

OCA CIRCULAR NO. 68-2004, May 13, 2004

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TO:

THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC ATTORNEY'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT:

SUSPENSION FROM THE PRACTICE OF LAW FOR ONE (1) YEAR OF ATTY. NEPTHALI P, SOLILAPSI

For the information and guidance of all concerned, quoted hereunder is the Decision of the Second Division dated December 27, 2002 in Administrative Case No. 4766, to wit:

"This is a complaint for disbarment filed by T'Boli Agro- ndustrial Development, Inc. (TADI) against Atty. Nepthali P. Solilapsi on the grounds of forum-shopping and violation of Administrative Circular No. 04-94.

TAD I, a corporation with principal office in Surallah, South Cotabato, is engaged in the production, processing, marketing, exporting and selling of pineapples and other agricultural products. Because of the large volume of pineapples needed to support the viability of its business, TADI entered into contracts with various growers who agreed to grow fruits on their lands and sell their entire produce to the corporation. Among the contract growers are Multi-Fruit Growers Cooperative of Surallah, Eduards Small Coconut Farmers Cooperative and their individual members. TADFs agreements with the two cooperatives and their members were embodied in several Production and Marketing Agreements[1] and Grower Agreements with Contracts to Buy.[2] The agreements stipulated, among others, that the cooperatives and their members would grow pineapples and sell them exclusively to TADI. The cooperatives and their members may sell their produce to third persons only with the prior consent of TADI.

Sometime in July or August 1996, TADI received reports that Multi-Fruit Cooperative, Eduards Cooperative and their members were intending to sell their pineapples to a third party, in violation of their agreements. Hence, on August 15,1996, TADI filed before the ^Regional Trial Court (RTC) of Surallah a complaint,[3] docketed as Civil Case No. 594-S, against the two cooperatives and the respective members of their boards of directors for damages for breach of contract. The complaint prayed for the issuance of a writ of preliminary prohibitory and mandatory injunction to compel the cooperatives and their members to cease and desist from harvesting their pineapples and selling them to third parties without TADFs prior consent and instead to honor their obligation to deliver their harvests to TADI.

It appears that a day before, or on August 14, 1996, Multi- Fruit Cooperative filed before the Municipal Circuit Trial Court (MCTC) of Surallah an action, docketed as Civil Case No. 179, against TADI for damages with prayer for temporary restraining order (TRO) and writ of preliminary injunction, directing TADI to "desist and

refrain from doing acts which would in any manner interfere, meddle and hinder the harvesting, hauling and disposal by [Multi-Fruit Coop] and/or any of its members of the pineapple fruits from their lands."[4] The complaint was prepared and signed by respondent. The verification and certification annexed to the complaint were also notarized by him.

Thereafter, a series of suits was instituted by Eduards Cooperative and some of its members, as well as by some of the members of Multi-Fruit Cooperative, against TADI, to wit:

Case Caption

Nature

1. Civil Case No. 180 "Eduards Samll Coconut Farmers Development Cooperative represented by its Manager Roberto Suyu and its Board of Directors, namely, Manuel Formon,. Samuel Ingoy, Remedios Tanco, Johnna Paz G. Israel and Levy Calvo vs. T' Boli Agro-Industrial Development Incorporated"

August 19, 1996

Damages with prayer for temporary restraining order and writ of preliminary injunction

2. Civil Case No. 184 "Johnna Paz Israel and Milagros Guevarra vs. T'Boli Agro-Indus trial Development, Inc. (TADI)"

September 19,1996

Damages with prayer for writ of preliminary injunction and temporary restraining order

3. Civil Case No. 186 "Mabel and Maja Faeldonia, represented by their mother Angeles Faeldonia vs. T'Boli Agro-Industrial Development, Inc. (TADI)"

September 19,1996

Damages with prayer for writ of preliminary injunction and temporary restraining order

4. Civil Case No. 187 "Oscar Jordan vs. T'Boli Agro-Industrial Development, Inc. (TADI)"

September 19,1996

Damages with prayer for writ of preliminary injunction and temporary restraining order

5. Civil Case No. 188 "Hermie Bastareche vs. T'Boli Agro-Industrial Development, Inc. (TADI)"

September 25,1996

Forcible entry with prayer for writ of preliminary injunction and temporary restraining order

6. Civil Case No. 191 "Josefina Bacongco vs. T'Boli Agro-Industrial Development, Inc. (TADI)"

November 8, 1996

Forcible entry with prayer for writ of preliminary injunction and temporary restraining order

7. Civil Case No. 192 "Anita Lagrana vs. TBoli Agro-Indus trial Development, Inc. (TADI)"

November 8,1996

Forcible entry with prayer for writ of preliminary injunction and temporary restraining order

8. Civil Case No. 193 "Leoncio Verdida, Jr. vs. T'Boli Agro-Industrial Development, Inc. (TADI)"

November 14,1996

Forcible entry with prayer for writ of preliminary injunction and temporary restraining order

9. Civil Case No. 194 "Avelino Obh'ga vs. TBoli Agro-Industrial Development, Inc. (TADI)"

November 14,1996

Forcible entry with prayer for writ of preliminary injunction and temporary restraining order

10. Civil Case No. 195 "Mariano Malinao vs. T'Boli Agio-Industrial Development, Inc. (TADI)"

November 14,1996

Forcible entry with prayer for writ of preliminary injunction and temporary restraining order

11.Civil CaseNo. 196 "Arthur E. Taneo vs. T' Boli Agro-Industrial Development, Inc. (TADI)"

November 15,1996

Forcible entry with prayer for writ of preliminary injunction and temporary restraining order

All the complaints were prepared and signed by respondent as the complainants' counsel. Each complaint uniformly prayed that TADI be ordered to "[vacate plaintiffs land and specifically to][5] desist and refrain from doing any act/s which would in any way interfere, hamper, impede and/or disturb the plaintiffs in the exercise of their rights of ownership over their lands in the planting and growing of any crop on their farmholding and the harvesting, hauling, delivery and disposal of any fruits therefrom."[6]

The verification and certification annexed to the complaints uniformly stated:

That I/we, ..., after having been duly sworn to in accordance with law, hereby depose/s and state/s:

- That I/We ... am/are the plaintiff/s in the above- entitled case:

- That I/We have caused the foregoing Complaint to be prepared by Counsel and that the contents thereof are true correct to the best of my own personal knowledge;

- That I/we have not filed any suit Involving the same cause or subject matter before the Court of Appeals, the Supreme Court or any other Tribunal, and should any information of this nature would reach my knowledge I bound myself to so report the same immediately to this Honorable Court;[7]

Because of the failure by the cooperatives and their members to state under oath the pendency or the termination, as the case may be, of other civil case (Civil Case Nos. 179, 180 and 594-S)[8] earlier filed, the MCTC of Surallah dismissed Civil Case Nos. 184, 186, 187 and 188 for litis pendens and for violation of Administrative Circular No. 04-94.[9] For the same reasons, the TROs issued in Civil Case Nos. 191, 192, 193, 194, 193 and 196 were also lifted, and, later, the cases themselves were also dismissed on the ground that the complaints for forcible entry had no basis since the plaintiffs therein were still in possession of their lands.[10]

In this complaint, TADI alleges that respondent abused the judicial process by repeatedly engaging in forum-shopping in violation of Administrative Circular No. 04-94. It also alleges that he violated his oath as a lawyer, as well as the Code of Professional Responsibility,[11] and therefore should be disbarred.

In his answer, respondent denies the allegations against him. He contends that he could not have concealed the pendency of Civil Case Nos. 179, 180 and 594-S when he subsequently filed Civil Case Nos. 184,186,187 and

188 because the fact is that all the prior cases, except Civil Case No. 594-S, were filed in the same MCTC of Surallah, presided over by the same judge, Judge Sollesta, and therefore should have been judicially noted by him. Moreover, respondent says, the cases do not involve similar issues and causes of action. In fact, he says, in all the complaints in Civil Case Nos. 184, 186, 187 and 188, it was stated in paragraph 19 thereof that Civil Case No. 180 was a case absolutely different from each of the other complaints filed. Hence, another statement to the same effect in the certification and verification annexed to each of the complaints in question would have been surplusage. He further contends that the cases do not involve identical parties and causes of action so as to amount to *litis pendentia*. He prayed for the dismissal of the complaint for lack of merit and for being nothing more than a harassment charge.

In a resolution dated December 1, 1997, the Court referred this case to the Office of the Bar Confidant (OBC) which, in its report [12] dated March 6, 1998, recommended the investigation of respondent by the Integrated Bar of the Philippines (IBP).[13] Hence, on June 15, 1998, the Court referred the case to the IBP for investigation, report and recommendation.[14]

On September 14, 2000, the IBP Commission on Bar Discipline recommended that respondent be disbarred.[15] Its report was adopted and approved, with modification, by the IBP Board of Governors in a resolution dated June 29, 2002, which found respondent to have engaged in forum-shopping. However, instead of disbarment, the IBP Board of Governors recommended that respondent be suspended from the practice of law for two years. [16]

On October 3, 2002, respondent filed a motion for reconsideration and/or relief from the IBP resolution, contending that the IBP report and recommendation was not supported by evidence because it failed to consider the factual matters and substantive issues raised in his answer. He prayed for a reconsideration of the resolution and/or a re-investigation of the matter.

The issue in this case is simply whether respondent is guilty of forum-shopping. After a review of the records of this case, the Court finds the recommendation of the IBP Board of Governors to be well taken.

To begin with, the essence of forum-shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment.[17] In several cases, this Court has held that forum-shopping exists when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion in another, or when he institutes two or more actions or proceedings grounded on the same cause to increase the chances of obtaining a favorable decision.[18] An important factor in determining the existence of forum-shopping is the vexation caused to the courts and parties-litigants by the filing of similar cases to claim substantially the same reliefs.[19]

Forum-shopping exists where the elements of *litis pendentia* are presented or where a final judgment in one case will amount to *res judicata* in another.[20] Hence, the following requisites concur: (a) identity of parties, or at least such parties as represented the same interests in both parties, or at least such parties as represent the same interests in both actions, (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and (c) the identity of the two power proceeding particulars in such that any judgment rendered in the other action will regardless of which party is successful, amount to *res judicata* in the action under consideration.[21] The requisites are presented in this case.

First. Respondent contends that there was no identity of parties involved in this case.

The cases do involve identical parties. In Civil Case No. 594-S, TADI's complaint is directed not only against Multi-Fruit Cooperative, Eduards Cooperative and the respective members of their boards of directors but also "their pole vaulting members, and John Does and Peter Does." Although the caption of the case filed by TADI did

not enumerate all the individual complaints, the case filed against the two cooperatives actually concerned their individual members. The latter's case are similar to the case filed by TADI against them.

In any case, *litis pendentia* does not literal identity of parties. It is sufficient that there is identity of interest represented,[22] which is clearly shown by the allegations in the complaints. For instance, while Civil Case No. 180 was brought in the name of Eduards Cooperative, the allegations, as well as the prayer thereof, clearly indicated that the members of the cooperative were included. Thus, the prayer reads:

"WHEREFORE, it is most respectfully prayed that upon that filling thereof, a Temporary Restraining Order be issued directing the Defendant, its agents, assigns, attorneys and/or any person acting in his power to desist and refrain from doing acts which would in any manner interfere, meddle and hinder the harvesting, hauling and disposal by the Plaintiff Cooperative and/or any of its members of the pineapple fruits from their lands...[23]

In Civil Case No. 594-S, while it is true that TADI filed the case against Multi-Fruits Cooperative, Eduards Cooperative, their respective boards of directors and some, but not all, of their members, the allegations in the complaint, specifically paragraph 1 thereof, shows that TADI was suing not only those named in the caption, but also-

... all Coop members who are violating and/or intending/poised to violate their contractual obligations are sued herein jointly with the coop and officers....[24]

Even if each cooperative is separate and distinct from its members, respondent should have noticed that, in the complaint filed by TADI, Josefina Bacongco of Multi-Fruit Cooperative and Johnna Paz Israel of Eduards Cooperative were named as respondents therein. The civil cases[25] filed by the cooperatives should, therefore, have indicated in the verification and certification the pendency of Civil Case No. 594-S.

On the other hand, Civil Case No. 179 filed by the Multi-Fruit Cooperative, as well as Civil Case No. 180 filed by Eduards Cooperative, named Josefina Bacongco and Johnna Paz Israel as complainants against TADI. These facts have not been reflected by respondent in the complaints in Civil Case Nos. 184 d 191. He also failed to mention in the verification and certification that Bacongco and Israel had instituted complaints, in their capacity as members of the boards of directors of their cooperatives, against TADI.

Second. Respondent contends that the causes of action asserted in the cases filed by him as counsel are different. This contention has no merit. In Civil Case No. 594-S, TADI alleged that it entered into a Memorandum of Understanding with the Land Bank of the Philippines (LBP) whereby LBP would provide production loans to qualified cooperative growers for the "Tropi-Pine Production Project" and credit assistance to the cooperative growers. TADI, on the other hand, agreed to execute production and marketing agreements with the cooperatives, committing itself to purchase the fruits harvested by the cooperatives.[26] By virtue of the Tropi-Pine Production Project, TADI entered into several agreements with the cooperatives and their members. Later on, TADI filed suits against these cooperatives and their members for their alleged unilateral withdrawal and refusal to deliver fruits. TADI prayed for the issuance of a preliminary injunction to compel the cooperatives and their members to deliver their harvests to it (TADI), as well as for the issuance of a TRO to compel the cooperatives and their members to cease and desist from harvesting fruits and from selling them to third parties without its (TADPs) consent.

On the other hand, the civil cases filed by the cooperatives and their members against TADI alleged that they were indebted to the LBP, not to TADI, for loans used to finance the pineapple project of the members. The members who had availed of the loans from the LBP signed Promissory Notes and Trust Receipts (PNTR) to secure their repayments to the cooperative, which in turn would secure their repayment to the creditor LBP. However, it was alleged, the members were restrained from complying with their obligation under the PNTR by

TADPs nefarious acts of harassing and threatening, through a fully-armed private army, the members of the cooperatives and coercing them to deliver their pineapple harvests to TADPs cannery. For this reason, the cooperatives and their members prayed for the issuance of a TRO against TADI for it to desist from interfering in the harvest.[27]

Based on the allegations on the complaints, the identity of the causes of action in the cases is apparent. The cause of action of the cases is grounded on whether TADI has the authority to oblige the cooperatives and their members to deliver pineapples to it. In resolving the issue, the lower court would necessarily look into the agreements entered into by the parties, to wit, the Memorandum of Understanding between TADI and LBP, the PNTR between LBP and the cooperatives and their members vis-a-vis the contracts (Production and Marketing Agreements; Grower's Agreements with Contract to Buy) executed between TADI and the cooperatives and their members in order to decide the cases.

In Civil Case No. 594-S, the cooperatives and their members could have prayed for reliefs in their respective answers instead of filing the subsequent cases. In fact, the two cooperatives and their members filed a single answer to TADI's complaint. They alleged[28] that they were indebted to LBP and not to TADI by virtue of the PNTR. This alone would have sufficed for them to air their side. The filing of several cases subsequent thereto was thus unnecessary.

Third. The claim of respondent that TADI is guilty of forum-shopping is misplaced. He claims that, first, it filed Civil Case No. 594-S before the RTC of Surallah during the pendency of Civil Case No. 179 before the MCTC of Surallah, and second, it filed Civil Case No. 168 before the MCTC of Norala after Civil Case Nos. 594-S, 179 and 180 have been filed before other courts. But this is another matter. TADI's alleged violation of the prohibition against forum-shopping will neither exculpate respondent nor mitigate his own liability for breaching said prohibition.

As to Civil Case No. 594-S, TADI claims that it filed the same on August 15, 1996 before it received the summons and the TRO issued by the MCTC in Civil Case No. 179. This has not been disputed by Multi-Fruit Cooperative and its members. This has also been proven by the records which show that the TRO for Civil Case No. 179 was received by the administrative assistant of TADI on August 15, 1996 at 1:05 p.m. On the other hand, Civil Case No. 594-S was filed by TADI earlier on the same day, at 9:45 a.m.[29] It is clear that TADI filed Civil Case No. 594-S without knowing that another case filed against it had been pending before another court. In any event, Civil Case No. 179 was ordered dismissed by the MCTC on September 20, 1996 for lack of jurisdiction, since the aggregate amount of damages sought by Multi-Fruit Cooperative was more than P100,000.00.[30]

That TADI filed Civil Case No. 168 before the MCTC of Norala, South Cotabato on October 1, 1996 against Carmen Italia Vda. Huele while Civil Case Nos. 179, 180 and 594-S were pending before other courts is of no moment. The issue in Civil Case No. 168 was whether TADI could remove the bamboo barricades on the access roads to defendant's land so that it could inspect the land, determine the diseases and pest control methods necessary and verify production estimates, among others. This issue is different from that in Civil Case Nos. 179, 180 and 594-S which was whether TADI could compel the cooperatives and their members to sell their produce to it. At all events, even if TADI were itself guilty of forum-shopping, it would not make respondent less guilty for his own infraction.

Respondent also claims that he could not have concealed the pendency of Civil Case Nos. 179 and 180 since all the cases were filed before the same MCTC presided over by Judge Sollesta, who should have taken judicial notice of such cases. This contention is erroneous. As a general rule, courts are not authorized to take judicial notice in the adjudication of cases pending before them of the contents of other cases even when such cases have

been tried or are pending in the same court and notwithstanding the fact that both cases may have been tried or are actually pending before the same judge.[31] Courts may be required to take judicial notice of the decisions of the appellate courts but not of the decisions of the coordinate trial courts, or even of a decision or the facts involved in another case tried by the same court itself, unless the parties introduce the same in evidence or the court, as a matter of convenience, decides to do so.[32] Besides, judicial notice of matters which ought to be known to judges because of their judicial functions is only discretionary upon the court. It is not mandatory.[33]

Fourth. We find respondent to have violated the rule on forum-shopping. Circular No. 28-91[34] of the Supreme Court, which took effect on January 1, 1992, requires a certificate of non-forum shopping to be attached to petitions filed before this Court and the Court of Appeals. This circular was revised on February 8, 1994 and issued as Administrative Circular No. 04-94, which extended the requirement of a certificate of non-forum shopping to all initiatory pleadings filed in all courts and quasi-judicial agencies other than this Court and the Court of Appeals. The circular, which became effective on April 1, 1994,[35] provides:

(1) The Plaintiff, petitioner, applicant or principal party seeking relief in the complaint, petition, application or other initiatory pleading shall certify under oath in such original pleading, or in a sworn certification annexed thereto and simultaneously filed therewith, to the truth of the following facts and undertakings: (a) he has not theretofore commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (b) to the best of his knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (c) if there is any such action or proceeding which is either pending or may have been terminated, he must state the status thereof; and (d) if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, he undertakes to report that fact within five (5) days therefrom to the court or agency wherein the original pleading and sworn certification contemplated herein have been filed.

The complaint and other initiatory pleadings referred to and subject of this Circular are the original civil complaint, counterclaim, cross-claim, third (fourth, etc.) party complaint, or complaint-in-intervention, petition, or application wherein a party asserts his claim for relief.

(2) Any violation of this Circular shall be a cause for the dismissal of the complaint, petition, application or other initiatory pleading, upon motion and after hearing. However, any clearly willful and deliberate forum shopping by any party and his counsel through the filing of multiple complaints or other Initiatory pleadings to obtain favorable action shall be a ground for summary dismissal thereof and shall constitute direct contempt of court. Furthermore, the submission of a false certification or non-compliance with the undertakings therein, as provided in Paragraph 1 hereof, shall constitute indirect contempt of court, without prejudice to disciplinary proceedings against the counsel and the filing of a criminal action against the guilty party (emphasis added).

Thus, violation of the circular on forum-shopping is a ground for disciplinary action against an erring lawyer.[36]

The rule against forum-shopping and the necessity of a certification of non-forum shopping under Administrative Circular No. 04-94 are basic requirements in remedial law. Failure to comply with them constitutes gross negligence. For being grossly negligent, not only in isolated instances but repeatedly, respondent should be held liable.

Moreover, under Canon 12 of the Code of Professional Responsibility, respondent, as a lawyer, is duty-bound to assist in the speedy and efficient administration of justice. In this connection, Rule 12.02 states that a lawyer shall not file multiple actions arising from the same cause. By doing precisely the foregoing, regardless of whether or not he intentionally and brazenly resorted to such legal subterfuge to mislead the court, respondent should be sanctioned.

However, we find the imposition of disbarment upon him to be unduly harsh. The power to disbar must be exercised with great caution, and may be imposed only in a clear case of misconduct that seriously affects the standing and the character of the lawyer as an officer of the Court and as a member of the bar. Disbarment should never be decreed where any lesser penalty could accomplish the end desired.[37]

In *Millare v. Montero*?[38] we suspended an erring lawyer for one year for filing six appeals, complaints or petitions to frustrate the execution of an MTC judgment, in violation of Rule 12.02 of the Code of Professional Responsibility and the rule on forum-shopping, among others. Accordingly, suspension for one year from the practice of law would be an appropriate penalty to impose on respondent for his failure to comply with the requirements under Administrative Circular No. 04-94 on forum-shopping and the Code of Professional Responsibility.

WHEREFORE, Atty. Nepthali P. Solilapsi is hereby SUSPENDED from the practice of law for a period of one (1) year effective upon the finality of this decision for violation of the prohibition against forum-shopping as provided in Administrative Circular No. 04-94 and of the Code of Professional Responsibility. He is WARNED that a repetition of similar misconduct will be dealt with more severely.

SO ORDERED."

Copy of the decision was received by respondent on January 21, 2003. The motion for reconsideration filed by respondent was denied with finality in a resolution of the Court dated September 29, 2003 which was received by respondent on November 10, 2003.

__13__ May 2004.

PRESBITERO J. VELASCO, JR.

Court Administrator

[1] Production and Marketing Agreement with Multi-Fruit Coop on September 5, 1994; Production and Marketing Agreement with Eduards Coop on July 1, 1993; Records, pp. 21-30.

[2] Grower Agreement with Contract to Buy with Hermie Bastareche (Multi-Fruit Cooperative member) on July 19, 1995; Grower Agreement with Contract to Buy with Josefina Eacongco (Multi-Fruit Coop member) on November 25, 1993; Grower Agreement with Contract to Buy with Anita Lagrana (Multi-Fruit coop member) on July 19, 1995; Grower Agreement with Contract to Buy with Leoncio Verdida, Jr. (Edwards Coop member) on December 3, 1993; Grower Agreement with Contract to Buy with Avelino Obliga (Multi-Fruit coop member) in April of 1995; Grower Agreement with Contract to Buy with Mariano Malinao (Multi-Fruit coop member) on July 25, 1995; Grower Agreement with Contract to Buy with Johnna Paz Israel (Eduards Coop member) on September 20, 1993; Grower Agreement with Contract to Buy with Milagros Guevarra (Eduards Coop member) on September 21, 1993; Grower Agreement with Contract to Buy with Oscar Jordan (Eduards Coop member) on November 15, 1993; and Grower Agreement with Contract to Buy with Arthur Tanco (Eduards Coop member) on October 28, 1993, Records, pp. 30-97.

[3] Civil Case No. 594-3 is entitled "T'Boli Agro-Industrial Development, Inc. (TADI) vs. Multi-Fruit Growers Cooperative of Suraliah, and members of its Board of Directors, namely: Juanito Galumo, Dominador Magan,

Felomino Barber, Teresita Depositario and Josefina Bacongco, Uldarico Indico, Lorenzo Delmo, Pablito Fernandez, and its Manager, Eduardo dela Cruz, and Edwards Small Coconut Farmers Development Cooperative, and members of its Board of Directors, namely: Levy Calvo, Johana Paz Israel, Manuel Fonnon, Samuel Pingoy, and Remedios Tanco and its Manager Roberto Suyoy and their pole-vaulting members, namely; Susan Depositario, Norie Depositario, Custodio Depositario, Norberto Samulde, and Sonia Juele,' John Does' and 'Peter Does'.

[4] The caption of Civil Case No. 179 reads: "Multi-Fruit Growers Cooperative of Suraliah represented by its Manager Eduardo dela Cruz and its Board of Directors, namely: Lorenzo Delmo, Pablito Fernandez, Romulo Lucas, Dominador Magan, Juanito Galumo, Teresita Depositario, Felomino Barber, Uldarico Indico and JoseQna Bacongco, versus T'Boli Agro-Industrial Development, Incorporated"

[5] The phrase was added for the forcible entry cases, i.e., Civil Case Nos, 191,192, 193,194,195.

[6] Records, pp. 162, 166, 170,174, 178, 182,186, 190, 194 and 198.

[7] Id., pp. 163,167,171, 175, 179,183, 187, 191,195 and 199.

[8] Civil Case No. 179 was ordered dismissed by MCTC of Surallah for lack of jurisdiction, on the ground that the aggregate amount of damages asked by the plaintiffs exceeded P100,000.00.

[9] Records, pp. 237-238.

[10] Id., pp. 239-244.

[11] Specifically, Canon 1, Rule 1.01, Canon 10, Rules 10.01,10.03,12.02, 12.04 and 15.07, Canon 19 Rules 19.01 and 19.02.

[12]Records, p, 417.

[13] Id.,pp. 418-419.

[14] Id., p. 420.

[15] Report and Recommendation of the Investigating Commissioner, p. 12.

[16]IBP Resolution No. XV-2002-222.

[17]Executive Secretary v. Gordon, 298 SCRA736(1998).

[18] See *Silahis International Hotel, Inc. v. NLRC*, 225 SCRA 94 (1993).

[19] *Benguet Electric Cooperative, inc. v. Flores*, 287 SCRA 449 (1998) citing *First Philippine International Bank v. Court of Appeals*, 252 SCRA 259 (1996), *Washington Distillers, inc. v. Court of Appeals*, 260 SCRA 821 (1996), and *Chemphil Export and Import v. Court of Appeals*, 251 SCRA 257 (1995); *Borromero v. Intermediate Appellate Court*, 255 SCRA 75 (1996).

[20] *Quinsay v. Court of Appeals*, 339 SCRA 429 (2000); *Heirs of Victoria Motus Penaverde v. Heirs of Mariano Penaverde*, 344 SCRA 69 (2000); *Ayala Land Inc. v. Valisiano*, 324 SCRA 5212 (2000); *Melo v. Court of Appeals*, 318 SCRA 94 (1999) citing *Solid Hornes, inc. v. Court of Appeals*, 271 SCRA 157 (1997),

[21] *Republic v. Development, inc. G. R. No. 142572*, Feb. 20, 2002; *Heirs of Victoria Motus Penaverde v. Heirs of Mariano Penavelde*, 344 SCRA 69 (2000); *Melo v. Court of Appeals*, 318 SCRA 94 (1999) citing *Valencia v. Court of Appeals*, 256 SCRA 478 (1996); *Employees' compensation Commission v. Court of Appeals*, 257 SCRA 717 (1996); *Buan v. Lopez, Jr.*, 145 SCRA 34 (1986).

[22] Employees's Compensation Commission v. Court of Appeals, 257 SCRA 71 (1996) citing First Philippine International Bank v. Court of Appeals, 252 SCRA 259 (1996), and Buan v. Lopez, Jr., 145 SCRA 34 (1986).

[23] Records, p. 157 (emphasis added).

[24]Id., p. 112.

[25] Civil Case Nos. 184 and 191.

[26]

[27] Id., pp. 106-110,155-158,160-199.

[28] Filed on September 24,1996.

[29] Records, pp. 111-112.

[30] Id., p. 200.

[31] See Prieto v. Arroyo, 14 SCRA 549 (1965) and Municipal Council of San Pedro, Laguna v. Colegio de SanJose)65Phil.318(1938),

[32] 2 REGALADO, REMEDIAL LAW COMPENDIUM 665 (2000).

[33] RULES ON EVIDENCE, Rule 129, §§1 and 2.

[34] "Additional Requisites for Petitions filed with the Supreme Court and the Court of Appeals to Prevent Forum Shopping or Multiple Filing of Petitions and Complaints."

[35] Benguet Electric Cooperative, Inc. v. Flores, 287 SCRA449 (1998),

[36] First Philippine International Bank v. Court of Appeals, 252 SCRA 259 (1996).

[37]Paras v. Paras, 343 SCRA 414 (2000).

[38]246 SCRA 1 (1995). See also Garcia v. Francisco, 220 SCRA512 (1993).

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