

**LAZARO MADARA, ALFREDO D. ROA III, AND JOAQUIN T. VENUS,
PETITIONERS, VS. HON. NORMA C. PERELLO, PRESIDING JUDGE OF
BRANCH 276, REGIONAL TRIAL COURT, MUNTINLUPA CITY, FELIX
M. F...**

G.R. No. 172449. August 20, 2008

Ponente: BRION, J.

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BRION, J.:

Submitted for our decision is the Amended Petition for Review on Certiorari[1] of the Decision of the Court of Appeals dated 20 December 2005[2] and its Resolution dated 24 April 2006[3] in CA-G.R. SP No. 90821,[4] filed by the petitioners Lazaro Madara (Madara), Alfredo D. Roa III (Roa), and Joaquin T. Venus (Venus) [collectively, the petitioners].

THE ANTECEDENTS

The amended petition originated from two (2) separate amended complaints purportedly filed by Provident International Resources Corporation as plaintiff (plaintiff PIRC) with the Regional Trial Court of Muntinlupa City. [As the narration below will show, two groups claim to represent the PIRC; to distinguish between them when necessary, one is herein named the plaintiff PIRC while the other is the real PIRC.]

The first amended complaint, filed on 15 October 2002 and entitled Provident International Resources Corporation v. Philippine Amusement and Gaming Corp. (PAGCOR), Mr. Efraim Genuino, as Chairman, Mr. Rafael Francisco, as President, JOHN DOES AND JANE DOES, was docketed as Civil Case No. 02-228.[5] The amended complaint states, among others, that: (1) the petitioners Madara, Roa and Venus, as well as Jose Ma. Carlos Zumel and Luis A. Asistio, were elected plaintiff PIRC's directors for the year 2002-2003 and that some of them, as well as a certain Santiago Alvarez (Alvarez) who was elected General Manager, were subsequently elected corporate officers; (2) despite information to PAGCOR (the lessee of one of the PIRC properties) of the election of the new set of directors and corporate officers, PAGCOR continued to remit its lease rentals to PIRC's former corporate officers. The amended complaint asks: (1) that PAGCOR be ordered to pay its monthly lease rentals to Roa and/or Alvarez, and/or any of their authorized representatives and no other; and (2) for the issuance of a temporary restraining order and a writ of preliminary mandatory injunction. Roa, as the President of plaintiff PIRC, verified the complaint while Venus, in his capacity as plaintiff PIRC's Corporate Secretary, signed the Secretary's Certificate attesting to Roa's authority to institute the action.

An Answer in Intervention[6] was filed also in the name of PIRC (real PIRC) and the herein private respondents Constancio D. Francisco (Francisco), Edward T. Marcelo (Edward Marcelo), Lydia J. Chuanico (Chuanico), Daniel T. Pascual (Pascual) and Anna Melinda Marcelo-Revilla (Marcelo-Revilla). The pleading essentially states that the private respondents, rather than the petitioners, are the bona fide directors and officers of PIRC and that the petitioners, Zumel, Asistio and Valdez are not even stockholders of PIRC - they are mere pretenders who

intended to grab power and control of PIRC. The private respondents asked for: (1) the denial of the injunctive reliefs asked in the amended complaint; (2) the dismissal of the complaint; and (3) damages and attorney's fees.

The second amended complaint, filed on 5 December 2002, was docketed as Civil Case No. 02-238 and entitled *Provident International Resources Corporation v. Edward T. Marcelo, Constancio D. Francisco, Anna Melinda Marcelo-Revilla, Linda J. Marcelo, John J. Marcelo, Celia C. Caburnay and Celedonio P. Escaño, Jr.*[7] The complaint essentially alleges that: (1) the original incorporators of PIRC - Chuanico, Francisco, Jose A. Lazaro, Edward Marcelo and Pascual - merely held the initial paid-up stockholdings in trust for the real stockholders - the petitioners, Zumel and Asistio; thus, the incorporators at the time of PIRC's incorporation in 1979 executed Deeds of Assignment in blank, Deeds of Transfer in blank, waiver of pre-emptive rights and endorsement in blank of their stock certificates; (2) on 7 August 2002, the blank deeds and transfer documents were completed to effect the transfer to the petitioners, Zumel and Asistio; (3) at a stockholder's meeting, it was agreed that the PIRC directors who have not voluntarily resigned shall be considered removed and an election of new directors conducted; at this election, the petitioners, Zumel and Asistio were elected new directors and following an organizational meeting, the new board elected a new set of PIRC officers; (4) despite the election of the new set of PIRC officers, the named defendants continue to unlawfully exercise possession of the PIRC office, misrepresent themselves as directors and officers of PIRC and unlawfully exercise acts on behalf of PIRC; all these malicious acts caused PIRC damage and prejudice.

The second complaint asks for the issuance of a temporary restraining order and a writ of preliminary injunction and/or preliminary mandatory injunction and also a permanent injunction to enjoin the named defendants from acting as directors and officers of PIRC and from taking custody of corporate records. As in the first amended complaint, the complaint was verified by Roa and the Secretary's Certificate attesting to Roa's authority was signed by Venus.

In their Answer to the Amended Complaint in Civil Case No. 02-238 (i.e., to the second complaint), with (1) Motion to Implead the Real PIRC and the Fraudulent Interlopers as Indispensable Parties (2) Motion for Preliminary Hearing on Affirmative Defenses and (3) Compulsory Counterclaims,[8] the named defendants (except PAGCOR and its officers) in both Civil Case No. 02-228 and Civil Case No. 02-238 maintained that they are the genuine directors and officers of PIRC. The named defendants asked for: (1) the addition of the petitioners, Zumel and Asistio as parties-plaintiffs and the real PIRC as party-defendant; (2) the dismissal of the complaint in Civil Case No. 02-238 after hearing on the affirmative defenses; (3) the issuance of a writ of permanent injunction against the petitioners, Zumel and Asistio; and (4) that they be ordered to solidarily pay the named defendants and real PIRC moral, exemplary, actual and nominal damages, attorney's fees, litigation expenses and treble costs.

The two amended complaints were consolidated and were raffled to Branch 256 of the RTC Muntinlupa City which issued a 20-day temporary restraining order. PAGCOR complied with the temporary restraining order by remitting the rental to Alvarez. Thereafter, the Presiding Judge of Branch 256 inhibited himself from the case. The case was thereafter assigned to Branch 276 of the RTC Muntinlupa City (RTC) which, in turn, issued the preliminary prohibitory injunction that the private respondents prayed for.[9]

After trial and submission of all relevant evidence in the consolidated cases, the RTC ruled in favor of the intervenors-defendants (the private respondents herein), finding them to be the true and duly constituted members of the board of directors and the duly elected officers of PIRC. The RTC found as well that the petitioners were non-PIRC stockholders and therefore were not qualified for election either as directors or corporate officers. Having therefore no right to receive the lease rentals due from PAGCOR, the RTC ordered the petitioners to jointly return to the real PIRC the rental payments for the period covering October 19 to November 18, 2002. The

petitioners, as well as Zumel and Asistio, were also ordered to pay the private respondents damages in the amount of P5,000,000.00, attorney's fees of P500,000.00 and the actual cost of litigation. The dispositive part of the RTC decision reads:

PRESCINDING, the PETITION FOR MANDATORY INJUNCTION is never denied (sic). But the Preliminary Prohibitory Injunction, issued for the INTERVENORS/DEFENDANTS is made permanent, and the Group of plaintiffs directed to permanently desists (sic) and stop from disturbing the operation of the Corporation by the same INTERVENOR/DEFENDANTS, who are found to be the true and duly constituted Officers of the Corporation, legally voted as such Officers and as Members of the Board of Directors. The Civil Complaint against them, Civil Case Nos. 02-238 is hereby dismissed.

It has been shown that the Group of Plaintiffs, JOSE MA. CARLOS L. ZUMEL, ALFREDO D. ROA III, LAZARO L. MADARA, JOAQUIN T. VENUS and SANTIAGO ALVAREZ, JR. never had any right to receive rental from defendant PHILIPPINE AMUSEMENT AND GAMING CORPORATION. This Group of Plaintiffs, JOSE MA. CARLOS L. ZUMEL, ALFREDO D. ROA III, LAZARO L. MADARA, JOAQUIN T. VENUS and SANTIAGO ALVAREZ, JR. are therefore directed to jointly and unilaterally return to the Corporation the rental payments for the month of October 19 to November 18, 20002, which they collectively receive, without any right to collect and receive such rental.

Since by reason of this suit it has been shown that the Intervenor/Defendants, being EDWARD T. MARCELO, CONSTANCIO D. FRANCISCO, ANNA MELINDA MARCELO-REVILLA, LINDA J. MARCELO, JOHN J. MARCELO, CELIA C. CABURNAY and CELEDONIO P. ESCAÑO, sustained injuries and damages not only to the reputation of the corporation but also personally as officers and members of the Corporation Board, damages is tolled against the Plaintiffs, JOSE MA. CARLOS L. ZUMEL, ALFREDO D. ROA III, LAZARO L. MADARA, JOAQUIN T. VENUS and SANTIAGO ALVAREZ, JR. which they must pay jointly and unilaterally to the Intervenor/Defendants, being EDWARD T. MARCELO, CONSTANCIO D. FRANCISCO, ANNA MELINDA MARCELO-REVILLA, LINDA J. MARCELO, JOHN J. MARCELO, CELIA C. CABURNAY and CELEDONIO P. ESCAÑO, JR. in the sum of FIVE MILLION PESOS (P5,000,000.00).

Since Intervenor/Defendants EDWARD T. MARCELO, CONSTANCIO D. FRANCISCO, ANNA MELINDA MARCELO-REVILLA, LINDA J. MARCELO, JOHN J. MARCELO, CELIA C. CABURNAY and CELEDONIO P. ESCAÑO, JR. were forced to litigate and defend themselves thru counsel, attorney's fees in the sum of FIVE HUNDRED THOUSAND PESOS (P 500,000.00) JOSE MA. CARLOS L. ZUMEL, ALFREDO D. ROA III, LAZARO L. MADARA, JOAQUIN T. VENUS and SANTIAGO ALVAREZ, JR. which they must pay jointly and unilaterally.

The actual cost of this litigation is also tolled against the Group of plaintiffs.

SO ORDERED.[10]

The plaintiff PIRC filed a Notice of Appeal on 16 May 2005.[11] The private respondents opposed on the ground that the petitioners had taken a wrong mode of review; under the Interim Rules and Procedures governing intra-corporate controversies, as amended by Resolution En Banc, A.M. No. 04-9-07, the party aggrieved by the decision of a commercial/corporate court has fifteen (15) days from receipt of the decision within which to file a Petition for Review under Rule 43 with the Court of Appeals, not a Notice of Appeal.[12] The private respondents also filed a Motion to Disregard Notice of Appeal and For Entry of Judgment[13] and a Motion for Immediate Issuance of Writ of Execution.[14] The plaintiff PIRC's response was a Manifestation, In lieu of Opposition asking that the RTC consider its Notice of Appeal as withdrawn.[15]

Roa, Madara, Venus and Alvarez, then filed a Motion to Admit Petition for Review with the attached Petition for Review dated June 13, 2005[16] with the Court of Appeals. The petition was filed by the petitioners and Santiago

Alvarez[17] and was docketed CA-G.R. SP No. 90147. Via an Ex-Parte Manifestation and Motion dated 20 June 2005,[18] they asked the Court of Appeals to consider their petition for review as withdrawn.

The petitioners then filed before the trial court a Petition for Relief from Judgment dated 28 June 2005,[19] alleging that: (1) they were prevented from (a) presenting rebuttal evidence, or at the very least, taking an appeal from the supposed denial of their motion to present rebuttal evidence, (b) filing a memorandum and (c) sufficiently proving their case through fraud, mistake or excusable negligence; and (2) they have good and substantial causes of action. They asked: (1) for the issuance of a temporary restraining order and/or preliminary injunction; (2) the setting aside of the RTC decision dated 23 April 2005; and (3) a permanent injunction enjoining the private respondents from acting as directors and officers of PIRC.

In an Order dated 30 June 2005[20] that resolved the incidents pending before it (namely, the Notice of Appeal, the Opposition thereto, and private respondents' motion for the immediate issuance of the writ of execution), the RTC ruled that its decision had become final and executory and entry of judgment was in order. The RTC cited as basis the procedural errors the plaintiff PIRC committed in filing a notice of appeal instead of a petition for review, and in later filing a belated petition for review. The RTC also granted the private respondents' motion for the issuance of a writ of execution.

The RTC denied in its Order dated 1 July 2005 the petition for relief from judgment for deficiency in form and substance.[21]

Meanwhile, in a Resolution promulgated on 19 July 2005, the Court of Appeals granted the petitioners' Ex-Parte Manifestation and Motion in CA-G.R. SP No. 90147, resulting in the withdrawal of the Petition for Review.

On July 19, 2005, the plaintiff ROA group filed a Very Urgent Motion [To Quash or Recall Writ of Execution].[22] The petitioners then filed a Motion for Reconsideration dated 26 July 2005 of the RTC Order of July 1, 2005.[23]

These RTC incidents were still pending resolution when the petitioners filed on August 10, 2005, a Petition for Certiorari[24] under Rule 65 of the Revised Rules of Court with the Court of Appeals, assailing on the ground of grave abuse of discretion the following orders issued by the RTC and the various notices issued by the sheriff -

- a. Decision dated 23 April 2005
- b. Order dated 30 June 2005
- c. Writ of Execution dated 5 July 2005
- d. Order dated 1 July 2005
- e. Notice to Pay dated 7 July 2005
- f. Notice of Levy on Execution dated 14 July 2005
- g. Notice of Sale on Execution of Real Property dated 14 July 2005
- h. Notice to Parties of Sheriff's Auction Sale dated 17 July 2005

The petition was docketed as CA-G.R. SP No. 90821. The petition essentially imputed grave abuse of discretion on the public respondents for issuing the assailed orders and notices which were commonly directed towards the enforcement of the RTC decision against the petitioners. The petitioners posited that the enforcement of the RTC decision and of the court's orders and notices against them would violate their right to due process as they were not parties to the case; even assuming that they were parties, they were never notified of the proceedings from

beginning to end so that the decision is void as against them.

The private respondents filed an Urgent Manifestation Ex Abudanti Ad Cautelam and a Comment on the petition in CA-G.R. SP No. 90821. In their Manifestation, the private respondents alleged that the petitioners committed forum shopping.[25]

While CA-G.R. SP No. 90821 was pending, the RTC denied in an Order dated 31 August 2005[26] (1) the petitioners' motion for reconsideration of the 1 July 2005 Order and (2) the plaintiff Roa group's Urgent Motion to Quash or Recall Writ of Execution.

On 7 November 2005, the petitioners in their own and individual capacities[27] filed another Petition for Certiorari with the Court of Appeals assailing the interrelated 1 July 2005 and 31 August 2005 orders. This petition was docketed CA-G.R. SP No. 91950.[28]

Significantly, the petitioner never disclosed - in the present petition before this Court - all these material developments, including the filing of the petition in CA-G.R. SP No. 91950. Only the private respondents informed us of these developments in their Comment on the petition. The petitioners never denied that they filed CA-G.R. SP No. 91950 with the Court of Appeals.

Meanwhile, the Court of Appeals dismissed - via the decision assailed in the present petition - the petition in CA-G.R. SP No. 90821 for lack of merit and forum shopping. The Court of Appeals found that even if PIRC had been named as plaintiff in the Civil Cases No. 02-228 and 02-238, the petitioners were the ones actually interested in the lease rentals due from PAGCOR in view of their claim that they were the newly elected directors and officers of PIRC; the petitioners could not deny that they were parties to the consolidated civil cases because they claimed in their subsequent pleadings with the RTC that they were the plaintiffs who had commenced the consolidated civil cases; thus, they voluntarily submitted themselves to the RTC's jurisdiction and could not claim denial of due process. The forum shopping conclusion, on the other hand, was based on the appellate court's observation that the petition filed before it was the petitioners' fourth attempt to question the RTC decision, and that the petitioners had filed the petition without waiting for the resolution of the motion for reconsideration of the Order dated 1 July 2005 and the urgent motion to quash/recall writ of execution the petitioners had filed with the RTC.

The petitioners moved to reconsider the Decision,[29] but the Court of Appeals denied the motion in the second order assailed in this petition.

Thereupon, the petitioners filed the present petition, asking us to rule on the following ISSUES -

- WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION OR WITHOUT JURISDICTION IN HOLDING PETITIONERS PERSONALLY LIABLE DESPITE THEIR NOT BEING PARTIES TO THE CASE.
- WHETHER THE COURT OF APPEALS ERRED IN FINDING PETITIONERS GUILTY OF FORUM SHOPPING.

The petitioners argue that they were not parties to the consolidated civil cases and cannot therefore be bound by the decision; their properties cannot likewise be levied on execution. This argument is anchored on the positions that: (1) the titles of the consolidated cases do not include them as they were neither plaintiffs nor defendants in these cases; if they were defendants they should have been served with summons; (2) they never took part in the pre-trial proceedings or in the trial proper; only the PIRC and the private respondents offered their evidence; (3) the records will show that nobody ever came forward and appeared as counsel for any of the petitioners; and (4)

they had no participation in the case except to cause the filing of the consolidated civil cases, which they did as mere representatives.

Additionally, the petitioners argue that the pleadings cited by the Court of Appeals purportedly showing that the petitioners were parties to the consolidated cases were filed after the RTC rendered judgment; this is the natural reaction of persons who, while not parties to the case, were being held liable under the RTC decision. Thus, the filing of these post-judgment pleadings cannot mean that they were parties; a mere claim in a post-judgment pleading that they are parties, which is however negated by the records of the case, is an inconsequential oversight and should not be considered as voluntary submission to the jurisdiction of the court. They also claim denial of due process for being denied the opportunity to be heard - they were not given the chance to file a complaint or answer, to participate in the pre-trial conference and in the trial by submitting evidence. In sum, they claim that the judgment as against them is void.[30]

On forum shopping, the petitioners claim that their motion for reconsideration of the 1 July 2005 Order had been rendered *functus officio* by the successive issuances - the Writ of Execution, Notice to Pay, Notice of Levy on Execution, Notice of Sale on Execution of Real Property, the Notice to Parties of Sheriff's Auction Sale, the Auction Sale and Certificate of Sale - which left them with no recourse but to consider their motion denied for purposes of seeking immediate and adequate reliefs from the Court of Appeals; that, in fact, even after the filing of their petition with the Court of Appeals, the execution of the RTC decision proceeded. All these allegedly show that, to all intents and purposes, there was no more pending motion for reconsideration at the time they sought relief from the Court of Appeals; the denial too of the motion for reconsideration on 31 August 2005 was nothing but a mere formality.[31]

OUR RULING

We see no merit in the petition as the appellate court's dismissal of the petition in CA-GR SP No. 90821 on the ground of the petitioners' forum shopping is correct. Separately from the forum shopping violation before the Court of Appeals in CA-GR SP No. 90821, the petitioners also committed forum shopping and violated their forum shopping certification in seeking relief from this Court. Lastly, on the merits, we see no reversible error in the Court of Appeals' finding that the petitioners were parties to Civil Cases Nos. 02-228 and 02-238 who can be held liable for the RTC's decision in these cases.

Forum shopping is the institution of two or more actions or proceedings involving the same parties for the same cause of action, either simultaneously or successively, on the expectation that one or the other court would render a favorable disposition. It is the losing party's attempt, other than by appeal or by the special civil action of *certiorari*, to seek a favorable judgment in another forum. By its nature, it is a reprehensible practice that manipulates the court system and abuses its processes; it degrades the administration of justice; and it wastes valuable court resources that can otherwise be used in other priority areas in the dispensation of justice.[32] It is particularly pernicious when it introduces the possibility - because the losing party is asking different courts to rule on the same or related causes and to grant the same or substantially the same reliefs - of conflicting decisions being rendered by different fora on the same issues.[33]

To determine whether a party violated the rule against forum shopping, the most important factor to ask is whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another. Otherwise stated, the test is whether the two (or more) pending cases have identity of parties, of rights or causes of action, and of the reliefs sought.[34] Willful and deliberate violation of the rule against it is a ground for summary dismissal of the case; it may also constitute direct contempt.[35]

Forum Shopping at the Court of Appeals

We agree with the Court of Appeals that the petitioners indulged in a clear case of forum shopping before it. One of the assailed orders in CA - GR SP No. 90821 was the RTC's 1 July 2005 Order. At the time the petition was filed with the appellate court, the RTC had yet to resolve the motion for reconsideration of the 1 July 2005 Order. This is a clear case of forum shopping, as the petitioners sought, at the same time, two separate remedies with two different judicial venues (the RTC and the Court of Appeals), to obtain one and the same relief - the nullification of the RTC decision in Civil Case Nos. 02-228 and 02-238 and its non-enforcement against the individual petitioners.

We so conclude despite the fact that what the petitioners filed was a petition for certiorari, a recourse that - in the usual course and because of its nature and purpose - is not covered by the rule on forum shopping. The exception from the forum shopping rule, however, is true only where a petition for certiorari is properly or regularly invoked in the usual course; the exception does not apply when the relief sought, through a petition for certiorari, is still pending with or has as yet to be decided by the respondent court, tribunal or body exercising judicial or quasi-judicial body, e.g., a motion for reconsideration of the order assailed via a petition for certiorari under Rule 65, as in the present case. This conclusion is supported and strengthened by Section 1, Rule 65 of the Revised Rules of Court which provides that the availability of a remedy in the ordinary course of law precludes the filing of a petition for certiorari; under this rule, the petition's dismissal is the necessary consequence if recourse to Rule 65 is prematurely taken.

To be sure, the simultaneous remedies the petitioners sought could result in possible conflicting rulings, or at the very least, to complicated situations, between the RTC and the Court of Appeals. An extreme possible result is for the appellate court to confirm that the RTC decision is meritorious, yet the RTC may at the same time reconsider its ruling and recall its order of dismissal. In this eventuality, the result is the affirmation of the decision that the court a quo has backtracked on. Other permutations depending on the rulings of the two courts and the timing of these rulings are possible. In every case, our justice system suffers as this kind of sharp practice opens the system to the possibility of manipulation; to uncertainties when conflict of rulings arise; and at least to vexation for complications other than conflict of rulings. Thus, it matters not that ultimately the Court of Appeals may completely agree with the RTC; what the rule on forum shopping addresses are the possibility and the actuality of its harmful effects on our judicial system.

We find no merit too in petitioners' excuse, offered in the present petition, that there was no pending motion for reconsideration to speak of at the time they sought relief from the Court of Appeals, as their motion had been impliedly but effectively denied by the RTC. This explanation or excuse is significantly weakened by the petitioners' subsequent filing of yet another petition for certiorari assailing for the second time the 1 July 2005 Order and for the first time the related 31 August 2005 Order. While the petitioners claimed effective implied denial of their motion for reconsideration before the RTC to justify their premature petition in CA-G.R. SP No. 90821 and to escape a forum shopping charge, they wasted no time at all in filing another petition in CA-G.R. SP No. 91950 to assail the formal denial of their motion for reconsideration. These varying stances indicate to us that the real standard the petitioners follow is their convenience, not the procedural orderliness that the Rules of Court wish to foster; they disregard the Rules as their convenience dictates. As a result, there were two pending petitions before the Court of Appeals between 7 November 2005 (the date the subsequent CA-G.R. SP No. 91950 was filed) and 20 December 2005 (the date CA-G.R. SP No. 90821 was promulgated) questioning the 1 July 2005 RTC Order and asking for the same reliefs - the nullity of the RTC decision of 23 April 2005 and its non-enforcement against the individual petitioners.

Forum Shopping With this Court

The records before us do not disclose whether the petitioners ever informed the Division of the Court of Appeals

handling CA-G.R. SP No. 90821 of the filing of the petition in CA-G.R. SP No. 91950, in light of the requirement that the petitioners in a Rule 65 petition are committed to inform the court of the filing of a similar action or proceeding within 5 days from knowledge of such filing. The petitioners' filing of the second petition before the Court of Appeals is however replete with significance in relation with the present petition before this Court.

In the required sworn certification attached to the petition for review filed with us, the petitioners stated under oath that they have not commenced any other action or proceeding involving the same issues in the Supreme Court, Court of Appeals or any other tribunal or agency, or that any such action or proceeding is pending with us, the Court of Appeals, or any other tribunal agency. Additionally, they undertook to report to this Court the filing of any similar action or proceedings within 5 days from knowledge of such filing. Despite this certification and undertaking, the petitioners never disclosed to this Court the pendency of CA-GR SP No. 91950 or any of its material developments; thus, we are left in the dark, up to now, on the status and fate of CA-GR SP No. 91950. As far as we know, there are two pending cases dealing with the issues before us - CA-G.R. SP No. 91950 and the present petition.

Clearly, therefore, the petitioners forum-shopped when it filed the present petition. They also filed with this Court a false certification of non-forum shopping and blatantly violated as well their undertaking in their sworn certification. If only for these reasons, the present petition for review must be summarily dismissed.

In light of these reasons, we see no need to discuss at length the other issues the petitioners raised except to say that we see no reversible error, under the unique fact situation of this case, with the Court of Appeals' decision holding the petitioners individually liable under the RTC decision.

(a) The individual petitioners pursued their interests, not that of the PIRC, in filing the consolidated complaints, although they formally did so under the cover and in the name of the PIRC. Their interests were not only implied from the recitals of the complaints but were expressed as well in the various pleadings they filed, as narrated in the assailed Court of Appeals decision. No genuine issue of due process arises after the petitioners had the opportunity to be heard on their individual interests and after they admitted in their various pleadings that they were the complainants who had initiated the consolidated cases. [36]

(b) We additionally note that the petitioners actually misrepresented themselves as stockholders, directors and officers of PIRC - an existing corporation with duly elected directors and officers - and under their assumed capacities as officers of the PIRC filed the amended complaints with the RTC purportedly on PIRC's behalf. To our mind, this clearly indicates the petitioners' design to use the PIRC's separate corporate personality as a shield against any possible or potential personal liability. Interestingly enough, after shielding their individual selves behind the PIRC through misrepresentation, the petitioners now seek refuge from the various provisions of the Rules of Court on the required issuance of summons and notices (precondition to acquisition of jurisdiction over persons and for persons to be considered parties to a case), with the corresponding right to be heard on their cause. We are not persuaded by the petitioners' claim for protection as their active misrepresentation militates against it; the petitioners cannot now use their own active misrepresentations to shield them from individual liability. The petitioners are now effectively claiming, given their peculiar situation, not a right but an undeserved privilege.

(c) We recognized in our ruling in the very recent case of Provident International Resources Corporation v. Venus (G.R. No. 167041) promulgated last June 17, 2008, the merits of the RTC decision on the issue of which - between the registered stock and transfer book (STB) of the plaintiff PIRC and the real PIRC's 1979 registered STB - is valid. We note that this recently-decided case is practically between the same parties litigating on opposite sides in the present case. We said in G.R. No. 167041 that the RTC decision effectively upheld the validity of the 1979-registered STB. We similarly recognize - in the context of the present case - the finding in the

RTC decision that the members of the real PIRC, and not that of the plaintiff PIRC, are the bona fide stockholders and officers of PIRC. This finding, coupled with other factual and legal findings stated in the RTC decision and in this Decision, constitutes sufficient basis to hold the petitioners personally and individually liable for the return of PAGCOR's wrongfully remitted lease rentals to, and payment of damages to the members of, the real PIRC.

WHEREFORE, premises considered, we hereby DISMISS the petition for forum shopping and for lack of merit. Costs against the petitioners.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Chico-Nazario, JJ., concur.

[*] Designated as additional Member in view of the inhibition of Associate Justice Presbitero J. Velasco, Jr..

[1] Pursuant to Rule 45 of the Revised Rules of Court.

[2] Penned by Associate Justice Lucenito Tagle (retired, now COMELEC Commissioner), with Associate Justice Rodrigo V. Cosico (retired) and Associate Justice Regalado S. Maambong, concurring, rollo, pp. 109-129.

[3] Id., pp. 54-60.

[4] Lazaro Madara, Alfredo D. Roa III and Joaquin T. Venus v. Hon. Norma C. Perello, Presiding Judge of Branch 276, Regional Trial Court, Muntinlupa City, Felix M. Falcotelo, Sheriff-in-Charge Muntinlupa City, Philippine Amusement and Gaming Corporation, and Provident International Resources Corporation, rep. by Edward T. Marcelo, Edward T. Marcelo, Constancio D. Francisco, Anna Melinda Marcelo-Revilla, Lydia J. Chuanico, Daniel T. Pascual, Linda J. Marcelo, John J. Marcelo, Celia C. Caburnay, Celedonio P. Escaño, Jr., and the Register of Deeds of Muntinlupa City.

[5] Id., pp. 133-144.

[6] Id., pp. 145-157.

[7] Id., pp. 158-166.

[8] Id., pp. 167-211.

[9] See RTC Decision, id., pp. 212-247; specifically, pp. 215-216, 225.

[10] Id., pp. 246-247.

[11] Id., pp. 363-364.

[12] See CA Decision, id., pp. 109-129.

[13] Id., pp. 992-999.

[14] Id., pp. 1000-1007.

[15] Id., pp. 1009-1016.

[16] Id., pp. 365-415.

[17] Id.

[18] Id., pp. 416-417.

[19] Id., pp. 248-272.

[20] Id., pp. 1018-1021.

[21] Id., pp. 273-274.

[22] Id., pp. 1079-1084; As stated in the pleading, PIRC's counsel filed the motion in behalf of the plaintiff Roa group.

[23] Id., pp. 1086-1106.

[24] Id., pp. 275-291.

[25] Id., specifically pp. 109-110.

[26] Id., pp. 1108-1112.

[27] Id., pp. 1114-1323, Petition in CA-G.R. SP No. 91950.

[28] Id.

[29] Id., pp. 305-314.

[30] Id., pp.89-98.

[31] Id., pp. 99-100.

[32] See: Spouses Julita dela Cruz v. Pedro Joaquin, G.R. No. 162788, July 28, 2005, 464 SCRA 576.

[33] See: Top Rate Construction & General Services, Inc. v. Paxton Development Corporation, G.R. No. 151081, September 11, 2003, 410 SCRA 604.

[34] Young v. Seng, G.R. No. 143464, March 5, 2003, 398 SCRA 629.

[35] Municipality of Taguig v. Court of Appeals, G.R. No. 142619, September 13, 2005, 469 SCRA 580; Rule 7, Section 5 of the Revised Rules of Court.

[36] Rollo, pp. 50-55; CA decision, pp. 14-19.

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