

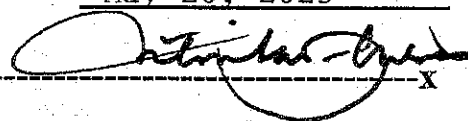
EN BANC

G.R. No. 267675 (JORGE JOAQUIN V. SANTOS, Petitioner, v.
CAROLINE H. SANTOS, Respondent).

Promulgated:

May 20, 2025

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X

DISSENT

LAZARO-JAVIER, J.:

On March 25, 2014, respondent Caroline H. Santos (Caroline) filed a petition for legal separation docketed as Civil Case N. 14-400-CV against petitioner Jorge Joaquin V. Santos (Jorge). She averred that Jorge committed repeated physical, emotional, and economic abuse against her and their children, and was engaged in an **illicit relationship**. In his answer, Jorge countered that Caroline herself had committed **sexual infidelity**, and thus, was not entitled to a decree of legal separation.¹ Acting on Jorge's demurrer to evidence, the Regional Trial Court (RTC), Branch 136, Makati City dismissed Caroline's petition per its Order dated July 10, 2019. Caroline, consequently, went on appeal to the Court of Appeals.²

While the appeal was pending, Jorge filed his own petition for legal separation docketed as Civil Case No. R-MKT-20-01893-CV and raffled to Branch 3, RTC, Makati City. In his petition, Jorge mentioned **once again** that Caroline was engaged in **illicit sexual relationships**. He alleged that in 2015, he hired private investigators who reported to him that Caroline was having an affair with a certain Juan Tomas Cuenca.³ Prior to that, however, he suspected that as early as 2006, Caroline was already having an affair with another man named Paco Magsaysay, and possibly other men, too.⁴ He also stated that Caroline was abusive towards their son.⁵ For her part, Caroline submitted her answer with counterclaims and argued that Jorge committed forum shopping.⁶

¹ *Ponencia*, p. 2.

² *Id.* at 3.

³ *Id.*

⁴ *Id.* at 2.

⁵ *Id.* at 3.

⁶ *Id.* at 3-4.



By Order dated December 7, 2020, Branch 3, RTC, Makati City dismissed Jorge's petition with prejudice on ground of forum shopping considering that it was filed even though Caroline's appeal was still pending before the Court of Appeals. Jorge assailed the dismissal through a petition for *certiorari* before the Court of Appeals, which likewise dismissed the same for being an improper remedy. According to the appellate court, Jorge should have resorted to an appeal, not a petition for *certiorari*.⁷

Dissatisfied, Jorge later filed the present petition for review on *certiorari*. The Majority now holds that Jorge did not commit forum shopping as there is no *litis pendentia* between the twin cases for legal separation.

I respectfully dissent.

Here, Jorge practically raised the same issue on sexual infidelity against Caroline in his own petition for legal separation and filed the case while Caroline's appeal before the Court of Appeals was pending resolution. Ultimately, both spouses sought identity of interests, that is to live separately and to resolve their property relations accordingly. Jorge's subsequent filing of a petition for legal separation based on identical grounds and relief, indeed, merited the dismissal of his petition as properly ruled by Branch 3, RTC, Makati City, not a remand of the case to the court of origin which the Majority proposes.

I expound.

The Family Code provides the effects of a decree of legal separation, thus: (1) the spouses shall be entitled to live separately from each other, but the marriage bonds shall not be severed;⁸ (2) the absolute community or the conjugal partnership shall be dissolved and liquidated, but the offending spouse shall have no right to any share of the net profits earned by the absolute community or the conjugal partnership;⁹ (3) the custody of the minor children shall be awarded to the innocent spouse, subject to the provisions of Article 213 of the Family Code;¹⁰ (4) the offending spouse shall be disqualified from inheriting from the innocent spouse by intestate succession and provisions in favor of the offending spouse made in the will of the innocent spouse shall be revoked by operation of law;¹¹ (5) the innocent spouse may revoke donations he or she made in favor of the offending spouse, as well as the designation of the latter as beneficiary in any insurance policy;¹² (6) donors may revoke any donation *propter nuptias* made in favor of the

⁷ *Id.* at 4.

⁸ Family Code, art. 63, par. 1.

⁹ Family Code, art. 63, par. 2.

¹⁰ Family Code, art. 63, par. 3.

¹¹ Family Code, art. 63, par. 4.

¹² Family Code, art. 64.

offending spouse;¹³ and (7) the offending spouse may be ordered to give support to the innocent spouse.¹⁴

Here, when Caroline and Jorge filed their respective petitions for legal separation, they were asserting the same rights, i.e., the rights of an innocent spouse, and claiming the same relief, i.e., the legal consequences of a decree of legal separation. Plain and simple, both wanted to live separately and divide their assets and liabilities.

As it was, Jorge raised Caroline's infidelity as a defense in the first petition, claiming that Caroline was not entitled to the relief she prayed for, i.e., a decree of legal separation. He, therefore, prayed that Caroline's petition be dismissed, but soon thereafter, he filed his own petition for legal separation.

On this score, the Majority maintains that Jorge could not have properly asked for a decree of legal separation in the first petition as he was limited to denying the charges against him and raising the defense that Caroline was not entitled to any of the remedies she sought.

In so ruling, the Majority suggests that a spouse, who is a respondent in a legal separation case, but has his or her own ground for legal separation, would have to argue against the decree of legal separation in the first case and pray anew for legal separation in another. Courteously, this situation is not only absurd, but also results in unnecessary and vexatious duplicity of suits.

To be sure, Jorge was not precluded from asserting his right as an innocent spouse in the case for legal separation initiated by Caroline. Denying the allegations against him and claiming other grounds for legal separation are not mutually exclusive. While the Family Code prohibits spouses from colluding to obtain a decree of legal separation,¹⁵ nothing in the said law or the applicable rules¹⁶ prohibits the respondent-spouse from claiming to be an innocent spouse and asserting his or her own right to obtain said decree. Notably, neither the Family Code nor the applicable rules¹⁷ bars the respondent-spouse from filing a counterclaim in a petition for legal separation.

Too, there is certainly no collusion in asserting one's own right to secure a decree of legal separation while denying the grounds raised by another therefor. In *Puyat v. Puyat*,¹⁸ the Court held that the mutual desire to have a marriage declared void does not, by itself, amount to collusion. Similarly, the mere mutual desire for the decree of legal separation, without any agreement

¹³ Family Code, art. 86, par. 4.

¹⁴ Family Code, art. 198.

¹⁵ Family Code, art. 56, par. 5.

¹⁶ A.M. No. 02-11-11-SC, March 4, 2003.

¹⁷ *Id.*

¹⁸ 906 Phil. 143 (2021) [Per J. Carandang, First Division]

to commit an act that may warrant the said decree, is not a ground for the denial of the petition. Notably, Article 56 of the Family Code provides the grounds for the denial of a petition for legal separation, viz.:

Article 56. The petition for legal separation shall be denied on any of the following grounds:

- (1) Where the aggrieved party has condoned the offense or act complained of;
- (2) Where the aggrieved party has consented to the commission of the offense or act complained of;
- (3) Where there is connivance between the parties in the commission of the offense or act constituting the ground for legal separation;
- (4) Where both parties have given ground for legal separation;
- (5) Where there is collusion between the parties to obtain decree; or
- (6) Where the action is barred by prescription.

Indeed, Article 56 does not preclude spouses from simultaneously asking for a decree of legal separation, particularly in situations where both claim to be the innocent spouse. **What it prohibits is the grant of legal separation when both parties are found to have committed any of the grounds therefor.**

In fact, hearing the grounds for legal separation raised by the spouses against each other in the same proceeding will enable the trial court to evaluate the evidence in its entirety for the purpose of carrying out a just resolution of the case. Thus, where the court finds that both parties committed a ground for legal separation, the court could at once deny the petition pursuant to Article 56(4) of the Family Code.

Meanwhile, Article 56(4) of the Family Code ordains that the following must necessarily be proved to be entitled to a decree of legal separation: *first*, the respondent-spouse committed a ground for legal separation; and *second*, the petitioner-spouse did not commit a ground for legal separation.

Notably, in the two legal separation cases, both Caroline and Jorge brought to the fore the issue of sexual infidelity by one against the other. In the same vein, both parties asserted that they have approached the court with clean hands, each invoking the equitable maxim that one who seeks equity must do equity. In particular, **Jorge raised these points as an affirmative defense in his answer to the first petition. But he later brought them up again in his own petition for legal separation.** Indeed, a single issue cannot



be litigated in more than one forum. As held in *Mendiola v. Court of Appeals*:¹⁹

The similarity between the two causes of action is only too glaring. *The test of identity of causes of action lies not in the form of an action but on whether the same evidence would support and establish the former and the present causes of action. The difference of actions in the aforesaid cases is of no moment.* In Civil Case No. 58713, the action is to enjoin PNB from foreclosing petitioner's properties, while in Civil Case No. 60012, the action is one to annul the auction sale over the foreclosed properties of petitioner based on the same grounds. *Notwithstanding a difference in the forms of the two actions, the doctrine of res judicata still applies considering that the parties were litigating for the same thing. i.e. lands covered by TCT No. 27307 and more importantly, the same contentions and evidence as advanced by herein petitioner in this case were in fact used to support the former cause of action.*²⁰ (Emphasis supplied)

Relatedly, the Majority discusses five scenarios which may theoretically arise from the two legal separation cases filed by Caroline and Jorge. The third scenario provides, viz.:

Caroline loses the first legal separation case. While she established that Jorge gave a ground for legal separation, Jorge was able to prove any of the affirmative defenses under Article 56 of the Family Code except the defense of prescription, to wit: . . .

Such decision on the merits bars Jorge from filing his own legal separation case, since the first case resolved his non-entitlement to the relief of legal separation granted to an innocent spouse.²¹ (Emphasis supplied)

On the other hand, the fifth scenario provides:

Caroline wins the legal separation case. Whether or not Jorge raised the affirmative defense that Caroline was also guilty of a ground for legal separation, **Jorge is barred from filing a second legal separation case, because the spouses are already legally separated, and because he has himself given ground for legal separation and will not come to court with clean hands.**²² (Emphasis supplied)

In both these scenarios presented in the Majority, the resolution of the first legal separation case bars Jorge from filing the second case. Respectfully, these scenarios precisely show that there is an identity of issues between the two legal separation cases.

¹⁹ 327 Phil. 1156 (1996) [Per J. Hermosisima, First Division], as cited in *Casil v. Court of Appeals*, 349 Phil. 187 (1998) [Per J. Panganiban, Third Division].

²⁰ *Id.* at 1166.

²¹ *Ponencia*, pp. 10–11.

²² *Id.* at 11.

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In any case, the Majority posits that the applicable scenario did not bar Jorge from filing the second petition for legal separation, thus:

Caroline loses the first legal separation case for failure to discharge her burden that Jorge gave a ground for legal separation. This decision on the merits leaves Jorge free to file his own legal separation case, since the first case disposed solely the issue of Caroline's entitlement to legal separation. It did not resolve the issue of whether Jorge was an innocent spouse entitled to legal separation.²³

On this score, it bears noting anew that when the second legal separation case was initiated, the first case was still pending before the Court of Appeals. Parenthetically, when Jorge filed his petition for legal separation, he could not have ascertained that the Court of Appeals would dispose of the first case in a manner that would purportedly leave him "free to file his own legal separation case", as the Majority has described. The first petition for legal separation could have been resolved otherwise, and Jorge would have been barred from filing the second petition.

This is where the Majority and this dissent differ.

As it was, Jorge deliberately committed forum shopping when he filed the second petition. He cannot simply brush off his liability for forum shopping by claiming that in any case, he disclosed the pending criminal cases he filed against Caroline for adultery. Conversely, Jorge demonstrated marked diligence in opposing Caroline's petition for legal separation in Civil Case No. N. 14-400-CV filed in 2014. He actively participated in the proceedings by: (a) filing an answer wherein he protested Caroline's alleged extramarital affair; and (b) submitting a demurrer to evidence, asserting that Caroline had failed to substantiate the statutory grounds for legal separation. Jorge, thereafter, filed the subsequent petition for legal separation despite knowledge on Caroline's pending appeal before the Court of Appeals. These acts, taken together, demonstrate a clear intent to circumvent procedural rules and to secure favorable rulings through multiple avenues which is inconsistent with the good faith requirement in litigation. His act of deliberate and willful forum shopping warranted the dismissal of his petition **with prejudice** in accordance with Rule 7, Section 5 of the Rules of Court as correctly ruled by Branch 3, RTC, Makati City. Further, by abusing court processes, direct contempt of court is present here. *Alliance of Non-Life Insurance Workers of the Philippines v. Mendoza*²⁴ elucidates:

Thus, the CA did not commit an error in outrightly dismissing petitioner's petition. It must be remembered that the acts of a party or his counsel, clearly constituting willful and deliberate forum shopping shall be

²³ *Id.* at 10.

²⁴ 879 Phil. 574 (2020) [Per J. Leonen, Third Division].

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ground for the summary dismissal of the case with prejudice, and shall constitute direct contempt, as well as be a cause for administrative sanctions against the lawyer. Also, SC Circular No. 28-91 states that the deliberate filing of multiple complaints by any party and his counsel to obtain favorable action constitutes forum shopping and shall be a ground for summary dismissal thereof and shall constitute direct contempt of court, without prejudice to disciplinary proceeding against the counsel and the filing of a criminal action against the guilty party. In *Spouses Arevalo v. Planters Development Bank*, this Court further reiterated that once there is a finding of forum shopping, the penalty is summary dismissal not only of the petition pending before this Court, but also of the other case that is pending in a lower court.

To be sure, the Court must not permit litigants to litigate the same controversy all over again and needlessly waste time, efforts, and resources. Such conduct is antithetical to the principles of equity and fair play, and is unbecoming of a litigant who claims innocence and good faith. Thus, Jorge and his counsel should be ordered to show cause why they should not be held in contempt for availing of multiple judicial remedies founded on substantially similar facts and raising substantially similar forms of relief from different courts pursuant to Rule 7, Section 5 of the Rules of Court.²⁵

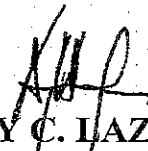
A final word. In faithful adherence to the State's fundamental policy of preserving the sanctity of marriage, it must be emphasized that legal separation proceedings are governed by stringent and specialized rules, reflecting their extraordinary and solemn character. These procedural safeguards are designed to ensure that legal separation is granted only upon clear and compelling justification. The prohibition against forum shopping serves as a critical mechanism in this regard, precluding the simultaneous litigation of identical issues in separate proceedings. This not only safeguards judicial economy and consistency, but more importantly, fortifies the marital institution against undue disruption. Accordingly, the Court must neither compel nor tolerate duplicative litigation, and should bear the responsibility to forestall protracted legal conflict that would otherwise exacerbate the very marital strife the law seeks to resolve judiciously.

²⁵ RULES OF COURT, Rule 7, 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.

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ACCORDINGLY, I vote to **DENY** the petition.


AMY C. LAZARO-JAVIER