

FIRST DIVISION

[G.R. No. 145436, October 10, 2002]

**MICHAEL LONDON FOR AND IN BEHALF OF HIS MINOR SON
NICHOLAS FREDERICK LONDON, PETITIONER, VS. BAGUIO
COUNTRY CLUB CORPORATION, ANTHONY DE LEON AND
FRANCIS BASTIANO SIMALONG, RESPONDENTS.**

D E C I S I O N

VITUG, J.:

On 14 December 1998, Nicholas Frederick London, then 11 years old, assisted by his father, Michael London, executed and filed before the Office of the City Prosecutor in Baguio City a complaint-affidavit for "Sexual Harassment and/or Child Abuse and/or Acts of Lasciviousness and Unjust Vexation" against respondent Francis Bastiano Simalong, a bowling mechanic at the Baguio Country Club. The complaint contained asseverations about an incident that was said to have occurred on 29 November 1998 at the Baguio Country Club. Nicholas was playing video games at the recreation center of the club, when Simalong, then obviously drunk, placed his hand around Nicholas and touched the latter's penis. Frightened, Nicholas immediately informed by telephone his parents about it. Forthwith, his parents fetched him, and the three proceeded to the police station to report the matter.

On 28 December 1998, the investigating prosecutor, finding probable cause to prosecute Simalong, filed an Information for unjust vexation before the Municipal Trial Court ("MTC"). On 09 October 1999, the MTC issued an order to the effect that, Nicholas being a minor, the case should instead be handled by the Regional Trial Court ("RTC") of Baguio City in accordance with Circular No. 11-99 of the Supreme Court and Republic Act No. 8369 (the Family Courts Act of 1997). The criminal case was transferred to the RTC and docketed Criminal Case No. 17107-R. The private complainant reserved his right to institute an independent civil action.

On 17 December 1999, Nicholas, represented by his father Michael, filed a complaint for damages before the Baguio City RTC, against the Baguio Country Club, the club's General Manager Anthony de Leon, and Francis Simalong. The civil action, docketed Civil Case No. 4587-R, was predicated on the civil liability of defendants for *culpa acquiliana* under the provisions of the Civil Code.

On 04 February 2000, the Baguio Country Club and Anthony de Leon filed a motion to dismiss the complaint on the ground that the "Verification/Certification" against forum shopping attached to the complaint did not disclose the existence and status of Criminal Case No. 17107-R.

The Presiding Judge of RTC Branch 61 issued, on 18 April 2000, a resolution granting the motion to dismiss. The plaintiff filed a motion for the reconsideration of the order of dismissal. In the meantime, plaintiff sought the inhibition of Presiding Judge Antonio Reyes of RTC Branch 61 from trying Civil Case No. 4587-R on the