

FIRST DIVISION

[G.R. No. 120958, December 16, 1996]

**FIL-ESTATE GOLF AND DEVELOPMENT, INC., PETITIONER, VS.
COURT OF APPEALS, HON. STELLA CABUCO-ANDRES, PRESIDING
JUDGE OF BRANCH 31, REGIONAL TRIAL COURT, FOURTH
JUDICIAL REGION, SAN PEDRO, LAGUNA, SPOUSES FELIPE AND
VICTORIA LAYOS, EDUARDO R. LOYOLA, NENITA ZARRIS,
MANUEL R. TUASON AND BENILDA AMBIOJA, RESPONDENTS.**

D E C I S I O N

KAPUNAN, J.:

Assailed in this petition for review on certiorari under Rule 45 of the Revised Rules of Court with application for a temporary restraining order or writ of preliminary injunction is the decision of the Court of Appeals dated 10 March 1995 dismissing the petition for certiorari and prohibition filed by petitioner. Impugned likewise is the resolution of the Court of Appeals dated 13 July 1995 denying petitioner's motion for reconsideration.

The present controversy arose from the following facts:

Petitioner Fil-Estate Golf & Development, Inc. (FEGDI) is the developer of the Manila Southwoods golf course and residential subdivision project which partly covers lands located in Binan, Laguna. Its partner in the joint venture, La Paz Housing and Development Corporation (La Paz), provided the aforementioned properties which are registered in its name. The project involves the "construction and development of, among others, a highway interchange linking nearby communities to the South Expressway and world class tourism-generating cultural theme and water parks."^[1]

On 29 December 1992, a certain Felipe Layos filed a complaint for Injunction and Damages with Application for Preliminary Injunction^[2] against Fil-Estate Realty Corporation, (FERC) et al. With the Regional Trial Court of Binan, Laguna and docketed as Civil Case No. B-3973.

It was alleged in the said complaint that Felipe Layos is the legal owner and possessor of two (2) parcels of land having a total area of 837,695 square meters located at Barrio Tubigan, Binan, Laguna, known as Lots 1 & 2 of Plan Psu-201 of the Bureau of Lands having acquired the same from his father, Mauricio Layos, who in turn inherited said properties from his own father, Natalio Layos, allegedly the original owner thereof. Layos claimed that the Southwoods project encroached upon the aforecited lands and thus contended that his rights of ownership and possession were violated when FERC brought in men and equipment to begin development of the said properties.

On 2 February 1993, FERC filed an Opposition to Application for Writ of Preliminary

Injunction^[3] and explicitly stated therein that the developer of the Southwoods project is its sister company, FEGDI.

On 5 March 1993, FEGDI filed an Answer^[4] to the abovementioned complaint and reiterated that it is the developer of the Southwoods project and not FERC and that the land covered by the project is covered by Transfer Certificates of Title in the name of La Paz, copies of which were attached to said answer as annexes.

On 29 March 1993, Presiding Judge Justo M. Sultan of the Regional Trial Court of Binan, Laguna issued an order denying the prayer for preliminary injunction in Civil Case No. B-3973 in view of the inability of Layos to substantiate his right. Neither he nor his counsel appeared on the scheduled hearings. The order reads as follows:

xxx.

When this case was called for hearing on the petition for issuance of the writ of preliminary injunction, only the defendant Fil-Estate Realty Corp. and its counsel are present. On the other hand, the plaintiff and counsels did not appear in Court.

Records will show that on January 18, 1993, a temporary restraining order was issued by the Court and was served on the defendant on February 1, 1993. On the February 2, 1993 hearing, the plaintiff moved that the hearing be reset on February 22, 1993. This is with the full knowledge that a temporary restraining order would become moot and academic by the next hearing.

On the date of the hearing (February 27, 1993), the plaintiff moved for postponement on the ground that he will submit a report on the relocation survey within Ten (10) days; hence, the hearing was again reset to March 23, 1993. That, on said date (March 23, 1993), no hearing took place inasmuch as the plaintiff just filed a written Motion for Postponement. The Court then set the hearing to March 30, 1993. Again, the hearing was reset to April 29, 1993. LRC Case No. B-452 (sic) being related to Civil Case No. B-3973, its hearing was likewise made to coincide with the hearing on the issuance of the writ of preliminary injunction. On the date set for hearing, the plaintiff who is also the applicant in LRC Case No. B-542 including his two counsels did not appear in Court despite due notice to them.

WHEREFORE, in view of the plaintiff's inability to substantiate his right, the prayer for preliminary injunction is denied due course.

SO ORDERED.^[5]

On 25 June 1993, Felipe Layos along with his wife and other individuals filed another case for Injunction and Damages with Prayer for Preliminary Injunction with the Regional Trial Court of San Pedro, Laguna docketed as Civil Case No. B-4133, this time against the correct party, FEGDI.

The complaint in the San Pedro case (Civil Case No. B-4133) is basically identical to that filed in the Binan case (Civil Case No. B-3973), except for changes in the

number of party-plaintiffs and party-defendants and in the area size of the claimed landholdings. Further, in the San Pedro case there is reference to a title (OCT No. 239), a specific date of intrusion and an increase in the damages prayed for.^[6]

On 1 July 1993, FEGDI moved to dismiss the San Pedro case on grounds of *Litis pendentia*, forum-shopping, lack of cause of action and lack of jurisdiction.^[7] FEGDI argued that a similar complaint was previously filed with the Regional Trial Court of Binan, Laguna and is currently pending therein. It, likewise, accused the private respondents of forum-shopping, stating that the latter instituted the San Pedro case after their application for preliminary injunction was denied by the Binan court. Anent the third and fourth grounds, FEGDI averred that the documents relied upon by the private respondents are of doubtful veracity and that they failed to pay the correct filing fees considering that the San Pedro case is a real action as allegedly revealed in the body of the complaint. The Layoses filed their opposition on 5 July 1993 arguing in the main that there is no *litis pendentia* because there is no identity of parties. Felipe Layos claimed that he never authorized the filing of the Binan case and that the defendant therein is the Fil-Estate Realty Corporation not the Fil-Estate Golf & Development, Inc. Consequently, the two cases being dissimilar, there can be no forum-shopping.^[8] Private respondents contended, likewise, that they have satisfied all the requirements of a valid cause of action and insisted that the suit is not for recovery of possession but is a personal action for injunction and damages. On 12 July 1993, Judge Stella Cabuco-Andres of the San Pedro Regional Trial Court issued an order denying FEGDI's motion to dismiss.^[9] The Motion for Reconsideration filed by FEGDI on 13 July 1993 was similarly denied by the aforesaid court in an order dated 14 July 1993.^[10]

On 15 July 1993, FEGDI filed a Petition for Certiorari and Prohibition with Application for Preliminary Injunction with the Court of Appeals (docketed as CA-G.R. Sp No. 31507)^[11] assailing the denial of its motion to dismiss the San Pedro case. The arguments and issues raised by petitioner to support its motion to dismiss were the same issues raised in the aforestated petition.

On 20 July 1993, the Court of Appeals issued a temporary restraining order enjoining Judge Andres from proceeding with the San Pedro case.^[12]

Meanwhile, the Regional Trial Court of Binan, Laguna, in an order dated 25 January 1994, dismissed the Binan case without prejudice on grounds of forum-shopping.^[13] FEGDI moved for a partial reconsideration of the said order praying that the dismissal be with prejudice. Hence, on 25 April 1994, the aforestated court dismissed the Binan case with prejudice to forestall the plaintiffs therein from forum-shopping. The said order states, thus:

xxx.

This Court in its Order dated January 25, 1994 dismissed the case on the ground of forum shopping. The defendant corporation later on filed a Motion for Partial Reconsideration insisting that the dismissal should be permanent as a penalty for forum shopping. For indeed, the reiteration of the same would result in contempt, summary dismissal of all the actions or proceedings as well as administrative sanctions. (MP[sic]

Finance Corp. vs. Abesamis, 195 SCRA 592; (Benguel [sic] Electric Corp., Inc. vs. AEA, Jan 23, 1991; see also Aqualyn Corp. vs. CA, 214 SCRA 307 (1992); Ruiz vs. Drilon, 209 SCRA 695 (1992).

This Court is in full agreement with the defendant corporation, otherwise, if the dismissal is without prejudice, what would prevent the plaintiff from raising the same thing in another tribunal as it has raised in Branch 31 of this Court? It would result in absurdity. The rule prohibiting as well as penalizing forum-shopping has not been intended to allow absurdity to happen. It was intended to prevent repetitious filing of suits by one party in case he cannot succeed in a claim lodged before a court of justice. There must be an end to litigation and this is one thing the penalty for forum shopping has intended to be.

Wherefore, in view of the foregoing premises, the Motion for Reconsideration is granted. This case is hereby dismissed with prejudice.

SO ORDERED.^[14]

On 10 March 1995, the Court of Appeals dismissed FEGDI's petition for lack of merit. It ruled that:

1. There is no *litis pendentia* because there is no identity of parties, specifically the main party-defendants, FERC (the defendant in the Binan case) and FEGDI (the defendant in the San Pedro case) which have separate and distinct personalities;
2. Private respondents are not guilty of forum-shopping for the same reason as above-stated;
3. The essential elements of a valid cause of action are present in private respondents' complaint and the main allegations therein are sufficient for the court to render a valid judgment; and
4. Private respondents paid the correct filing fees. Not being a real action, there was no need for private respondents to state in their complaint the assessed value of the properties in question as basis for the assessment and collection of the docket and filing fees.^[15]

FEGDI's motion for reconsideration was subsequently denied in the Court of Appeals' resolution dated 13 July 1995.^[16] Hence, this petition for review.

Petitioner makes the following assignment of errors:

I

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN FAILING TO RECOGNIZE THAT CIVIL CASE NO. B-3973 (THE "BINAN CASE") WAS AUTHORIZED BY PRIVATE RESPONDENT FELIPE LAYOS.

II

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN

FAILING TO UPHOLD LITIS PENDENTIA AS A GROUND FOR DISMISSING CIVIL CASE NO. B-4133 (THE "SAN PEDRO CASE"), PARTICULARLY BY HOLDING THAT THE REQUISITE IDENTITY OF PARTIES IS NOT PRESENT.

III

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN FAILING TO RECOGNIZE A FORUM SHOPPING SITUATION VIS-À-VIS THE FILING OF THE BINAN AND THE SAN PEDRO CASES, AND TO INVOKE THE SAME AS A GROUND FOR DISMISSING THE LATTER CASE.

IV

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN FAILING TO UPHOLD LACK OF CAUSE OF ACTION AS A GROUND FOR DISMISSING THE SAN PEDRO CASE.

V

RESPONDENT COURT OF APPEALS (AND RESPONDENT JUDGE) ERRED IN FAILING TO RECOGNIZE THAT THE SAN PEDRO CASE IS A REAL ACTION, HENCE FAILING TO UPHOLD THE DISMISSAL OF SAID CASE ON THE GROUND THAT THE TRIAL COURT DID NOT ACQUIRE JURISDICTION OVER THE ACTION FOR FAILURE OF PRIVATE RESPONDENTS TO PAY THE PROPER FILING FEES.^[17]

The petition is granted.

Petitioner's motion to dismiss is predicated on four grounds: *litis pendentia*, forum-shopping, lack of cause of action and lack of jurisdiction for failure to pay the proper filing fees. However, in resolving the same, we shall focus our discussion on the second and third grounds only.

Private respondents have indeed resorted to forum-shopping in order to obtain a favorable decision. The familiar pattern (of one party's practice of deliberately seeking out a "sympathetic" court) is undisputedly revealed by the fact that after Felipe Layos instituted in 1992 a case for injunction and damages with application for preliminary injunction in the Regional Trial Court of Binan, Laguna and after his prayer for a preliminary injunction was denied in March 1993, he and his wife, together with four (4) alleged buyers of portions of the land claimed by him, filed an identical complaint for injunction and damages with preliminary injunction a few months later, or in June 1993, this time with the Regional Trial Court of San Pedro, Laguna.

Having been denied their temporary restraining order in one court, private respondents immediately instituted the same action in another tribunal -- a deliberate tactic to seek out a different court which may grant their application for preliminary injunction, or at least give them another chance to obtain one.

Private respondents parry petitioner's allegation of forum-shopping by adamantly contending that Felipe Layos did not, in any matter, authorize the filing of the Binan case. Moreover, they insist that Felipe Layos' signature in the Binan complaint is a forgery and that he neither appeared nor participated in the proceedings before the Binan court.