EDGARDO V. GUEVARA, PETITIONER, VS. BPI SECURITIES CORPORATION, RESPONDENT.

G.R. NO. 159786. August 15, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, as amended, seeking the reversal of the Decision of the Court of Appeals in CA-G.R. SP No. 53379, dated 21 March 2003,[1] dismissing Civil Case No. 95-624, filed by herein petitioner, Edgardo V. Guevara, against herein respondent, BPI Securities Corporation. Likewise assailed is the Resolution[2] dated 26 August 2003 of the Court of Appeals denying Guevara's Motion for Reconsideration of the foregoing decision.

Culled from the records of the case are the following factual and procedural antecedents:

Guevara was hired by Ayala Securities Corporation in 1958. He was later detailed to the Philippine Investment Corporation (PHILSEC, later named as BPI Securities Corporation), where he acted as its president from 1 September 1980 to 31 December 1983. He thereafter served as vice-president of Ayala Corporation until his voluntary retirement on 31 August 1997.[3]

Meanwhile, a certain Ventura O. Ducat obtained separate loans from Ayala International Finance Limited (AIFL) and PHILSEC in the amount of US$2,500,000.00[4] as of 15 January 1983. The same was secured by shares of stocks in different Philippine corporations, with market value of P14,088,995.00.

To satisfy the indebtedness, Ducat made arrangements with 1488, Inc. (1488), a United States (U.S.)-based corporation, through its president, Drago Daic, to transfer by way of dacion en pago, a 72.21-acre tract of land in Harris County, Texas, U.S.A. (subject property), in favor of PHILSEC and AIFL. Ducat, in turn, was to convey to 1488 the same shares of stocks used as security for his loans with PHILSEC and AIFL. The latter, however, had no desire to purchase the land; but they were willing to extend a loan to Athona Holdings, N.V. (ATHONA), a corporation based in Netherlands, with the subject property as mortgage.[5]

In an agreement[6] executed in Makati City on 27 January 1983 (the Agreement), 1488 sold the subject property to ATHONA at US$2,807,209.02. PHILSEC and AIFL loaned US$2,500,000.00 to ATHONA to subsidize the purchase price of the subject property. The balance of US$307,209.02 was to be paid by means of a promissory note executed by ATHONA in favor of 1488. Subsequently, PHILSEC and AIFL released Ducat from his indebtedness and delivered to 1488 all the shares of stocks in their possession used before by Ducat as security.[7]

Sometime thereafter, ATHONA failed to pay the interest on the balance of US$307,209.02, hence, the entire amount covered by the promissory note became due and demandable. Consequently, 1488 filed a collection suit in the U.S. against PHILSEC, AIFL and ATHONA for payment of the balance of US$307,209.02, and damages for breach of contract and for fraud in misrepresenting the marketability of the shares of stocks delivered to 1488 under the Agreement.[8] The case was originally filed with the U.S. District Court of Texas, 165th Judicial

District, where it was docketed as Civil Case No. 85-57746, but the venue of the action was later transferred to the U.S. District Court for the Southern District of Texas as Civil Case No. H-86-440. ATHONA filed an Answer with counterclaim, impleading Guevara as counter-defendant for allegedly conspiring with Daic, Ducat and the appraiser, Michael Craig, in selling the subject property at an overvalued price.[9]

While the case was pending before the U.S. courts, PHILSEC, AIFL and ATHONA filed, on 10 April 1987, a civil suit against 1488, Daic, Ducat and Craig for the annulment of the Agreement due to fraud. The case was docketed as Civil Case No. 16563 at the Regional Trial Court (RTC) of Makati City, Branch 61. They demanded payment of Ducat's indebtedness of US$2,500,000.00 and for the other defendants to pay the amount of P8,000,000.00 representing the value of stocks liquidated and remitted to 1488, plus litigation expenses and attorney's fees. Ducat filed a Motion to Dismiss on the grounds of litis pendentia and forum non conveniens[10] due to the pendency of Civil Action No. H-86-440 before the U.S. District Court.

The trial court, on 26 January 1988, dismissed the Complaint against Ducat on the ground of forum non conveniens and likewise dismissed, on 9 March 1988, the case against 1488 and Daic based on litis pendentia, forum non conveniens and lack of jurisdiction over the person of the defendants. Plaintiffs elevated the case to the Court of Appeals, docketed as CA-G.R. CV No. 26761.[11] The Court of Appeals, in 6 January 1992, affirmed the decision of the lower court dismissing the case. Consequently, a Petition for Review on Certiorari was filed by the aggrieved parties before this Court in G.R. No. 103493 entitled, Philsec Investment Corporation v. Court of Appeals.[12]

On 13 March 1990, the U.S. District Court ruled in favor of 1488, and motu proprio dismissed the counter-complaint against Guevara on the ground that he was impleaded simply to humiliate and embarrass him.[13] The U.S. District Court also imposed jointly and severally against PHILSEC and AIFL a penalty of US$49,450.00 in favor of Guevara in accordance with Rule 11 of the Federal Rules of Court.[14] PHILSEC and AIFL elevated the matter to the U.S. Court of Appeals for the Fifth Circuit which remanded the case to the U.S. District Court for further proceedings, but finally affirmed, on 30 December 1991, the order of the U.S. District Court imposing the penalty, and the same became final and executory.[15]

On 8 April 1992, PHILSEC, AIFL and ATHONA, filed with the Makati City RTC, Branch 61, an amended Complaint in Civil Case No. 16563, impleading Guevara as one of the party-defendants. The plaintiff corporations alleged that Guevara together with Ducat and Daic conspired and agreed to overvalue the subject property in excess of 400 percent of its actual price. To induce the sale of the subject property at an overvalued amount, Guevara made representations to the plaintiff corporations that the appraisal was obtained from a reliable and independent source, and the plaintiffs, relying on Guevara's loyalty and representation, accepted the appraisal and entered into the Agreement. It was later found out, however, that the appraiser, Craig, was neither an independent nor a reliable appraiser but rather a close associate of Daic, whose interest Guevara knew were adverse to that of the plaintiff corporations.[16]

A Motion to Dismiss the amended Complaint was later filed by 1488, Ducat and Daic. The Resolution of the said Motion was, however, deferred pending the resolution by the Supreme Court of G.R. No. 103493[17] which involved Ducat's earlier Motion to Dismiss the original complaint in Civil Case No. 16563.

On 22 April 1992, while G.R. No. 103493[18] was still pending with this Court, 1488 and Daic filed a Petition for the enforcement of the judgment of the U.S. District Court with the Makati City RTC, Branch 134, docketed as Civil Case No. 92-1070.[19]

On 28 May 1992, Guevara filed a case against BPI Securities Corp. (PHILSEC was already renamed), for enforcement of the judgment of the U.S. District Court ordering PHILSEC and AIFL to pay him US$49,450.00 as

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penalty in accordance with Rule 11 of the Federal Rules of Court. The case was docketed as Civil Case No. 92-1445 with the Makati City RTC, Branch 137.[20]

On 24 April 1995, Guevara filed another Complaint against BPI Securities Corp. seeking the recovery of actual, moral and exemplary damages, and attorney's fees in the aggregate amount of P11,900,000.00 as indemnity for the expenses and annoyance of litigation, arising from his being wrongly impleaded as a party-defendant in the U.S. case. Guevara banked on the ruling of the U.S. District Court that the counter-complaint filed by PHILSEC, AIFL and ATHONA was frivolous and dilatory.[21] This case was docketed as Civil Case No. 95-624 with the Makati City RTC, Branch 135.[22] A Motion to Dismiss was filed by BPI Securities Corp. alleging forum shopping for Civil Case No. 16563 was still pending before the Makati City RTC, Branch 61.[23] The Motion was denied by the trial court in its Order dated 17 November 1995[24] and the Motion for Reconsideration was likewise denied by the same court on 22 February 1996.[25] On certiorari under Rule 65 to the Court of Appeals, docketed as CA-G.R. SP No. 40303, the appellate court affirmed, in a Decision dated 26 January 1998, the ruling of the trial court.[26] The said Decision thereafter became final and executory.

Subsequently, BPI Securities Corp. filed another Motion to Dismiss Civil Case No. 95-624 based on prescription. It alleged that the summons from the U.S. District Court was received by Guevara on 22 September 1988. Although he learned of the tortuous act when the summons was served on him in 1988, Guevara filed the case only on 24 April 1995, so the case had already prescribed.

In the meantime, G.R. No. 103493,[27] which involved Ducat's Motion to Dismiss the original complaint in Civil Case No. 16563, was finally resolved. In a Decision dated 19 June 1997,[28] this Court reversed the Court of Appeals and remanded the case to the trial court for continuance and consolidation of Civil Case No. 16563 with Civil Case No. 92-1070, then pending with the Makati City RTC, Branch 134. In the same Decision, this Court also allowed Civil Case No. 92-1445, pending with the Makati City RTC, Branch 137, to proceed as the judgment sought to be enforced therein is severable from the main judgment under consideration in Civil Case No. 16563.

Consequently, in a Resolution of the Makati City RTC, Branch 134, dated 1 July 1998, Civil Cases No. 16563 and No. 92-1070 were consolidated and the pending Motion to Dismiss the amended Complaint in Civil Case No. 16563 filed by 1488, Daic and Ducat was denied. [29]

As to the second Motion to Dismiss filed by BPI Securities Corp. in Civil Case No. 95-624, the Makati RTC, Branch 135, found the action as having prescribed and granted the said Motion in an Order dated 12 October 1998.[30] In a Motion for Reconsideration of the foregoing order filed by Guevara, he argued that the prescriptive period of the action should be counted from the date of finality of the Decision of the U.S. District Court, following the ruling in Drilon v. Court of Appeals.[31] Acting favorably on Guevara's Motion, the trial court in an Order dated 18 February 1999,[32] set aside its earlier Order dated 12 October 1998 and calendared Civil Case No. 95-624 for pre-trial.[33]

BPI Securities Corp. filed a Motion for Reconsideration of the Order, dated 18 February 1999, of the Makati RTC, Branch 135, again raising the arguments of res judicata and forum shopping. The said Motion was denied by the trial court in another Order dated 3 June 1999.[34] Thus, BPI Securities Corp. filed before the Court of Appeals a Petition for Certiorari under Rule 65, with a prayer for temporary restraining order, docketed as CA-G.R. SP No. 53379.[35] In its Petition, BPI Securities Corp. not only questioned the propriety of the ruling of the trial court on prescription, but again raised the issue of litis pendentia and forum shopping. The legal issues that BPI Securities Corp. submitted for the resolution of the Court of Appeals were as follows:

> 4.01. Whether or not the pendency of the [Civil Case No. 95-624] before respondent court is barred by the principles of litis pendentia or forum shopping due to the pendency of the [Civil Case No. 16563] and the

> [Civil Case No. 92-1445]?
>
> 4.02. Whether or not the [Civil Case No. 95-624] is barred by prescription? Stated in a slightly different matter the issue is: Whether or not the public respondent erred in ruling that the complaint in the [Civil Case No. 95-624] was for "malicious prosecution" (not quasi-delict as contended by petitioner) so that the prescriptive period for such action started to run only after the judgment in the Houston Case became final (and because of this the action was filed on a timely basis)?

BPI Securities Corp. submitted that Civil Case. No. 16563 bars the filing of Civil Case No. 95-624 under the principle of litis pendentia. It is noteworthy, BPI Securities Corp. asserted, that the consolidated Cases No. 16563 and No. 90-1070 would determine whether the judgment rendered by the U.S. District Court is enforceable in the Philippines. Since the allegations in Civil Case No. 95-624 are anchored on the U.S. Court Decision, then consequently, the pendency of the consolidated Civil Cases No. 16563 and No. 90-1070 bars Civil Case No. 95-624.[36] Furthermore, BPI Securities Corp. reiterated that the continuance of Civil Case No. 95-624 was proscribed by the principle of forum shopping as Guevara's counterclaim in Civil Case No. 16563 involved the very same issues he pleaded in Civil Case No. 95-624.

Although the Court of Appeals, in its Decision dated 21 March 2003, denied the Petition of BPI Securities Corp. in CA-G.R. SP No. 53379, it still ruled to dismiss Guevara's claim for damages in Civil Case No. 95-624. The dispositive portion of the said Decision reads:

> WHEREFORE, the instant petition is hereby denied and the assailed Order of the Regional Trial Court of Makati City, Branch 135, is hereby affirmed with the modification that the claim for damages due to the suit filed against Guevara in the United States is DISMISSED due to the existence of another action pending between the same parties involving the same cause of action in Civil Case No. 92-1445. Costs against petitioner.[37]

Aggrieved by the Decision of the Court of Appeals in CA-G.R. SP No. 53379, Guevara filed a partial motion for reconsideration and in a Resolution,[38] issued on 26 August 2003, the Court of Appeals denied his Motion.

Guevara, thus, filed before this Court the instant Petition for Review on Certiorari [39] under Rule 45 of the Rules of Court, based on the following assignment of errors:

> I.
>
> THE COURT OF APPEALS ERRED IN REFUSING TO DISMISS THE PETITION CONSIDERING THAT THE ISSUE RAISED THEREIN WAS ALREADY PASSED UPON IN CA-G.R. NO. 40303
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> II.
>
> THE COURT OF APPEALS ERRED IN RULING THAT CIVIL CASE NO. 624 (SIC) SHOULD BE DISMISSED BASED ON THE GROUND OF LITIS PENDENTIA.

On one hand, petitioner Guevara argues that the Court of Appeals should have dismissed the Petition of BPI Securities Corp. in CA-G.R. SP No. 53379 as the issue of litis pendentia and forum shopping was already passed upon by the same court in CA-G.R. SP No. 40303. In its Decision in the latter case, the Court of Appeals made the following pronouncements:

> 8. And, finally, Civil Case 95-624 is not similar to Civil Case 16563, and forum-shopping does not exist, in line with International Container Terminal Services, Inc. vs. Court of Appeals, 249 SCRA 389, holding that forum-shopping exists when both actions involve the same parties, the same subject matter, the same essential facts and circumstances, and the same identical issues. Civil Case 16563 and Civil Case 95-264 do not have the same parties as Edgardo V. Guevara is not a party in Civil Case 16563 and that the two cases do not have the

same facts nor do they raise the same identical causes of action.[40]

According to Guevara, since the Court of Appeals had ruled before on the issue of litis pendentia and forum shopping in a decision that had become final and executory, the judgment therein constitutes the law of the case between the parties. Also, the cause of action in Civil Case No. 95-624 is not the same as that in Civil Case No. 92-1445 and therefore, there can be no litis pendentia. Civil Case No. 95-624 involves claims for actual, moral and exemplary damages arising out of the malicious inclusion by BPI Securities Corp. of Guevara in a counter-complaint filed in the U.S. District Court; while Civil Case No. 92-1445 involves the enforcement of a Decision of the U.S. District Court awarding in his favor penalty in accordance with Rule 11 of the Federal Rules of Procedure. The former is based on the Civil Code of the Philippines, while the latter one is based on a U.S. decision. The causes of action of these two cases are thus separate and distinct from each other.[41]

On the other hand, respondent BPI Securities Corp., in its Comment,[42] contends that when the Makati City RTC, Branch 61, admitted the amended Complaint in Civil Case No. 16563, which impleaded Guevara as an additional defendant, and Guevara filed his Answer thereto, there became legal ground for BPI Securities Corp. to raise the issue of litis pendentia in Civil Case No. 95-624. The ruling in CA-G.R. SP No. 40303 could not be applied as the law of the case herein because when that case was decided, Guevara was not yet a party in Civil Case No. 16563. The ruling in CA-G.R. SP No. 40303,[43] thus, relied on a different factual premise from the case presently before this Court.[44]

BPI Securities Corp. further argues that the filing by Guevara of Civil Case No. 92-1445 also barred him from filing Civil Case No. 95-624, again on the principle of litis pendentia.[45] Both cases are based on the single fact that Guevara was wrongly impleaded as a defendant in the U.S. case. BPI also argues that Guevara's claim had already prescribed, having been filed only on 24 April 1995, almost seven years after he learned of the tortuous act.[46]

In sum, the issues raised before this Court for resolution are as follows: (1) whether or not the final and executory ruling in CA-G.R. SP No. 40303 serves as the law of the case herein; (b) whether or not Civil Case No. 95-624 should be dismissed on the ground of litis pendentia; and (c) whether or not Guevara's cause of action in Civil Case No. 95-624 has already prescribed.

We rule to dismiss the Petition.

Petitioner Guevara argues that the decision of the Court of Appeals in CA-G.R. SP No. 40303 constitutes the law of the case between the parties herein and cannot anymore be altered by any court as the same had already attained finality.[47] Let it be recalled that in the said decision, the Court of Appeals ruled that the elements of litis pendentia are not present in Civil Case No. 16563 and Civil Case No. 95-624. Therefore, the two cases can co-exist.

It is a basic legal principle that whatever is once irrevocably established as the controlling legal rule or decision between the same parties in the case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court.[48] This principle generally finds application in cases where an appellate court passes on a question and remands the case to the lower court for further proceedings. The question there settled becomes the law of the case upon subsequent appeal. Consequently, the court reviewing the succeeding appeal will not re-litigate the case but instead apply the ruling in the previous appeal. This enables the appellate court to perform its duties satisfactorily and efficiently which would be impossible if a question, once considered and decided by it, were to be litigated anew in the same case and upon any and subsequent appeal.[49]

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Clearly, the principle of law of the case cannot be applied herein. The facts from which the ruling in CA-G.R. SP No. 40303 was predicated no longer holds true in this case.

When Civil Case No. 95-624 was filed by Guevara on 24 April 1995, respondent BPI Securities Corp.'s amended Complaint, impleading him as party-defendant in Civil Case No. 16563, was not yet acted upon by the trial court as proceedings therein were suspended pending resolution by this Court of G.R. No. 103493 involving the Motion to Dismiss the original complaint in Civil Case No. 16563. When BPI Securities Corp. then filed its first Motion to Dismiss Civil Case No. 95-624, on 2 June 1995, alleging the pendency of Civil Case No. 16563, Guevara was not yet impleaded as party-defendant in the latter case. Similarly, when the trial court denied BPI Securities Corp.'s first Motion to Dismiss Civil Case No. 95-624 and its resolution to do so was assailed on certiorari before the Court of Appeals in CA-G.R. SP No. 40303, Guevara was still not yet a party in Civil Case No. 16563.

Guevara only became a party in Civil Case No. 16563 on 1 July 1998 when Civil Cases No. 16563 and No. 92-1070 were consolidated by the Makati City RTC, Branch 134 (pursuant to this court's ruling in G.R. No. 103493), and the Motion to Dismiss the amended Complaint was denied.

When respondent BPI Securities Corp. therefore filed its second Motion to Dismiss Civil Case No. 95-624 based again on litis pendentia, Guevara has already become a party in Civil Case No. 16563. With this significant change in the factual scenario, the ruling in CA-G.R. SP No. 40303 cannot serve as the law of the case in CA-G.R. SP No. 53379, subject of the instant appeal.

Will the pendency then of Civil Case No. 16563, where Guevara is now one of the defendants, bar him from filing Civil Case No. 95-624?

We rule in the negative.

There is litis pendentia or another action pendente lite if the following requisites are present: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars is such that any judgment rendered in the other action, will, regardless of which party is successful, amount to res judicata in the action under consideration.[50]

Civil Case No. 16563 is for the annulment of the 27 January 1983 Agreement of PHILSEC, AIFL, ATHONA, 1488, Daic and Ducat. The complainants therein (which includes BPI Securities Corp.) also demanded for the payment of Ducat's indebtedness of US$2,500,000.00 and for the other defendants to pay the amount of P8,000,000.00 representing the value of stocks liquidated and remitted to 1488, plus litigation expenses and attorney's fees. Meanwhile, Civil Case No. 95-624 is for Guevara's recovery of actual, moral and exemplary damages and attorney's fees in the aggregate amount of P11,900,000.00 as indemnity for the expenses and annoyance of litigation, arising from Guevara's being maliciously and wrongly impleaded as a party-defendant in the U.S. case.

Consequently, Guevara's compulsory counterclaim in Civil Case No. 16563 could not be the same as his cause of action in Civil Case No. 95-624. The wrongful acts committed by the BPI Securities Corp. which gave rise to Guevara's cause of action were different in the two cases. A compulsory counterclaim is one which arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim.[51] Guevara's compulsory counterclaim in Civil Case No. 16563 arises out of his being impleaded in the annulment of contract case. In comparison, Guevara's cause of action in Civil Case No. 95-624 springs from his being maliciously and erroneously impleaded as a defendant in the U.S. case. There being no similarity of interests, nor identity of rights asserted or reliefs prayed for by Guevara in his compulsory counterclaim in Civil

Case No. 16563 and in his cause of action in Civil Case No. 95-624, litis pendentia cannot effectively preclude him from filing the latter case.

Although the pendency of Civil Case No. 16563 does not constitute litis pendentia and cannot preclude the filing by Guevara of Civil Case No. 95-624; nevertheless, this Court states and so rules that Civil Case No. 95-624 is barred by Civil Case No. 92-1445 on the ground of litis pendentia.

Guevara tried to convince this Court that the causes of action in Civil Cases No. 92-1445 and 95-624 are different and distinct from each other. While the former was for the enforcement of a foreign judgment, the latter was a suit purely for damages. A perusal, however, of the records reveals that the award by the U.S. District Court based on Rule 11 of the Federal Rules on Civil Procedure sought to be enforced in the Philippine courts by Guevara in Civil Case No. 92-1445, was founded on the same set of facts that were alleged as the basis for the prayer for damages in Civil Case No. 95-624. They are both founded on the U.S. Court's determination that BPI Securities Corp. erroneously and maliciously impleaded Guevara as a party-defendant in the U.S. case.

A reading of the allegations of the respective complaints in both actions shows that the asserted rights are founded on an identical set of facts which gave rise to one basic issue in both cases, that is, whether or not Guevara may recover damages out of his involvement in U.S. case.

In Civil Case No. 92-1445, Guevara averred in his Complaint that the judgment of the U.S. court based on his erroneous and malicious prosecution in the U.S. case be enforced and prayed that damages be awarded in his favor, in this wise:

> - Prior to the said merger on December 14, 1987, Philsec was one of the defendants in Civil Action No. H-86-440 entitled "1488, Inc. vs. Philsec Investment Corporation, Ayala International Finance Limited and Athona Holdings, Inc." in the United States District Court of Texas, Houston Division in the U.S.A. On August 29, 1988, Philsec impleaded plaintiff, a resident of the Philippines, by filing together with Ayala International, a counter-complaint in said Action No. H-86-440 against plaintiff and other persons, alleging that plaintiff and the other persons had committed improper or illegal acts, including conspiracy in overvaluing the land involved in Action No. H-86-440 in order to induce Athona Holdings, Inc. to purchase the land to its damage and prejudice.
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> - Plaintiff filed his Answer in the above case, specifically denying all the allegations in the counter-complaint, assailing them as deliberate falsehoods, and stating the true facts. Plaintiff further alleged that Philsec clearly had no cause of action against him as it should have been only Athona Holdings, Inc., which purchased the land, that could properly allege the cause of action against him.
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> - After due hearing before the District Court, the said Court dropped the plaintiff as counter-defendant and dismissed the case against him. Plaintiff then made an oral motion in open court and filed the proper affidavit of expenses under Rule 11 of the Federal Rules of Civil Procedure. After some thirty (30) days from the date of the oral motion by plaintiff, the said court imposed sanction on Philsec Investment Corporation a.k.a BPI Securities Corporation and Ayala International Finance Ltd. in its Order dated March 13, 1990, ordering the latter to pay herein plaintiff, jointly and severally, the sum of US$49,450 as sanction or penalty. A photocopy of a certified true copy of the said Order is hereto attached and made an integral part hereof as Annex "A".
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> - Rule 11 of the US Federal Rules of Civil Procedure provides:
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> "Rule 11. Signing of Pleadings, Motions and Other Papers, Sanctions:
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> Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleading, motion or other paper and state the party's address.

> Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party, constitutes a certificate by the signer that the signer has read the pleadings, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee."
>
> - Philsec/BPI Securities Corporation appealed said Order of March 13, 1990 (Annex "A") to the United States Court of Appeals for the Fifth Circuit, which after due hearing remanded the issue to the District Court to give the latter another opportunity to respond to herein plaintiff's motion for the Rule 11 sanction.
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> - After proper proceedings with due notice by the District Court, where Philsec/BPI Securities Corporation was given full opportunity to be heard and submit its brief, as directed by the Court of Appeals, the District Court issued an Order dated December 30, 1991 concluding that the judgment previously entered was appropriate and reinstating the judgment of March 13, 1990. A photocopy of a certified true copy of the said Order is hereto attached and made an integral part hereof as Annex "B".
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> - Philsec/BPI Securities Corporation did not appeal the said Order (Annex "B") dated December 30, 1991, and the same has become final and executory.
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> - Plaintiff made written demands upon defendant for the latter to comply with the above judgment by paying to the plaintiff the amount of US$49,450.00 or its equivalent in Philippine pesos. However, defendant failed and refused and continues to fail and refuse to pay said amount without any valid reason whatsoever. A photocopy of a demand letter sent by the plaintiff is attached hereto and made an integral part hereof as Annex "C".
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> - Plaintiff is therefore constrained to file the instant case thru counsel and to incur attorney's fees and expenses of litigation of some P250,000.00. That for its refusal to pay its just and clear obligation, defendant should be ordered to pay plaintiff exemplary damages of P200,000.00[52] (Emphases supplied.)

In the same vein, Guevara, in Civil Case No. 95-624 claimed actual, moral and exemplary damages as indemnity on the account of his frivolous and malicious inclusion as a party-defendant in the U.S. case, and particularly asserted the following causes of action:

> - Plaintiff repleads and incorporates herein all the foregoing allegations.
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> - Because of the malicious filing of the baseless counter-complaint in Houston-Texas by Philsec, plaintiff was compelled to spend time, effort and money to prepare for and pursue his defense.
>
> - In April, 1989, plaintiff had to go to Honolulu, Hawaii to give his deposition in connection with the Houston court case and his wife had to accompany him because he was essentially hypertensive and he found it risky to travel alone.
>
> - Plaintiff then proceeded with his wife to Houston, Texas to examine the records of the court case and meet with people who could help him prepare for his defense. And because he was hypersensitive and very much depressed because of the case, he underwent a medical check-up, he was found to have a mass in his pancreas which forced him to undergo an emergency operation and hospitalized for almost one month.

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- Thereafter, plaintiff was compelled to go to Houston, Texas to protect his interest and handle his defense in the court case, which was heard continuously from January 29 to February 14, 1990. In his trip, his wife and son had to accompany him because he was still weak and had not fully recovered from his operation.

- For all his above travel to Hawaii and Houston, Texas and for preparing his case and handling his defense, plaintiff incurred expenses of at least P300,000.00, which defendant should reimburse to him.

- Plaintiff repleads and incorporates herein all the above allegations.

- Plaintiff is a member of the Philippine Bar, he has a good reputation in the community, and is respected by his colleagues as a lawyer and businessman.

- Plaintiff served Ayala Corporation and its subsidiaries, including defendant, from 1958 until his voluntarily retirement on August 30, 1987. He served the Ayala Group faithfully and well; and as above alleged, for his satisfactory performance in the settlement of the account of Ventura Ducat, he was give[n] a letter commendation by the chairman of the Ayala Group, Mr. Enrique Zobel.

- After his retirement from Ayala Corporation, he organized Intra-Invest Securities, Inc., which is engaged in stock brokerage. He became a member and Governor of the Manila Stock Exchange, and he enjoys a high reputation in the stock brokerage industry.

- Despite his physical weakness, as a result of his operation (which were known by defendant and its lawyer) he was forced to travel to Hawaii and Texas because of the court case there, and was exposed to the unaccustomed wet and cold winter weather in Texas. These could have been avoided if defendant was not included as a defendant in the counter-complaint or had plaintiff dropped the case after the taking of plaintiff's deposition and that of Mr. Gomez in Honolulu, Hawaii.

- In filing and presenting its counter-complaint in Houston, Texas against plaintiff and including him in Civil Case 16563 (RTC-Makati) as above alleged, and in forcing him to defend himself and protect his rights and interest, defendant caused plaintiff and his family great embarrassment, mental and physical suffering, anxiety and anguish, besmirched reputation, wounded feelings, moral shock and social humiliation, for which defendant should pay him moral damages of at least P10,000,000.00.

- Plaintiff repleads and incorporates herein all the foregoing allegations.

- Defendant has acted against plaintiff viciously and maliciously in utter disregard of the true facts obvious and known to it and of the past services rendered by the plaintiff to Philsec and the Ayala Group of which defendant is a member.

- For recklessly trifling with the good name, honor and feelings of plaintiff, and as an example for the public good, defendant should be ordered to pay plaintiff exemplary damages of at least P1,000,000.00.

In the handling of this case, plaintiff has been forced to engage the services of counsel and to pay them P400,000,00 as attorney's fees.[53]

Considering that two actions are rooted in the same transgression committed by BPI Securities Corp. against Guevara, to allow these two cases to proceed separately could give rise to a situation where there would be two conflicting decisions on one cause of action arising from the same set of facts. Thus, should the Makati City, RTC Branch 137 in Civil Case No. 92-1445, allow the enforcement of the foreign judgment based on malicious inclusion of Guevara in the U.S. case, then a finding by the Makati City, RTC Branch 135, in Civil Case No. 95-624 that Guevara should not be entitled to an award for damages because he was not maliciously prosecuted in the U.S. case, would undoubtedly be conflicting and irreconcilable. Conversely, should the Makati City, RTC Branch 137, repel the foreign judgment sought to be enforced herein by evidence of clear mistake of law or fact[54] committed by the U.S. courts, and instead find that Guevara was not maliciously impleaded as a

party-defendant in the U.S. case; then it would necessarily be inconsistent with a decision by the Makati City, RTC Branch 135, finding malice and bad faith in the inclusion of Guevara in the same U.S. case.

Litis pendentia as a ground for the dismissal of a civil action refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious.[55] Indeed, the elements of litis pendentia are obviously present in Civil Cases No. 92-1445 and 95-624. The parties are the same; the reliefs prayed for by Guevara are likewise the same; and the award or non-award in the first case will bar by res judicata the award in the second case.

Guevara is even guilty of forum shopping by filing these two cases successively. The facts reveal that on 28 May 1992, Guevara filed Civil Case No. 92-1445 against BPI Securities Corp. for the enforcement of the Rule 11 award. Around three years later or on 24 April 1995, Guevara filed another complaint against BPI Securities Corp. seeking for the recovery of actual, moral and exemplary damages.

Forum shopping is a deplorable practice of litigants of resorting to two different fora for the purpose of obtaining the same relief, to increase his or her chances of obtaining a favorable judgment. What is pivotal to consider in determining whether forum shopping exists or not is the vexation caused to the courts and the parties-litigants by a person who asks appellate courts and/or administrative entities to rule on the same related causes and/or to grant the same or substantially the same relief, in the process creating the possibility of conflicting decisions by the different courts or fora upon the same issues. There is forum shopping where the elements of litis pendentia are present and where a final judgment in one case will amount to res judicata in the other.[56]

The grave evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate, and contradictory decisions. Unscrupulous party litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several different fora until a favorable result is reached. To avoid the resultant confusion, this Court adhere strictly to the rules against forum shopping, and any violation of these rules results in the dismissal of a case.[57]

Considering that Civil Case No. 95-624 has already been dismissed on the ground of litis pendentia, this Court no longer finds it necessary to rule on the issue of prescription.

WHEREFORE, premises considered, the instant Petition is hereby DENIED, and the Decision of the Court of Appeals in CA-G.R. SP No. 53379, dated 21 March 2003, dismissing Civil Case No. 95-624 is hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez and Callejo, JJ., concur.

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[1] Penned by Associate Justice Teodoro P. Regino with Associate Justices Buenaventura J. Guerrero and Mariano C. Del Castillo, concurring; CA rollo, pp. 384-388.

[2] Id. at 425.

[3] Records, Vol. I, p. 2.

[4] Id. at 67.

[5] Id.

[6] Id at 66-78.

[7] Philsec Investment Corporation v. Court of Appeals, G.R. No. 103493, 19 June 1997, 274 SCRA 102.

[8] Id. at 105.

[9] Id.

[10] A principle in Private International Law where some courts may refuse to entertain a conflicts case on the belief that the matter can be tried and decided elsewhere, either because the main aspects of the case transpired in foreign jurisdiction or the material witnesses have their residence there. (Salonga, Private International Law [1995 ed.], p. 56.)

[11] Rollo of G.R. No. 103493, pp. 47-54 (Philsec Investment Corporation v. Court of Appeals, supra note 7).

[12] Id.

[13] Records, Vol. I , p. 331.

[14] Rule 11 of the US Federal Rules of Civil Procedure provides:

"Rule 11. Signing of Pleadings, Motions and Other Papers, Sanctions:

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleading, motion or other paper and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party, constitutes a certificate by the signer that the signer has read the pleadings, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee." (CA rollo, p. 485.)

[15] Records. Vol. I, p. 71.

[16] Id. at 50.

[17] Philsec Investment Corporation v. Court of Appeals, supra note 7.

[18] Id.

[19] Records, Vol. I, pp. 329-334.

[20] Rollo, pp. 63-68.

[21] Id. at 1-15.

[22] Id.

[23] Id. at 91-121.

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[24] Id. at 150-153.

[25] Id. at 183-184.

[26] Id. at 85-107.

[27] Philsec Investment Corporation v. Court of Appeals, supra note 7.

[28] Id.

[29] Rollo, pp. 186-188.

[30] Id. at 195-197.

[31] 336 Phil. 949 (1997).

[32] Records, Vol. II, p. 643.

[33] Id. at 618.

[34] Id. at 709.

[35] CA rollo, pp. 2-32.

[36] Id. at 120-122.

[37] Id. at 384-388.

[38] Id. at 425.

[39] Rollo, pp. 18-30.

[40] Id. at 106-107.

[41] Id.

[42] Rollo, pp. 154-181.

[43] BPI Securities Corp. v. Presiding Judge of the Regional Trial Court and Eduardo V. Guevara, CA-G.R. SP No. 40303, 26 January 1998. Amended Complaint was filed on 2 June 1995 but was admitted on 1 July 1998 in a Resolution of the Makati RTC, Branch 134, dated 1 July 1998 denying the Motion to Dismiss thereto. (Id. at 85-107.)

[44] Id.

[45] Id. at 244-247.

[46] Id. at 247-257.

[47] Id. at 6-8.

[48] Samson v. Cabanos, G.R. No. 161693, 28 June 2005, 461 SCRA 545, 551-552.

[49] Ariola v. Philex Mining Corporation, G.R. No. 147756, 9 August 2005, 466 SCRA 152, 176-177.

[50] Jaban v. City of Cebu, G.R. Nos. 138336-37, 16 February 2004, 423 SCRA 56, 66.

[51] RULES OF COURT, Rule 6, Section 7.

[52] Records, Vol. I, pp. 330-332.

[53] Id. at 10-13.

[54] Rule 39, Section 48, of the Rules of Court states:

Sec. 48. Effect of foreign judgments or final orders. – The effect of a judgment or final order of a tribunal of a foreign country, having jurisdiction to render the judgment or final order is as follows:

(a) In case of a judgment or final order upon a specific thing, the judgment or final order is conclusive upon the title to the thing; and

(b) In case of a judgment or final order against a person, the judgment or final order is presumptive evidence of a right as between the parties and their successors in interest by a subsequent title.

In either case, the judgment or final order may be repelled by evidence of a want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact.

[55] Guaranteed Hotels Inc. v. Baltao, G.R. No. 164338, 17 January 2005, 448 SCRA 738, 744.

[56] Id.

[57] Id. at 746.

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