

EMILIANO S. CASIPIT AND ANTONIA C. CASIPIT VDA. DE BEATO, PETITIONERS, VS. HON. COURT OF APPEALS, (FORMER SECOND DIVISION), SPOUSES SEVERINO B. DIAZ AND ZENAIDA ALZONA-DIAZ, ROS...*G.R. No. 96829. December 09, 1991*

Ponente: MEDIALDEA, J.

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This is a petition for review on certiorari seeking reversal of the adverse decision of public respondent Court of Appeals dated August 22, 1990, in C.A. G.R. CV-No. 22671, entitled "Emiliano S. Casipit, et al. v. Spouses Severino B. Diaz and Zenaida Alzona-Diaz, et al.," which affirmed the dismissal of petitioners' complaint by the Regional Trial Court of Calamba, Laguna and ordered them to vacate the questioned property and pay to private respondents rentals, damages and attorney's fees; and its resolution dated January 11, 1991, which denied petitioners' motion for reconsideration.

The antecedent facts, as found by the trial court are, as follows:

On July 21, 1919, Urbano Casipit, father of petitioner Emiliano S. Casipit, bought Lot No. 144 (questioned property) located at Sinalhan, Sta. Rosa, Laguna, containing an area of 661 square meters from the government (Exhibit "2"). On June 7, 1923, he assigned his rights to the questioned property to Gabriel Beato (Exhibit "3") due to his (Urbano Casipit) default in paying the installments due thereon (Exhibits "2-A" and "2-B"). In 1932, Tax Declaration No. 7233 over the questioned property (Exhibit "4") was issued in the name of Gabriel Beato. On February 23, 1933, Patent No. 31464 over the questioned property was issued by Friar Lands Agency No. 2 in his name (Exhibit "3-A"). On October 7, 1945, Gabriel Beato died.

In 1945, Tax Declaration No. 2561 (Exhibit "C") over the questioned property was issued in the name of petitioner Emiliano S. Casipit, but covering an area of 330 square meters only. On February 9, 1949, he paid real estate taxes thereon for the years 1945 to 1949. He also paid taxes thereon for the years 1950 and 1954 (Exhibit "B").

On November 25, 1961, the heirs of Gabriel Beato namely, Ricardo, Rosa, Narciso, Fortunata and Domingo, all surnamed Beato, executed a document entitled "Kasulatan ng Pagmamana at Paghahati" wherein they adjudicated to themselves the properties of Gabriel Beato. In the same document, they sold to private respondents spouses Severino B. Diaz and Zenaida Alzona-Diaz the questioned property (Exhibits "F" and "1"). At the time of the sale, there was no occupant on the questioned property and petitioner Emiliano S. Casipit was then residing in an adjoining lot.

On January 6, 1962, Narciso Beato filed before the Court of First Instance of Laguna a Petition for Reconstitution of Titles, which was granted on July 17, 1963. On August 30, 1963, TCT No. RT-7880 over the questioned property was issued in the name of Gabriel Beato (Exhibit "7-B"). On September 20, 1963, TCT No. RT-7880

was cancelled by TCT No. T-27996 in the name of the heirs of Gabriel Beato (Exhibit "8") which was in turn cancelled by TCT No. T-27997 in the name of private respondents Diaz spouses. (Exhibit "9").

In 1965, petitioner Antonia C. Casipit Vda. de Beato and Julian Almadovar erected their respective houses on a portion of the questioned property. On October 8, 1981, a criminal complaint for violation of P.D. No. 772 (Penalizing Squatting and Other Similar Acts) was filed before the Municipal Court of Sta. Rosa, Laguna against them by private respondent Severino B. Diaz (Exhibit "5"). This complaint was dismissed at the instance of the fiscal on March 26, 1985 because the questioned property is not among the areas approved for inclusion in the slum improvement and resettlement program of the government thus, said decree does not apply (Exhibit "5-A"). On June 6, 1985, a complaint for ejectment (Civil Case No. 1601) was filed against petitioner Antonia C. Casipit Vda. de Beato by private respondents Diaz spouses before the Municipal Trial Court of Sta. Rosa, Laguna (Exhibit "6").

On April 27, 1987, a complaint was filed by petitioners against private respondents Diaz spouses, Rosa Beato Vda. de Diaz and Fortunata S. Beato mainly for recovery of ownership over the questioned property before the Regional Trial Court of Biñan, Laguna (pp. 1-14, Records). On June 23, 1987 (pp. 84-98, Records) and April 15, 1988 (pp. 173-188, Records), the complaint was amended. The ejectment case (Civil Case No. 1601) was then suspended due to the filing of the present case. In their complaint, it was alleged that petitioner Emiliano S. Casipit is the true and lawful owner of the questioned property by virtue of continuous, uninterrupted, peaceful, open and public possession in the concept of owner since 1930. Petitioners were deprived of ownership thereof by the Beatos through Narciso Beato, who filed a Petition for Reconstitution of Titles in the name of Gabriel Beato, using fictitious documents. Petitioners therefore prayed that TCT No. RT-7880 and other succeeding titles be cancelled, as well as Tax Declaration No. 7192 (sic) and succeeding tax declarations; that the questioned property be reconveyed to them; that the document entitled, "Kasulatan ng Pagmamana at Paghahati," insofar as it included the questioned property be rescinded; and that private respondents be ordered to pay damages and attorney's fees.

Private respondents disputed these allegations in their answer and by way of counterclaim, prayed for petitioners and all persons deriving title from them to vacate the questioned property, and to pay reasonable rentals, moral and exemplary damages and attorney's fees.

On July 11, 1989, the trial court rendered judgment, the dispositive portion of which, reads (p. 571, Records):

"IN VIEW OF THE FOREGOING, judgment is rendered in favor of the defendants and against the plaintiffs and the Second Amended Complaint is dismissed. Further, the plaintiffs are ordered to pay jointly and severally the Spouses Severino Diaz and Zenaida Diaz the amount of P5,000.00 as attorney's fees. With costs against the plaintiffs.

"SO ORDERED."

In support of this ruling, the trial court ratiocinated (pp. 569-571, Records):

"It must be noted that the plaintiffs' claim of ownership over Lot No. 144 is based on their alleged continuous possession of the same and on Tax Declaration No. 2561 (Exhibit 'C') in the name of Emiliano Casipit, as well as on the receipts showing payments of real estate taxes for the years starting 1945 to 1949, 1950 and 1954.

"Such claims of the plaintiffs cannot be sustained by the Court for the following reasons: (1) the testimonies of Antonia Casipit and Clara Casipit Calderon to the effect that they and their predecessor-in-interest have been in continuous possession of Lot No. 144 since time immemorial are self-serving; (2) Tax Declaration No. 2561 (Exhibit 'C') in the name of Emiliano Casipit has been (sic) issued only in 1945 and does not indicate the previous tax declaration it cancelled. Likewise, it only covers 330 square meters of Lot No. 144. On the other hand, tax declaration No. 7233 (Exhibit '4') in the name of Gabriel Beato was issued in 1932 and it covers the

whole of Lot No. 144; (3) the testimony of Antonia Casipit that her father Emiliano Casipit inherited from Urbano Casipit the land covered by tax declaration No. 2561 can not overcome the ancient documents introduced by the defendants showing that Urbano Casipit after defaulting in the payment of installments due the government assigned in 1923 his rights over Lot No. 144 to Gabriel Beato (Exhibits '2-A', '2-B' and '3'); and (4) the possession by the plaintiffs of a portion of Lot No. 144 can not ripened (sic) into ownership, for land registered under the Torrens System may not be acquired by prescription or adverse possession.

"Manifestly, the defendants have a better right over Lot No. 144 than the plaintiffs. Besides, the cause of action of the plaintiffs being based on fraud, has prescribed for it must be filed within four(4) years after the cause of action arose. The issuance of the reconstituted title over Lot No. 144 and its registration in the office of the Register of Deeds of Laguna, in 1973 (sic) is the starting date for the prescriptive period to commence.

"Anent the second issue, the Court finds no justifiable reason to order the cancellation of TCT No. (T-27997) T-13161, since the plaintiffs have failed to prove that they are the owners of the land covered by the said title. The fact that the Petition for Reconstitution of Titles was granted by the Court of First Instance of Laguna in LRC Record No. 23313 and such order having become final and executory, it is now conclusive on Gabriel Beato's title over Lot No. 144.

"As to the third issue, the records show that the plaintiffs' (sic) have miserably failed to present evidence to establish bad faith on the part of the defendants Severino Diaz and Zenaida Diaz. On the contrary, Zenaida Diaz declared that when they bought Lot No. 144 nobody was residing thereon and that Emiliano Casipit was then living at the adjoining lot. Therefore, said defendants are buyers in good faith and for value, for good faith is presumed unless the contrary is shown.

"Regarding the last issue, definitely, the plaintiffs are not entitled to damages, attorney's fees and costs, however, the defendants Severino Diaz and Zenaida Diaz are. The Diazes since 1985 have been trying to eject from the land in question the plaintiffs but have been unsuccessful. For this reason, the Diazes are entitled to actual damages and attorney's fees. Unfortunately, the Diazes have not presented competent evidence to prove the actual damages they sustained although as to attorney's fees they are entitled to the amount of P5,000.00. The Court can not award moral damages in favor of the Diazes since no bad faith or malice has been proven on the part of the plaintiffs."

Both parties appealed to public respondent Court of Appeals. Petitioners questioned the dismissal of their complaint by the trial court whereas private respondents questioned the failure of said court to grant them their prayer for reasonable rentals, actual and moral damages. On August 22, 1990, respondent court resolved the appeal in favor of private respondents, the dispositive portion of which, reads (p. 32, Rollo):

"WHEREFORE, the appealed decision dismissing the complaint should be as it is hereby AFFIRMED. On the counterclaim of defendants, judgment is hereby rendered ordering plaintiffs to vacate lot No. 144, and to pay reasonable rental in the amount of P300.00 from October, 1981 until they should have vacated the (sic) premises; to pay moral damages in the amount of P30,000.00, and attorney's fees in the amount of P5,000.00. No costs.

"SO ORDERED."

In affirming the trial court's decision, respondent court expounded (pp. 27-29, Rollo):

"x x x. To make it worse, on its face the tax declaration (No. 2561) appears to have been cancelled by provincial form No. 183 in 1966. Thereafter, no other tax declaration or any proof of ownership was issued in the name of plaintiffs-appellants.

"The payment of realty taxes by plaintiffs-appellants do not give any added weight to their claim of ownership of the lot in dispute. This is so considering the doctrine that 'payment of land taxes is not an evidence of

ownership of the parcel of land for which payment is made.' (Reyes vs. Serra, 93 SCRA 472; Director of Lands vs. C.A. 133 SCRA 701). During the pre-trial on November 2, 1988, the parties agreed, among other things -

'5. That Emiliano Casipit on February 9, 1949 paid the land taxes for lot 144 for the years 1945, 1946, 1947, 1948 and 1948; and on August 5, 1950 paid the land taxes for the said lot for 1950 and on October 13, 1954 paid the land taxes for the said lot for 1954.' (pp. 492-493, rec.)

"Admittedly, therefore, it would appear that plaintiff-appellants paid realty taxes for the land in dispute only 3 times and no more. Certainly that kind of payment cannot convey the idea of ownership.

"x x x. Then, the record shows that on October 8, 1981, Severino Diaz filed charges of anti-squatting against Casipit and Almadovar. On June 6, 1985, the Diaz spouses again filed an ejectment suit against Antonia Casipit. These undisputed facts would disprove the claim of the plaintiffs'appellants to uninterrupted possession that would have ripened to ownership.

"x x x.

"x x x. Plaintiffs-appellants, x x x, failed to explain how Emiliano Casipit acquired a right over 1/2 of lot 144. x x x.

"x x x. Then, tax declaration 7232 (sic) shows on its dorsal side that it was the very first or original tax declaration issued for lot 144, as shown by the notation: 'New'. Thereafter, in the same year, tax declaration 142 (sic) was issued in the name of the heirs of Gabriel Beato, and, unlike tax declaration 2561 of Casipit, clearly stated that is was cancelling tax declaration 7232 (sic) in the name of Gabriel Beato."

On January 11, 1991, the motion for reconsideration was denied (p. 17, Rollo). Hence, the present petition.

Petitioners assign as errors committed by respondent court the following (pp. 7-8, Rollo):

"First Assignment of Error

"THE HONORABLE COURT OF APPEALS HAS GRAVELY ERRED WHEN IT DENIED THE MOTION FOR RECONSIDERATION FILED BY THE PETITIONERS AS THE ISSUES RAISED THEREIN WERE NOT SQUARELY AND THOROUGHLY THRESHED OUT IN THE QUESTIONED RESOLUTION PROMULGATED ON JANUARY 11, 1991 AS THE CERTIFICATION ISSUED BY THE BUREAU OF LANDS OR ANNEX 'F' OR EXHIBIT 'D' HAS PROBATIVE VALUE TO BE GIVEN FULL CREDENCE AS THE SAME HAS BEEN ADMITTED BY THE PRIVATE RESPONDENTS AND THEREBY DECLARING AS NULL AND VOID THE 'KASULATAN NG PAGMAMANA AT PAGHAHATI' OR EXHIBIT '1' EXECUTED ON NOVEMBER 25, 1961 FOR WHICH REASON THE ACTION OF PETITIONERS IS IMPRESCRIPTIBLE.

"Second Assignment of Error

"THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN PROMULGATING ITS RESOLUTION OR ANNEX 'B' WHEN IT DENIED THE MOTION FOR RECONSIDERATION OF PETITIONERS AS THE QUESTIONED 'KASULATAN NG PAGMAMANA AT PAGHAHATI' EXECUTED ON NOVEMBER 25, 1961 CANNOT BE MADE AS BASIS IN CANCELLING RECONSTITUTED TRANSFER CERTIFICATE OF TITLE NO. RT-7880 WHICH WAS RECONSTITUTED ONLY ON AUGUST 30, 1963 AND NON-EXISTING ON NOVEMBER 25, 1961 WITHIN THE KNOWLEDGE OF PRIVATE RESPONDENTS DIAZES MAKING THEM AS BUYERS IN BAD FAITH AND BESIDES THE SAID 'KASULATAN NG PAGMAMANA AT PAGHAHATI' HAS TO BE DECLARED NULL AND VOID AB INITIO.

"Third Assignment of Error

"THE HONORABLE COURT OF APPEALS HAS GRAVELY ABUSED ITS DISCRETION IN PROMULGATING ITS RESOLUTION OR ANNEX 'B' AND ITS DECISION OR ANNEX 'E' ORDERING THE EJECTMENT OF THE PETITIONERS FROM THE PREMISES AND AWARD OF DAMAGES AND ATTORNEY'S FEES AS SAID ORDER OF EJECTMENT IS EQUIVALENT TO VIOLATION OF THE CONSTITUTIONAL RIGHT OF DUE PROCESS OF LAW AND THE RIGHT TO BE HEARD WHICH THE PETITIONERS ARE ENTITLED AS PETITIONER EMILIANO CASIPIT IS NOT A PARTY TO SAID EJECTMENT SUIT AND THE TRIAL COURT FINDS NO EVIDENCE TO WARRANT EJECTMENT."

They allege that pursuant to the Certification issued by the Bureau of Lands (Exhibit "D") that Patent No. 31464 over the questioned property has not been issued to Gabriel Beato, the "Kasulatan ng Pagmamana at Paghahati" is therefore a void contract. This being the case, the action taken by petitioners is imprescriptible. Private respondents Diaz spouses were buyers in bad faith because they had full knowledge that Emiliano Casipit has been in actual possession in the concept of owner of the questioned property and paid the real property taxes thereon. Private respondent Zenaida Alzona-Diaz testified that (pp. 46-48, tsn, March 20, 1989):

"ATTY. NOYNAY:

"x x x

"Q So, when was that year, if you still remember when Emiliano Casipit came from lot 144?

"A I saw in 1948, that is my first year in teaching, I saw the house of Emiliano Casipit situated on that Lot 144.

"x x x.

"Q So, in other words, Mrs. witness before 1948 you have seen the house of Emiliano Casipit in lot 144?

"A Yes, sir."

Likewise, private respondents Diaz spouses were aware that the Beatos had no title over the questioned property as of November 25, 1961 when the "Kasulatan ng Pagmamana at Paghahati" was executed because TCT No. RT-7880 was issued only on August 30, 1963. This was revealed by Zenaida Diaz in her testimony (pp. 45-46, supra):

"ATTY. NOYNAY:

"x x x.

"Q So, when you answered a while ago that during the time when this Kasulatan was executed in 1961 and which according to you, you were shown titles by the Beatos' is not (sic) correct?

"WITNESS:

"A At that time, sir, there was no title yet.

The ejectment of petitioners from the questioned property and the award of damages and attorney's fees are violative of due process of law because petitioner Emiliano S. Casipit is not a party to the ejectment suit before the trial court (Civil Case No. 1601).

The petition is not impressed with merit.

There is no dispute that an action for reconveyance based on a void contract is imprescriptible (Castillo, et al. v. Madrigal, et al., G.R. No. 62650, June 27, 1991; Baranda, et al. v. Baranda, et al., G.R. No. 73275, May 20, 1987, 150 SCRA 59). However, We simply cannot apply this principle to the present case because the action filed by

petitioners before the trial court was 1) for reconveyance based on fraud since the ownership of private respondents over the questioned property was allegedly established on "false assertions, misrepresentations and deceptive allegations" (p. 182, Records); and 2) for rescission of the "Kasulatan ng Pagmamana at Paghahati" (pp. 173, 187, Records). Besides, as against said Certification issued by the Bureau of Lands (Exhibit "D") dated March 18, 1987, which petitioners harp on, is the explicit Certification of Friar Lands Agency No. 2 of the same Bureau dated June 17, 1951, that "x x x according to the records of this Office, Lot No. 144 of the SANTA ROSA (DETACHED) ESTATE, was deeded under Patent No. 31464 dated February 23, 1933 in the name of Gabriel Beato of Sinalhan, Sta. Rosa, Laguna." Thus, the action for reconveyance based on fraud filed by petitioners before the trial court is subject to prescription. In this regard, respondent court shares the same view as the trial court that (p. 29, Rollo):

"x x x. The issuance of the reconstituted title over lot No. 144 and its registration in the office of the Register of Deeds of Laguna in 1973 (sic) is the reckoning point for the prescriptive period to commence. The 4-year period within which to file this case for cancellation of title based on fraud must be done within 4 years after the cause of action arose. Here, more than 4 years has elapsed." (underscoring supplied)

We were categorical in the case of *Caro, et al. v. Court of Appeals, et al.*, G.R. No. 76148, December 20, 1989, 180 SCRA 401 citing the case of *Liwalug Amerol, et al. v. Molok Bagumbaran*, G.R. No. L-33261, September 30, 1987, 154 SCRA 396 that the prescriptive period for the reconveyance of fraudulently registered real property is ten (10) years reckoned from the date of the issuance of the certificate of title. We even said in the case of *Heirs of Maria Revilla Vda. de Vega, et al. v. Court of Appeals, et al.*, G.R. No. 93507, July 12, 1991 that:

"x x x, after numerous illuminating decisions by this Court, nobody can successfully claim ignorance of the rule that an action for reconveyance based on an implied or constructive trust prescribes in ten (10) years. x x x."

Conformably with these settled jurisprudence, the prescriptive period for petitioners' action for reconveyance is ten (10) years from August 30, 1963, the date of the issuance of TCT No. RT-7880 (Exhibit "7-8"). Obviously, Our discussion on this subject matter is not beneficial to petitioners because they filed the action for reconveyance only on April 27, 1987.

While private respondent Zenaida Alzona-Diaz saw the house of petitioner Emiliano S. Casipit on the questioned property before 1948, at the time of the sale, there was no occupant on the questioned property and he (Emiliano S. Casipit) was then residing in an adjoining lot (supra). When she testified that there was no title yet when the "Kasulatan ng Pagmamana at Paghahati" was executed in 1961, she was referring to there reconstituted torrens title thereon. The other portions of her testimony which were conveniently deleted by petitioners read (pp. 44-45, tsn, March 20, 1989):

"Q In 1961, you mean to say that the Beatos had already told you that they have already a reconstituted title over the portion that was sold to you?

"A None yet, sir-.

"Q What (sic) is it that you were answering (sic) Atty. Noynay that you were told about the reconstituted title?

"A My husband and I were informed that they will file a petition for reconstitution on Lot No. (sic) 132, 134 and 144."

A purchaser in good faith is one who buys the property of another without notice that some other person has a right to, or interest in, such property and pays a full and fair price for the same, at the time of such purchase, or before he has notice of the claim or interest of some other person in the property (*Vda. de Recinto v. Inciong, et*

al., G.R. No. L-26083, May 31, 1977, 77 SCRA 196 citing Cui and Joven v. Henson, 51 Phil. 606 and Fule v. De Legare, 7 SCRA 351). In consonance with this definition, private respondents Diaz spouses were purchasers in good faith. They bought the property of private respondents Beatos without notice that some other person has a right to, or interest in, the questioned property and paid the full price therefor at the time of such purchase. In addition, respondent court said (pp. 29-30, Rollo):

"The Diaz spouses who bought the land in question from the Beatos are buyers in good faith. We find no need for an extended discussion on this issue, considering that plaintiffs-appellants failed to show a better title to the lot than that of the defendants-appellees Beatos. However, We shall dwell briefly on this matter if only to erase any doubt as to the good title of the Diazes over the property which they now own. When the Diazes bought the property in question for a valuable consideration, they were shown the Beatos' documents which show and prove how the latter acquired ownership thereof. These consisted of Exhibits 2, 2-A, 3, and 4, which are all ancient documents. Then, when the Diaz spouses purchased the lot in question, there was no house or structure built thereon, nor anyone living in the premises. Under the circumstance, the Diaz spouses cannot be imputed with notice of this adverse claim of the plaintiff (sic) or any flaw, assuming there is any, in the title of the vendors."

Regarding the last allegation of petitioners, We adopt respondent court's reasoning thereon (pp. 31-32, Rollo):

"x x x, the herein defendants-appellants are entitled to lot 144, and thus, in effect, plaintiffs-appellees are unlawfully occupying portions of the said lot. The trial court thus may award actual (sic) damages in every case where a property right has been invaded (Article 2222 of the New Civil Code). Defendant-appellant Zenaida Diaz testified that the reasonable rental for the area occupied by Antonio (sic) Casipit is P300.00 a month (p. 40, tsn; Mar. 20, 1987 (sic)). This testimony of Diaz was un rebutted. It is also un rebutted that on October 8, 1981, Severino Diaz filed a criminal complaint against Antonio (sic) Casipit and Julian Almadovar for violation of P.D. 772, but was dismissed by the prosecuting fiscal on the ground that the said law applies to urban land only. And on June 5, 1987 (sic), a complaint for ejectment was filed by the Diazes against Antonia Casipit before the Municipal Trial Court which was suspended due to the filing of this instant case. Thus, October 8, 1981, should be the reckoning point for the awrd (sic) of P300.00 a month in the form of reasonable rentals to compensate the Diazes for the loss of enjoyment of property that lawfully belongs to them.

"An award of moral damages is justified since the evidence indicate (sic) bad faith in the filing of this complaint by plaintiffs-appellees. Apparently, plaintiffs-appellees are not even convinced of the validity of their claim since they permitted a period of more than 30 years to lapse before they went to court. It would seem that this complaint filed by plaintiffs-appellees was merely an afterthought in order to counteract the ejectment suit filed by defendants-appellants Diazes on June 6, 1985. The numerous court cases relative to the lot in dispute have caused the Diazes sleepless nights and thus they should be entitled to moral damages in the amount of P30,000.00.

"In order to give complete relief to the Diazes, plaintiffs-appellees must vacate the lot in dispute. True, there is now a pending ejectment case in the Municipal Trial Court of Sta. Rosa, Laguna. However, the pendency of the said ejectment case should not constitute a bar to the grant of the relief prayed for by appellants Diazes in their answer, i.e., to vacate the premises. In the case at bar, the issue of ownership has in effect settled the issue of possession which would be litigated upon in the ejectment suit. The trial court took into account the fact that appellants Diazes first filed a criminal complaint against plaintiffs-appellees in 1981; and, in 1985, a complaint for ejectment. The Diazes, therefore, being the lawful owners of the property in dispute, and in this case, the issue of possession having been properly ventilated, should be awarded immediate possession of the property. This is necessary in order to finish once and for all the controversy between the defendants-appellants and the plaintiffs-appellees. To leave the issue of ejectment in the hands of the Municipal Trial Court where a complaint has been pending, would be to deny complete relief to defendants-appellants. It is best to grant the relief prayer (sic) for, that of ejectment, in the case at bar, in order to avoid multiplicity of suits. It will not only

save the parties and the court the rigors and expenses of multiple (sic) litigations, but also avoid the remote probability that there might be conflicting decisions relative to one and the same issue."

ACCORDINGLY, the petition is hereby DENIED. The decision of the Court of Appeals dated August 22, 1990 and its resolution dated January 11, 1991 are AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, Feliciano, and Griño-Aquino, JJ., concur.

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