

CITY OF TAGUIG, PETITIONER, VS. CITY OF MAKATI, RESPONDENT.*G.R. No. 208393. June 15, 2016*

Ponente: LEONEN, J.

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Simultaneously pursuing an appeal (or motion for reconsideration) and a petition for annulment of judgment is an act of forum shopping. This act, which heaps vexation upon courts and parties-litigants, is illustrated by the facts of this case in which conflicting decisions have been rendered by different courts upon the same issue. The actions of respondent City of Makati (Makati) through its counsels is at the border of what appears to be a contumacious attempt to obfuscate the resolution of cases through the abuse of legal processes.

We grant the Petition.

This resolves a Petition for Review on Certiorari[1] praying that the assailed Court of Appeals Resolutions dated April 30, 2013[2] and July 25, 2013[3] in CA-G.R. SP No. 120495 be modified by including a declaration that Makati is guilty of wilful and deliberate forum shopping, and that appropriate sanctions be imposed for it.[4]

Petitioner City of Taguig (Taguig) suggests that the assailed rulings should be considered a "denial of the relief sought"[5] when the Court of Appeals, in its July 25, 2013 Resolution, supposedly took no action on Taguig's prayer in a Motion for Clarification that the Court of Appeals' April 30, 2013 Resolution "be reinforced with the pronouncement that respondent City of Makati did commit forum shopping." [6]

CA-G.R. SP No. 120495 relates to the Petition for Annulment of Judgment that Makati filed before the Court of Appeals after an unfavorable Decision rendered by the Regional Trial Court in Makati's territorial dispute with Taguig. The assailed April 30, 2013 Resolution denied Makati's Motion for Reconsideration in CA-G.R. SP No. 120495 and dismissed its Petition for Annulment of Judgment.[7] The assailed July 25, 2013 Resolution was issued in response to a Motion for Clarification dated May 20, 2013, which Taguig filed before the Court of Appeals following the April 30, 2013 Resolution.[8]

On November 22, 1993, Taguig, then a municipality, filed before the Regional Trial Court of Pasig City a Complaint against Makati (then also a municipality), Former Executive Secretary Teofisto P. Guingona, Jr., Former Department of Environment and Natural Resources Secretary Angel Alcala, and Former Director of the Lands Management Bureau Abelardo Palad, Jr.[9]

The Complaint (Territorial Dispute Case) was denominated as one for "Judicial Confirmation of the Territory and Boundary Limits of Tagig [sic] and Declaration of the Unconstitutionality and Nullity of Certain Provisions of Presidential Proclamations 2475 and 518, with Prayer for Writ of Preliminary Injunction and Temporary Restraining Order." [10] This was docketed as Civil Case No. 63896 and raffled to Branch 153 of the Regional Trial Court of Pasig City.[11] In this Complaint, Taguig asserted that the areas comprising the Enlisted Men's Barangays, or EMBOs, as well as the area referred to as Inner Fort in Fort Bonifacio, were within its territory and jurisdiction.[12]

In the Decision[13] dated July 8, 2011, the Regional Trial Court, through Judge Briccio C. Ygaña (Judge Ygaña), ruled in favor of Taguig. The dispositive portion of this Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff Municipality, now City of Taguig and against all the defendants, as follows:

1. Fort Bonifacio Military Reservation consisting of Parcels 3 and 4, Psu-2031, is confirmed part of the territory of the plaintiff City of Taguig;

2. Proclamation No. 2475, Series of 1986 and Proclamation [sic] No. 518, Series of 1990 are hereby declared UNCONSTITUTIONAL and INVALID, insofar as they altered boundaries and diminished the areas of territorial jurisdiction of the City of Taguig without the benefit of a plebiscite as required in Section 10, Article X of the 1987 Constitution.

3. Making the Writ of Preliminary Injunction dated August 2, 1994 issued by this Court, explicitly referring to Parcels 3 and 4, Psu-2031 comprising Fort Bonifacio, be made PERMANENT, to wit:

a)

enjoining defendants Secretary of the Department of Environment and Natural Resources and Director of Lands Management Bureau, from disposing of, executing deeds of conveyance over, issuing titles, over the lots covered by Proclamation Nos. 2475 and 518; and

b)

enjoining defendant Municipality, now City of Makati, from exercising jurisdiction over, making improvements on, or otherwise treating as part of its territory, Parcels 3 and 4, Psu-2031 comprising Fort Bonifacio.

4. Ordering defendants to pay the cost of the suit.

SO ORDERED.[14] (Emphasis in the original)

On July 28, 2001, Makati filed before the Court of Appeals a Petition for Annulment of Judgment[15] under Rule 47 of the 1997 Rules of Civil Procedure. This Petition was docketed as CA-G.R. SP No. 120495.[16] It assailed the Regional Trial Court's July 8, 2011 Decision as having been rendered without jurisdiction and in violation of due process.[17] It claimed that the July 8, 2011 Decision was rendered by Judge Ygaña after he had retired, and was merely antedated (i.e., to make it appear that it was rendered before he retired).[18] It prayed that this Decision be annulled and set aside.[19]

Specifically, the Petition for Annulment of Judgment alleged that in the afternoon of July 12, 2011, three (3) days after Judge Ygaña's retirement took effect and four (4) days after Judge Ygaña could have validly promulgated a judgment, three (3) of Makati's legal counsels—Atty. Pio Kenneth I. Dasal, Atty. Glenda Isabel L. Biason, and Atty. Gwyn Gareth T. Mariano—went to the Regional Trial Court to check if Judge Ygaña had rendered judgment and, if so, to obtain a copy for Makati.[20] Atty. Jerome T. Victor (Atty. Victor), Clerk of Court of Branch 153 of the Regional Trial Court of Pasig City, allegedly could not produce any copy of a promulgated Decision. Likewise, he was supposedly unable to produce Branch 153's Book of Judgments.[21] The Petition for Annulment of Judgment further cited Atty. Victor as saying that the only record (or "book"[22]) he had was Branch 153's Book of Entry of Final Judgments.[23]

The Petition added that "right there and then" Makati's three (3) counsels made a hand-written letter[24] asking Atty. Victor to issue a certification to the effect that, as of July 8, 2011, Judge Ygaña had not promulgated a Decision on the territorial dispute case. Atty. Victor then issued a Certification dated July 12, 2011, which reads:

CERTIFICATION

This is to certify that the draft of the Decision in the above-entitled case has already been finished on July 8, 2011, but the same is still undergoing review, revision and counterchecking with the voluminous records by Judge Briccio C. Ygaña, before the same is finalized.

This Certification is issued upon the request of Atty. Pio Kenneth I. Dasal, Atty. Glenda Isabel L. Biason and Atty. Gwyn Gareth T. Mariano.

City of Taguig, July 12, 2011.

(sgd.)

Atty. JEROME T. VICTOR

Branch Clerk of Court[25]

(Emphasis in the original)

Makati's Petition for Annulment of Judgment further alleged that in the morning of July 13, 2011, Makati received a copy of the July 8, 2011 Decision.[26] This copy was supposedly received under protest as it was Makati's position that the July 8, 2011 Decision was void for having been rendered by a retired judge.[27] A handwritten note on the registry return receipt reads:

The undersigned counsel receives this Decision under PROTEST because in light of the July 12, 2011 Certification of the Clerk of Court of this Court, this Decision is void.

(sgd.)

Pio Kenneth I. Dasal

7/13/11 1:30 p.m.[28]

Also following the Regional Trial Court's July 8, 2011 Decision, Makati filed before the same court its Motion for Reconsideration Ad Cautelam of the July 8, 2011 Decision.[29] Like the Petition for Annulment of Judgment, this Motion was dated July 28, 2011.

On August 8, 2011, Taguig filed before the Court of Appeals a Motion to Dismiss Makati's Petition for Annulment of Judgment.[30] This Motion assailed Makati's Petition: (1) for being fatally defective as it supposedly failed to comply with the requirement for Rule 47 petitions to prosper, that is, that the ordinary remedies of new trial, reconsideration, appeal, petition for relief, and other appropriate remedies are not available;[31] (2) for being unnecessary and premature, given that Makati had a pending Motion for Reconsideration before the Regional Trial Court;[32] (3) for supposedly not having a certification of non-forum shopping appended to it;[33] and (4) for forum shopping, as Makati was simultaneously pursuing its Petition for Annulment of Judgment before the Court of Appeals and its Motion for Reconsideration before the Regional Trial Court.[34]

Makati then filed a Comment (on Taguig's Motion to Dismiss)[35] dated December 15, 2011.

In its Comment, Makati argued that there was no need to wait for ordinary remedies to become unavailable. It cited *Tiu v. First Plywood Corporation*[36] as supposedly providing an exception to the requirement invoked by Taguig. Makati asserted that, in accordance with *Tin*, "a judgment rendered by a court without jurisdiction is null and void, and may therefore be assailed anytime, without having to wait for ordinary remedies to become unavailable." [37] Citing *Nazareno v. Court of Appeals*, [38] it emphasized that the subject of its Petition for Annulment of Judgment was a supposedly void, i.e., non-existent, Decision. Thus, as there was no "effective or operative judgment to appeal from,]" [39] it was not necessary to wait for the expiration of ordinary remedies. [40]

On Taguig's claim that it engaged in forum shopping, Makati claimed that its Petition for Annulment of Judgment and Motion for Reconsideration Ad Cautelam were based on different causes of action, raised different issues, and sought different remedies. The Petition for Annulment of Judgment related to the validity of the July 8, 2011 Decision, that is, that it was void for having been rendered by a retired judge. On the other hand, the Motion for Reconsideration Ad Cautelam pertained to the merits of the territorial dispute or to the substance of the respective territorial claims of Taguig and Makati.[41] Makati also emphasized that pages 21 to 22 of its Petition for Annulment of Judgment contained a verification and certification of non-forum shopping duly signed by the Mayor of Makati, Jejomar Erwin S. Binay, Jr.[42]

Meanwhile, Pairing Judge Leili Cruz Suarez (Judge Suarez) took over the territorial dispute case in the Regional Trial Court. On December 19, 2011, Judge Suarez issued an Order[43] denying Makati's Motion for Reconsideration Ad Cautelam. In another Order dated February 13, 2012, which acted on a Motion for Clarification filed by Taguig, the Regional Trial Court, also through Judge Suarez, stated that "the findings of fact and conclusions of law in the Decision dated 8 July 2011, are all in order and soundly based." [44]

Makati then filed a Notice of Appeal Ad Cautelam dated January 3, 2012.[45] This appeal before the Court of Appeals was docketed as CA-G.R. CV No. 98377.[46] On October 5, 2012, Makati filed its Appellant's Brief Ad Cautelam.[47]

On January 6, 2012, Taguig filed its Reply to Makati's Comment on its Motion to Dismiss the Petition for Annulment of Judgment.[48] Taguig claimed that the Regional Trial Court's December 19, 2011 Order in the territorial dispute case, issued through Judge Suarez, rendered functus officio Makati's Petition for Annulment of Judgment, and reduced its resolution to "a mere academic exercise." [49] It insisted on its assertion that the Petition for Annulment of Judgment was fatally defective for failing to comply with Rule 47's requirements. It also assailed the jurisprudence cited by Makati as being inapplicable since in those cases, nullity of the subject cases were "obvious and beyond dispute." [50] It underscored its claim that Makati engaged in forum shopping as "[t]here is only one cause of action [which] revolves around the alleged rendition of a wrongful decision." [51]

Makati then filed a Rejoinder[52] dated February 2, 2012 reiterating its position that it did not commit forum shopping. It emphasized that the Motion for Reconsideration Ad Cautelam was merely a precautionary measure.[53] It claimed that the Petition for Annulment of Judgment was not rendered functus officio by the Regional Trial Court's December 19, 2011 Order as that Order included an express recognition that the matter of lack of jurisdiction was a matter in which the trial court would have to defer to the Court of Appeals:

This Court agrees with Makati on this point. This Court cannot state, at this juncture, if the assailed decision is void for lack of jurisdiction since Makati has already filed a Petition for Annulment of Judgment with the Court of Appeals... This Court cannot pass judgment and has to defer to the Court of Appeals (Tenth Division) with regard to Makati's Petition for Annulment of Judgment.[54]

Taguig then filed a Sur-rejoinder[55] dated February 15, 2012.

In the Resolution[56] dated May 16, 2012, the Court of Appeals denied Taguig's Motion to Dismiss. It favored Makati's assertion in its Comment on the Motion to Dismiss that Judge Ygaña's July 8, 2011 Decision may be assailed at any time as this Decision was assailed for being void and having been issued without jurisdiction.[57] It also noted that contrary to Taguig's allegation, a Verification and Certificate of Non-forum Shopping was attached to the Petition.[58] It likewise agreed with Makati's position that the Petition for Annulment of Judgment and Motion for Reconsideration Ad Cautelam were based on different causes of action, raised different issues, and sought different remedies.[59]

On June 4, 2012, Taguig moved for reconsideration.[60] Taguig asserted that the Regional Trial Court's

December 19, 2011 and February 13, 2012 Orders, penned by Judge Suarez, "stand on their own, independently of the assailed judgment as the final resolution of the [territorial dispute] case at the RTC level." [61] It emphasized that a Petition for Annulment of Judgment was the wrong remedy as the assailed July 8, 2011 Decision was not yet final and executory. [62] It insisted that Makati engaged in forum shopping and, in support of this assertion, emphasized that Judge Suarez made this finding in the Regional Trial Court's December 19, 2011 Order. [63]

In the Resolution dated December 18, 2012, [64] the Court of Appeals granted Taguig's Motion for Reconsideration and dismissed Makati's Petition for Annulment of Judgment: (1) for being *functus officio* and/or moot; (2) for being premature; and (3) for forum shopping. [65]

The Court of Appeals reasoned that the Petition for Annulment of Judgment had become ineffectual as the Regional Trial Court's December 19, 2011 and February 13, 2012 Orders "amounted to Pairing Judge Suarez' own analysis of the relevant facts and law juxtaposed with the pieces of evidence on record, making them the equivalent of her own disposition of the merits of the case." [66] Thus, the sole relief that Makati could expect was the setting aside of the July 8, 2011 Decision which the Regional Trial Court had itself already "displaced." [67]

The Court of Appeals added that a Petition for Annulment of Judgment was improper if other appropriate remedies were available. Since Makati had recourse to a motion for reconsideration, its Petition for Annulment of Judgment was premature. [68]

The Court of Appeals likewise ruled that in filing a Motion for Reconsideration and Petition for Annulment of Judgment, Makati effectively split a single cause of action and thereby engaged in forum shopping. [69]

On January 21, 2013, Makati moved for reconsideration. [70] It argued that the Petition for Annulment of Judgment could not have been rendered *functus officio* or moot by the Regional Trial Court's December 19, 2011 and February 13, 2012 Orders as these Orders did not replace but merely affirmed the July 8, 2011 Decision penned by Judge Ygaña. [71] It also insisted that a Petition for Annulment of Judgment was available to it at any time as the ground it invoked was lack of jurisdiction. [72] It maintained that the Petition for Annulment of Judgment and Motion for Reconsideration *Ad Cautelam* were based on distinct causes of action. [73]

In the assailed Resolution [74] dated April 30, 2013, the Court of Appeals denied Makati's Motion for Reconsideration. It abandoned its conclusions in its December 18, 2012 Resolution that the Petition for Annulment of Judgment had become *functus officio* and/or moot and that Makati engaged in forum shopping. However, it maintained that the Petition for Annulment of Judgment was premature:

After considering the arguments raised by both parties, we agree with petitioner [Makati] that the subsequent orders of the trial court did not render its petition moot or *functus officio*, as the subsequent orders did not supplant the assailed Decision but actually affirmed the same. We likewise agree with petitioner that it did not commit forum-shopping. We subscribe to our previous ruling in our Resolution dated May 16, 2012, that the issues raised and the remedies sought by petitioner in the appeal *ad cautelam* and in this petition for annulment are independent and different from each other. Thus, there was no splitting of cause of action and no forum-shopping committed.

However, the fact remains that petitioner also pursued its appeal *ad cautelam* before this Court, which remains pending before its Sixth Division and as correctly pointed out by respondent, the availability of the appeal as an ordinary remedy, which in fact petitioner availed of, renders this extraordinary remedy of an action for annulment of judgment unnecessary or, at the very least, premature. [75]

Alleging that the Court of Appeals' pronouncement that the Petition for Annulment of Judgment was premature was "inconsistent with and emasculated by the pronouncements that the instant petition was not mooted by the

subsequent orders of the lower court and that petitioner Makati did not commit forum shopping,"[76] Taguig filed before the Court Appeals what it called a Motion for Clarification.[77] The Motion prayed that "the Resolution dated April 30, 2013 be reinforced with clarificatory pronouncements that the instant petition was rendered moot by the subsequent orders of the lower court through Hon. Leili Cruz Suarez as Pairing Judge and that petitioner Makati did commit forum shopping."[78]

In resolving Taguig's Motion for Clarification, the Court of Appeals issued the second assailed Resolution[79] dated July 25, 2013, stating:

Relative to respondent City of Taguig's Motion for Clarification filed on May 22, 2013 and by way of clarification, the phrase "for being unnecessary and/or premature" appearing in the dispositive portion of the April 30, 2013 Resolution, means that the filing of the appeal docketed as CA-G.R. CV No. 98377 now pending with the Sixth Division of this Court has rendered the petition for annulment of judgment in the above-entitled case moot and academic, hence, unnecessary.[80]

Construing the Court of Appeals' silence (in its July 25, 2013 Resolution) on the issue of forum shopping as a "denial of the relief sought[.]"[81] petitioner City of Taguig comes to this Court through the present Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure. It prays that the assailed Court of Appeals' April 30, 2013 and July 25, 2013 Resolutions be modified by including a declaration that respondent City of Makati is guilty of willful and deliberate forum shopping and that appropriate sanctions be imposed.[82]

On February 24, 2014, respondent City of Makati filed its Comment[83] on the present Petition. On April 10, 2014, petitioner City of Taguig filed its Reply.[84]

This case centers on the issue of whether respondent City of Makati engaged in forum shopping in simultaneously pursuing: first, a Petition for Annulment of the July 8, 2011 Regional Trial Court Decision; and second, a Motion for Reconsideration (later Appeal) of the same July 8, 2011 Decision.

Should it be found to have engaged in forum shopping, this Court must reckon if it was done in such a licentious manner as to warrant the imposition of sanctions on the persons liable for it.

I

Top Rate Construction & General Services, Inc. v. Paxton Development Corporation[85] explained that:

Forum shopping is committed by a party who institutes two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes or to grant the same or substantially the same reliefs, on the supposition that one or the other court would make a favorable disposition or increase a party's chances of obtaining a favorable decision or action.[86]

First Philippine International Bank v. Court of Appeals[87] recounted that forum shopping originated as a concept in private international law:

To begin with, forum-shopping originated as a concept in private international law, where non-resident litigants are given the option to choose the forum or place wherein to bring their suit for various reasons or excuses, including to secure procedural advantages, to annoy and harass the defendant, to avoid overcrowded dockets, or to select a more friendly venue. To combat these less than honorable excuses, the principle of forum non conveniens was developed whereby a court, in conflicts of law cases, may refuse impositions on its jurisdiction where it is not the most "convenient" or available forum and the parties are not precluded from seeking remedies elsewhere.

In this light, Black's Law Dictionary says that forum-shopping "occurs when a party attempts to have his action tried in a particular court or jurisdiction where he feels he will receive the most favorable judgment or verdict."

Hence, according to Words and Phrases, "a litigant is open to the charge of 'forum shopping' whenever he chooses a forum with slight connection to factual circumstances surrounding his suit, and litigants should be encouraged to attempt to settle their differences without imposing undue expense and vexatious situations on the courts." [88] (Emphasis in the original)

Further, *Prubankers Association v. Prudential Bank and Trust Co.* [89] recounted that:

The rule on forum-shopping was first included in Section 17 of the Interim Rules and Guidelines issued by this Court on January 11, 1983, which imposed a sanction in this wise: "A violation of the rule shall constitute contempt of court and shall be a cause for the summary dismissal of both petitions, without prejudice to the taking of appropriate action against the counsel or party concerned." Thereafter, the Court restated the rule in Revised Circular No. 28-91 and Administrative Circular No. 04-94. Ultimately, the rule was embodied in the 1997 amendments to the Rules of Court. [90]

Presently, Rule 7, Section 5 of the 1997 Rules of Civil Procedure requires that a Certification against Forum Shopping be appended to every complaint or initiatory pleading asserting a claim for relief. It also provides for the consequences of willful and deliberate forum shopping:

RULE 7
PARTS OF A PLEADING
....

SEC. 5. Certification against forum shopping. — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (Emphasis supplied)

Though contained in the same provision of the 1997 Rules of Civil Procedure, the rule requiring the inclusion of a Certification against Forum Shopping is distinct from the rule against forum shopping. In *Korea Exchange Bank v. Gonzales*: [91]

The general rule is that compliance with the certificate of forum shopping is separate from and independent of the avoidance of the act of forum shopping itself. Forum shopping is a ground for summary dismissal of both initiatory pleadings without prejudice to the taking of appropriate action against the counsel or party concerned. [92]

Top Rate Construction discussed the rationale for the rule against forum shopping as follows:

It is an act of malpractice for it trifles with the courts, abuses their processes, degrades the administration of justice and adds to the already congested court dockets. What is critical is the vexation brought upon the courts and the litigants by a party who asks different courts to rule on the same or related causes and grant the same or

substantially the same reliefs and in the process creates the possibility of conflicting decisions being rendered by the different fora upon the same issues, regardless of whether the court in which one of the suits was brought has no jurisdiction over the action.[93]

Jurisprudence has recognized that forum shopping can be committed in several ways:

(1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).[94] (Emphasis in the original)

Similarly, it has been recognized that forum shopping exists "where a party attempts to obtain a preliminary injunction in another court after failing to obtain the same from the original court." [95]

The test for determining forum shopping is settled. In *Yap v. Chua, et al.*: [96]

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 for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.[97]

For its part, *litis pendentia* "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." [98] For *litis pendentia* to exist, three (3) requisites must concur:

The requisites of *litis pendentia* are: (a) the identity of parties, or at least such as representing the same interests in both actions; (b) the identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two cases such that judgment in one, regardless of which party is successful, would amount to *res judicata* in the other.[99]

On the other hand, *res judicata* or prior judgment bars a subsequent case when the following requisites are satisfied:

(1) the former judgment is final; (2) it is rendered by a court having jurisdiction over the subject matter and the parties; (3) it is a judgment or an order on the merits; (4) there is — between the first and the second actions — identity of parties, of subject matter, and of causes of action.[100] (Emphasis in the original)

These settled tests notwithstanding:

Ultimately, what is truly important to consider in determining whether forum-shopping exists or not is the vexation caused the courts and parties-litigant by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or to grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issue.[101]

II

Respondent City of Makati pursued two (2) simultaneous remedies: a Petition for Annulment of Judgment under Rule 47 of the 1997 Rules of Civil Procedure (docketed as CA-G.R. SP No. 120495); and a Motion for Reconsideration (later, an Appeal, docketed as CA-G.R. CV No. 98377).

There is identity of parties in both cases: the cities of Makati and Taguig.

Nonetheless, respondent City of Makati argues that it could not have engaged in forum shopping as its Petition for Annulment of Judgment and Motion for Reconsideration/Appeal were based on different causes of action, raised different issues, and sought different reliefs. It asserted that the Petition for Annulment of Judgment related to the validity of the July 8, 2011 Decision, i.e., that it was void for having been rendered by a retired judge. It added that, in contrast, the Motion for Reconsideration/Appeal pertained to the merits of the territorial dispute or the substance of the respective territorial claims of petitioner City of Taguig and respondent City of Makati.

These arguments are specious considering the basic nature of a Rule 47 Petition, and that of an appeal.

Rule 47 of the 1997 Rules of Civil Procedure "govern[s] the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner."

Alaban v. Court of Appeals[102] discussed the nature, purpose, and availability of petitions for annulment of judgment:

An action for annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled was rendered. The purpose of such action is to have the final and executory judgment set aside so that there will be a renewal of litigation. It is resorted to in cases where the ordinary remedies of new trial, appeal, petition for relief from judgment, or other appropriate remedies are no longer available through no fault of the petitioner, and is based on only two grounds: extrinsic fraud, and lack of jurisdiction or denial of due process. A person need not be a party to the judgment sought to be annulled, and it is only essential that he can prove his allegation that the judgment was obtained by the use of fraud and collusion and he would be adversely affected thereby.[103] (Emphasis supplied)

No stretch of legal imagination can justify as final and executory the Order assailed in the Petition for Annulment of Judgment filed by respondent City of Makati. It was still subject to appeal. Respondent City of Makati's having availed itself of this remedy is, in fact, the entire impetus for this Decision.

Rule 47, Section 7 specifies the effect of a judgment granting a Petition for Annulment of Judgment:

RULE 47
ANNULMENT OF JUDGMENTS OR FINAL ORDERS AND RESOLUTIONS

....

SEC. 7. Effect of judgment. — A judgment of annulment shall set aside the questioned judgment or final order or resolution and render the same null and void, without prejudice to the original action being refiled in the proper court. However, where the judgment or final order or resolution is set aside on the ground of extrinsic fraud, the court may on motion order the trial court to try the case as if a timely motion for new trial had been granted therein. (Emphasis supplied)

While petitions for annulment of judgment are governed by Rule 47 of the 1997 Rules of Civil Procedure, motions for reconsideration of judgments and final orders (as opposed to Motions for Reconsideration of interlocutory orders) are governed by Rule 37 of the 1997 Rules of Civil Procedure. Rule 37, Section 1 provides:

RULE 37
NEW TRIAL OR RECONSIDERATION

SECTION 1. Grounds of and period for filing motion for new trial or reconsideration. — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

....

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

Rule 37, Section 3 specifies the effect of granting a motion for reconsideration: "If the court finds that excessive damages have been awarded or that the judgment or final order is contrary to the evidence or law, it may amend such judgment or final order accordingly."

Escquivel v. Alegre[104] discussed the nature of amended judgments and contrasting it with supplemental judgments:

In an amended and clarified judgment, the lower court makes a thorough study of the original judgment and renders the amended and clarified judgment only after considering all the factual and legal issues. The amended and clarified decision is an entirely new decision which supersedes the original decision... [A] supplemental decision does not take the place or extinguish the existence of the original. As its very name denotes, it only serves to bolster or adds something to the primary decision. A supplement exists side by side with the original. It does not replace that which it supplements.[105] (Emphasis supplied)

In terms of immediacy of relief, there is a difference between motions for reconsideration of judgments and final orders, on the one hand, and petitions for annulment of judgment, on the other. The grant of a Motion for Reconsideration grants the movant immediate relief, the court's issuance granting the Motion is itself the amended judgment superseding the original Decision. On the other hand, the grant of a Petition for Annulment of Judgment only allows for a "renewal of litigation." [106] Nevertheless, the purposes of Motions for Reconsideration and Petitions for Annulment of Judgment are fundamentally the same: the setting aside of a judgment in order that a different, favorable, one may take its place. They "grant. . . substantially the same reliefs." [107]

Ley Construction and Development Corp. V. Hyatt Industrial Manufacturing Corp.[108] involved a civil action for specific performance and damages filed by Ley Construction against Hyatt Industrial. During the proceedings, Ley Construction served notices to take several depositions. The trial court initially allowed the taking of these depositions. Subsequently, however, the trial court issued orders through which it cancelled all the depositions set for hearing, supposedly not to delay the disposition of the case. Ley Construction filed before the Court of Appeals a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure assailing the trial court's (interlocutory) order recalling the taking of depositions. During the pendency of this Petition, the trial court issued the Resolution dismissing Ley Construction's action for specific performance and damages. The Court of Appeals also dismissed Ley Construction's Rule 65 Petition. Ley Construction then appealed to this court. Resolving Ley Construction's appeal, this court stated:

Third, petitioner's submission that the Petition for Certiorari has a practical legal effect is in fact an admission that the two actions are one and the same. Thus, in arguing that the reversal of the two interlocutory Orders "would likely result in the setting aside of the dismissal of petitioner's amended complaint," petitioner effectively contends that its Petition for Certiorari, like the appeal, seeks to set aside the Resolution and the two Orders.

Such argument unwittingly discloses a recourse to forum shopping, which has been held as "the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition." Clearly, by its own submission, petitioner seeks to accomplish the same thing in its Petition for Certiorari and in its appeal: both assail the two interlocutory Orders and both seek to set aside the RTC Resolution.

Hence, even assuming that the Petition for Certiorari has a practical legal effect because it would lead to the reversal of the Resolution dismissing the Complaint, it would still be denied on the ground of forum

shopping.[109] (Emphasis supplied)

Thus, in *Ley Construction*, even if the specific relief sought by the petitioner's Rule 65 Petition was the setting aside of the trial court's orders recalling the taking of depositions, it was recognized that granting this relief would result in the "practical legal effect"[110] of setting aside the trial court's dismissal of its Complaint for specific performance and damages. Thus, the petitioner would have "accomplish[ed] the same thing in its Petition for Certiorari and in its Appeal," that is, its Rule 65 Petition and its appeal would have granted practically, or "substantially," the same relief.

Ley Construction discredits respondent City of Makati's claim that it could not have engaged in forum shopping as its Rule 47 Petition and its Motion for Reconsideration/Appeal were grounded on different causes of action.

Ley Construction involved two (2) remedies: first, a Petition for Certiorari under Rule 65; and second, an Appeal. Rule 65, Section 1[111] of the 1997 Rules of Civil Procedure states that a Petition for Certiorari is available "[w]hen any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction." Thus, a petition for certiorari raises questions of jurisdiction. It does not, in the strict sense, delve into the merits or substance of the case or the proceedings, which allegedly occasioned an error in jurisdiction.

In *Ley Construction*, one could have dwelt on the fine distinction between, on one hand, Rule 65 petitions as proceedings grounded on errors in jurisdiction, and, on the other, appeals as proceedings that go into the merits or substance of a case. This is not entirely different from respondent City of Makati's invitation to dwell on the difference between, on one hand, its Rule 47 Petition as assailing the issuance of a judgment without jurisdiction, and, on the other, its Motion for Reconsideration (later, Appeal), as focusing on the substance of its and of petitioner City of Taguig's respective territorial claims.

Besides, a Rule 47 petition was not even opportune. It was not as though respondent City of Makati was left with no other remedy but a Rule 47 petition. Lack of jurisdiction could have just as easily been raised as an error in its Appeal or in its Motion for Reconsideration. It is as much a cause for pursuing a motion for reconsideration or an appeal as it is for pursuing a petition for annulment of judgment.

A petition for annulment of judgment is based only on two (2) grounds: first, extrinsic fraud; and second, lack of jurisdiction or denial of due process.[112] In contrast, a motion for reconsideration of a judgment or final order may cover "grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law." [113]

Rule 37, Section 2 of the 1997 Rules of Civil Procedure spells out what a motion for reconsideration must contain:

RULE 37
NEW TRIAL OR RECONSIDERATION
....

SEC. 2. Contents of motion for new trial or reconsideration and notice thereof. — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motion. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are

proposed to be introduced in evidence.

A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

A pro forma motion for new trial or reconsideration shall not toll the reglementary period of appeal. (Emphasis supplied)

However, Rule 37, Section 2 is not the sole provision in the 1997 Rules of Civil Procedure that spells out what a motion for reconsideration must state. Rule 15, Section 8, commonly referred to as the Omnibus Motion Rule, states:

RULE 15
MOTIONS

....

SEC. 8. Omnibus motion. — Subject to the provisions of section 1 of Rule 9, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived. (Emphasis supplied)

The Omnibus Motion Rule explicitly refers to Rule 9, Section 1.[114] This provision provides for the following exceptions to the Omnibus Motion Rule:

- (a) lack of jurisdiction over the subject matter;
- (b) *litis pendentia*;
- (c) *res judicata*; and
- (d) prescription.

Thus, even if these grounds are not pleaded in a motion attacking a judgment, such as a motion for reconsideration, they are not deemed waived.

Clearly, lack of jurisdiction may be invoked as a ground in a motion for reconsideration. It can thereby serve as basis for setting aside or amending a judgment or final order. Accordingly, it is as much a cause for pursuing a motion for reconsideration as it is a petition for annulment of judgment.

III

Makati points out that there is jurisprudence to the effect that a petition for annulment of judgment, if based on lack of jurisdiction, need not "allege that the ordinary remedies of new trial, reconsideration or appeal were no longer available through no fault of his." [115] Indeed, as explained in Tiu, "[t]his is so because a judgment rendered or final order issued by the [Regional Trial Court] without jurisdiction is null and void and may be assailed any time either collaterally or in a direct action, or by resisting such judgment or final order in any action or proceeding whenever it is invoked." [116]

Moreover, it is correct that Nazareno stated that "[a] judgment promulgated after the judge who signed the decision has ceased to hold office is not valid and binding." [117] This is so because "[w]hen a judge[,] retired all his authority to decide any case, i.e., to write, sign and promulgate the decision thereon also 'retired' with him. In other words, he had lost entirely his power and authority to act on all cases assigned to him prior to his retirement." [118]

In this case, however, Tiu and Nazareno afford Makati no relief, the crux of the present Petition being the matter of forum shopping.

Tiu involved a petition for annulment of judgment filed after the assailed judgment attained finality. In that case, by the time a petition for annulment of judgment was filed, an execution sale had already been held.

Tiu is markedly different from this case. In Tiu, a petition for annulment of judgment was availed of at the proper time and not in a manner that indicated an abuse of court processes. Here, respondent City of Makati's conduct was assailed by petitioner City of Taguig precisely because respondent City of Makati simultaneously pursued a Petition for Annulment of Judgment and a Motion for Reconsideration.

Nazareno involved a criminal case for serious physical injuries (Criminal Case No. 2335) in which a Decision was promulgated by a judge who was substituting for a suspended judge. Specifically, Acting Judge Aurelio Icasiano, Jr., promulgated a Decision penned and signed by the suspended Presiding Judge Manuel C. Diosomito. This Decision was dated November 8, 1995.[119]

Following the promulgation of this Decision, Romeo P. Nazareno (Nazareno) filed a Petition for Annulment of Judgment before the Court of Appeals. This Petition was denied by the Court of Appeals. A subsequent appeal before this Court was not entertained, it having been filed 12 days late.[120]

Failing in his Petition for Annulment of Judgment, Nazareno went back to the Municipal Trial Court of Naic, Cavite and filed a Notice of Appeal. The Regional Trial Court of Naic, Cavite, however, dismissed his appeal for having been supposedly filed out of time. Nazareno then filed a Petition for Mandamus and Certiorari before the Court of Appeals, which the Court of Appeals dismissed. Nazareno then filed an appeal before this court.[121]

Deciding Nazareno's Appeal, this Court noted that the November 8, 1985 Decision was a void judgment. As a void judgment, "it cannot be deemed to have become final and executory." [122] Citing *Metropolitan Waterworks and Sewerage System v. Sison*, [123] this Court emphasized that "the situation is the same as it would be if there were no judgment. Accordingly, it leaves the parties litigants in the same position they were in before the trial." [124] Accordingly, "in the interest of justice," [125] not only did this court rule that the November 8, 1985 Decision may still be appealed from; it was ruled that Criminal Case No. 2335 must be remanded to the Municipal Trial Court of Naic, Cavite "for adjudication and promulgation of [an entirely] new decision." [126]

In Nazareno, the petitioner did not simultaneously pursue a Petition for Annulment of Judgment and an Appeal. Respondent City of Makati did so here. In Nazareno, the petitioner had the prudence to not trifle with court processes and "creat[e] the possibility of conflicting decisions." On the contrary, the petitioner deferred to the Court of Appeals where his Petition for Annulment of Judgment was then pending. It was only after this Court dismissed his Appeal from the Court of Appeals' adverse Decision that he filed a Notice of Appeal.

Nazareno, far from helping respondent City of Makati's case, actually weakens it. Nazareno shows that an appeal (or a motion for reconsideration as a prelude to an Appeal) need not be pursued simultaneously with a Petition for Annulment of Judgment. Nazareno shows that a party burdened by a decision issued without jurisdiction need not simultaneously go to several fora to obtain relief. Nazareno shows that the issuance of a decision despite a tribunal's lack of jurisdiction is no license for forum shopping.

IV

Respondent City of Makati emphasized that its Motion for Reconsideration and Appeal were mere precautionary measures. We are not impressed by this argument. Appending the phrase "ad cautelam" to an application for relief does not alter the nature of the remedy being pursued. Had it been granted by the trial court, the Motion for

Reconsideration—ad cautelam or otherwise—would have ultimately resulted in the setting aside of the assailed decision.

The antecedents of the present Petition show that respondent City of Makati's actions have actually and already given rise to the harm sought to be avoided by the rule against forum shopping. The Regional Trial Court conflicted with the Court of Appeals.

In its December 19, 2011 Order, the Regional Trial Court found that respondent City of Makati engaged in forum shopping:

The Rules of Court, the code governing judicial procedure, prescribes the remedies (actions and special proceedings) that may be availed of for the myriad reliefs that persons may conceivably have need of and seek in this jurisdiction. But, that the adjective law makes available several remedies does not imply that a party may resort to them simultaneously or at his pleasure or whim. There is a sequence and a hierarchical order which must be observed in availing of them. Impatience at what may be felt to be the slowness of the judicial process, or even a deeply held persuasion in the Tightness of one's cause does not justify short-cuts in procedure, or playing fast and loose with the rules thereof.

The rationale against forum shopping is that a party should not be allowed to pursue simultaneous remedies in two different fora. Filing multiple petitions or complaints constitutes abuse of court processes, which tend to degrade the administration of justice, wreaks havoc upon orderly judicial procedure, and adds to the congestion of the heavily burdened dockets of the courts.

Without passing judgment on the Petition for Annulment of Judgment filed by Makati with the Court of Appeals, this Court would like to quote Section 1, Rule 47 of the Rules of Court which provides:
SECTION 1. Coverage. — This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.

There was still an available remedy for Makati and it correctly and timely filed the present Motion for Reconsideration Ad Cautelam. If applicable, there is still another remedy available to either party, appeal to the Court of Appeals and the Supreme Court.

Among the sanctions provided by the Rules and jurisprudence when there is forum shopping is the summary dismissal of the action with prejudice.

However, this court would not strictly apply the sanctions provided in order to give the parties the full measure of the proceedings that they are allowed to avail of under the law after the issuance of this order.[127] (Emphasis in the original, citations omitted)

For its part, the Court of Appeals has strangely flip-flopped on the question of respondent City of Makati's forum shopping. Its May 16, 2012 Resolution denying petitioner City of Taguig's Motion to Dismiss absolved respondent City of Makati of the charge of forum shopping. Its December 18, 2012 Resolution granted petitioner City Taguig's Motion for Reconsideration and dismissed respondent City of Makati's Petition for Annulment of Judgment for, among other reasons, forum shopping. Its April 30, 2013 Resolution denied respondent City of Makati's Motion for Reconsideration but abandoned its earlier conclusion that respondent City of Makati engaged in forum shopping. Finally, its July 25, 2013 Resolution granted petitioner City of Taguig's prayer that a pronouncement be made to the effect that respondent City of Makati's Petition for Annulment of Judgment was moot. This Resolution, however, was silent on the matter of forum shopping.

Respondent City of Makati's actions have not only vexed courts and an adverse litigant. They have actually and

already given rise to conflicting decisions, not only between different courts—the Regional Trial Court and the Court of Appeals—but even within the Court of Appeals itself. The damage to the administration of justice is not hypothetical; it is a realized harm.

V

Rule 7, Section 5 of the 1997 Rules of Civil Procedure provides that, apart from being a ground for summary dismissal, "willful and deliberate forum shopping . . . shall constitute direct contempt, [and is] a cause for administrative sanctions." Thus, it would be inadequate to stop with a mere declaration that respondent City of Makati, which acted through its counsels, engaged in forum shopping.

It was among the matters prayed for by petitioner City of Taguig that appropriate sanctions be imposed for respondent City of Makati's wilful and deliberate forum shopping. So too, respondent City of Makati's defenses have been duly pleaded and considered in this case. Under Rule 71, Section 1 of the 1997 Rules of Civil Procedure, direct contempt committed against a Regional Trial Court or a court of equivalent or higher rank is punishable by imprisonment not exceeding 10 days and/or a fine not exceeding P2,000.00. Accordingly, a fine of P2,000.00 is imposed on each of respondent City of Makati's counsels who filed the Petition for Annulment of Judgment before the Court of Appeals: Atty. Pio Kenneth I. Dasal, Atty. Glenda Isabel L. Biason, and Atty. Gwyn Gareth T. Mariano.

WHEREFORE, the Petition is GRANTED. The assailed Resolutions dated April 30, 2013 and July 25, 2013 of the Court of Appeals Seventh Division in CA-G.R. SP No. 120495 are MODIFIED. Respondent City of Makati is declared to have engaged in forum shopping in simultaneously pursuing a Petition for Annulment of Judgment before the Court of Appeals and a Motion for Reconsideration before Branch 153 of the Regional Trial Court of Pasig City, and later, an Appeal before the Court of Appeals.

We find respondent City of Makati, through its counsels Atty. Pio Kenneth I. Dasal, Atty. Glenda Isabel L. Biason, and Atty. Gwyn Gareth T. Mariano, GUILTY of direct contempt, and FINE Atty. Pio Kenneth I. Dasal, Atty. Glenda Isabel L. Biason and Atty. Gwyn Gareth T. Mariano P2,000.00 each.

SO ORDERED.

Carpio, (Chairperson), and Mendoza, JJ., concur.
Brion, and Del Castillo, JJ., on official leave.

[1] Rollo, pp. 100-130.

[2] Id. at 81-83. The Resolution was penned by Associate Justice Hakim S. Abdulwahid and concurred in by Associate Justices Marlene Gonzales-Sison and Leoncia Real-Dimagiba of the Former Seventh Division, Court of Appeals, Manila.

[3] Id. at 92-93. The Resolution was penned by Associate Justice Hakim S. Abdulwahid and concurred in by Associate Justices Marlene Gonzales-Sison and Leoncia Real-Dimagiba of the Former Seventh Division, Court of Appeals Manila.

[4] Id. at 126.

[5] Id. at 15, Motion for Extension of Time to File Petition for Review on Certiorari.

[6] Id.

[7] Id. at 83.

[8] Id. at 92.

[9] Id. at 439. Guingona, Alcala, and Palad were impleaded in their respective capacities as the occupants of the specified offices.

[10] Id. at 138.

[11] Id.

[12] Id. at 439, Petition for Annulment of Judgment.

[13] Id. at 194-214.

[14] Id. at 214.

[15] Id. at 437-457.

[16] Id. at 437.

[17] Id. at 452-454.

[18] Id. at 451-452.

[19] Id. at 455.

[20] Id. at 444-445.

[21] Id. at 444.

[22] Id.

[23] Id.

[24] Id. at 493.

[25] Id. at 494.

[26] Id. at 445.

[27] Id. at 445-446.

[28] Id. at 516.

[29] Id. at 215-277.

[30] Id. at 517-526.

[31] Id. at 518-520.

[32] Id. at 521.

[33] Id. at 521-522.

[34] Id. at 522-524.

[35] Id. at 527-535.

[36] 629 Phil. 120 (2010) [Per J. Carpio Morales, First Division], as cited in rollo, p. 527, Makati's Comment on

Taguig's Motion to Dismiss.

[37] Rollo, p. 527.

[38] 428 Phil. 32 (2002) [Per J. De Leon, Jr., Second Division], as cited in rollo, p. 528.

[39] Rollo, p. 528-529, citing Nazareno v. Court of Appeals, 428 Phil. 32, 41 (2002) [Per J. De Leon, Jr. Second Division].

[40] Id.

[41] Id. at 530-532.

[42] Id. at 532.

[43] Id. at 262-275.

[44] Id. at 26.

[45] Id. at 276-277.

[46] Id. at 92.

[47] Id. at 278-360.

[48] Id. at 538-547.

[49] Id. at 538.

[50] Id. at 539.

[51] Id. at 540.

[52] Id at 562-569.

[53] Id. at 564.

[54] Id. at 263.

[55] Id. at 588-590.

[56] Id. at 21-23.

[57] Id. at 22.

[58] Id.

[59] Id. at 23.

[60] Id. at 25-34.

[61] Id. at 27.

[62] Id. at 29.

[63] Id. at 33-34.

[64] Id. at 57-64.

[65] Id.

[66] Id. at 60.

[67] Id. at 61.

[68] Id. at 61-62.

[69] Id. at 63.

[70] Id. at 66-78.

[71] Id. at 67-70.

[72] Id. at 70-74.

[73] Id. at 74-76.

[74] Id. at 81-83.

[75] Id. at 82-83.

[76] Id. at 87.

[77] Id. at 85-87.

[78] Id. at 87.

[79] Id. at 92-93.

[80] Id. at 92.

[81] Id. at 15.

[82] Id. at 126.

[83] Id. at 646-658.

[84] Id. at 664-677.

[85] 457 Phil. 740 (2003) [Per J. Bellosillo, Second Division].

[86] Id. at 747-748, citing *Santos v. Commission on Elections*, 447 Phil. 760, 770-771 (2003) [Per J. Ynares-Santiago, En Banc]; *Young v. Keng Seng*, 446 Phil. 823, 832 (2003) [Per J. Panganiban, Third Division]; *Executive Secretary v. Gordon*, 359 Phil. 266, 271-272 (1998) [Per J. Mendoza, En Banc]

[87] 322 Phil.280 (1996) [Per J. Panganiban, Third Division].

[88] Id. at 303-304, citing *JOVITO SALONGA, PRIVATE INTERNATIONAL Law* 56 et seq. (1995), *Black's Law Dictionary*, 590 (5th ed., 1979); and *17 Words and Phrases* 646 (permanent ed.).

[89] 361 Phil. 744 (1999) [Per J. Panganiban, Third Division].

[90] Id. at 754-755.

[91] 496 Phil. 127 (2005) [Per J. Callejo, Sr., Second Division].

[92] Id. at 145, citing *Prubankers Association v. Prudential Bank and Trust Co.*, 361 Phil. 744 (1999) [Per J. Panganiban, Third Division].

[93] *Top Rate Construction & General Services, Inc. v. Paxton Development Corporation*, 457 Phil. 740, 748

(2003) [Per J. Bellosillo, Second Division], citing *Joy Mart Consolidated Corp. v. Court of Appeals*, G.R. No. 88705, 11 June 1992, 209 SCRA 738, 745 [Per J. Griño-Aquino, First Division] and *Villanueva v. Adre*, 254 Phil. 882, 888 (1989) [Per J. Sarmiento, Second Division].

[94] *Collantes v. Court of Appeals*, 546 Phil. 391, 400 (2007) [Per J. Chico-Nazario, En Banc], citing *Ao-As v. Court of Appeals*, 524 Phil. 645, 660 (2006) [Per J. Chico-Nazario, First Division].

[95] *Executive Secretary v. Gordon*, 359 Phil. 266, 272 (1998) [Per J. Mendoza, En Banc], citing *Fil-Estate Golf and Development, Inc. v. Court of Appeals*, 333 Phil. 465, 486-487 (1996) [Per J. Kapunan, First Division].

[96] 687 Phil. 392 (2012) [Per J. Reyes, Second Division].

[97] *Id.* at 400, citing *Young v. John Keng Seng*, 446 Phil. 823, 833 (2003) [Per J. Panganiban, Third Division].

[98] *Id.*

[99] *Id.*, citing *Villarica Pawnshop, Inc. v. Gernale*, 601 Phil. 66, 78 (2009) [Per J. Austria-Martinez, Third Division].

[100] *Luzon Development Bank v. Conquilla*, 507 Phil. 509, 523 (2005) [Per J. Panganiban, Third Division], citing *Allied Banking Corporation v. Court of Appeals*, G.R. No. 95223, January 10, 1994, 229 SCRA 252, 258 [Per J. Mendoza, Second Division].

[101] *First Philippine International Bank v. Court of Appeals*, 322 Phil. 280, 313 (1996) [Per J. Panganiban, Third Division].

[102] 507 Phil. 682 (2005) [Per J. Tinga, Second Division].

[103] *Id.* at 694, citing *Islamic Da'Wah Council of the Philippines v. Court of Appeals*, 258 Phil. 802 (1989) [Per J. Cortes, Third Division]; *RULES OF COURT*, Rule 47, sec. 1; and *Pinlac v. Court of Appeals*, 402 Phil. 684 (2001) [Per J. Ynares-Santiago, First Division].

[104] 254 Phil. 316 (1989) [Per J. Paras, Second Division].

[105] *Id.* at 325-326, citing *Magdalena Estate, Inc. v. Caluag*, 120 Phil. 338 (1964) [Per J. Regala, En Banc]; *Sta. Romana v. Lacson*, 191 Phil. 435 (1981) [Per J. Fernandez, First Division]; and *Aznar III, et. al. v. Bernard, et. al.*, 244 Phil. 285 (1988) [Per J. Sarmiento, Second Division].

[106] *Alaban v. Court of Appeals*, 507 Phil. 682 (2005) [Per J. Tinga, Second Division].

[107] *First Philippine International Bank v. Court of Appeals*, 322 Phil. 280, 313 (1996) [Per J. Panganiban, Third Division]. *Emphasis supplied.*

[108] 393 Phil. 633 (2000) [Per J. Panganiban, Third Division].

[109] *Id.* at 641-642.

[110] *Id.* at 641.

[111] *RULES OF COURT*, Rule 65, sec. 1 provides:

SECTION 1. Petition for certiorari. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty

and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

[112] *Alaban v. Court of Appeals*, 507 Phil. 682, 694 (2005) [Per J. Tinga, Second Division], citing RULES OF COURT, Rule 47, sec. 1.

[113] RULES OF COURT, Rule 37, sec. 1.

[114] RULES OF COURT, Rule 9, sec. 1 provides:

SECTION 1. Defenses and objections not pleaded. — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

[115] *Tiu v. First Plywood Corporation*, 629 Phil. 120 (2010) [Per J. Carpio-Morales, First Division].

[116] *Id.* at 132.

[117] *Id.* at 40, citing *People v. Court of Appeals*, 99 Phil. 786, 790 (1956) [Per J. Bengzon, En Banc].

[118] *Id.* at 41, citing *People v. Labao*, G.R. No. 102826, March 17, 1993, 220 SCRA 100 [Per J. Bellosillo, First Division].

[119] *Id.* at 36.

[120] *Id.* at 36-37.

[121] *Id.* at 37.

[122] *Id.* at 41.

[123] 209 Phil. 325 (1983) [Per J. Escolin, Second Division].

[124] *Id.*

[125] *Id.*

[126] *Id.*

[127] *Rollo*, pp. 274-275.

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