

**FIL-ESTATE GOLF AND DEVELOPMENT, INC., PETITIONER, VS.
COURT OF APPEALS, HON. STELLA CABUCO-ANDRES, PRESIDING
JUDGE OF BRANCH 31, REGIONAL TRIAL COURT, FOURTH JUDICIAL
REGION, S...**

G.R. No. 120958. December 16, 1996

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Assailed in this petition for review on certiorari under Rule 45 of the Revised Rules of Court with application for a temporary restraining order or writ of preliminary injunction is the decision of the Court of Appeals dated 10 March 1995 dismissing the petition for certiorari and prohibition filed by petitioner. Impugned likewise is the resolution of the Court of Appeals dated 13 July 1995 denying petitioner's motion for reconsideration.

The present controversy arose from the following facts:

Petitioner Fil-Estate Golf & Development, Inc. (FEGDI) is the developer of the Manila Southwoods golf course and residential subdivision project which partly covers lands located in Binan, Laguna. Its partner in the joint venture, La Paz Housing and Development Corporation (La Paz), provided the aforementioned properties which are registered in its name. The project involves the "construction and development of, among others, a highway interchange linking nearby communities to the South Expressway and world class tourism-generating cultural theme and water parks." [1]

On 29 December 1992, a certain Felipe Layos filed a complaint for Injunction and Damages with Application for Preliminary Injunction [2] against Fil-Estate Realty Corporation, (FERC) et al. With the Regional Trial Court of Binan, Laguna and docketed as Civil Case No. B-3973.

It was alleged in the said complaint that Felipe Layos is the legal owner and possessor of two (2) parcels of land having a total area of 837,695 square meters located at Barrio Tubigan, Binan, Laguna, known as Lots 1 & 2 of Plan Psu-201 of the Bureau of Lands having acquired the same from his father, Mauricio Layos, who in turn inherited said properties from his own father, Natalio Layos, allegedly the original owner thereof. Layos claimed that the Southwoods project encroached upon the aforesaid lands and thus contended that his rights of ownership and possession were violated when FERC brought in men and equipment to begin development of the said properties.

On 2 February 1993, FERC filed an Opposition to Application for Writ of Preliminary Injunction [3] and explicitly stated therein that the developer of the Southwoods project is its sister company, FEGDI.

On 5 March 1993, FEGDI filed an Answer [4] to the abovementioned complaint and reiterated that it is the developer of the Southwoods project and not FERC and that the land covered by the project is covered by Transfer Certificates of Title in the name of La Paz, copies of which were attached to said answer as annexes.

On 29 March 1993, Presiding Judge Justo M. Sultan of the Regional Trial Court of Binan, Laguna issued an order denying the prayer for preliminary injunction in Civil Case No. B-3973 in view of the inability of Layos to substantiate his right. Neither he nor his counsel appeared on the scheduled hearings. The order reads as follows:

xxx.

When this case was called for hearing on the petition for issuance of the writ of preliminary injunction, only the defendant Fil-Estate Realty Corp. and its counsel are present. On the other hand, the plaintiff and counsels did not appear in Court.

Records will show that on January 18, 1993, a temporary restraining order was issued by the Court and was served on the defendant on February 1, 1993. On the February 2, 1993 hearing, the plaintiff moved that the hearing be reset on February 22, 1993. This is with the full knowledge that a temporary restraining order would become moot and academic by the next hearing.

On the date of the hearing (February 27, 1993), the plaintiff moved for postponement on the ground that he will submit a report on the relocation survey within Ten (10) days; hence, the hearing was again reset to March 23, 1993. That, on said date (March 23, 1993), no hearing took place inasmuch as the plaintiff just filed a written Motion for Postponement. The Court then set the hearing to March 30, 1993. Again, the hearing was reset to April 29, 1993. LRC Case No. B-452 (sic) being related to Civil Case No. B-3973, its hearing was likewise made to coincide with the hearing on the issuance of the writ of preliminary injunction. On the date set for hearing, the plaintiff who is also the applicant in LRC Case No. B-542 including his two counsels did not appear in Court despite due notice to them.

WHEREFORE, in view of the plaintiff's inability to substantiate his right, the prayer for preliminary injunction is denied due course.

SO ORDERED.[5]

On 25 June 1993, Felipe Layos along with his wife and other individuals filed another case for Injunction and Damages with Prayer for Preliminary Injunction with the Regional Trial Court of San Pedro, Laguna docketed as Civil Case No. B-4133, this time against the correct party, FEGDI.

The complaint in the San Pedro case (Civil Case No. B-4133) is basically identical to that filed in the Binan case (Civil Case No. B-3973), except for changes in the number of party-plaintiffs and party-defendants and in the area size of the claimed landholdings. Further, in the San Pedro case there is reference to a title (OCT No. 239), a specific date of intrusion and an increase in the damages prayed for.[6]

On 1 July 1993, FEGDI moved to dismiss the San Pedro case on grounds of Litis pendentia, forum-shopping, lack of cause of action and lack of jurisdiction.[7] FEGDI argued that a similar complaint was previously filed with the Regional Trial Court of Binan, Laguna and is currently pending therein. It, likewise, accused the private respondents of forum-shopping, stating that the latter instituted the San Pedro case after their application for preliminary injunction was denied by the Binan court. Anent the third and fourth grounds, FEGDI averred that the documents relied upon by the private respondents are of doubtful veracity and that they failed to pay the correct filing fees considering that the San Pedro case is a real action as allegedly revealed in the body of the complaint. The Layoses filed their opposition on 5 July 1993 arguing in the main that there is no litis pendentia because there is no identity of parties. Felipe Layos claimed that he never authorized the filing of the Binan case and that the defendant therein is the Fil-Estate Realty Corporation not the Fil-Estate Golf & Development, Inc. Consequently, the two cases being dissimilar, there can be no forum-shopping.[8] Private respondents contended, likewise, that they have satisfied all the requirements of a valid cause of action and insisted that the suit is not for recovery of possession but is a personal action for injunction and damages. On 12 July 1993, Judge Stella Cabuco-Andres of the San Pedro Regional Trial Court issued an order denying FEGDI's motion to dismiss.[9] The Motion for

Reconsideration filed by FEGDI on 13 July 1993 was similarly denied by the aforesaid court in an order dated 14 July 1993.[10]

On 15 July 1993, FEGDI filed a Petition for Certiorari and Prohibition with Application for Preliminary Injunction with the Court of Appeals (docketed as CA-G.R. Sp No. 31507)[11] assailing the denial of its motion to dismiss the San Pedro case. The arguments and issues raised by petitioner to support its motion to dismiss were the same issues raised in the aforestated petition.

On 20 July 1993, the Court of Appeals issued a temporary restraining order enjoining Judge Andres from proceeding with the San Pedro case.[12]

Meanwhile, the Regional Trial Court of Binan, Laguna, in an order dated 25 January 1994, dismissed the Binan case without prejudice on grounds of forum-shopping.[13] FEGDI moved for a partial reconsideration of the said order praying that the dismissal be with prejudice. Hence, on 25 April 1994, the aforestated court dismissed the Binan case with prejudice to forestall the plaintiffs therein from forum-shopping. The said order states, thus:

xxx.

This Court in its Order dated January 25, 1994 dismissed the case on the ground of forum shopping. The defendant corporation later on filed a Motion for Partial Reconsideration insisting that the dismissal should be permanent as a penalty for forum shopping. For indeed, the reiteration of the same would result in contempt, summary dismissal of all the actions or proceedings as well as administrative sanctions. (MP[sic] Finance Corp. vs. Abesamis, 195 SCRA 592; (Benguel [sic] Electric Corp., Inc. vs. AEA, Jan 23, 1991; see also Aqualyn Corp. vs. CA, 214 SCRA 307 (1992); Ruiz vs. Drilon, 209 SCRA 695 (1992).

This Court is in full agreement with the defendant corporation, otherwise, if the dismissal is without prejudice, what would prevent the plaintiff from raising the same thing in another tribunal as it has raised in Branch 31 of this Court? It would result in absurdity. The rule prohibiting as well as penalizing forum-shopping has not been intended to allow absurdity to happen. It was intended to prevent repetitious filing of suits by one party in case he cannot succeed in a claim lodged before a court of justice. There must be an end to litigation and this is one thing the penalty for forum shopping has intended to be.

Wherefore, in view of the foregoing premises, the Motion for Reconsideration is granted. This case is hereby dismissed with prejudice.

SO ORDERED.[14]

On 10 March 1995, the Court of Appeals dismissed FEGDI's petition for lack of merit. It ruled that:

1. There is no *litis pendencia* because there is no identity of parties, specifically the main party-defendants, FERC (the defendant in the Binan case) and FEGDI (the defendant in the San Pedro case) which have separate and distinct personalities;
2. Private respondents are not guilty of forum-shopping for the same reason as above-stated;
3. The essential elements of a valid cause of action are present in private respondents' complaint and the main allegations therein are sufficient for the court to render a valid judgment; and
4. Private respondents paid the correct filing fees. Not being a real action, there was no need for private respondents to state in their complaint the assessed value of the properties in question as basis for the assessment and collection of the docket and filing fees.[15]

FEGDI's motion for reconsideration was subsequently denied in the Court of Appeals' resolution dated 13 July 1995.[16] Hence, this petition for review.

Petitioner makes the following assignment of errors:

I

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN FAILING TO RECOGNIZE THAT CIVIL CASE NO. B-3973 (THE "BINAN CASE") WAS AUTHORIZED BY PRIVATE RESPONDENT FELIPE LAYOS.

II

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN FAILING TO UPHOLD LITIS PENDENTIA AS A GROUND FOR DISMISSING CIVIL CASE NO. B-4133 (THE "SAN PEDRO CASE"), PARTICULARLY BY HOLDING THAT THE REQUISITE IDENTITY OF PARTIES IS NOT PRESENT.

III

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN FAILING TO RECOGNIZE A FORUM SHOPPING SITUATION VIS-À-VIS THE FILING OF THE BINAN AND THE SAN PEDRO CASES, AND TO INVOKE THE SAME AS A GROUND FOR DISMISSING THE LATTER CASE.

IV

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN FAILING TO UPHOLD LACK OF CAUSE OF ACTION AS A GROUND FOR DISMISSING THE SAN PEDRO CASE.

V

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN FAILING TO RECOGNIZE THAT THE SAN PEDRO CASE IS A REAL ACTION, HENCE FAILING TO UPHOLD THE DISMISSAL OF SAID CASE ON THE GROUND THAT THE TRIAL COURT DID NOT ACQUIRE JURISDICTION OVER THE ACTION FOR FAILURE OF PRIVATE RESPONDENTS TO PAY THE PROPER FILING FEES.[17]

The petition is granted.

Petitioner's motion to dismiss is predicated on four grounds: litis pendentia, forum-shopping, lack of cause of action and lack of jurisdiction for failure to pay the proper filing fees. However, in resolving the same, we shall focus our discussion on the second and third grounds only.

Private respondents have indeed resorted to forum-shopping in order to obtain a favorable decision. The familiar pattern (of one party's practice of deliberately seeking out a "sympathetic" court) is undisputedly revealed by the fact that after Felipe Layos instituted in 1992 a case for injunction and damages with application for preliminary injunction in the Regional Trial Court of Binan, Laguna and after his prayer for a preliminary injunction was denied in March 1993, he and his wife, together with four (4) alleged buyers of portions of the land claimed by him, filed an identical complaint for injunction and damages with preliminary injunction a few months later, or in June 1993, this time with the Regional Trial Court of San Pedro, Laguna.

Having been denied their temporary restraining order in one court, private respondents immediately instituted the same action in another tribunal -- a deliberate tactic to seek out a different court which may grant their application for preliminary injunction, or at least give them another chance to obtain one.

Private respondents parry petitioner's allegation of forum-shopping by adamantly contending that Felipe Layos did not, in any matter, authorize the filing of the Binan case. Moreover, they insist that Felipe Layos' signature in the Binan complaint is a forgery and that he neither appeared nor participated in the proceedings before the Binan court.

We find no merit in private respondents' assertions. The almost word-for-word similarity of the complaints in

both the Binan and San Pedro cases totally refutes such a theory, as can readily be observed from a comparative view of the two aforementioned complaints:

Binan Case

Plaintiff is a Filipino, of legal age, with residence at Our Lady of Monserrat St., Lot 21, Block 18, Rosario Village, San Pedro, Laguna; whereas defendant FIL-ESTATE REALTY CORPORATION, is a corporation duly organized and existing under Philippine laws, defendant ARNEL NULOT is a Filipino, of legal age, and is the Project Engineer and Personnel Manager of defendant corporation, BOY ESCANO is Filipino, of legal age, and is consultant of said corporation, and JOHN DOES are Filipinos, of legal age, whose identities may be made later on, and who are acting for or under instruction of said corporation, all with address at Fil-Estate Realty Corporation Office, SEC Building, Mandaluyong, Metro Manila, where they may be served with summons and other court processes. (Par. 1).

Plaintiff is the owner and lawful possessor of two (2) parcels of land situated at Barrio Tubigan, Binan, Laguna, Known as Lots 1 and 2 of the Plan Psu-201 of the Bureau of Lands, copy of which Plan is attached as Annex "A" hereof. (par. 2).

Said lots have a total area of 837,695 square meters as shown in said plan. The original owner and lawful possessor of said land is NATALIO LAYOS, grandfather of herein plaintiff (par. 3).

When his said grandfather died, said properties were acquired by inheritance by his sole heir MAURICIO LAYOS, who is the father of herein plaintiff. (par. 4).

On April 15, 1992, said MAURICIO LAYOS executed an "Affidavit of Self-Adjudication with Sale," copy of which is attached as Annex "B" hereof, whereby said Mauricio Layos after having adjudicated the subject properties to himself as sole heir of the deceased Natalio Layos, sold the same properties to herein plaintiff Felipe Layos. (par. 5).

Plaintiff herein is now the owner and lawful possessor of the subject properties, his possession thereof, tucking (sic) the possession of his said father and grandfather, in the concept of an owner, is for more than thirty (30) years, way back in 1909 when the said plan was approved by the Bureau of Lands. (par. 6).

The subject parcels of land is (sic) declared for taxation purposes as evidenced by Tax Declarations Nos. 55007 and 55008, copy of each attached as Annexes "C" and "D" hereof, respectively (par. 7).

Recently, said defendants, in conspiracy and in confederation with one another, have brought men, materials, and equipments (sic) near the subject properties and are threatening, procuring, suffering, or about to, enter, occupy, use and/or develop the subject properties in gross violation of the plaintiff's rights of ownership and possession over said properties (par. 8).

Such acts of defendants are in violation of plaintiff's rights as lawful owner and possessor of subject properties, and the same would work great and irreparable damage and injustice to plaintiff. (par. 9).

Plaintiff is entitled to the relief demanded and the whole or part of such relief consist in restraining defendants from entering, occupying, and developing the abovesaid properties of plaintiff, or any portion thereof, and from violating the latter's rights of ownership and possession thereon. (par. 10)

The commission or continuance of the acts complained of during the litigation would definitely work great and irreparable injustice and damage to plaintiff, and may render the judgment that his Honorable Court may render (sic) ineffective. (par. 11).

Unless immediately restrained, defendants and persons working under them will persist and continue entering, occupying, use (sic) and/or developing the subject properties of plaintiff in violation of the latter's right and to his great damage and irreparable injuries. (sic; par. 12).

Plaintiff has no other plain, speedy, or other sufficient remedy in the ordinary course of law, and he is willing to file an injunction bond in such amount that the Honorable Court may reasonably fix. (par. 13).

Due to the abovesaid unlawful acts of defendants, plaintiff has suffered fear, anxiety, worry, embarrassment, nervous tension, and other similar injuries for which he is entitled to an award of moral damages in the amount of not less than P100,000.00. (par. 14).

For the same reason, and to serve as an example for the public good, plaintiff is entitled to an award of moral (sic) damages which can be reasonably estimated at not less than P100,000.00 (par. 15).

For the same reason, and to protect the rights and interest (sic), plaintiff is constrained to engage the services of counsel for which it has committed to pay the sum of P100,000.00 plus P1,000.00 per court appearance of counsel. (par. 16)

At the outset, a restraining order be issued directing defendants, their officers, workers, attorneys, agents, representatives, subordinates, personnel and other persons assisting them or acting under them, to desist and refrain from entering, occupying, using or developing the properties subject of this case, particularly Lots 1 and 2 of Plan Psu-201, copy attached as Annex "A" hereof. (Prayer 1).

Thereafter, a preliminary injunction be issued after plaintiff's filing of an injunction bond in such amount as this Honorable Court may reasonably fix. (Prayer 2).

After due trial and hearing, a decision be rendered making said preliminary injunction permanent, and directing defendants to jointly and severally pay plaintiff the sums of: P50,000.00 - as and for moral damages; P50,000.00 - as and for exemplary damages; P100,000.00 plus P1,000.00 court appearance of counsel as and for attorney's fees. (Prayer 3).

San Pedro Case

Plaintiffs Sps. Felipe and Victoria Layos are Filipinos, of legal age, with residence at our Lady of Monserrat Street, Lot 21, Block 18, Rosario Village, San Pedro, Laguna; plaintiffs Eduardo R. Loyola, Nenita Zarris and Benilda Ambojia are Filipinos, of legal age and all residing at Silang, Cavite, while plaintiff Manuel R. Tuason, Filipino, of legal age and a resident of Lagro Subdivision, Valenzuela, Metro Manila; whereas defendant FIL-ESTATE GOLF AND DEVELOPMENT INC., is a corporation duly organized and existing under Philippine laws, and JOHN and PETER DOES are Filipinos, of legal age, whose identities may be established later on, and who are acting jointly with and/or for or under instruction of said corporation, all with address at Fil-Estate Golf and Development, Inc. office, SEC Building, Mandaluyong, Metro Manila, where they may be served with summons and other court processes. (par. 1).

Plaintiffs are the co-owners and lawful possessors of two (2) parcels of land situated at Barrio Tubigan, Binan, Laguna, known as Lots 1 and 2 of Plan Psu-201 of the Bureau of Lands, copy of which Plan is attached as Annex "A" hereof. (par. 1, first sentence).

Said lots have a total area of 1,068,725 square meters as shown in said plan. The original owner and lawful possessor of said land is NATALIO LAYOS, grandfather of plaintiff Felipe Layos (par. 2, last sentence; paragraph 3, first sentence).

When plaintiff Felipe Layos' grandfather died, said properties were acquired by inheritance by his only son and sole heir MAURICIO LAYOS, who is the father of herein plaintiff Felipe Layos. (par. 4).

On April 15, 1992, said MAURICIO LAYOS executed an "Affidavit of Self-Adjudication with Sale," a copy of which is attached as Annex "C" hereof. Under said Affidavit of Self-Adjudication with Sale, Mauricio Layos" sold the same properties to herein plaintiff Felipe Layos. (par. 5, first 2 sentences).

".who is one of the owners and lawful possessors of the subject properties. His open, continuous and peaceful possession thereof, tacking the possession of his said father and grandfather, in the concept of an owner, is

more than thirty (30) years now, commencing even before December 14, 1909 when the said plan was approved by the Bureau of Lands. (par. 5, second part of second sentence and third sentence).

The subject parcels of lands are declared for taxation purposes and real estate taxes therefor had been paid by plaintiff Felipe Layos. (par. 7).

On or about June 16, 1993, the defendants, in conspiracy and in confederation with one another, have brought men, materials, and equipments (sic) at or near the subject properties and are threatening, procuring, suffering, or about to, enter, occupy, use and/or develop as they have in fact entered, occupied, use (sic) and started to develop the subject properties without the consent of plaintiffs thereby violation (sic) their rights of ownership as well as the erstwhile peaceful and undisturbed possession over said properties for which plaintiff suffered actual damages of at least P50,000.00. (par. 8).

The unlawful and highly irregular acts of defendants are in violation of plaintiffs' rights as lawful owners and possessors of subject properties, and said acts complained of herein would work great and irreparable damage and injury to plaintiffs. (par. 13).

Plaintiffs are entitled to the reliefs demanded and the whole or part of such reliefs consist in restraining defendants from entering, occupying, using and developing the abovesaid properties of plaintiffs, or any portion thereof, or to desist from continuing with said unlawful acts and from violating their rights of ownership and possession of the subject properties. (par. 10).

The commission or continuance of the acts complained of during the litigation of the instant case would definitely work great and irreparable injury and damage to plaintiffs, and may make the judgment that this Honorable Court may render (sic) herein ineffectual. (par. 15).

Unless immediately restrained, defendants as well as any and all persons acting and working for and in its (sic) behalf, will persist and continue entering, occupying, using and/or developing the subject properties of plaintiffs in violation of the latter's right and to their great damage and irreparable injuries. (sic; par. 16).

Plaintiffs have no other plain, speedy or other sufficient remedy in the ordinary course of law, and they are willing and able to file an injunction bond in such amount that this Honorable Court may fix. The affidavit of plaintiff Felipe Layos in support of their prayer for preliminary injunction is hereto attached as Annex "D" and made part hereof. (par. 17).

By reason of defendant's unlawful acts complained of herein, plaintiffs have suffered fear, anxiety, worry, embarrassment, moral anguish, nervous tension, sleepless nights and other similar injuries for which they are entitled to an award of moral damages in the amount of at least P200,000.00. (par. 10).

In order to serve as an example for the public good, plaintiffs are also entitled to an award of exemplary damages which can be reasonably estimated at not less than P100,000.00. (par. 11).

For the same reason, and to protect their rights and interest (sic), plaintiffs were constrained to engage the services of counsel for which they agreed to pay the sum of P100,000.00 as and for attorney's fees and other litigation expenses, plus P1,000.00 per court appearance of counsel. (par. 12).

At the outset, a temporary restraining order be issued directing defendants, their officers, workers, attorneys, agents, representatives, subordinates, personnel and other persons assisting them or acting under them, to desist and refrain from entering, occupying, using or developing the properties subject of this case, particularly Lots 1 and 2 of Plan Psu-201, Annex 'A' hereof, and covered by Original Certificate of Title No. 239 of the Register of Deeds of the Province of Laguna, copy of which is attached as Annex 'B' hereof. (Prayer1).

After due hearing, a preliminary injunction be issued upon plaintiff's filing of an injunction bond in such amount as this Honorable Court may fix. (Prayer 2).

After trial and hearing, judgment be rendered in favor of plaintiffs making said preliminary injunction permanent, and directing defendants to jointly and severally pay plaintiffs the sums of at least: P50,000.00 - for actual damages; P200,000.00 - as and for moral damages'; P100,000.00 - as and for attorney's fees and other litigation expenses. (Prayer 3)[18]

Even the affidavits attached to the two complaints are virtually identical:

Binan Case

I, FELIPE LAYOS, a Filipino, of legal age, and with residence at our Lady of Monserrat St., Lot 21, Block 18, Rosario Village, San Pedro, Laguna, after having been duly sworn, depose and say, that: (prefatory statement; affidavit).

I am the owner and lawful possessor of two (2) parcels of land situated at Barrio Tubigan, Binan, Laguna, known as Lots 1 and 2 of Plan Psu-201 of the Bureau of Lands, copy of which Plan is attached as Annex "A" hereof. (par. 1, Affidavit).

Said Lots have a total area of 837,695 square meters as shown in said plan. The original owner and lawful possessor of said land is NATALIO RAMOS (sic), my grandfather. (par. 3, Affidavit; N.B. there is no par. 2).

When my said grandfather died, said properties were acquired by inheritance by his sole heir MAURICIO LAYOS who is my father. (par. 4, Affidavit).

On April 15, 1992, my said father, MAURICIO LAYOS, executed an "Affidavit of Self-Adjudication with Sale", copy of which is attached as Annex "B" hereof, whereby said Mauricio Layos, after having adjudicated the subject properties to himself as sole heir of the deceased Natalio Layos, sold the same properties to me. (par. 5, Affidavit).

By virtue thereof, I am now the owner and lawful possessor of the said properties. My possession thereof, tucking (sic) the possession of my said father and grandfather, in the concept of an owner, is for more than thirty (30) years, way back in 1909 when the said plan was approved by the Bureau of Lands. (par. 6, affidavit).

The subject parcels of land is [sic] declared for taxation purposes as evidenced by Tax Declaration Nos. 55007 and 55008, copy of each is attached as Annexes "C" and "D" hereof, respectively. (par. 7, Affidavit).

Recently, defendants in this case, in conspiracy and in confederation with one another, brought men, materials and equipments [sic] near the subject properties and are threatening, procuring, about to, or are suffering to, enter, occupy, use and/or develop the said properties in gross violation of my rights of ownership and possession over said properties. (par. 7, Affidavit).

Such acts of defendants are in violation of my rights as lawful owner and possessor of subject properties, and the same would work great and irreparable damage and injustice to me. (par. 9, Affidavit).

I am entitled to the relief demanded and the whole or part of such relief consist in restraining said defendants from entering, occupying, and developing, the above-said properties of plaintiff, or any portion thereof, and from violating the latter's rights of ownership and possession thereon. (par. 10, Affidavit).

The commission or continuance of the acts complained of during the litigation would definitely work great and irreparable injustice and damage to me, and may render the judgment that this Honorable Court may render [sic] ineffectual. (par. 11, Affidavit).

Unless immediately restrained, defendants, their subordinates, workers, and persons working under them will persist and continue entering, occupying, using and/or developing the subject properties of plaintiff in violation of the my [sic] right and to my great damage and irreparable injuries [sic]. (par. 12, Affidavit).

I have no other plain, speedy, or other sufficient remedy in the ordinary course of law, and I am willing to file an injunction bond in such amount that the Honorable Court may reasonably fix. (par. 13, Affidavit).

San Pedro Case

I, FELIPE LAYOS, a Filipino, of legal age, and with residence at our Lady of Monserrat St., Lot 21, Block 18, Rosario Village, San Pedro, Laguna, after first being duly sworn, depose and say that: (prefatory statement; Affidavit).

I am the owner and lawful possessor of two (2) parcels of land situated at Barrio Tubigan, Binan, Laguna, known as Lots 1 and 2 of Plan Psu-201 of the Bureau of Lands and covered by OCT No. 239 copies of which are marked as Annexes "A" and "B" of the Complaint, respectively. (par. 1, Affidavit).

Said Lots have a total area of 1,068,725 square meters as shown in said plan and OCT. The original owner and lawful possessor of said land is NATALIO LAYOS, my grandfather. (par. 2, Affidavit).

When my said grandfather died, said properties were acquired by inheritance by his sole heir MAURICIO LAYOS who is my father. (par. 3, Affidavit).

On April 15, 1992, my said father, MAURICIO LAYOS, executed an "Affidavit of Self-Adjudication with Sale", copy of which is attached as Annex "C" of the Complaint, whereby said Mauricio Layos, after having adjudicated the subject properties to himself as sole heir of the deceased Natalio Layos, sold the same properties to me. (par. 4, Affidavit).

By virtue thereof, I am now the owner and lawful possessor of the said properties. My possession thereof, tucking [sic] the possession of my said father and grandfather, in the concept of an owner, is for more than thirty (30) years, even before December 14, 1909 when the said plan was approved by the Bureau of Lands. (par. 5, Affidavit).

The subject parcels of land are declared for taxation purposes. (par. 6, Affidavit).

On or about June 16, 1993, the defendants, in conspiracy and in confederation with one another, have brought men, materials and equipment at or near the subject properties and are threatening, procuring, suffering, or about to, enter, occupy, use and/or develop as they have in fact entered, occupied, use [sic] and started to develop the subject properties without the consent of plaintiffs thereby violation (sic) their rights of ownership as well as the erstwhile peaceful and undisturbed possessions over said properties for which plaintiffs suffered actual damages of at least P50,000.00. (par. 7, Affidavit).

The unlawful and highly irregular acts of defendants are in violation of plaintiffs' rights as lawful owners and possessors of subject properties, and said acts complained of herein would work great and irreparable damage and injury to plaintiffs.

Plaintiffs are entitled to the reliefs demanded and the whole or part of such reliefs consist in restraining defendant from entering, occupying, using and developing the abovesaid properties of plaintiffs, or any portion thereof, or to desist from continuing with said unlawful acts and from violating their rights of ownership and possession of the subject properties. (par. 10, Affidavit).

The commission or continuance of the acts complained of during the litigation of the instant case would definitely work great and irreparable injury and damage to plaintiffs, and may make the judgment that this Honorable Court may render herein ineffectual. (par. 11, Affidavit).

Unless immediately restrained, defendants, as well as any and all persons acting and working for and in its [sic] behalf will persist and continue entering, occupying, using and developing the abovesaid properties of plaintiffs in violation of the latter's right to their great damage and irreparable injuries [sic]. (par. 12, Affidavit).

Plaintiffs have no other plain, speedy, or other sufficient remedy in the ordinary course of law, and they are willing and able to file an injunction bond in such amount that this Honorable Court may reasonably fix. (par. 13, Affidavit).[19]

Examining the two complains one can easily discern that the San Pedro complaint is simply an "improved" version of the Binan complaint and the similarity does not end there. The residence certificates (of Felipe Layos) used in the verification of both complaints are practically identical--same number, date of issue and place of issue.[20]

If indeed there is a "ghost Mr. Layos," as claimed by the private respondents, the genuine Felipe Layos and the rest of the private respondents should have, on their own volition, denounced the allegedly bogus case filed with the Binan court or at the very least, informed the San Pedro court about it. It cannot be denied that private respondents were aware of the Binan case considering that Annex C (Affidavit of Self-Adjudication with Sale) of the San Pedro complaint was a mere photocopy of Annex B of the Binan complaint.

Private respondents likewise aver that there is no identity of party-defendants in view of the fact that the defendant in the Binan case is the Fil-Estate Realty Corporation (FERC) and in the San Pedro case the Fil-Estate Golf and Development, Inc. (FEGDI), two completely separate and distinct entities.

Private respondents' contention is unmeritorious.

In the Binan case, FEGDI voluntarily submitted to the court's jurisdiction by filing its answer and expressly stating therein that it is the developer of Southwoods, and not its sister company, FERC. Moreover, the Binan court in its orders dated 25 January 1994[21] and 20 October 1994[22] expressly recognized FEGDI as the defendant in the said case. There can be no question then that in both cases FEGDI is the true party-defendant.[23]

As clearly demonstrated above, the willful attempt by private respondents to obtain a preliminary injunction in another court after it failed to acquire the same from the original court constitutes grave abuse of the judicial process. Such disrespect is penalized by the summary dismissal of both actions as mandated by paragraph 17 of the Interim Rules and Guidelines issued by this Court on 11 January 1983 and Supreme Court Circular No. 28-91.[24] In *Bugnay Construction & Development Corporation v. Laron*,[25] we declared:

Forum-shopping, an act of malpractice, is proscribed and condemned as trifling with the courts and abusing their processes. It is improper conduct that degrades the administration of justice. The rule has been formalized in Paragraph 17 of the Interim Rules and Guidelines issued by this Court on January 11, 1983, in connection with the implementation of the Judiciary Reorganization Act. Thus, said Paragraph 17 provides that no petition may be filed in the then Intermediate Appellate Court, now the Court of Appeals "if another similar petition has been filed or is still pending in the Supreme Court" and vice-versa. The Rule ordains that "(a) violation of the rule shall constitute a contempt of court and shall be a cause for the summary dismissal of both petitions, without prejudice to the taking of appropriate action against the counsel or party concerned."

This rule has been equally applied in the recent case of *Limpin, Jr., et al. vs. Intermediate Appellate Court, et al.*, where the party having filed an action in one branch of the regional trial court shops for the same remedies of a restraining order and a writ of preliminary injunction in another branch of the same court. We ruled therein that:

"So, too, what has thus far been said more than amply demonstrates Sarmiento's and Basa's act of forum-shopping. Having failed to obtain the reliefs to which they were not entitled in the first place from the "Solano Court," the Court of Appeals, and the Supreme Court, they subsequently instituted two (2) actions in the 'Beltran Court' for the same purpose, violating in the process the ruling against splitting causes of action. The sanction is inescapable: dismissal of both actions, for gross abuse of Judicial processes."

The rule against forum-shopping is further strengthened by the issuance of Supreme Court Administrative Circular No. 04-94. Said circular formally established the rule that the deliberate filing of multiple complaints to obtain favorable action constitutes forum-shopping and shall be a ground for summary dismissal thereof:

ADMINISTRATIVE CIRCULAR NO. 04-94

TO: COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, THE SOLICITOR GENERAL, THE GOVERNMENT CORPORATE COUNSEL, ALL MEMBERS OF THE GOVERNMENT PROSECUTION SERVICE, AND ALL MEMBERS OF THE INTEGRATED BAR OF THE PHILIPPINES.

SUBJECT: ADDITIONAL REQUISITES FOR CIVIL COMPLAINTS, PETITIONS AND OTHER INITIATORY PLEADINGS FILED IN ALL COURTS AND AGENCIES, OTHER THAN THE SUPREME COURT AND THE COURT OF APPEALS, TO PREVENT FORUM SHOPPING OR MULTIPLE FILING OF SUCH PLEADINGS.

Revised Circular No. 28-91, dated February 8, 1994, applies to and governs the filing of petitions in the Supreme Court and the Court of Appeals and is intended to prevent the multiple filing of petitions or complaints involving the same issues in other tribunals or agencies as a form of forum shopping.

Complementary thereto and for the same purpose, the following requirements, in addition to those in pertinent provisions of the Rules of Court and existing circulars, shall be strictly complied with in the filing of the complaints, petitions, applications or other initiatory pleadings in all courts and agencies other than the Supreme Court and the Court of Appeals and shall be subject to the sanctions provided hereunder.

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 proceedings 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. (Underscoring ours.)

This Circular shall take effect on April 1, 1994.

February 8, 1994.

(Sgd.) ANDRES R. NARVASA
Chief Justice

We, likewise, find that the complaint in the San Pedro case did not state a cause of action; consequently, the Court of Appeals erred in upholding the trial court's refusal to dismiss the complaint on this ground.

In determining whether or not a complaint states a cause of action, only the allegations in the complaint must be considered. Thus, in the recent case of *Navoa v. Court of Appeals*,^[26] we held as follows:

A cause of action is the fact or combination of facts which affords a party a right to judicial interference in his behalf. The requisites for a cause of action are: (a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created, (b) an obligation on the part of the defendant to respect and not to violate such right; and (c) an act or omission on the part of the defendant constituting a violation of the plaintiff's right or breach of the obligation of the defendant to the plaintiff. Briefly stated, it is the reason why the litigation has come about; it is the act or omission of defendant resulting in the violation of someone's right.

In determining the existence of a cause of action, only the statements in the complaint may properly be considered. Lack of cause of action must appear on the face of the complaint and its existence may be determined only by the allegations of the complaint, consideration of other facts being proscribed and any attempt to prove extraneous circumstances not being allowed.

If a defendant moves to dismiss the complaint on the ground of lack of cause of action, such as what petitioners did in the case at bar, he is regarded as having hypothetically admitted all the averments thereof. The test of sufficiency of the facts found in a complaint as constituting a cause of action is whether or not admitting the facts alleged the court can render a valid judgment upon the same in accordance with the prayer thereof. The hypothetical admission extends to the relevant and material facts well pleaded in the complaint and inferences fairly deducible therefrom. Hence, if the allegations in the complaint furnish sufficient basis by which the complaint can be maintained, the same should not be dismissed regardless of the defense that may be assessed by the defendants.

However, the Court of Appeals, as well as the trial court, limited itself to the allegations in the complaint proper of the San Pedro case in concluding that said complaint stated a cause of action. This is erroneous. In the determination of whether or not the complaint states a cause of action, the annexes attached to the complaint may be considered, they being parts of the complaint:

The fact that there is "no cause of action" must be evident on the face of the complaint itself (namely, the allegations, including attached annexes and statements, mentioned in the complaint (*Acuna v. Batac Producers Cooperative*, L-20333, June 30, 1967; *Deleplanque v. Teruel*, et al., 95 Phil. 959). In other words, the test is "assuming the allegations and statements to be true, does the plaintiff have a valid cause of action? If the answer is NO, dismissal on this ground will be proper (See *World Wide Insurance and Surety Co. v. Manuel*, 18 Phil. 46).^[27]

Particularly, in *Deleplanque v. Teruel*,^[28] we ruled that:

xxx. It is contended for the appellant that the lower court erred in taking into account civil case No. Q-232 of the Court of First Instance of Quezon City, already above referred to, because it is a foreign matter and the rule is that a motion to dismiss on the ground of lack of cause of action must be based only on the allegations appearing in the complaint. The rule invoked by counsel for the appellant is correct, but it has no application to the case at bar. It appears that, aside from the fact that in paragraph VII of the complaint the sale of the land belonging to the defendant J.B. Teruel was expressly mentioned as having been made at a 'public auction', the said complaint contains, as Annex 'B', a copy of the sheriff's certificate of sale in civil case No. Q-232, whereby the land in question was conveyed to the herein defendant Manuela C. Perez cor (sic) P22, 656.00, pursuant to a writ of execution dated February 12, 1952, issued by the Court of First Instance of Rizal, Quezon

City, Branch III. xxx.

In the case at bar, Annex C of the complaint, which is the "Affidavit of Self-Adjudication" glaringly negates the existence of a cause of action as will be discussed hereinafter.

Moreover, the rule that the court's scrutiny is limited to the four corners of the complaint is subject to exceptions as laid down in *Marcopper Mining Corporation v. Garcia*:^[29]

xxx.

Moreover, the rule on a motion to dismiss cited by the petitioner, while correct as a general rule is not without exceptions.

In the present case, before the trial court issued the questioned order dismissing petitioner's complaint, it had the opportunity to examine the merits of the complaint, the answer with counterclaim, the petitioner's answer to the counterclaim and its answer to the request for admission. It was but logical for said court to consider all of these pleadings in determining whether or not there was a sufficient cause of action in the petitioner's complaint. The order of dismissal was in the nature of a summary judgment.

Again, the case of *Tan v. Director of Forestry*, (supra), we ruled:

"In *Llanto v. Ali Dimaporo, et al.* (16 SCRA 601, March 31, 1966), this Court, thru Justice Conrado V. Sanchez, held that the trial court can properly dismiss a complaint on a motion to dismiss due to lack of cause of action even without a hearing, by taking into consideration the discussion in said motion and the opposition thereto. xxx.

xxx xxx xxx.

"Furthermore, 'even if the complaint stated a valid cause of action, a motion to dismiss for insufficiency of cause of action will be granted if documentary evidence admitted by stipulation disclosing facts sufficient to defeat the claim enabled the court to go beyond disclosure in the complaint' (*LOCALS No. 1470, No. 1469, and No. 1512 of the International Longshoreman's Association v. Southern Pacific Co.*, 6 Fed. Rules Service, p. 107, U.S. Circuit Court of Appeals, Fifth Circuit, Dec. 7, 1952; 131 F. 2d. 605). xxx.

"Moreover, petitioner-appellant cannot invoke the rule that, when the ground for asking dismissal is that the complaint states no cause of action, its sufficiency must be determined only from the allegations in the complaint. 'The rules of procedure are not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure substantial justice. If a technical and rigid enforcement of the rules is made, their aim would be defeated. Where the rules are merely secondary in importance are made to override the ends of justice; the technical rules had been misapplied to the prejudice of the substantial right of a party, said rigid application cannot be countenanced.' (Vol. 1, Francisco, *Civil Procedure*, 2 ed., 1973, p. 157, citing cases.)"

The trial court, therefore, did not err in considering, in addition to the complaint, other pleadings submitted by the parties in deciding whether or not the complaint should be dismissed for lack of a cause of action.

Commenting on the exception as expounded in the above-cited case, Justice Florenz D. Regalado, an eminent authority on Remedial Law has this to say:

xxx. The exception is provided in Sec. 2, Rule 9, i.e., where the motion to dismiss on this ground in (sic) filed during the trial in which case the evidence presented is considered. Also, it has been held that under this ground the trial court can consider all the pleadings filed, including annexes, motions and the evidence on record (*Marcopper Mining Corp. vs. Garcia*, G.R. No. 55935, July 30, 1986).^[30]

In the San Pedro complaint, private respondents anchored their claim of ownership on an OCT No. 239 and on a survey plan PSU-201 in the name of Natalio Layos, copies of which were attached to the complaint. His son and sole heir Mauricio Layos inherited the properties covered by the said plan. In turn, Felipe Layos became the

owner thereof through an Affidavit of Self-Adjudication with Sale executed by Mauricio Layos, his father. This is where the inconsistency materializes. In the said Affidavit of Self-Adjudication with Sale which was also attached to the San Pedro complaint as Annex "C," Mauricio Layos categorically stated that the subject properties (Lots No. 1 and 2 of Plan Psu-201) were not registered under the Spanish Mortgage Law or under the Property Registration Decree.[31] If the properties in question were not registered, where did the OCT No. 239 come from? Mauricio Layos' express admission not only contradicts but indubitably strikes down the purported OCT No. 239 and exposes private respondents' claim as a sham. This inconsistency is patent in the documents attached to the complaint which form part and parcel of the complaint. The Affidavit of Self-Adjudication with Sale attached to the complaint is the crucial and indispensable basis for private respondents' claim of ownership and interest in the subject properties, without which they have no right of action or personality in the case. Necessarily, the Affidavit of Self-Adjudication is a vital part of the complaint that should be considered in the determination of whether or not a cause of action exist.

Private respondents' inconsistency is further manifested by the 1992 application for original registration filed by Mauricio Layos with the Regional Trial Court of Binan, Laguna (docketed as Civil Case No. B-542) for the lots under Plan Psu-201.[32] Why would Mauricio Layos file an application for the registration of the land claimed by him if it is already covered by OCT No. 239? The conclusion is inescapable that the document is fake or a forgery.

Finally, private respondents' cause of action against petitioner is defeated by the findings of Mr. Privadi Dalire, Chief of the Geodetic Surveys Division of the Bureau of Lands, contained in his letters to the Regional Technical Director of the Department of Environment and Natural Resources (DENR), Region IV dated 12 November 1992 and 15 December 1992, respectively:

12 November 1992

The Regional Technical Director of Lands
DENR, Region IV, 1515 L & S Building
Roxas Boulevard, Manila

ATTN.: Engr. ROBERT C. PANGYARIHAN
OIC, Surveys Division

Sir:

In connection with your request to validate the white print copy of an alleged plan Psu-201 which you had issued and certified that it is a copy of the tracing cloth of Psu-201 which is on file in that Office, please forward to us the tracing cloth plan to be examined instead of the white print copy that you have issued in accordance with the procedure stated in DENR Administrative Order regarding validation of plans other than the original copies being sent to the region office.

It may be worthwhile to state for your information that the plan Psu-201 is not among those officially enrolled into the file of this Bureau. What is more confusing is that the inventory book of all plans that were recovered after the war shows that Psu-201 is a survey for J. Reed covering a piece of land in Malate, Manila but the plan that was salvaged was heavily damaged and therefore it was not also microfilmed. This would require therefore a more exhaustive research regarding the authenticity of the tracing cloth that is in your file. (Underscoring ours.)

Very truly yours,

For the Director of Lands:

(SGD.) PRIVADI J.G. DALIRE
Chief, Geodetic Surveys Division[33]

xxx.

MEMORANDUM:

15 December 1992

FOR: The Regional Technical Director of Lands
The Chief, Regional Surveys Division
DENR, Region IV
L & S Building, Roxas Boulevard
Manila

FROM: L M B

SUBJECT: Psu-201

Records show that the region furnished us a white print copy certified by Engr. Robert Pangyarihan to have been "prepared from a tracing cloth plan on file in the NCR" for validation. We returned the white print plan prepared by Engr. Pangyarihan because we should examine the "tracing cloth plan" and it is the tracing cloth plan, white prints and photographic copies sent by the Central Records Division to be returned to LMB for validation by this Division.

In the letter dated 27 November 1992, Engr. Pangyarihan explained that he prepared the copy which he certified from a white print plan on file in the region as the applicant claims to have lost the tracing cloth. While the explanation may be considered, yet the preparation of the plan is not yet in accordance with Section 1.3 and 4.3 of DENR Administrative Order No. 49, s-1991 which requires that the white prints or photographic print of the plan other than the original plan which have been decentralized must first be authenticated by this Bureau before a certified true copy is issued by the region. It is evident therefore that the issuance of a certified true copy of Psu-201 from a white print is premature, and considered void ab initio.

Consider also that if the record of the Bureau is different from the print copy is subjected to field ocular inspection of the land and on the basis of the findings, the region may reconstruct the plan to be approved as usual. Certified copies may now be issued based on the reconstructed and approved plan. The white print of Psu-201 should therefore be subjected to ocular inspection.

Our records of inventory of approved plans show Psu-201 as a survey of J. Reed covering a piece of land in Malate, Manila. That plan was heavily damaged and its reconstruction was not finalized. This should be included in the investigation. (Underscoring ours.)

For the Director of Lands:
(SGD.) PRIVADI J.G. DALIRE
Chief, Geodetic Surveys Division.[34]

Consequently, Mr. Sidicious F. Panoy, the Regional Technical Director of DENR, Region IV, issued an order dated 5 May 1994 cancelling all copies of plans pertaining to Psu-201. The order states that:

IN RE: CANCELLATION ORDER:
Plan Si-14769
True copy of Plan Claimant-Sofronio Olano
Si-14779 and Psu-201 Brgy. Bukal ng Tala & Hasaan
Municipality of Ternate, Cavite
Area: 13,321,977 sq. m.

Plan Psu-201
Claimant - Natalio Layos
Brgy. Tubigan, Binan, Laguna
Area: 837,695 sq. m.

ORDER

By way of reaction to a number of inquiries as to the status of plans Si-14769 and Psu-201, verification was made at the Technical Reference Section of the Land Management Bureau, Escolta, Manila as to the authenticity thereof on the basis of still recoverable records and the following facts were established, to wit:

1. That Psu-201 is an original survey for J. reed located in Malate, Manila; and
2. That Si-14769 is a survey number for the plan of a land parcel situated in Bo. Bessang, Municipality of Allacapang, Province of Cagayan in the name of Gregorio Blanco.

The purported blue print plan of Psu-201 indicating the land covered thereby to be situated in Bo. Tubigan, Biñan, Laguna and claimed by Natalio Layos and comprising 837,695 sq. meters is, therefore, a spurious plan and, probably the result of a manipulative act by scheming individuals who surreptitiously got it inserted in the records. The same can be said as to the blue print of Si-14769 which is a plan purportedly covering a parcel of land situated in Bo. Bukal ng Tala and Hasaan, Ternate, Cavite comprising 13,321,977 sq. meters. (Underscoring ours.)

WHEREFORE, in view of the foregoing, all plans pertaining to the above and indicated as true copies and bearing the signature of Engr. Robert C. Pangyarihan are as hereby IT IS CANCELLED including any document attached thereto and, as such, declared null and void and of no force and effect.

SO ORDERED.

5 May 1994.

(SGD.) SIDICIOUS F. PANOY
Regional Technical Director[35]

It is quite evident from the foregoing findings on record that private respondents' claim of ownership is totally baseless. Plan Psu-201 pertains to land located in Malate, Manila and said survey plan was made for a certain J. Reed.

In the case at bar, the technical rules of procedure regarding motions to dismiss must be applied liberally lest these very same rules be used not to achieve but to thwart justice.

WHEREFORE, premises considered, the petition for review on certiorari is hereby GRANTED. Private respondents' complaint docketed as Civil Case No. B-4133 is hereby DISMISSED.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Vitug, and Hermosisima, Jr., JJ., concur.

[1] Rollo, p. 805.

[2] Id., at 155-159.

[3] Id., at 261-264.

[4] Id., at 169-177.

[5] Id., at 182.

[6] Id., at 118-124.

[7] Id., at 131-152.

[8] Id., at 236-246.

[9] Id., at 112-114.

[10] Id., at 115.

[11] Id., at 62-110.

[12] Original Records, pp.222-223.

[13] Rollo, pp. 377-379.

[14] Id., at 416.

[15] Id., at 381-390.

[16] Id., at 456-457.

[17] Id., at 26-27.

[18] Id., at 12-18.

[19] Id., at 18-21.

[20] Id., at 123-124; 159.

[21] Id., at 413, 415.

[22] Id., at 417.

[23] The additional private respondents are allegedly vendees of undivided portions of the subject properties. (San Pedro complaint; Rollo, pp. 119-120). They, therefore, do not have a claim or interest separate from their vendor, Felipe Layos. Their claim is anchored on Felipe Layos' own claim. Such being the case, there is also identity of party-plaintiffs since substantially the same interest were represented in both the Biñan and San Pedro cases.

xxx

[24] SUBJECT: 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.

The attention of the Court has been called to the filing of multiple petitions and complaints involving the same issues in the Supreme Court, the Court of Appeals or different Divisions thereof, or any other tribunal or agency, with the result that said tribunals or agency have to resolve the same issues.

xxx.

3. Penalties.

(a) Any violation of this Circular shall be a cause for the summary dismissal of the multiple petition or complaint;

xxx.

[25] 176 SCRA 240 (1989).

[26] 251 SCRA 545 (1995). See also *Dulay v. Court of Appeals*, 243 SCRA 220 (1995); *Perpetual Savings Bank v. Fajardo*, 223 SCRA 720 (1993); *Rava Development Corporation v. Court of Appeals*, 211 SCRA 144 (1992); *Boncato v. Siason*, 138 SCRA 414 (1985); *Domaoal v. Bea*, 131 SCRA 512 (1984).

[27] Edgardo L. Paras, *Rules of Court Annotated*, 1989 Ed., Vol. I, pp. 415-416.

[28] G.R. No. L-6555, 31 August 1954.

[29] 143 SCRA 178 (1986).

[30] Florenz D. Regalado, *Remedial Law Compendium*, Vol. 1, Fifth Revised Edition, 1988, p. 156.

[31] Rollo, p. 127.

[32] *Id.*, at 178-181.

[33] Rollo, p. 467.

[34] *Id.*, at 470-471.

[35] *Id.*, at 472.

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