forum shopping and praying for the dismissal of the Petition for *Certiorari*) since Judge Manalastas's inhibition had also been raised as an issue in the Motion for Inhibition on Account of Administrative Case filed with the RTC.

The petitioner later filed with the CA a Manifestation dated November 22, 2005, to the effect that in view of his filing of an administrative

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<sup>16</sup> Id. at 208-222.

<sup>17</sup> *Supra* note 2 at 79.

<sup>18</sup> *Ibid.*

<sup>19</sup> Id. at 289-291.

<sup>20</sup> Id. at 292-338.

complaint against Judge Manalastas, he filed with the RTC a Motion for Inhibition on Account of Administrative Case.

On December 1, 2005, the petitioner filed another Manifestation with the CA stating that he had filed an administrative complaint against Judge Manalastas with the Office of the Court Administrator.

### **The CA Resolution**<sup>21</sup>

The CA dismissed the petition on the ground of forum shopping. It noted that contrary to the petitioner's claim, the MR with Motion to Lift Default Order prayed that the entire Omnibus Order be reconsidered and set aside without excluding the issue of Judge Manalastas's inhibition.

Moreover, the petitioner later filed with the RTC the Motion for Inhibition on Account of Administrative Case. The CA observed that the administrative case referred to by the petitioner in support of the motion was based on the very same grounds he raised in his previous motions for inhibition.

The CA also found that the Petition for *Certiorari* filed with the CA and the pending motions in the RTC prayed for the same relief; this, to the CA, was a plain and simple case of forum shopping.

The dispositive portion of the CA resolution reads:

**WHEREFORE**, premises considered, the private respondent's motion and supplemental motion to dismiss the petition are **GRANTED**. The instant petition is hereby **DISMISSED**.

**SO ORDERED.**

### **The Petition**

The petitioner seeks the reversal of the CA resolution on the following grounds:

1. "THE COURT OF APPEALS, BY ITS RESOLUTION DATED JANUARY 31, 2006, xxx HAS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, WHEN IT ACTED UPON MOTIONS TO DISMISS FILED, WITHOUT LEAVE OF COURT, BY RESPONDENT IN VIOLATION OF SEC. 5, RULE 46, AND ITS OWN RESOLUTION DATED NOVEMBER 16, 2005 REQUIRING PETITIONER [sic] TO FILE A COMMENT TO THE PETITION AND NOT A MOTION TO DISMISS, AND THEREAFTER, DISMISSING THE PETITION IN CA-G.R. S.P. NO. 91940 ON THE GROUND OF FORUM SHOPPING; AND

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<sup>21</sup> *Supra* note 2.

2. "THE COURT OF APPEALS HAS, BY ITS RESOLUTION SOUGHT TO BE REVIEWED HEREIN, SANCTIONED THE DEPARTURE BY THE TRIAL COURT, MORE PARTICULARLY ITS PRESIDING JUDGE AMELIA C. MANALASTAS, FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS IN THE MATTER OF INHIBITION, SO AS TO CALL FOR THE EXERCISE BY THIS HONORABLE COURT OF ITS POWER OF SUPERVISION OVER THE COURT OF APPEALS AND THE TRIAL COURT."<sup>22</sup>

### **Respondent's Comment**<sup>23</sup>

The respondent raises the sole issue of whether the petitioner engaged in forum shopping.

The respondent argues that the petitioner engaged in forum shopping when he availed of three separate remedies, namely: (1) the MR with Motion to Lift Default Order filed with the RTC; (2) the Petition for *Certiorari* filed with the CA; and (3) the Motion for Inhibition on Account of Administrative Case, also filed with the RTC; praying for the same relief, *i.e.*, the inhibition of Judge Manalastas from hearing the case.

The respondent asserts that a party is guilty of forum shopping when he repetitively avails of several judicial remedies in different courts 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.<sup>24</sup>

### **Petitioner's Reply**<sup>25</sup>

The petitioner reiterates in his reply all the arguments he raised in the petition.

Additionally, he wants this Court to rule on the propriety of Judge Manalastas's refusal to inhibit herself from hearing the RTC case. He points out that considerable time has already elapsed, and to serve the ends of justice, the controversy must finally and totally be laid to rest.<sup>26</sup>

### **Issues**

Two issues thus arise for this Court' resolution:

- I. Whether the petitioner engaged in forum shopping; and

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<sup>22</sup> *Supra* note 1 at 18-19.

<sup>23</sup> *Rollo*, pp. 375-397. On February 22, 2006, we issued our resolution requiring respondents to file their comment on the petition. Only respondent Umale, as substituted by his wife, filed a comment.

<sup>24</sup> *Id.* at 384. Citation omitted.

<sup>25</sup> *Id.* at 490-544. On June 5, 2006, we issued a resolution requiring the petitioner to reply to the respondent's comment.

<sup>26</sup> *Id.* at 518-519. Citation omitted.

- II. Whether Judge Manalastas's decision to continue hearing the civil case was improper.

### **Our Ruling**

#### **The petition is without merit.**

We rule that (1) the petitioner engaged in forum shopping, and (2) Judge Manalastas's decision to continue hearing the civil case is *not* improper.

#### ***The Petitioner Engaged in Forum Shopping***

As a rule, forum shopping is committed by a party who, having received an adverse judgment in one forum, seeks another opinion in another court other than by appeal or the special civil action of *certiorari*. Conceptually, forum shopping is the institution of 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 and/or to grant the same or substantially the same reliefs.<sup>27</sup>

Forum shopping also exists when, as a result of an adverse decision in one forum **or in anticipation thereof**, a party seeks a favorable opinion in another forum through means other than an appeal or *certiorari*.<sup>28</sup>

There is likewise forum shopping when the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another.<sup>29</sup>

*Litis pendentia* is a Latin term meaning "a pending suit" and is variously referred to in some decisions as *lis pendens* and *auter action pendant*. As a ground for the dismissal of a civil action, it refers to the situation where two actions are pending between the same parties for the same cause of action, so that one of them becomes unnecessary and vexatious. It is based on the policy against multiplicity of suits.<sup>30</sup>

There is *litis pendentia* when the following requisites are present: identity of the parties in the two actions; substantial identity in the causes of action and in the reliefs sought by the parties; and the identity between the two actions should be such that any judgment that may be rendered in one case, regardless of which party is successful, would amount to *res judicata* in the other.<sup>31</sup>

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<sup>27</sup> *Young v. John Keng Seng*, G.R. No. 143464, March 5, 2003, 446 Phil. 823, 832.

<sup>28</sup> *Benavidez v. Salvador*, G.R. No. 173331, December 11, 2013, 712 SCRA 238, 248. Citation omitted.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Id.*

Otherwise stated, the test is whether the two (or more) pending cases have identity of parties, of rights or causes of action, and of the reliefs sought. Willful and deliberate violation of the rule against it is a ground for summary dismissal of the case; it may also constitute direct contempt.<sup>32</sup>

Appeals and petitions for *certiorari* are normally outside the scope of forum shopping because of their nature and purpose; they grant a litigant the remedy of elevating his case to a superior court for review.

It is assumed, however, that **the filing of the appeal or petition for *certiorari* is properly or regularly invoked** in the usual course of judicial proceedings, and **not when the relief sought**, through a petition for *certiorari* or appeal, is **still pending** with or has yet to be decided by the respondent court or court of origin, tribunal, or body exercising judicial or quasi-judicial authority, *e.g.*, a still pending motion for reconsideration of the order assailed via a petition for *certiorari* under Rule 65.<sup>33</sup>

#### *Forum Shopping at the Court of Appeals*

We agree with the CA that the petitioner engaged in forum shopping.

At the time the petitioner filed the Petition for *Certiorari* with the CA, the RTC had yet to resolve the MR with Motion to Lift Default Order earlier filed with the RTC.<sup>34</sup>

The petitioner took pains to explain that the MR with Motion to Lift Default Order did not include Judge Manalastas's denial of his Motions for Inhibition.

The petitioner fails to convince us of the merits of this claim.

Although the arguments supporting the MR with Motion to Lift Default Order pertained solely to the issue of declaration of default, the prayer was direct and plain.

It read:

**WHEREFORE, it is respectfully prayed of this Honorable Court that the Omnibus Order dated October 17, 2005, be RECONSIDERED AND SET ASIDE, and that defendant Villamor's Motion to Dismiss dated February 18, 2005, and Supplemental Motion to Dismiss dated February 18, 2005, BE GRANTED. It is further prayed that the order of default issued against Villamor be lifted or set aside.**<sup>35</sup>

<sup>32</sup> *Madara v. Perello*, 584 Phil. 613, 629-630 (2008).

<sup>33</sup> *Id.* Emphasis supplied.

<sup>34</sup> The Petition for *Certiorari* was filed on November 7, 2005, while the MR with Motion to Lift Default Order was filed on November 3, 2005.

<sup>35</sup> *Supra* note 16 at 220. Emphasis supplied.

The petitioner prayed that the Omnibus Order be reconsidered and set aside, period. He did not pray that it be partially reconsidered and set aside only insofar as the order of default was concerned. With respect to the “order of default,” the petitioner further prayed that this order “be lifted or set aside,” thus implying that the petitioner asked for more than the lifting of this order.

Notably, the motion’s preliminary statements were also unambiguous. The petitioner stated in clear terms that he was moving for the reconsideration of the Omnibus Order; again, without qualification. Nowhere in the preliminary statements did the petitioner indicate that he was only moving for a partial reconsideration of the Omnibus Order.

The petitioner’s failure to state in unequivocal terms that he was only moving for the partial reconsideration of the Omnibus Order may or may not have been intentional. But, regardless of the petitioner’s intention, the result is the same: the motion prayed for the reversal and setting aside of the Omnibus Order in its entirety. For all intents and purposes, the MR with Motion to Lift Default Order necessarily included the relief also prayed for in the Petition for *Certiorari*.

Even if we accept the petitioner’s explanation that the MR with Motion to Lift Default Order did not raise the issue of Judge Manalastas’s inhibition, and that it was meant to be a partial reconsideration of the Omnibus Order, the petitioner *still* cannot deny that he engaged in forum shopping.

**We find it undisputed that during the pendency of the Petition for *Certiorari* in the CA and the MR with Motion to Lift Default Order in the RTC, the petitioner filed with the RTC his Motion for Inhibition on Account of Administrative Case.**

The petitioner’s claim that he did not engage in forum shopping completely crumbles when this new Motion is considered. **Three remedies were then pending in two separate tribunals, all praying for the same relief: the inhibition of Judge Manalastas.**

*First*, the Petition for *Certiorari*, prayed among others, that

xxx after proceedings duly had, render judgment:

- (i) ANNULING the Omnibus Order dated October 17, 2005 insofar as public respondent judge therein denied petitioner’s Motion For Inhibition dated March 1, 2005, Supplemental Motion For Inhibition dared April 12, 2005 and Second Supplemental Motion For Inhibition dated June 21, 2005;



(ii) **ORDERING the inhibition of public respondent judge in Civil Case No. 70251 xxx**<sup>36</sup>

*Second*, the Motion for Inhibition on Account of Administrative Case prayed:

WHEREFORE, it is prayed that the Honorable Presiding Judge **inhibit herself from further proceeding with the instant case.**<sup>37</sup>

*Third* (and as already explained), the MR with Motion to Lift Default Order prayed that Judge Manalastas set aside the Omnibus Order in its entirety, which would logically result in her inhibition from hearing the case.

The petitioner, however, insists that the filing of the Motion for Inhibition on Account of Administrative Case was the necessary consequence of the administrative complaint. The petitioner argues that the pendency of the administrative complaint should result in Judge Manalastas's inhibition.<sup>38</sup>

He asserts that the basis of the Motion for Inhibition on Account of Administrative Case was Judge Manalastas's *gross ignorance of the law, and bias and partiality* while the basis of the Motions for Inhibitions — denied by Judge Manalastas and later the subject of the Omnibus Order elevated to the CA through the Petition for *Certiorari* — was Judge Manalastas's grave abuse of discretion in refusing to inhibit from hearing the civil case because of bias and prejudice.

The petitioner argues that the grounds relied upon in the Petition for *Certiorari* were different and distinct from those in support of the Motion for Inhibition on Account of Administrative Case.<sup>39</sup> In sum, the petitioner claims that the remedies were based on different grounds and that they should not be treated as praying for the same relief.

We do not find the petitioner's position persuasive.

A perusal of the administrative complaint<sup>40</sup> would show that the petitioner raised, as one of the grounds for imputing gross ignorance of the law to Judge Manalastas, her refusal to inhibit. In fact, the petitioner copied the allegations from the Motions for Inhibitions and generally pasted them on the administrative complaint.<sup>41</sup>

Glaringly, the petitioner used the same ground to support the Petition for *Certiorari* and the Motion for Inhibition on Account of Administrative

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<sup>36</sup> *Rollo*, p. 204. Emphasis supplied.

<sup>37</sup> *Id.* at 290. Emphasis supplied.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Id.* at 239.

<sup>40</sup> *Id.* at 292-338.

<sup>41</sup> *Supra* note 20.

Case. As earlier stated, the petitioner likewise prayed for the same relief in both of these remedies.

These only lead to one inevitable conclusion: the petitioner engaged in forum shopping by simultaneously raising the same issues in different tribunals, relying on the same ground founded on the same facts, hoping that both or either court would grant his prayer.

Further, in anticipation of an adverse ruling in the MR with Motion to Lift Default Order, the petitioner, without waiting for Judge Manalastas's resolution, filed the Petition for *Certiorari* with the CA hoping to obtain a favorable ruling.

To reiterate, the petitioner filed the Petition for *Certiorari* while the MR with Motion to Lift Default Order was pending. This violates Section 1, Rule 65 of the Rules of Court which provides that the availability of a remedy in the ordinary course of law precludes the filing of a petition for *certiorari*; under this rule, the petition's dismissal is the necessary consequence if recourse to Rule 65 is prematurely taken.<sup>42</sup>

Had the petitioner waited for the resolution of the MR with Motion to Lift Default Order, the Petition for *Certiorari* would have been regularly and properly invoked in the usual course of judicial proceedings and should not have been dismissed by the CA.

In fact, if the CA had strictly applied Rule 65, it could have summarily dismissed the Petition for *Certiorari* on *another ground* in addition to forum shopping.

One of the essential requisites of a petition for *certiorari* is that there is neither appeal nor any plain, speedy, and adequate remedy in the ordinary course of law for the purpose annulling or modifying the questioned proceeding.<sup>43</sup>

There was a plain, speedy, and adequate remedy to annul or modify the Omnibus Order. The petitioner should have expressly included in the MR with Motion to Lift Default Order the denial of his Motions for Inhibition so that Judge Manalastas could have properly reconsidered her Omnibus Order in its entirety.

In the end, it was the petitioner's precipitate resort to the extraordinary remedy of *certiorari* that was his own undoing.

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<sup>42</sup> *Supra* note 35.

<sup>43</sup> Rule 65, Section 1, RULES OF COURT.

*Forum Shopping in this Court*

The petitioner likewise committed forum shopping when he submitted for this Court's resolution an issue still pending with the RTC.

We do not know if the Motion for Inhibition on Account of Administrative Case was still pending with or had been resolved by the RTC when the petitioner filed the present petition. The petitioner kept silent on its status, in violation of his commitment under the Verification and Certification of Non-Forum Shopping he had filed.<sup>44</sup>

What we know is that the administrative complaint, the basis of the said motion, was still pending when the present petition was filed.<sup>45</sup>

To recap, the petitioner anchored his administrative complaint on Judge Manalastas's gross ignorance of the law. Among the grounds relied upon was Judge Manalastas's bias and partiality, the same ground used in the Motions for Inhibition, which later became the subject of the Petition for *Certiorari* (the CA's resolution dismissing the Petition for *Certiorari* is now subject of the present petition). The petitioner subsequently filed with the RTC the Motion for Inhibition on Account of Administrative Case.

The series of events shows that the petitioner filed the present petition when the administrative complaint, and very likely, the Motion for Inhibition on Account of Administrative Case were both pending.

Again, the Motion for Inhibition on Account of Administrative Case and the present petition prayed for the **same relief**.

We note that the Motion for Inhibition on Account of Administrative Case prays "that the **Honorable Presiding Judge inhibit herself from**

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<sup>44</sup> *Supra* note 1 at 75. A certification against forum shopping is a requirement provided under Section 5, Rule 7 of the Rules of Court which reads as follows:

*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.

<sup>45</sup> The present petition was filed on February 13, 2006, while the resolution on the administrative complaint was issued only on July 5, 2006.

**further proceeding with the instant case,**<sup>46</sup> while the present petition prays that -

xxx (b) after proceeding duly had, render judgment:

- (i) SETTING ASIDE the Resolution dated January 31, 2006 x x x of the Court of Appeals in CA-G.R. No. 91940...
- (ii) **ORDERING the inhibition of Presiding Judge Amelia C. Manalastas** of the Regional Trial Court, Branch 268, Pasig City, in Civil Case No. 70251 xxx<sup>47</sup>

Plainly, the petitioner, in an attempt to increase the chances of preventing Judge Manalastas from hearing the case, successively filed the administrative complaint, the Motion for Inhibition on Account of Administrative Case, and the present action.

Significantly, this Court's First Division in its Resolution<sup>48</sup> dated July 5, 2006, **dismissed** the administrative complaint against Judge Manalastas.

With respect to the petitioner's claim that Judge Manalastas's refusal to inhibit herself from hearing the civil case constitutes gross ignorance of the law, we emphasize that judges must be free to judge, without pressure or influence from external sources or factors; they should not be subject to intimidation or to the fear of civil, criminal, or administrative sanctions for acts they do and dispositions they make in the performance of their duties and functions.

Try as the petitioner might to characterize and label these remedies as separate, independent, and distinct from each other, the unavoidable reality is that their **ultimate aim is the same**, they involve the same parties, and they rely on the same grounds. In short, all the badges of forum shopping are present.

In *Montes v. Court of Appeals*,<sup>49</sup> we found that the petitioner therein engaged in forum shopping when he filed with this Court a petition for prohibition while his motion for reconsideration of the dismissal of his petition for *certiorari* was still pending in the CA. Although the purpose of a petition for prohibition is different from that of a petition for *certiorari*, we ruled that there was forum shopping because the reliefs sought were the same — to restrain a government official from implementing the same order.

In like manner, it does not matter that the *apparent* purpose of the administrative complaint (the source of the Motion for Inhibition on Account of Administrative Case) is distinct from that of the Petition for *Certiorari* (the source of the present petition). The controlling consideration

<sup>46</sup> *Supra* note 38. Emphasis supplied.

<sup>47</sup> *Supra* note 1 at 73-74. Emphasis supplied.

<sup>48</sup> *Id.* at 583-587.

<sup>49</sup> G.R. No. 143797, May 4, 2006, 523 Phil. 98, 106-107.

is that they are both geared towards achieving the same goal: the inhibition of Judge Manalastas from hearing the civil case.

The petitioner cannot hide under the cloak of characterization and labels to escape from the consequences of his actions. If we allow this, the evil sought to be prevented by the rule against forum shopping would result.

**We remind the petitioner and his lawyer that forum shopping constitutes abuse of court processes, which tends to degrade the administration of justice, to wreak havoc upon orderly juridical procedure, and to add to the congestion of the already burdened dockets of the courts.<sup>50</sup>**

Further, the rule proscribing forum shopping seeks to foster candor and transparency between lawyers and their clients in appearing before the courts — to promote the orderly administration of justice, prevent undue inconvenience upon the other party, and save the precious time of the courts. It also aims to prevent the embarrassing possibility of two or more courts or agencies rendering conflicting resolutions or decisions upon the same issue.<sup>51</sup>

***Judge Manalastas's Decision to Continue Hearing the Case was Not Improper***

Although we hold that the petitioner engaged in forum shopping for reasons already explained, we nevertheless consider the issue of Judge Manalastas's refusal to inhibit from hearing the case to finally settle the matter.

*First*, Judge Manalastas's inhibition from the civil case is *discretionary*. The grounds relied upon by the petitioner do not fall under the first paragraph of Section 1, Rule 137 of the Rules of Court which enumerates the grounds for compulsory inhibition. We have held that the issue of voluntary inhibition is primarily a matter of **conscience and sound discretion** on the part of the judge based on his or her rational and logical assessment of the case.<sup>52</sup>

*Second*, bare allegations of bias and prejudice are not enough, in the absence of clear and convincing evidence, to overcome the presumption that a judge will undertake his noble role to dispense justice according to law and evidence without fear or favor.<sup>53</sup> Nothing on record shows that the petitioner ever submitted evidence of bias and prejudice.

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<sup>50</sup> *Wee v. Gonzales*, G.R. No. 147394, August 11, 2004, 479 Phil. 737, 750. Citations omitted and emphasis supplied.

<sup>51</sup> *Ibid.* Emphasis supplied.

<sup>52</sup> *Santos v. Lacurom*, A.M. No. RTJ-04-1823, August 28, 2006, 531 Phil. 239, 250.

<sup>53</sup> *Arroyo v. DOJ*, G.R. Nos. 199082, 199085, 199118, September 18, 2012, 681 SCRA 181, 242-243. Citation omitted.

Villamor's claims that Judge Manalastas's impartiality was allegedly compromised because (1) she and the respondent stood as godparents to a child of a common friend, and (2) that her husband was a partner of a law firm which represented a client whose claim against the petitioner was similar to the respondent's, do not suffice to overthrow the presumption that Judge Manalastas will dispense justice according to law and evidence without fear or favor.

Because this act is discretionary, Judge Manalastas is in the best position to determine whether or not there was a need to inhibit from the case; thus, her decision to hear the case, in the higher interest of justice, equity, and public interest, should be respected.

While a party has the right to seek the inhibition or disqualification of a judge who does not appear to be wholly free, disinterested, impartial, and independent in handling the case, this right must be weighed with her duty to decide cases without fear or pressure.<sup>54</sup>

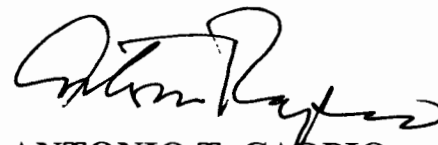
In these lights, we see no reason to reverse Judge Manalastas's decision to proceed with hearing the case.


**WHEREFORE**, premises considered, we **DENY** the petition and **AFFIRM** the January 31, 2006 resolution of the Court of Appeals in CA-G.R. SP No. 91940.

**SO ORDERED.**

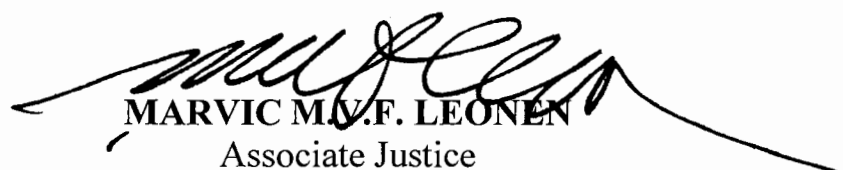
  
**ARTURO D. BRION**  
 Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
 Associate Justice  
 Chairperson

  
**MARIANO C. DEL CASTILLO**  
 Associate Justice

  
**JOSE CATRAL MENDOZA**  
 Associate Justice

  
**MARVIC M.V.F. LEONEN**  
 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.

A handwritten signature in black ink, appearing to read "Antonio T. Carpio". The signature is fluid and cursive, with a large initial "A" and "C".

**ANTONIO T. CARPIO**  
Acting Chief Justice