

## THIRD DIVISION

[ G.R. NO. 143217, December 14, 2005 ]

**AMANDO S. SAN JUAN, CARMEN V. PINEDA, NISSAN COMMONWEALTH, INC., METROPOLITAN BANK AND TRUST COMPANY, INC. AND THE REGISTER OF DEEDS OF QUEZON CITY, PETITIONERS, VS. MIGUEL L. ARAMBULO, SR., RESPONDENT.**

### DECISION

**SANDOVAL-GUTIERREZ, J.:**

Before us is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision<sup>[1]</sup> dated November 29, 1999 and Resolution<sup>[2]</sup> dated April 24, 2000 rendered by the Court of Appeals in CA-G.R. CV No. 56481, entitled "*Miguel L. Arambulo, Sr. vs. Amando S. San Juan et al.*"

The factual antecedents as borne by the records are:

On April 12, 1996, Miguel L. Arambulo, Sr., *respondent*, filed with the Regional Trial Court (RTC), Branch 104, Quezon City, a complaint for damages with prayer for the issuance of a writ of preliminary mandatory injunction,<sup>[3]</sup> docketed as Civil Case No. Q-96-27127. Impleaded as defendants were Sunny Motors Sales, Inc. and Amando San Juan, one of herein petitioners.

Before Amando could file an answer, respondent, on July 2, 1996, filed a motion to withdraw his complaint which was granted in an Order dated October 8, 1996. This Order became final and executory.

On July 2, 1996, or on the day when respondent filed a motion to withdraw his complaint in Civil Case No. Q-96-27127, he filed with the RTC, Branch 216, Quezon City, Civil Case No. Q-96-27964 for cancellation of title, reconveyance, damages with prayer for issuance of a writ of preliminary injunction<sup>[4]</sup> against Amando San Juan and the other above-named petitioners.

Instead of filing an answer, petitioners filed a motion to dismiss the complaint on the grounds of *litis pendentia* and forum shopping. Eventually, Branch 216 issued an Order dated October 8, 1996 **dismissing the complaint on the ground of forum-shopping**. Respondent then filed a motion for reconsideration but was denied in an Order dated January 23, 1997.

On appeal, the Court of Appeals rendered its Decision dated November 29, 1999 reversing the trial court's Order dismissing the complaint. The Appellate Court, in holding that respondent did not violate the rule against forum-shopping, held that Civil Cases Nos. Q-96-27127 and Q-96-27964 involve different parties and raise distinct causes of action, subject matter and issues.

From the said Decision, petitioners filed a motion for reconsideration but it was denied.

Hence, this petition for review on *certiorari*. Petitioners contend that the Court of Appeals erred in declaring that respondent did not resort to forum-shopping.

The decisive issue posed by petitioners is whether respondent's filing of the complaint for cancellation of title, reconveyance, damages with prayer for the issuance of a writ of preliminary injunction, docketed as Civil Case No. Q-96-27964, in the RTC, Branch 216, Quezon City, constitutes forum-shopping. It may be recalled that on the same day he filed this complaint, he moved to withdraw his complaint in Civil Case No. Q-96-27127, which was granted on October 8, 1996 by the RTC, Branch 104.

The petition is bereft of merit.

Forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. A party violates the rule against forum shopping if the elements of *litis pendentia* are present; or if a final judgment in one case would amount to *res judicata* in the other. [5]

There is forum shopping when the following elements are present: "(a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, is such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration; said requisites [are] also constitutive of the requisites for *auter action pendant* or *lis pendens*." [6]

As correctly found by the Court of Appeals, "the two complaints refer to different cases," thus:

"(1) **As to parties** – In Civil Case No. 96-27127 for Damages with Writ of Preliminary Mandatory Injunction, the plaintiff is Miguel S. Arambulo, Sr. against defendants Sunny Motors Inc. and Amando S. San Juan; whereas in Civil Case NO. 96-27964 for Cancellation of Title, Reconveyance, Damages and Prayer for a Writ of Preliminary Injunction, the plaintiff is Miguel S. Arambulo, Sr. against defendants Amando S. San Juan, Carmen V. Pineda, Nissan Commonwealth, Inc., Metropolitan Bank and Trust Company and the Register of Deeds of Quezon City;

(2) **As to facts and circumstances** – In the former case, the plaintiff-appellant alleged that the defendants-appellees encroached on a certain portion of the former's lot described as Transfer Certificate of Title No. RT-110304 (223887) and as a consequence of which, he sued for damages because he was allegedly deprived of its use and enjoyment (Complaint for Damages, p. 2; Record, p. 45); whereas in the latter case, plaintiff-appellant alleged that he is the lawful and registered owner of a parcel of land located at Commonwealth Avenue, Quezon City, covered by Transfer Certificate of Title No. RT-110304 (223877) identified as lot 43-C-10 of the subdivision plan Psd-36810 issued by the Register of Deeds,