

**THE UNITED RESIDENTS OF DOMINICAN HILL, INC., REPRESENTED
BY ITS PRESIDENT RODRIGO S. MACARIO, SR., PETITIONER, VS.
COMMISSION ON THE SETTLEMENT OF LAND PROBLEMS,
REPRESENTED BY...**

G.R. No. 135945. March 07, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is a petition for prohibition and declaratory relief seeking the annulment of a status quo order^[1] dated September 29, 1998 issued by the public respondent Commission on the Settlement of Land Problems (COSLAP, for brevity) in COSLAP Case No. 98-253.

The facts are:

The property being fought over by the parties is a 10.36-hectare property in Baguio City called Dominican Hills, formerly registered in the name of Diplomat Hills, Inc. It appeared that the property was mortgaged to the United Coconut Planters Bank (UCPB) which eventually foreclosed the mortgage thereon and acquired the same as highest bidder. On April 11, 1983, it was donated to the Republic of the Philippines by UCPB through its President, Eduardo Cojuangco. The deed of donation stipulated that Dominican Hills would be utilized for the "priority programs, projects, activities in human settlements and economic development and governmental purposes" of the Ministry of Human Settlements.

On December 12, 1986, the then President Corazon C. Aquino issued Executive Order No. 85 abolishing the Office of Media Affairs and the Ministry of Human Settlements. All agencies under the latter's supervision as well as all its assets, programs and projects, were transferred to the Presidential Management Staff (PMS).^[2]

On October 18, 1988, the PMS received an application from petitioner UNITED RESIDENTS OF DOMINICAN HILL, INC. (UNITED, for brevity), a community housing association composed of non-real property owning residents of Baguio City, to acquire a portion of the Dominican Hills property. On February 2, 1990, PMS Secretary Elfren Cruz referred the application to the HOME INSURANCE GUARANTY CORPORATION (HIGC). HIGC consented to act as originator for UNITED.^[3] Accordingly, on May 9, 1990, a Memorandum of Agreement was signed by and among the PMS, the HIGC, and UNITED. The Memorandum of Agreement called for the PMS to sell the Dominican Hills property to HIGC which would, in turn, sell the same to UNITED. The parties agreed on a selling price of P75.00 per square meter.

Thus, on June 12, 1991, HIGC sold 2.48 hectares of the property to UNITED. The deed of conditional sale provided that ten (10) per cent of the purchase price would be paid upon signing, with the balance to be amortized within one year from its date of execution. After UNITED made its final payment on January 31, 1992, HIGC executed a Deed of Absolute Sale dated July 1, 1992.

Petitioner alleges that sometime in 1993, private respondents entered the Dominican Hills property allocated to

UNITED and constructed houses thereon. Petitioner was able to secure a demolition order from the city mayor.[4]

Unable to stop the razing of their houses, private respondents, under the name DOMINICAN HILL BAGUIO RESIDENTS HOMELESS ASSOCIATION (ASSOCIATION, for brevity) filed an action[5] for injunction docketed as Civil Case No. 3316-R, in the Regional Trial Court of Baguio City, Branch 4. Private respondents were able to obtain a temporary restraining order but their prayer for a writ of preliminary injunction was later denied in an Order dated March 18, 1996.[6]

While Civil Case No. 3316-R was pending, the ASSOCIATION, this time represented by the Land Reform Beneficiaries Association, Inc. (BENEFICIARIES, for brevity), filed Civil Case No. 3382-R before Branch 61 of the same court. The complaint[7] prayed for damages, injunction and annulment of the said Memorandum of Agreement between UNITED and HIGC. Upon motion of UNITED, the trial court in an Order dated May 27, 1996 dismissed Civil Case No. 3382-R.[8] The said Order of dismissal is currently on appeal with the Court of Appeals.[9]

Demolition Order No. 1-96 was subsequently implemented by the Office of the City Mayor and the City Engineer's Office of Baguio City. However, petitioner avers that private respondents returned and reconstructed the demolished structures.

To forestall the re-implementation of the demolition order, private respondents filed on September 29, 1998 a petition[10] for annulment of contracts with prayer for a temporary restraining order, docketed as COSLAP Case No. 98-253, in the Commission on the Settlement of Land Problems (COSLAP) against petitioner, HIGC, PMS, the City Engineer's Office, the City Mayor, as well as the Register of Deeds of Baguio City. On the very same day, public respondent COSLAP issued the contested order requiring the parties to maintain the status quo.

Without filing a motion for reconsideration from the aforesaid status quo order, petitioner filed the instant petition questioning the jurisdiction of the COSLAP.

The issues we are called upon to resolve are:

1

IS THE COMMISSION ON THE SETTLEMENT OF LAND PROBLEMS [COSLAP] CREATED UNDER EXECUTIVE ORDER NO. 561 BY THE OFFICE OF THE PHILIPPINES [sic] EMPOWERED TO HEAR AND TRY A PETITION FOR ANNULMENT OF CONTRACTS WITH PRAYER FOR A TEMPORARY RESTRAINING ORDER AND THUS, ARROGATE UNTO ITSELF THE POWER TO ISSUE STATUS QUO ORDER AND CONDUCT A HEARING THEREOF [sic]?

2

ASSUMING THAT THE COMMISSION ON THE SETTLEMENT OF LAND PROBLEMS [COSLAP] HAS JURISDICTION ON THE MATTER, IS IT EXEMPTED FROM OBSERVING A CLEAR CASE OF FORUM SHOPPING ON THE PART OF THE PRIVATE RESPONDENTS?

To the extent that the instant case is denominated as one for declaratory relief, we initially clarify that we do not possess original jurisdiction to entertain such petitions.[11] Such is vested in the Regional Trial Courts.[12] Accordingly, we shall limit our review to ascertaining if the proceedings before public respondent COSLAP are without or in excess of its jurisdiction. In this wise, a recounting of the history of the COSLAP may provide useful insights into the extent of its powers and functions.

The COSLAP was created by virtue of Executive Order No. 561 dated September 21, 1979. Its forerunner was the Presidential Action Committee on Land Problems (PACLAP) founded on July 31, 1970 by virtue of Executive Order No. 251. As originally conceived, the committee was tasked "to expedite and coordinate the investigation

and resolution of land disputes, streamline and shorten administrative procedures, adopt bold and decisive measures to solve land problems, and/or recommend other solutions." It was given the power to issue subpoenas duces tecum and ad testificandum and to call upon any department, office, agency or instrumentality of the government, including government owned or controlled corporations and local government units, for assistance in the performance of its functions. At the time, the PACLAP did not exercise quasi-judicial functions.

On March 19, 1971, Executive Order No. 305 was issued reconstituting the PACLAP.[13] The committee was given exclusive jurisdiction over all cases involving public lands and other lands of the public domain and accordingly was tasked:

- To investigate, coordinate, and resolve expeditiously land disputes, streamline administrative procedures, and in general, to adopt bold and decisive measures to solve problems involving public lands and lands of the public domain;
- To coordinate and integrate the activities of all government agencies having to do with public lands or lands of the public domain;
- To study and review present policies as embodied in land laws and administrative rules and regulations, in relation to the needs for land of the agro-industrial sector and small farmers, with the end in view to evolving and recommending new laws and policies and establishing priorities in the grant of public land, and the simplification of processing of land applications in order to relieve the small man from the complexities of existing laws, rules and regulations;
- To evolve and implement a system for the speedy investigation and resolution of land disputes;
- To receive all complaints of settlers and small farmers, involving public lands or other lands of the public domain;
- To look into the conflicts between Christians and non-Christians, between corporations and small settlers and farmers; cause the speedy settlement of such conflicts in accordance with priorities or policies established by the Committee; and
- To perform such other functions as may be assigned to it by the President.

Thereafter, the PACLAP was reorganized pursuant to Presidential Decree No. 832 dated November 27, 1975.[14] Its jurisdiction was revised thus:

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- Refer for immediate action any land problem or dispute brought to the attention of the PACLAP, to any member agency having jurisdiction thereof: Provided, that when the Executive Committee decides to act on a case, its resolution, order or decision thereon, shall have the force and effect of a regular administrative resolution, order or decision, and shall be binding upon the parties therein involved and upon the member agency having jurisdiction thereof;

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Notably, the said Presidential Decree No. 832 did not contain any provision for judicial review of the resolutions, orders or decisions of the PACLAP.

On September 21, 1979, the PACLAP was abolished and its functions transferred to the present Commission on the Settlement of Land Problems by virtue of Executive Order No. 561. This reorganization, effected in line with Presidential Decree No. 1416, brought the COSLAP directly under the Office of the President.[15] It was only at this time that a provision for judicial review was made from resolutions, orders or decisions of the said agency, as

embodied in section 3(2) thereof, to wit:

Powers and functions.--The Commission shall have the following powers and functions:

- Coordinate the activities, particularly the investigation work, of the various government offices and agencies involved in the settlement of land problems or disputes, and streamline administrative procedures to relieve small settlers and landholders and members of cultural minorities of the expense and time-consuming delay attendant to the solution of such problems or disputes;

- Refer and follow-up for immediate action by the agency having appropriate jurisdiction any land problem or dispute referred to the Commission: Provided, that the Commission may, in the following cases, assume jurisdiction and resolve land problems or disputes which are critical and explosive in nature considering, for instance, the large number of the parties involved, the presence or emergence of social tension or unrest, or other similar critical situations requiring immediate action:

(a)

Between occupants/squatters and pasture lease agreement holders or timber concessionaires;

(b) Between occupants/squatters and government reservation grantees;

(c) Between occupants/squatters and public land claimants or applicants;

(d) Petitions for classification, release and/or subdivision of lands of the public domain; and

(e) Other similar land problems of grave urgency and magnitude.

The Commission shall promulgate such rules of procedure as will insure expeditious resolution and action on the above cases. The resolution, order or decision of the Commission on any of the foregoing cases shall have the force and effect of a regular administrative resolution, order or decision and shall be binding upon the parties therein and upon the agency having jurisdiction over the same. Said resolution, order or decision shall become final and executory within thirty (30) days from its promulgation and shall be appealable by certiorari only to the Supreme Court.

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In the performance of its functions and discharge of its duties, the Commission is authorized, through the Commissioner, to issue subpoena and subpoena duces tecum for the appearance of witnesses and the production of records, books and documents before it. It may also call upon any ministry, office, agency or instrumentality of the National Government, including government-owned or controlled corporations, and local governments for assistance. This authority is likewise, conferred upon the provincial offices as may be established pursuant to Section 5 of this Executive Order.

In *Bañaga v. Commission on the Settlement of Land Problems*,^[16] we characterized the COSLAP's jurisdiction as being general in nature, as follows:

Petitioners also contend in their petition that the COSLAP itself has no jurisdiction to resolve the protest and counter-protest of the parties because its power to resolve land problems is confined to those cases "which are critical and explosive in nature."

This contention is devoid of merit. It is true that Executive Order No. 561 provides that the COSLAP may take cognizance of cases which are "critical and explosive in nature considering, for instance, the large number of parties involved, the presence or emergence of social tension or unrest, or other similar critical situations requiring immediate action." However, the use of the word "may" does not mean that the COSLAP's jurisdiction is merely confined to the above mentioned cases. The provisions of the said Executive Order are clear that the COSLAP was created as a means of providing a more effective mechanism for the expeditious

settlement of land problems in general, which are frequently the source of conflicts among settlers, landowners and cultural minorities. Besides, the COSLAP merely took over from the abolished PACLAP whose functions, including its jurisdiction, power and authority to act on, decide and resolve land disputes (Sec. 2, P.D. No. 832) were all assumed by it. The said Executive Order No. 561 containing said provision, being enacted only on September 21, 1979, cannot affect the exercise of jurisdiction of the PACLAP Provincial Committee of Koronadal on September 29, 1978. Neither can it affect the decision of the COSLAP which merely affirmed said exercise of jurisdiction.

Given the facts of the case, it is our view that the COSLAP is not justified in assuming jurisdiction over the controversy. As matters stand, it is not the judiciary's place to question the wisdom behind a law;^[17] our task is to interpret the law. We feel compelled to observe, though, that by reason of the ambiguous terminology employed in Executive Order No. 561, the power to assume jurisdiction granted to the COSLAP provides an ideal breeding ground for forum shopping, as we shall explain subsequently. Suffice it to state at this stage that the COSLAP may not assume jurisdiction over cases which are already pending in the regular courts.

The reason is simple. Section 3(2) of Executive Order 561 speaks of any resolution, order or decision of the COSLAP as having the "force and effect of a regular administrative resolution, order or decision." The qualification places an unmistakable emphasis on the administrative character of the COSLAP's determinations, amplified by the statement that such resolutions, orders or decisions "shall be binding upon the parties therein and upon the agency having jurisdiction over the same." An agency is defined by statute as "any of the various units of the Government, including a department, bureau, office, instrumentality, or government-owned or controlled corporation, or a local government or a distinct unit therein."^[18] A department, on the other hand, "refers to an executive department created by law."^[19] Whereas, a bureau is understood to refer "to any principal subdivision of any department."^[20] In turn, an office "refers, within the framework of governmental organization, to any major functional unit of a department or bureau including regional offices. It may also refer to any position held or occupied by individual persons, whose functions are defined by law or regulation."^[21] An instrumentality is deemed to refer "to any agency of the National Government, not integrated within the department framework, vested with special functions or jurisdiction by law, endowed with some if not all corporate powers, administering special funds and enjoying operational autonomy, usually through a charter. This term includes regulatory agencies, chartered institutions and government-owned or controlled corporations."^[22] Applying the principle in statutory construction of ejusdem generis, i.e., "where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same kind or class as those specifically mentioned,"^[23] section 3(2) of Executive Order 561 patently indicates that the COSLAP's dispositions are binding on administrative or executive agencies. The history of the COSLAP itself bolsters this view. Prior enactments enumerated its member agencies among which it was to exercise a coordinating function.

The COSLAP discharges quasi-judicial functions:

"Quasi-judicial function" is a term which applies to the actions, discretion, etc. of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial nature."^[24]

However, it does not depart from its basic nature as an administrative agency, albeit one that exercises quasi-judicial functions. Still, administrative agencies are not considered courts; they are neither part of the judicial system nor are they deemed judicial tribunals.^[25] The doctrine of separation of powers observed in our system of government reposes the three (3) great powers into its three (3) branches - the legislative, the executive, and the judiciary - each department being co-equal and coordinate, and supreme in its own sphere. Accordingly, the executive department may not, by its own fiat, impose the judgment of one of its own agencies, upon the

judiciary. Indeed, under the expanded jurisdiction of the Supreme Court, it is empowered "to determine whether or not there has been grave abuse of discretion amounting to lack of or excess of jurisdiction on the part of any branch or instrumentality of the Government." [26]

There is an equally persuasive reason to grant the petition. As an additional ground for the annulment of the assailed status quo order of COSLAP, UNITED accuses private respondents of engaging in forum shopping. Forum shopping exists when a party "repetitively avail[s] of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by some other court." [27] In this connection, Supreme Court Administrative Circular No. 04-94 dated February 8, 1994 provides:

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 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.

- 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.

- 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 other party and his counsel through the filing of multiple complaints or other initiatory pleadings to obtain favorable action shall be a ground for the summary dismissal thereof and shall constitute 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 party. [*italics supplied*]

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The said Administrative Circular's use of the auxiliary verb "shall" imports "an imperative obligation xxx inconsistent with the idea of discretion." [28] Hence, compliance therewith is mandatory. [29]

It bears stressing that there is a material distinction between the requirement of submission of the certification against forum shopping from the undertakings stated therein. Accordingly,

xxx [f]ailure to comply with this requirement cannot be excused by the fact that plaintiff is not guilty of forum shopping. The Court of Appeals, therefore, erred in concluding that Administrative Circular No. 04-94 did not apply to private respondent's case merely because her complaint was not based on petitioner's cause of action. The Circular applies to any complaint, petition, application, or other initiatory pleading, regardless of whether the party filing it has actually committed forum shopping. Every party filing a complaint or any other initiatory pleading is required to swear under oath that he has not committed nor will he commit forum shopping. Otherwise, we would have an absurd situation where the parties themselves would be the judge of whether their actions constitute a violation of said Circular, and compliance therewith would depend on their belief that they might or might not have violated the requirement. Such interpretation of the requirement would defeat the very purpose of Circular 04-94.

Indeed, compliance with the certification against forum shopping is separate from, and independent of, the avoidance of forum shopping itself. Thus, there is a difference in the treatment--in terms of impossible sanctions--between failure to comply with the certification requirement and violation of the prohibition against forum shopping. The former is merely a cause for the dismissal, without prejudice, of the complaint or initiatory pleading, while the latter is a ground for summary dismissal thereof and constitutes direct contempt.[30]

A scrutiny of the pleadings filed before the trial courts and the COSLAP sufficiently establishes private respondents' propensity for forum shopping. We lay the premise that the certification against forum shopping must be executed by the plaintiff or principal party, and not by his counsel.[31] Hence, one can deduce that the certification is a peculiar personal representation on the part of the principal party, an assurance given to the court or other tribunal that there are no other pending cases involving basically the same parties, issues and causes of action. In the case at bar, private respondents' litany of omissions range from failing to submit the required certification against forum shopping to filing a false certification, and then to forum shopping itself. First, the petition filed before the COSLAP conspicuously lacked a certification against forum shopping. Second, it does not appear from the record that the ASSOCIATION informed Branch 4 of the Regional Trial Court of Baguio City before which Civil Case No. 3316-R was pending, that another action, Civil Case No. 3382-R, was filed before Branch 61 of the same court. Another group of homeless residents of Dominican Hill, the LAND REFORM BENEFICIARIES ASSOCIATION, INC. initiated the latter case. The aforesaid plaintiff, however, does not hesitate to admit that it filed the second case in representation of private respondent, as one of its affiliates. In the same manner, the certification against forum shopping accompanying the complaint in Civil Case No. 3382-R does not mention the pendency of Civil Case No. 3316-R. In fact, the opposite assurance was given, that there was no action pending before any other tribunal. Another transgression is that both branches of the trial court do not appear to have been notified of the filing of the subject COSLAP Case No. 98-253.

It is evident from the foregoing facts that private respondents, in filing multiple petitions, have mocked our attempts to eradicate forum shopping and have thereby upset the orderly administration of justice. They sought recourse from three (3) different tribunals in order to obtain the writ of injunction they so desperately desired. "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." [32]

In this connection, we expounded on forum shopping in *Viva Productions, Inc. v. Court of Appeals*[33] that:

Private respondent's intention to engage in forum shopping becomes manifest with undoubted clarity upon the following considerations. Notably, if not only to ensure the issuance of an injunctive relief, the significance of the action for damages before the Makati court would be nil. What damages against private respondent would there be to speak about if the Parañaque court already enjoins the performance of the very same act complained of in the Makati court? Evidently, the action for damages is premature if not for the preliminary injunctive relief sought. Thus, we find grave abuse of discretion on the part of the Makati court, being a mere co-equal of

the Parañaque court, in not giving due deference to the latter before which the issue of the alleged violation of the sub-judice rule had already been raised and submitted. In such instance, the Makati court, if it was wary of dismissing the action outrightly under Administrative Circular No. 04-94, should have, at least, ordered the consolidation of its case with that of the Parañaque court, which had first acquired jurisdiction over the related case xxx, or it should have suspended the proceedings until the Parañaque court may have ruled on the issue xxx.

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Thus, while we might admit that the causes of action before the Makati court and the Parañaque court are distinct, and that private respondent cannot seek civil indemnity in the contempt proceedings, the same being in the nature of criminal contempt, we nonetheless cannot ignore private respondent's intention of seeking exactly identical reliefs when it sought the preliminary relief of injunction in the Makati court. As earlier indicated, had private respondent been completely in good faith, there would have been no hindrance in filing the action for damages with the regional trial court of Parañaque and having it consolidated with the contempt proceedings before Branch 274, so that the same issue on the alleged violation of the sub judice rule will not have to be passed upon twice, and there would be no possibility of having two courts of concurrent jurisdiction making two conflicting resolutions.

Yet from another angle, it may be said that when the Parañaque court acquired jurisdiction over the said issue, it excluded all other courts of concurrent jurisdiction from acquiring jurisdiction over the same. To hold otherwise would be to risk instances where courts of concurrent jurisdiction might have conflicting orders. This will create havoc and result in an extremely disordered administration of justice. Therefore, even on the assumption that the Makati court may acquire jurisdiction over the subject matter of the action for damages, without prejudice to the application of Administrative Circular No. 04-94, it cannot nonetheless acquire jurisdiction over the issue of whether or not petitioner has violated the sub judice rule. At best, the Makati court may hear the case only with respect to the alleged injury suffered by private respondent after the Parañaque court shall have ruled favorably on the said issue.

We also noted several indications of private respondents' bad faith. The complaint filed in Civil Case No. 3316-R was prepared by the ASSOCIATION's counsel, Atty. Conrado Villamor Catral, Jr. whereas the complaint filed in Civil Case No. 3382-R was signed by a different lawyer, Atty. Thomas S. Tayengco. With regard to the petition filed with the COSLAP, the same was signed by private respondents individually. As to the latter case, we noted that the petition itself could not have been prepared by ordinary laymen, inasmuch as it exhibits familiarity with statutory provisions and legal concepts, and is written in a lawyerly style.

In the same manner, the plaintiffs in the three (3) different cases were made to appear as dissimilar: in Civil Case No. 3316-R, the plaintiff was ASSOCIATION of which private respondent Mario Padilan was head, while the plaintiff in Civil Case No. 3382-R was the BENEFICIARIES. Before the COSLAP, private respondents themselves were the petitioners, led again by Padilan.[34] Private respondents also attempted to vary their causes of action: in Civil Case No. 3382-R and COSLAP Case No. 98-253, they seek the annulment of the Memorandum of Agreement executed by and among UNITED, the PMS, and HIGC as well as the transfer certificates of title accordingly issued to petitioner. All three (3) cases sought to enjoin the demolition of private respondents' houses.

It has been held that forum shopping is evident where the elements of *litis pendentia* or *res judicata* are present. Private respondents' subterfuge comes to naught, for the effects of *res judicata* or *litis pendentia* may not be avoided by varying the designation of the parties or changing the form of the action or adopting a different mode of presenting one's case.[35]

In view of the foregoing, all that remains to be done is the imposition of the proper penalty. A party's willful and deliberate act of forum shopping is punishable by summary dismissal of the actions filed.[36] The summary

dismissal of both COSLAP Case No. 98-253 and Civil Case No. 3316-R is therefore warranted under the premises. We shall refrain from making any pronouncement on Civil Case No. 3382-R, the dismissal of which was elevated on appeal to the Court of Appeals where it is still pending.

WHEREFORE, the petition is hereby GRANTED. The status quo order dated September 29, 1998 issued in COSLAP Case No. 98-253 by respondent Commission On The Settlement Of Land Problems (COSLAP) is hereby SET ASIDE; and the petition filed in COSLAP Case No. 98-253 and the complaint in Civil Case No. 3316-R are hereby DISMISSED for lack of jurisdiction and forum shopping. Costs against private respondents.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Annex "B" of the Petition, Rollo, p. 32

[2] Memorandum Order No. 85 dated April 30, 1987.

[3] HIGC likewise agreed to act as originator in a separate memorandum of agreement for one other applicant, the 11501 Association, Inc., of a different portion of Dominican Hills.

[4] Annex "E" of the Petition, Rollo, p. 77.

[5] Complaint, Annex "F" of the Petition, Rollo, pp. 79-83.

[6] Annex "G" of the Petition, Rollo, p. 84.

[7] Annex "H" of the Petition, Rollo, pp. 85-91.

[8] Annex "I" of the Petition, Rollo, pp. 92-93.

[9] CA-G.R. CV No. 53326.

[10] Annex "A-1" of the Petition, Rollo, pp. 26-31.

[11] Tano, et al. v. Socrates, et al., 278 SCRA 154, 172 (1997).

[12] In relation thereto, Section 1, Rule 63 of the 1997 Rules of Civil Procedure states: "Who may file petition.--Any person interested under a deed, will, contract or other written instrument, whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder. xxxx"

[13] The membership of the committee was as follows:

Secretary of Agriculture and Natural Resources

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Chairman

Small Farmers Commission Chairman

.....

Action Officer

Deputy Governor, Land Authority

.....

Member

Undersecretary of Justice

.....

Member

Undersecretary of National Defense

.....

Member

PANAMIN Chairman

.....

Member

Chief of Constabulary

.....

Member

Commissioner on National Integration

.....

Member

Director of Lands

.....

Member

Director of Forestry

.....

Member

Agrarian Counsel

.....

Member

Land Registration Commissioner

.....

Member

[14] The composition of the committee was likewise changed. Thus:

Secretary of Natural Resources

.....

Chairman

PANAMIN Secretary

.....

Member

Deputy Executive Secretary

.....

Member

Underscretary of Agriculture

.....

Member

Undersecretary of Justice

.....

Member

Undersecretary of Agrarian Reform

.....

Member

Undersecretary of National Defense

.....

Member

Chief of Constabulary

.....

Member

Commissioner of Land Registration

.....

Member

Chief, Citizens Legal Assistance Office

.....

Member

Director of Lands

.....

Member

Director of Forest Development

.....

Member

Director of Mines

.....

Member

[15] Currently, the COSLAP is a constituent unit of the Department of Justice, per Book IV, Title III, Chapter 11, section 32 of Executive Order No. 292, otherwise known as "The Revised Administrative Code of 1987." The provision reads: "The Commission on the Settlement of Land Problems shall be responsible for the settlement of land problems involving small landowners and members of cultural minorities. It shall also perform such other functions, as are now or may hereafter be provided by law."

[16] 181 SCRA 599, 607-608 (1990).

[17] Commissioner of Internal Revenue, et al. v. Santos, et al., 277 SCRA 617, 630 (1997).

[18] Section 2, Introductory Provisions, Executive Order No. 292, otherwise known as the "Administrative Code of 1987."

[19] Id. The definition adds: For purposes of Book IV, this shall include any instrumentality, as herein defined, having or assigned the rank of a department, regardless of its name or designation."

[20] Id. The second sentence of the definition states: "For purposes of Book IV, this shall include any principal subdivision or unit of any instrumentality given or assigned the rank of a bureau, regardless of actual name or designation, as in the case of department-wide regional offices."

[21] Id.

[22] Id. Definitions of a regulatory agency, chartered institution, and government-owned or controlled corporation are as follows: "(11) Regulatory agency--refers to any agency expressly vested with jurisdiction to regulate, administer or adjudicate matters affecting substantial rights and interest of private persons, the principal powers of which are exercised by a collective body, such as a commission, board or council. (12) Chartered institution--refers to any agency organized or operating under a special charter, and vested by law with functions relating to specific constitutional policies or objectives. This term includes the state universities and colleges, and the monetary authority of the state. (13) Government-owned or controlled corporation--refers to any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) per cent of its capital stock: Provided, that government-owned or controlled corporations may be further categorized by the Department of the Budget, the Civil Service Commission, and the Commission on Audit for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations."

- [23] PNOG Shipping and Transport Corporation v. Court of Appeals, 297 SCRA 402, 422 (1998).
- [24] Midland Insurance Corporation v. Intermediate Appellate Court, 143 SCRA 458, 462 (1986).
- [25] 2 Am Jur 2d, Administrative Law §29.
- [26] Section 1, Article VIII, 1987 Constitution.
- [27] Gatmaytan v. Court of Appeals, 267 SCRA 487, 500 (1997).
- [28] Don Tino Realty and Development Corporation v. Florentino, 314 SCRA 197, 204-205 (1999); Codoy v. Calugay, 312 SCRA 333, 342 (1999).
- [29] Robern Development Corporation v. Quitain, 315 SCRA 150, 160 (1999); Melo v. Court of Appeals, 318 SCRA 94, 102 (1999). The circular is mandatory likewise for labor cases (e.g., Maricalum Mining Corporation v. National Labor Relations Commission, 298 SCRA 378, 384 [1998]), and election cases (Loyola v. Court of Appeals, 245 SCRA 477, 484 [1995]).
- [30] Melo v. Court of Appeals, *supra*.
- [31] Escorpizo v. University of Baguio, 306 SCRA 497, 503 (1999); Far Eastern Shipping Company v. Court of Appeals, 297 SCRA 30, 53 (1998).
- [32] Fil-Estate Golf and Development, Inc. v. Court of Appeals, 265 SCRA 614, 633 (1996).
- [33] 269 SCRA 664, 671-674 (1997).**
- [34] Petitioners in COSLAP Case No. 98-253 who also claimed damages in Civil Case No. 3382-R include Ponciano Basilan, Pacito Moises, Dionisio Anas, Noli Dangla, Napoleon Ballesteros, Domingo Canutab, Marcelino Gabriano and Jonathan de la Peña. (See Rollo, pp. 67-68)
- [35] Firestone Ceramics, Inc. v. Court of Appeals, 313 SCRA 522 (1999).
- [36] Prubankers Association v. Prudential Bank & Trust Company, 302 SCRA 74, 84 (1999).

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