



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

SM PRIME HOLDINGS, INC., G.R. No. 233448
Petitioner,

- versus -

Present:

ALFREDO G. MARAÑON, JR.,
 in his official capacity as the
 Governor of the Province of
 Negros Occidental and
 Chairman of the Committee on
 Awards and Disposal of Real
 Properties, the PROVINCE OF
 NEGROS OCCIDENTAL, and
 the COMMITTEE ON AWARDS
 AND DISPOSAL OF REAL
 PROPERTIES OF THE
 PROVINCE OF NEGROS
 OCCIDENTAL and its Members,
 namely: PATRICK LACSON,
 ATTY. MARY ANN MANAYON-
 LAMIS, NILDA* GENEROSO,
 LUCILLE I. CHAVEZ-PINES,
 MERLITA V. CAELIAN,
 ENRIQUE S. PINONGAN,
 ERNIE F. MAPA,
 SANGGUNIANG
 PANLALAWIGAN and its
 Members, and AYALA LAND,
 INC.,

LEONEN, J., *Chairperson,*
 GESMUNDO,*
 INTING,
 GAERLAN,** and
 ROSARIO, JJ.

Promulgated:

Respondents. November 18, 2020

X-----~~Misplaced~~-----X

DECISION

INTING, J.:

* Referred to as "Nelda" in some parts of the *rollo*.

* Designated additional Member per Raffle dated June 22, 2020.

** Designated additional Member per Raffle dated November 11, 2020.

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Assailed in this Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court are the Resolutions respectively dated March 3, 2017² and July 26, 2017³ of Branch 48, Regional Trial Court, Bacolod City (RTC Branch 48) in Civil Case No. 14-14323 dismissing the complaint of SM Prime Holdings, Inc. (SMPHI) on the ground of forum shopping.

The Antecedents

On April 8, 2011, SMPHI wrote then Governor of the Province of Negros Occidental (the Province), Alfredo G. Marañon, Jr. (Gov. Marañon) offering to lease four properties owned by the Province.⁴ On June 8, 2011, the Province issued an Offer to Sell or Lease⁵ its properties through public auction. The Offer to Sell or Lease contained the eligibility requirements, terms and conditions, evaluation criteria, and the date of the opening of bids set on June 24, 2011.

On June 16, 2011, Gov. Marañon wrote SMPHI informing it that the Province intended to sell or lease all of its properties and not just the portions intended by the latter. Gov. Marañon further urged SMPHI to submit its bid proposal if it was interested in participating in the bidding. SMPHI replied⁶ saying that it would be inappropriate for it to join the bidding believing that its Letter dated April 8, 2011 constituted as an Unsolicited Proposal under Republic Act No. (RA) 6957,⁷ as amended by RA 7718.⁸

The bidding took place as scheduled on June 24, 2011. However, because there was only one participant, which was Ayala Land, Inc. (ALI), the bidding was declared a failure; a second bidding was scheduled on July 7, 2011. In the second bidding, the participants were

¹ *Rollo*, pp. 15-37.

² *Id.* at 42-47; penned by Presiding Judge Rosario Ester B. Orda-Caise.

³ *Id.* at 48-51.

⁴ *Id.* at 180-183.

⁵ *Id.* at 185-186.

⁶ See letter dated June 28, 2011, *id.* at 190-191.

⁷ An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and For Other Purposes.

⁸ An Act Amending Certain Sections of Republic Act No. 6957, Entitled "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and For Other Purposes."

ALI and SMPHI. However, since both of their respective bids were lower than the appraised value set by the Province's Committee on Awards and Disposal of Properties (the Committee), the second bidding was also declared a failure. By reason thereof, the Committee issued Resolution No. 11-001⁹ that formally declared the second bidding a failure and further stated that the disposal of the properties shall be done through negotiation. In connection therewith, ALI and SMPHI were invited to a conference.

After a discussion on the terms and conditions of the negotiated sale and lease of the properties, only ALI submitted a proposal. Eventually, ALI's offer was accepted resulting in the execution by the Province of a Deed of Conditional Sale¹⁰ (DCS) and Contract of Lease¹¹ (COL) both dated April 26, 2012 in favor of ALI.

On May 21, 2014, SMPHI filed a Complaint For Declaration of Nullity of the Deed of Conditional Sale and Contract of Lease¹² before the RTC Branch 48. SMPHI invoked Article 1409¹³ of the Civil Code asserting that the Province fraudulently manipulated the bidding in favor of ALI. According to SMPHI, the Province violated Commission on Audit (COA) Circular No. 92-386, Prescribing Rules and Regulations on Supply and Property Management in the Local Governments, as amended.¹⁴

SMPHI illustrated the fraud allegedly committed by the Province in the following manner: a) only SMPHI and ALI had expressed interest in the properties of the Province; b) that with SMPHI making an unsolicited proposal ahead of the Offer to Sell or Lease in the form of its Letter dated April 8, 2011 to Gov. Marañon, the latter was made aware that only ALI would submit an offer; c) that with only one bidder, the Committee would have a reason to declare a failure of bidding; d) that

⁹ *Rollo*, p. 194.

¹⁰ *Id.* at 166-172.

¹¹ *Id.* at 146-154.

¹² *Id.* at 300-313.

¹³ Art. 1409. The following contracts are inexistent and void from the beginning:

(1) Those whose cause, object or purpose is contrary to law, morals, good customs, public order or public policy;

x x x x

¹⁴ Section 197 of Commission on Audit (COA) Circular No. 92-386 has been amended by COA Circular No. 003-17 dated October 25, 2017.

during the second bidding, the Committee, after ascertaining that SMPHI had submitted a superior offer than ALI, still declared a failure to bid; e) that this paved the way for the negotiated sale and lease of the properties; and f) that the disclosure of the floor price set by the Committee after the latter had seen that SMPHI submitted a higher offer than ALI was part of the scheme to manipulate the results and ensure that the Province could proceed to a negotiated sale and lease with ALI.

In response to the complaint, respondents¹⁵ filed a Joint Answer with Counterclaim¹⁶ contending, among others, that SMPHI had already brought the same issues before the COA, which had rendered the Decision No. 2012-147¹⁷ on September 21, 2012; and that Branch 50, RTC, Bacolod City (RTC Branch 50) in Special Civil Action (SCA) Case No. 11-13803 already found no grave abuse of discretion on the part of the Province in issuing Resolution No. 11-001 in its Decision¹⁸ dated January 23, 2014.

By way of special and affirmative defenses, respondents contended that SMPHI is guilty of forum shopping since there were other cases that had been filed involving the same parties and cause of action, and arising from the same incident, to wit: the aforesaid SCA Case No. 11-13803; CA-G.R. CEB-SP No. 06084; and Consulta No. 5337 before the Land Registration Authority (LRA). Thus, they prayed for the dismissal of the case.

ALI also filed its answer to the complaint where it likewise prayed for the dismissal of the case on the ground of forum shopping.

Later, respondents filed a Motion for Preliminary Hearing¹⁹ on their affirmative defenses. The RTC Branch 48 granted the motion and directed the parties to submit their respective memoranda.

¹⁵ Alfredo G. Marañon, Jr., in his official capacity as the Governor of the Province of Negros Occidental and Chairman of the Committee on Awards and Disposal of Real Properties, the Province of Negros Occidental, and the Committee on Awards and Disposal of Real Properties of the Province of Negros Occidental and its Members, namely: Patrick Lacson, Atty. Mary Ann Manayon-Lamis, Nilda Generoso, Lucille I. Chavez-Pines, Merlita V. Caelian, Enrique S. Pinongan, Ernie F. Mapa, Sangguniang Panlalawigan and its Members, and Ayala Land, Inc.

¹⁶ *Rollo*, pp. 358-419. Excluding Ayala Land, Inc.

¹⁷ *Id.* at 249-266.

¹⁸ *Id.* at 664-685.

¹⁹ *Id.* at 454-457.

In the assailed Resolution²⁰ dated March 3, 2017, the RTC Branch 48 dismissed SMPHI's complaint on the ground of forum shopping. It held that the case before it and the other cases as above-mentioned have a common ultimate goal—to nullify the award of the sale and lease of the properties of the Province to ALI by assailing the bidding dated July 7, 2011.

SMPHI filed a motion for reconsideration of the Resolution dated March 3, 2017,²¹ but the RTC Branch 48 denied it in a Resolution²² dated July 26, 2017.

Hence, this petition.

The sole issue to be resolved by the Court is whether SMPHI committed forum shopping warranting the dismissal of its complaint before the RTC Branch 48. The issue being a pure question of law, direct appeal to this Court *via* Rule 45 is proper pursuant to Section 2(c) of Rule 41 which states:

SEC. 2. *Modes of appeal.* —

x x x x

(c) Appeal by *certiorari*. - In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on *certiorari* in accordance with Rule 45.

The Court's Ruling

The petition lacks merit.

Forum shopping consists in the act of a party against whom an adverse judgment has been rendered in one forum, of seeking another, and possibly favorable, opinion in another forum (other than by appeal or by special civil action of *certiorari*), or 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.²³

²⁰ *Id.* at 42-47.

²¹ *Id.* at 52-61.

²² *Id.* at 48-51.

²³ *P N B - Republic Bank v. Court of Appeals*, 373 Phil. 102, 106 (1999). Citations omitted.

The rationale for the rule against forum shopping is 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.²⁴

Is there forum shopping in the instant case? The answer must be in the affirmative. To shed light on this finding, the Court deems it proper to trace a bit of the history surrounding the controversy, and demonstrate the presence of forum shopping in the case at bar.

Records show that after the issuance of Resolution No. 11-001 on July 13, 2011, SMPHI filed a Petition²⁵ for *Certiorari* under Rule 65 of the Rules of Court, with an application for issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction (WPI), docketed as SCA Case No. 11-13803 against Gov. Marañon and members of the Committee before the RTC Branch 50, Bacolod City. The issue in that case was whether the issuance of Resolution No. 11-001 declaring the second bidding held on July 7, 2011 and the resort to negotiation for the sale and lease of the Province's properties was tainted with grave abuse of discretion. SMPHI sought to nullify Resolution No. 11-001 and be declared as the winning bidder. On its request for a TRO, SMPHI sought to restrain respondents from proceeding with the submission of bid proposals that was scheduled on July 15, 2011. However, the RTC Branch 50 denied the application for a TRO in an Order dated July 14, 2011. SMPHI's petition was later amended²⁶ to include as respondents the members of the *Sangguniang Panlalawigan*.

During the pendency of SCA Case No. 11-13803, SMPHI filed before the Court of Appeals (CA) a petition for *certiorari* with

²⁴ *Zamora v. Quinan, et al.*, 821 Phil. 1009, 1016 (2017), citing *Toprate Construction & General Services, Inc. v. Paxton Development Corporation*, 457 Phil. 740, 748 (2003).

²⁵ *Rollo*, pp. 197-218.

²⁶ *Id.* at 221-246.

application for a TRO and/or WPI docketed as CA-G.R. SP No. 06084 assailing the Order dated July 14, 2011 of the RTC Branch 50 which denied its application for a TRO. On September 6, 2011, the CA denied SMPHI's prayer for WPI.²⁷ SMPHI moved for reconsideration, but the CA denied it in a Decision²⁸ dated February 16, 2012, the *fallo* of which reads:

WHEREFORE, finding no basis to reverse, modify, amend or set aside our Resolution dated September 6, 2011, petitioner's Motion for reconsideration, is DENIED. In the same wise, finding no merit in the Petition seeking to nullify the Order dated July 14, 2011 of the Regional Trial Court, Branch 50, Bacolod City, in Civil Case No. 11-13803, the Petition is DISMISSED. Costs against petitioner.

SO ORDERED.²⁹

Meanwhile, after trial in due course in SCA Case No. 11-13803, RTC Branch 50 rendered a Decision³⁰ dated January 23, 2014 denying SMPHI's petition for lack of merit. It found no grave abuse of discretion in the issuance of Resolution No. 11-001.

The RTC Branch 50 exhaustively discussed as follows:

Respondent Committee's decision to declare a failure of the July 27, 2011 public bidding a failure is not without any basis. Section 178 of COA Circular No. 92-386 which prescribes the rules and regulations on supply and property management in the local governments, including the disposal of supplies and property, expressly provides, that:

"SEC. 178. Basis of Award. – Award shall be given to the highest complying bidder, provided the offer is not less than the appraised value of the property being sold."

Considering that the offers of both petitioner and Ayala were both below the appraised value of P19,500.00 fixed by respondent Committee, the latter deemed it proper and necessary not to give the

²⁷ *Id.* at 757; per Court of Appeals, Cebu City, Special Nineteenth Division Decision dated February 16, 2012.

²⁸ *Id.* at 753-763; penned by Associate Justice Victoria Isabel A. Paredes with Associate Justices Ramon Paul L. Hernandez (now a member of the Court) and Nina G. Antonio Valenzuela, concurring.

²⁹ *Id.* at 762.

³⁰ *Id.* at 664-685; penned by Judge Estefanio S. Libutan, Jr.

award to the petitioner despite being the highest bidder, pursuant to the above-quoted circular, otherwise, the members of respondent Committee would have been liable for violating the same. Since no award could be made to any of the two bidders, consequently, respondent Committee has to declare a failure of bidding.

x x x x

Petitioner insists that it should be declared the winning bidder since there was no failure of the July 7, 2011 public bidding and it offered a bid higher than that of Ayala. Petitioner cited COA Circular No. 88-296 which provides that there is a failure of bidding in any of the following instances: (a) if there is only one offeror; or (b) if all the offers/tenders are non-complying or unacceptable. According to the petitioner, since there was more than one bidder and it offered the highest bid which was acceptable, respondent Committee gravely abused its discretion in declaring the July 7, 2011 public bidding. Petitioner explained that while its bid of P18,888.00 is below the floor price of P19,500.00 fixed by respondent Committee, the difference of P612.00 is not excessive because it represents only 3% of the floor price, and since the difference is not excessive, respondent Committee should have accepted petitioner's winning bid because according to the petitioner, under COA Memorandum Nos. 91-712 and 88-659 "if the difference is found not excessive the sale may be allowed in audit."

It is true that there was more than one bidder, yet the offers of the two bidders are unacceptable to respondent Committee because they were both below the floor price of P19,500.00 which the Committee fixed pursuant to its mandate. Since the offers of both the petitioner and Ayala are unacceptable, then, based on COA Circular No. 88-296, the July 27, 2011 public bidding is a failure. Even if petitioner offered the highest bid it did not vest on said petitioner the right to be declared the winning bidder in light of the express reservation in the Offer to Sell or Lease, which states that:

"The Provincial Government reserves the right to reject any or all bids, to waive any informalities therein or to accept only such bid as may be considered most advantageous to the government." x x x

It is well settled that where such reservation is made in the an Invitation to Bid, the highest or lowest bidder, as the case may be, is not entitled to an award as a matter of right (*C&C Commercial Corp. v. Menor*, L-28360, 27 January 1983, 120 SCRA 112, cited in the case of *J.G. Summit Holdings, Inc. v. Court of Appeals*, G.R. No. 124293, September 24, 2003). Even the lowest bid or any bid may be rejected

or, in the exercise of sound discretion, the award may be made to another than the lowest bidder x x x.³¹

The RTC Branch 50 observed that SMPHI's contentions had already been passed upon by the COA in its Decision³² dated September 21, 2012. The RTC Branch 50 noted the fact that the COA did not find any irregularity in the bidding conducted by the Province.

SMPHI appealed to the CA in a case docketed as CA-G.R. CEB-SP No. 08549. In its Decision³³ dated August 28, 2015, the CA adopted the findings of the RTC Branch 50. It appears that despite the issuance of an Entry of Judgment³⁴ in CA-G.R. CEB-SP No. 08549, SMPHI still sought an appeal from the CA Decision to the Court via a Petition for Review on Certiorari (Pursuant to Rule 45 of the Rules of Court)³⁵ docketed as G.R. No. 224236.

At this juncture, the Court finds it necessary to quote portions of the COA Decision No. 2012-147³⁶ dated September 21, 2012 and the LRA Resolution³⁷ dated March 17, 2014 in Consulta No. 5337 which respondents and the RTC Branch 50 all have mentioned; and repeatedly appear in the records of this case.

The subject matter in the COA Decision No. 2012-147 is the request for approval of the Deed of Conditional Sale and Contract of Lease between the Province and ALI. In its Decision, the COA exhaustively discussed as follows:

x x x Likewise, Section 180 of Rule 24 of COA Circular No. 92-386 dated October 20, 1992 provides that: "When public auction is impracticable, negotiated sale may be resorted to at such price as determined by the Committee on Awards." In this case, there was a failure of two (2) consecutive public biddings which legally justified the resolution of the PGNO to proceed to a negotiated sale.

³¹ *Id.* at 674-676.

³² *Id.* at 249-266.

³³ *Id.* at 689-698; penned by Associate Justice Germano Francisco D. Legaspi with Associate Justices Pamela Ann Abella Maxino and Jhosep Y. Lopez, concurring.

³⁴ *Id.* at 705-706.

³⁵ *Id.* at 91-131.

³⁶ *Id.* at 249-266.


³⁷ *Id.* at 483-487; penned by Administrator Eulalio C. Diaz III.

The selling price of P19,500.00 per square meter of the property is based on the evaluation and appraisal of the PGNO which was found reasonable by the TIS, COA RO No. VI. In the Appraisal/Valuation Report dated April 11, 2012 of a team created under COA Office Order No. 2012-151 dated March 20, 2012 to conduct re-inspection/re-appraisal for the price reasonableness of the Properties subject of this case, the same was also appraised, using the Income Capitalization Approach, at P19,500.00 per square meter, which in the team's opinion is just, fair and reasonable. The offer of ALI during the Negotiated Sale was P20,500.00 per square meter which is higher than the appraised value of P19,500.00.

SMPHI contends that it should have been declared the winner although its Bid was below the floor price, considering that: 1) the difference of its bid with the floor price is within the allowable variance; 2) its bid is much higher than that of the bid of ALI; and 3) there is non-disclosure of the floor price by the Committee on Awards and Disposal and it was only announced after the Bid was tendered.

This Commission does not find merit in such contentions. SMPHI's first and second contentions are referring to the second auction when it avers that its bid is higher than ALI's and the difference of its bid price with the floor price is within the 10% allowable variance. But such second auction was declared a failure since both its and ALI's bids were lower than the floor price in line with Section 178 of COA Circular No. 92-386 deriving authority from Section 383 of the LGC which provides "[A]ward shall be given to the highest complying bidder, provided the offer is not less than the appraised value of the property being sold" x x x. Since the bid offer of SMPHI is lower than the appraised value rendered by the PGNO's Committee on Awards and Disposal, the declaration is in order. As to the SMPHI's contention that it should be declared as the winning bidder because its bid offer is within the 10% variance of the appraised value rendered by the PGNO's Committee on Awards and Disposal is unmeritorious because the 10% variance is not allowed in the determination by the said Committee for the highest and complying bidder. The 10% variance is for the exclusive use by the concerned Auditor and the COA Commission Proper in determining as to the reasonableness of the price of the item purchased/disposed x x x.

As to the third ground relied upon by SMPHI, there is no law or rule that requires the disclosure of the floor price prior to the conduct of a bidding. The announcement of the floor price is dependent upon the assessment of the Committee on Awards and Disposal based on the beneficial effect to the PGNO. In this case, the Committee on Awards and Disposal opted not to disclose the floor



price earlier than the scheduled bidding as its strategy to come up with a competitive and advantageous offer. All the bidders did not know of the floor price, not until after the bid was tendered. Thus, there was no prejudiced party despite the lack of knowledge of the floor price. Moreover, there was no bidder that raised the issue before and during the bidding process. It is only SMPHI who raised the issue after the 2nd bidding on July 7, 2011 was declared a failure.³⁸ (Underscoring omitted.)

The Court observes that the above pronouncements by the COA were given merit and relied upon by the RTC Branch 50 in its Decision dated January 23, 2014.

With respect to the LRA Resolution dated March 17, 2014 in Consulta No. 5337, while SCA Case No. 11-13803 was pending before the RTC Branch 50, SMPHI filed a Notice of *Lis Pendens* dated March 21, 2012 before the Register of Deeds (RD) of Bacolod City involving the properties of the Province.³⁹ On March 26, 2012, the RD denied the registration of the Notice of *Lis Pendens* on the ground that SCA Case No. 11-13803 is a special civil action and does not fall within the coverage of Section 76⁴⁰ of Presidential Decree No. 1529 otherwise known as the "Property Registration Decree." No appeal was made from the denial.

On May 11, 2012, SMPHI, through Atty. Edgar Ryan San Juan, filed an Affidavit of Adverse Claim which was the subject matter in Consulta No. 5337. It was a consequence of the denial of SMPHI's Notice of *Lis Pendens*. In the Resolution⁴¹ dated March 17, 2014, the LRA held that the Affidavit of Adverse Claim is not registrable. It noted

³⁸ *Id.* at 261-262.

³⁹ *Id.* at 485, per the LRA Resolution dated March 17, 2014 in Consulta No. 5337.

⁴⁰ Section 76 of Presidential Decree No. 1529 provides:

Section 76. *Notice of Lis Pendens.* — No action to recover possession of real estate, or to quiet title thereto, or to remove clouds upon the title thereof, or for partition, or other proceedings of any kind in court directly affecting the title to land or the use or occupation thereof or the buildings thereon, and no judgment, and no proceeding to vacate or reverse any judgment, shall have any effect upon registered land as against persons other than the parties thereto, unless a memorandum or notice stating the institution of such action or proceeding and the court wherein the same is pending, as well as the date of the institution thereof, together with a reference to the number of the certificate of title, and an adequate description of the land affected and the registered owner thereof, shall have been filed and registered.

⁴¹ *Rollo*, pp. 483-487.

that the Affidavit of Adverse Claim is grounded on SMPHI's belief that it was the winning bidder and has the sole and exclusive right to purchase or lease the properties from the Province. It held as follows:

x x x An adverse claim anchored on a mere "good reasons to believe" that a losing bidder is the winning bidder in the public auction and therefore has the sole and exclusive right to purchase or lease the property subject of a bidding is not a claim on the title, but at best an assailment of the bid proceeding. It has nothing to do with the title itself which can be considered as an adverse claim with the registered owner. To qualify as an adverse claim, the claimant must at least present some documents that would show his interest or claim on the title itself. In this case, none has been presented except a self-serving allegation in the affidavit of adverse claim.

In short and simple language, Petitioner's claim is not adverse to the registered owner neither against the title nor the property but towards the bid proceeding.⁴² (Italics supplied.)

The LRA thereby sustained the RD's denial of registration. The LRA Resolution has attained finality per Certificate of Finality⁴³ dated September 22, 2016.

The foregoing discussion indubitably shows that SMPHI committed forum shopping.

In all the proceedings mentioned above, SMPHI is asking for essentially the same relief—to be declared as the winning bidder in the bidding dated July 7, 2011. Notably, the main relief being asked by SMPHI in SCA Case No. 11-13803, CA-G.R. CEB-SP No. 06084, even in the COA Decision dated September 21, 2012, and the LRA Resolution dated March 17, 2014 is founded on the same incidents.

SMPHI's prayer before the RTC Branch 48, that is, to have the Deed of Conditional Sale and Contract of Lease nullified, is essentially an attack at the validity of the bidding dated July 7, 2011 and the Resolution No. 11-001. However, their validity has already been upheld by the RTC Branch 50 and CA. As aforesaid, per records, there is

⁴² *Id.* at 486-487.

⁴³ *Id.* at 489.

already an Entry of Judgment in the CA's Decision in CA-G.R. CEB-SP No. 08549, which affirmed the RTC Branch 50.

Furthermore, as illustrated above, the cases before the RTC Branch 48 and RTC Branch 50 involve the same essential facts and circumstances. There is an identity of parties who represent the same interests in both actions. Also, the two actions essentially touch on the same core issues. The actions likewise raise identical cause of actions.

“Cause of action” is the act or omission by which a party violates the right of another.⁴⁴ It may be argued that the cause of action in the RTC Branch 48 was the execution of the Deed of Conditional Sale and Contract of Lease between the Province and ALI, while in SCA Case No. 11-13803 it was the issuance of Resolution No. 11-001. However, identity of causes of action does not mean absolute identity.⁴⁵ One way to determine whether the causes of action are identical is to ascertain whether there is an identity of the facts essential to the maintenance of the two actions.⁴⁶ If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case would be a bar to the subsequent action.⁴⁷ *“Hence, a party cannot, by varying the form of action or adopting a different method of presenting the case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties or their privies.”*⁴⁸

There is a clear violation of the rules on forum shopping as SMPHI approached two different fora asking to grant substantially the same reliefs on the supposition that one or the other court would make a favorable disposition. SMPHI's act created the possibility of conflicting decisions being rendered by the different fora upon the same issues.

Forum shopping is a malpractice that is proscribed as it trifles with the courts and abuses their processes.⁴⁹ Forum shopping is an improper

⁴⁴ *Eulogio, et al. v. Bell, et al.*, 763 Phil. 266, 280 (2015), citing Section 2, Rule 2 of the Rules of Court.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*, citing *Yap v. Chua, et al.*, 687 Phil. 392, 401 (2012).

⁴⁹ *Lokin, Jr. v. COMELEC, et al.*, 635 Phil. 372, 390 (2010).

conduct that degrades the administration of justice. This practice cannot be tolerated and should be condemned.

WHEREFORE, the petition is **DENIED**. The Resolutions dated March 3, 2017 and July 26, 2017 of Branch 48, Regional Trial Court, Bacolod City in Civil Case No. 14-14323 are **AFFIRMED**.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson


ALEXANDER G. GESMUNDO
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN

*Associate Justice
Chairperson*

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA

Chief Justice

