

FIRST DIVISION

[G.R. No. 154177, June 09, 2004]

**TF VENTURES, INC., MANUEL L. MORATO, ANTONIO L. TAN, JR.,
TRUMAN E. BECKER AND JOSE THOMAS D. BELDIA,
PETITIONERS, VS. YOSHITSUGU MATSUURA, PENTACAPITAL
MANAGEMENT CORPORATION AND SUNDAY PINEDA,
RESPONDENTS.**

D E C I S I O N

YNARES-SANTIAGO, J.:

For review is the decision of the Court of Appeals,^[1] dated March 5, 2002^[2] in CA-G.R. SP No. 68302, which dismissed the petition for review filed by TF Ventures, Inc., Manuel L. Morato, Antonio L. Tan, Jr., Truman E. Becker and Jose Thomas D. Beldia, as well as the resolution dated July 4, 2002, denying their motion for reconsideration.

Petitioners Morato, Tan, Becker, Beldia and respondent Yoshitsugu Matsuura are stockholders of TF Ventures, Inc., a private domestic corporation organized and existing under Philippine law. Pentacapital Management Corporation and Sunday Pineda, alleged successors-in-interest of legitimate stockholders of record, were given leave to intervene in these proceedings.^[3]

On November 21, 1997, respondent Matsuura filed a request for investigation by the Prosecution and Enforcement Department (PED) of the SEC, initially docketed as CSI 97-11-31, and eventually docketed as PED Case No. 98-2231, to look into the basis for the increase in capital stock of TF Ventures, Inc. from P10 million to P100 million. Respondent Matsuura, in his capacity as stockholder and chairman of the board of TF Ventures, Inc., alleged that the corporation's capital increase was based on anomalous transactions and spurious documents.^[4]

Prior to the investigation, on October 1, 1997, petitioners initiated a case with the Securities Investigation and Clearing Department (SICD) of the SEC, for "Declaration of Nullity of Stockholders/Directors Meeting with Damages". This case was docketed as SICD-SEC Case No. 10-97-5778. Petitioners therein sought, *inter alia*, the nullification of the acts of Matsuura, Alexander Poblador, Romeo F. Gaza, Yuzuke Fukuzumi, Florence R. Valmonte, Virgilio R. Lazaga, Reza M. Arabpour and Ruben P. Jacinto, who misrepresented themselves as shareholders and/or directors of TF Ventures, Inc. Among the acts sought to be annulled were: (1) an annual stockholders' meeting conducted on September 22, 1997; (2) the election of the directors; (3) the organizational meeting of the board of directors; and (4) the election of officers.^[5] In their "Answer with Counterclaim", Matsuura and Poblador denied petitioners' allegations, and for their part, sought (1) the declaration of nullity of a stockholders' meeting held on October 20, 1997, allegedly spearheaded by the individual petitioners; (2) the nullification of certain allegedly sham board

resolutions; and (3) for failure of consideration, the nullification of the approval of the application for the corporation's increased capitalization from P10 million to P100 million.^[6]

On March 30, 1998, petitioners filed a "Motion to Suspend Proceedings and/or Consolidation of Cases" in PED Case No. 98-2231 (CSI Case No. 97-11-31), alleging that the issue pertaining to the increase of TF Ventures Inc.'s capital stock had already been pleaded and raised in Matsuura's "Answer with Counterclaim" in SEC Case No. 10-97-5778.^[7] This motion was denied for lack of merit on April 27, 1998.^[8] Petitioners filed a petition for certiorari with the SEC en banc which, on September 11, 1998, dismissed the same and denied the consolidation of cases.^[9] Not content, petitioners sought relief from the Court of Appeals, which denied their petition for review.^[10] The matter was elevated to this Court, docketed as G.R. No. 141510 (*TF Ventures, Inc., Manuel L. Morato, Antonio L. Tan, Jr., Truman E. Becker and Jose Thomas D. Beldia versus the Court of Appeals, Hon. Simeon P. Baldillo and Yoshitsugu Matsuura*), and is now awaiting resolution.^[11]

SICD-SEC Case No. 10-97-5778 and PED Case No. 98-2231 thus proceeded independently. SICD-SEC Case No. 10-97-5778 was transferred to the Regional Trial Court of Makati, Branch 138, docketed as Civil Case No. 01-207. Meanwhile, the investigation of Matsuura's claim proceeded in PED Case No. 98-2231.

On May 22, 2001, the SEC rendered a resolution in PED Case No. 98-2231, (1) finding that there was serious misrepresentation committed in the application for increase in capitalization of TF Ventures, Inc.; (2) setting aside the increase in authorized capital stock from P10,000,000.00 to P100,000,000.00; and (3) ordering the immediate revocation and cancellation of the certificate of increase in capitalization.^[12] On November 8, 2001, the SEC denied petitioners' motion for reconsideration.^[13]

After the two adverse resolutions issued by the SEC in PED Case No. 98-2231, petitioners filed with the Court of Appeals a petition for review, wherein they argued that they were denied due process in the proceedings before the SEC; that they were deprived of their right to participate therein; and that there was undue haste in the promulgation of the resolutions dated May 22 and November 8, 2001. Petitioners thus prayed that the questioned resolutions be nullified or that the case be remanded to the SEC for further proceedings.^[14] The Court of Appeals dismissed the petition outright for failure to comply with the rule on forum shopping.

The only issue raised for determination in the instant petition is whether or not the Court of Appeals correctly dismissed the petition for review.

We rule in the affirmative.

Petitioners' main contention is that there was no legal basis for the dismissal of the suit inasmuch as the rule against forum shopping is not applicable to their case.^[15] We disagree.

The grave evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate, and contradictory decisions.

Unscrupulous party-litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several different fora until a favorable result is reached. This would make a complete mockery of the judicial system. To avoid the resultant confusion, this Court adheres strictly to the rules against forum shopping, and any violation of these rules results in the dismissal of a case.

Upon a perusal of the records of this case, we find that petitioners have simultaneously sought a positive result in several different fora. There are not merely one, but **two**, other proceedings in which petitioners have sought a favorable decision, namely: Civil Case No. 01-207, pending before the Regional Trial Court of Makati, Branch 138; and G.R. No. 141510, pending before this Court.

In G.R. No. 141510, petitioners have repeatedly accused **respondents** of violating the rule against forum shopping, and have in no uncertain terms proclaimed that the primary issue in PED Case No. 98-2231, i.e., the basis for the increase in the capital stock of TF Ventures, Inc., is more properly litigated in the earlier proceedings which they initiated before the SEC-SICD. Petitioners themselves characterize the related issues to be threshed out as virtually indistinguishable. In their "Motion to Suspend Proceedings and/or Consolidation of Cases" dated March 30, 1998, filed with the Securities and Exchange Commission in PED Case No. 98-2231, the individual petitioners Tan, Morato, Beldia and Becker categorically state:

[o]n the other hand, the instant case involved the same issues and presentation of evidence, but for reasons only known to Mr. Matsuura and his counsel [who] deliberately suppress[ed] the fact to this Office the pendency of SEC Case No. 10-97-5778, aggravated by the fact that NO FORMAL COMPLAINT AND/OR NOTICE WERE SERVED AT THE INITIAL STAGES of the proceedings to Messrs. Tan, Morato, Beldia and Truman, or even to stockholder Alexander Poblador, who are the stockholders on record that will be adversely affected by the very nature of the case;^[16]

[b]esides, the SEC Case No. 10-97-5778 is a PREJUDICIAL QUESTION to the matter now undertaken by this Office (*PED Case No. 98-2231 and CSI Case No. 97-11-31*) [, and] considering that Mr. Matsuura's accusatorial stance carries with it the penal sanction, if warranted, it is now time to observe the proper procedural rules without sacrificing the substantial rights of the parties;^[17]

Petitioners are even more assertive in their petition for review on certiorari in G.R. No. 141510, in which they repeatedly characterize PED Case No. 98-2231 as being identical with SEC-SICD Case No. 10-97-5778.^[18]

The test for determining whether there has been a violation of the rule against forum shopping has been laid down in the 1986 case of *Buan v. Lopez*.^[19] Forum shopping exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to res judicata in the other. *Litis pendentia* as a ground for the dismissal of a civil action refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious. For *litis pendentia* to be invoked, the concurrence of the following requisites is necessary:

- (a) identity of parties or at least such as represent the same