



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

KAIMO CONDOMINIUM BUILDING CORPORATION, **G.R. No. 259422**
 (Formerly UDK-17231)
Petitioner,

Present:

- versus -

CAGUIOA, J., *Chairperson,*
 INTING,
 GAERLAN,
 DIMAAMPAO,
 SINGH, JJ.

LEVERNE REALTY & DEVELOPMENT CORPORATION,
Respondent.

Promulgated:

January 23, 2023

x ----- *Mi-10c0-2-H* ----- x

DECISION

SINGH, J.:

This is a Petition for Review on *Certiorari*,¹ dated January 12, 2022, assailing the Decision,² dated March 18, 2021, and the Resolution,³ dated November 23, 2021, of the Court of Appeals (CA), in CA-G.R. CV No. 109098. The CA affirmed the Order,⁴ dated February 18, 2016, of the Regional Trial Court of Quezon City, Branch 226 (**Branch 226**), which dismissed the Petition for Contempt of petitioner Kaimo Condominium Building Corporation (**KCBC**) due to forum shopping.

¹ Rollo, pp. 12-38.
² *Id.* at 50-60.
³ *Id.* at 61-62.
⁴ *Id.* at 116-121.

The Facts

On December 15, 2006, the Quezon City Government, through the Office of the City Treasurer, conducted a public auction of properties for delinquency in payment of real property taxes. Kaimo Condominium Building (**Kaimo Building**), registered under the name of Edmundo F. Kaimo (**Kaimo**), located at 101 Quezon Avenue, Quezon City was among the properties listed for sale. During the said public bidding, respondent Laverne Realty & Development Corporation (**Laverne**),⁵ represented by Alexander Catolos (**Alexander**), was the highest winning bidder.⁶

After payment of the bid price, the City Treasurer of Quezon (**City Treasurer**) issued a Certificate of Sale of Delinquent Property to Purchaser in favor of Laverne.⁷ Upon expiration of the one year redemption period, without the owner exercising the right of redemption or any person having legal interest to exercise such right over Kaimo Building, the City Treasurer issued the Final Bill of Sale to Laverne.⁸

Laverne then filed a Petition for Confirmation of Final Bill of Sale and Entry of New Certificate of Title before the Regional Trial Court, Branch 220 of Quezon City (**Branch 220**), docketed as LRC Case No. 26035 (8), to order the surrender of the title under Kaimo's name to it, as the new owner, and order the Register of Deeds to cancel and declare null and void the title of Kaimo and issue a new title in the name of Laverne.⁹

Accordingly, Laverne was issued Transfer Certificate of Title (**TCT**) No. 004-2012007580 over the subject property registered in its name.¹⁰ Soon after, Laverne filed a Motion for Writ of Possession, which Branch 220 granted.¹¹

On February 6, 2013, Philippine Trust Company (**Philtrust Bank**) filed the "Very Urgent Motion to Quash Writ of Possession and to Suspend the Implementation of the Notice to Vacate." Likewise, on the same date, Kaimo Condominium Building Corporation (**KCBC**) filed the "*Urgent Motion to Quash Writ of Possession with Motion to Declare Proceedings Void.*" In its Order,¹² dated February 25, 2013, Branch 220 granted PhilTrust Bank and KCBC's Motions and quashed the Writ of Possession, pursuant to the last sentence of Section 33, Rule 39 of the Rules of Court (**Rules**).¹³ Laverne

⁵ Lavern in some parts of the *rollo*.

⁶ *Rollo*, p. 51.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 199.

¹⁰ *Id.*

¹¹ *Id.* at 159.

¹² *Id.* at 65-72. Penned by Judge Jose G. Paneda.

¹³ *Id.* at 72.



moved for reconsideration but the same was denied by Branch 220 in its Order,¹⁴ dated September 4, 2013.

On October 22, 2015, Laverne, represented by Alexander and Elizabeth Catolos, along with a lawyer and several armed security guards, entered Kaimo Building and asked the tenants therein to either vacate the premises or enter into new lease agreements with Laverne. Thereafter, Laverne constructed iron grills on the gates and back entrances of Kaimo Building.¹⁵ The tenants of Kaimo Building were allowed to leave the premises later that day, however, the staff were only allowed to leave after 24 hours without food. Only Laverne's men were allowed inside Kaimo Building. The tenants were even prohibited from entering the building to retrieve their personal effects.¹⁶

Due to Laverne's actuations, on November 4, 2015, KCBC filed with the Regional Trial Court of Quezon City, Branch 226 (**Branch 226**) a Petition for Contempt (**Contempt Case**), docketed as Civil Case No. R-QZN-15-10155-CV. KCBC alleged that Laverne's hostile takeover of the Kaimo Building constituted indirect contempt, in defiance of the quashal of the writ of possession issued by Branch 220.¹⁷

Meanwhile, a Complaint for Forcible Entry with Damages¹⁸ (**Forcible Entry Case**) involving the Kaimo Building was likewise filed on October 31, 2015 by Consuelo B. Kaimo, Gerardo B. Kaimo, and Jose Mari B. Kaimo (collectively, **the Kaimos**). The said case was docketed as Civil Case No. 15-11544-S, filed with the Metropolitan Trial Court, Branch 9 of the City of Manila (**MeTC**) for the Metropolitan Trial Court, Branch 33 of Quezon City.¹⁹

Laverne filed its Comment with Motion to Dismiss alleging that KCBC committed forum shopping when it filed the Contempt Case with Branch 226 and the Forcible Entry Case in the MeTC. Laverne claimed that there was an identity of parties and the reliefs sought were identical, and as such, any judgment rendered in one action would amount to *res judicata* in the other. Further, it claimed that the main relief sought in both cases were based on the allegation that Laverne allegedly forced its entry into the Kaimo Building. Moreover, according to Laverne, the parties in the Contempt Case filed by KCBC were the same parties in the Forcible Entry Case. Laverne added that KCBC did not disclose to Branch 226 any proceeding involving the same or similar action filed with another court or tribunal.²⁰

¹⁴ *Id.* at 73-78.

¹⁵ *Id.* at 52.

¹⁶ *Id.* at 104.

¹⁷ *Id.* at 52.

¹⁸ *Id.* at 103-105.

¹⁹ *Id.*

²⁰ *Id.*



The Ruling of Branch 226

In its Order,²¹ dated February 18, 2016, Branch 226 dismissed with prejudice KCBC's Contempt Case on the ground of forum shopping. Branch 226 ruled that forum shopping exists considering that the Contempt Case and the Forcible Entry Case involved substantially the same parties and the same subject property, which is the Kaimo building, and the reliefs prayed for in both cases are substantially the same.²² Accordingly, Branch 226 held that the separate personality of KCBC can be disregarded to determine whether there was a clear violation of law, rules, or regulation.²³ Aggrieved by Branch 226's ruling, KCBC moved for reconsideration, but the same was denied in its Order,²⁴ dated November 4, 2016.

Dissatisfied, KCBC went up to the CA to assail the Orders of Branch 226.

The Ruling of the CA

The CA,²⁵ in CA-G.R. CV No. 109098, rendered its Decision,²⁶ dated March 18, 2021, which denied the appeal of KCBC for lack of merit. In essence, the CA ruled that KCBC committed deliberate forum shopping as there was identity in the causes of action, parties, and reliefs sought in both the Contempt Case before Branch 226 and the Forcible Entry Case before the MeTC.²⁷ The dispositive portion of the said Decision reads:

WHEREFORE, the appeal is **DENIED**. The Decision dated February 18, 2016 issued by the Regional Trial Court, National Capital Judicial Region, Branch 226, Quezon City, in Civil Case No. R-QZN-15-10155-CV is hereby **AFFIRMED**.

SO ORDERED.²⁸

Aggrieved, KCBC moved for reconsideration, but the same was denied by the CA²⁹ in its Resolution,³⁰ dated November 23, 2021. The dispositive portion of the said Resolution reads:

²¹ *Id.* at 116-121. Penned by Presiding Judge Manuel B. Sta Cruz, Jr.

²² *Id.* at 53.

²³ *Id.*

²⁴ *Id.* at 154-156.

²⁵ Special Twelfth Division.

²⁶ *Rollo*, pp. 50-60. Penned by Associate Justice Perpetua Susana T. Atal-Paño and concurred in by Associate Justices Edwin D. Sorongon and Carlito B. Calpatura.

²⁷ *Id.* at 55.

²⁸ *Id.* at 59.

²⁹ Former Special Twelfth Division.

³⁰ *Rollo*, pp. 61-62.



WHEREFORE, petitioner-appellant's Motion for Reconsideration is **DENIED** and this Court's March 18, 2021 Decision remains unconsidered.

SO ORDERED.³¹

Hence, this Petition.

The Issue

Did KCBC commit forum shopping when it filed the Contempt Case despite the existence of the Forcible Entry Case filed by the Kaimos?

The Court's Ruling

The Petition is meritorious.

Preliminarily, forum shopping exists when a party institutes two or more suits involving the same parties for the same cause of action, either simultaneously or successively, on the supposition that one or the other court would make a favorable disposition or increase a party's chances of obtaining a favorable decision or action. It is an act of malpractice that is prohibited and condemned because it trifles with the courts, abuses their processes, degrades the administration of justice, and adds to the already congested court dockets.³²

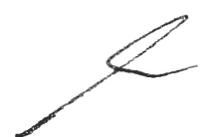
Forum shopping can be committed in three ways: first, in case of *litis pendentia* or the filing of multiple cases with the same cause of action and seeking the same relief, in which the previous case remains pending; second, in case of *res judicata*, or the filing of multiple cases involving similar cause of action and relief, in which the previous case has been resolved; and last, in case of splitting of causes of action or the filing of multiple cases involving different reliefs although based on the same cause of action, where the ground for dismissal is either *litis pendentia* or *res judicata*.³³

The pivotal issue to resolve in order to determine whether a party violated the rule against forum shopping, is whether in the two (or more) cases pending, there is (a) identity of parties, or at least such parties who represent the same interests in both actions; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, such that any judgment rendered in the other

³¹ *Id.* at 62.

³² *Mampo v. Morada*, G.R. No. 214526, November 3, 2020, accessed at <<https://sc.judiciary.gov.ph/19311/>>.

³³ *Heirs of Marcelo Sotto v. Palicte*, 726 Phil. 651, 662-663 (2014), citing *Rev. Ao-as v. CA*, 524 Phil. 645, 660 (2006).



action will, regardless of which party is successful, amounts to *res judicata* in the action under consideration.³⁴

Elements of forum shopping

a. Identity of parties

The rule against forum shopping is embodied in Rule 7, Section 5 of the Rules of Court, which reads:

SEC 5. Certification against forum shopping. - The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.
(n)

As explained in *Mampo v. Morada*,³⁵ there are two rules on forum shopping, separate and independent from each other, provided in Rule 7, Section 5, which are: (1) compliance with the requirements of submission of a certificate of non-forum shopping and (2) avoidance of the act of forum shopping itself.

In the present case, the KCBC posited that it is a domestic corporation registered and duly authorized to conduct business in accordance with Philippine laws that has a separate and distinct personality from its shareholders. Meanwhile, the Kaimos who filed the Forcible Entry Case were acting in their own respective personal interests as owners of certain units that

³⁴ *Spouses Melo v. CA*, 376 Phil. 204, 211 (1999).

³⁵ *Supra* note 32.



were unlawfully occupied by Laverne.³⁶ Further, KCBC argued that the Contempt Case that it filed was a corporate act and it should not be adversely affected by the personal actions of its members.

On the other hand, Branch 226, as affirmed by the CA, ruled that there was forum shopping considering that the Contempt Case and the Forcible Entry case substantially involved the same parties and the same subject property and the separate legal personality of a corporation may be disregarded by the courts to determine whether there was a clear violation of law, rules, or regulation.³⁷

The Court disagrees.

A corporation has a separate and distinct personality from the persons and entities owning it

Well settled is the rule that a corporation has a separate and distinct personality from that of its stockholders, officers, or any other legal entity to which it is related. It is presumed to be a *bona fide* legal entity with its own powers and attributes and is liable for its own acts and obligations.³⁸ However, this legal fiction is not absolutely an impenetrable shield, especially when circumstances warrant a denial of protection under a corporate personality under the doctrine of piercing the veil of corporate fiction.³⁹ Hence, any application of the doctrine of piercing the corporate veil should be done with caution. A court should be mindful of the obtaining facts where it is to be applied. It must be certain that the corporate fiction was misused to such an extent that injustice, fraud, or crime was committed against another, in disregard of its rights. The wrongdoing must be clearly and convincingly established; it cannot be presumed. Otherwise, it would result in injustice by reason of an erroneous application.⁴⁰

Case law teaches that the doctrine of piercing the corporate veil applies only in three basic instances, namely: (a) when the separate distinct corporate personality defeats public convenience, as when the corporate fiction is used as a vehicle for the evasion of an existing obligation; (b) in fraud cases, or when the corporate entity is used to justify a wrong, protect a fraud, or defend a crime; or (c) is used in alter ego cases, *i.e.*, where a corporation is essentially a farce, since it is a mere alter ego or business conduit of a person, or where the corporation is so organized and controlled and its affairs conducted as to

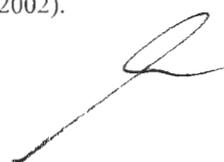
³⁶ *Rollo*, pp. 18-19.

³⁷ *Id.* at 53.

³⁸ *Amoroso v. Vantage Drilling International and Group of Companies*, G.R. No. 238477, August 8, 2022, accessed at <<https://sc.judiciary.gov.ph/31438/>>.

³⁹ *Id.*

⁴⁰ *PNB v. Andrada Electric & Engineering Company*, 430 Phil. 882, 894-895 (2002).



make it merely an instrumentality, agency, conduit, or adjunct of another corporation.

The doctrine of piercing the corporate veil applies in the following cases:

a. Under the variation of the doctrine of piercing the veil of corporate fiction, when two businesses enterprises are owned, conducted and controlled by the same parties, both law and equity will, when necessary to protect the rights of third parties, disregard the legal fiction that two corporations are distinct entities and treat them as identical or one and the same.

b. When the complaint alleges that the directors and/or officers committed bad faith or gross negligence in conducting the affairs of the corporation.⁴¹

According to the CA, “the separate juridical personality of [KCBC] was used to make it appear as if there were different parties that filed two different cases in two separate tribunals,”⁴² and thus, warrants the piercing of the corporate veil of KCBC.

The Court disagrees. The doctrine of piercing the corporate veil is misapplied.

In *First Philippine International Bank v. CA*,⁴³ the Court explained that the separate juridical personality of a corporation may be disregarded where the stockholder filed a derivative suit in behalf of the corporation although a different court, in a separate case, had already ruled on the matter. The Court held that *there is forum shopping where the stockholders, in a second case, and in representation of the corporation, seek to accomplish what the corporation itself failed to do in the original case*. In such a situation, the fiction was used to circumvent the rule against non-forum shopping, and thus, was used to perpetuate a fraud.

However, in the present case, a cursory reading of the Complaint in the Forcible Entry Case would show that the Kaimos anchor their claims as individual unit owners and rightful possessors of condominium units in Kaimo Building. They alleged that they were unlawfully deprived of their possession by the hostile takeover of Laverne. Likewise, the Kaimos’ move to vindicate their personal rights by filing the Forcible Entry Case should not be interpreted as a vindication of the right of the KCBC as a whole. To remember, there are unit owners in the Kaimo Building other than the Kaimos. In fact, it was Philtrust Bank which filed the “Very Urgent Motion to Quash

⁴¹ I NILO T. DIVINA, *DIVINA ON COMMERCIAL LAW: A COMPREHENSIVE GUIDE*, 426 (2021). Underscoring supplied.

⁴² *Rollo*, p. 165.

⁴³ 322 Phil. 280 (1996).



Writ of Possession and to Suspend the Implementation of the Notice to Vacate” that led to the quashal of the writ of possession against Laverne.

Simply stated, the action filed by the Kaimos was solely and exclusively for their own benefit and based on their own individual rights as unit owners and lawful possessors of their own respective units in the Kaimo Building and such action does not involve nor affect the other unit owners of Kaimo Building and neither is it adjudicative of KCBC’s ownership of the building and thus, the Forcible Entry Case is separate and distinct from the Contempt Case filed by KCBC, as real party in interest. The piercing of the corporate fiction of KCBC was thus unwarranted for failure of Laverne to clearly and convincingly establish bad faith on the part of the Kaimos in filing the Forcible Entry Case. Therefore, there is no identity of parties that represent that same interests in the Forcible Entry Case and the Contempt Case. Hence, the first element of forum shopping is absent.

b. Identity of rights asserted and reliefs prayed for

In *Estate of Sotto v. Palicte*,⁴⁴ the Court explained that:

There is identity of causes of action since the issues raised in all the cases essentially involve the claim of ownership over the subject properties. Even if the forms or natures of the actions are different, there is still identity of causes of action when the same facts or evidence support and establish the causes of action in the case at bar and in the previous cases.⁴⁵

In an ejectment proceeding, the only issue that must be settled is the physical possession of the property involved.⁴⁶ For a forcible entry suit to prosper, the plaintiffs must allege and prove: (a) that they have prior physical possession of the property; (b) that they were deprived of possession either by force, intimidation, threat, strategy or stealth; and (c) that the action was filed within one year from the time the owners or legal possessors learned of their deprivation of the physical possession of the property.⁴⁷

On the other hand, in *Castillejos Consumers Association, Inc. v. Dominguez*,⁴⁸ the Court defined contempt of court, as follows:

Contempt of court has been defined as a willful disregard or disobedience of a public authority. In its broad sense, contempt is a disregard of, or disobedience to, the rules or orders of a legislative or judicial

⁴⁴ 587 Phil. 586 (2008).

⁴⁵ *Id.* at 596.

⁴⁶ *Santos Ventura Hocorma Foundation, Inc. v. Mabalacat Institute, Inc.*, G.R. No. 211563, September 29, 2021, accessed at <<https://sc.judiciary.gov.ph/22658/>>.

⁴⁷ *Mangaser v. Ugay*, 749 Phil. 372, 381 (2014).

⁴⁸ 757 Phil. 149 (2015).



body or an interruption of its proceedings by disorderly behavior or insolent language in its presence or so near thereto as to disturb its proceedings or to impair the respect due to such a body. In its restricted and more usual sense, contempt comprehends a despising of the authority, justice, or dignity of a court.

There are two (2) kinds of contempt of court, namely: direct and indirect. Indirect contempt or constructive contempt is that which is committed out of the presence of the court. A person who is guilty of disobedience or of resistance to a lawful order of a court or who commits any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice may be punished for indirect contempt. an Indirect Contempt is embodied.⁴⁹

Indirect Contempt consists of willful disobedience of a lawful process or order of the court.⁵⁰ In *Lorenzo Shipping Corp. v. Distribution Management Association of the Philippines*,⁵¹ the Court explained the nature of contempt proceedings:

Proceedings for contempt are *sui generis*, in nature criminal, but may be resorted to in civil as well as criminal actions, and independently of any action. They are of two classes, the criminal or punitive, and the civil or remedial. A criminal contempt consists in conduct that is directed against the authority and dignity of a court or of a judge acting judicially, as in unlawfully assailing or discrediting the authority and dignity of the court or judge, or in doing a duly forbidden act. A civil contempt consists in the failure to do something ordered to be done by a court or judge in a civil case for the benefit of the opposing party therein. It is at times difficult to determine whether the proceedings are civil or criminal. In general, the character of the contempt of whether it is criminal or civil is determined by the nature of the contempt involved, regardless of the cause in which the contempt arose, and by the relief sought or dominant purpose. The proceedings are to be regarded as criminal when the purpose is primarily punishment, and civil when the purpose is primarily compensatory or remedial. **Where the dominant purpose is to enforce compliance with an order of a court for the benefit of a party in whose favor the order runs, the contempt is civil;** where the dominant purpose is to vindicate the dignity and authority of the court, and to protect the interests of the general public, the contempt is criminal. Indeed, the criminal proceedings vindicate the dignity of the courts, but the **civil proceedings protect, preserve, and enforce the rights of private parties and compel obedience to orders, judgments and decrees made to enforce such rights.**⁵²

Indirect Contempt is provided for in Section 3, Rule 71 of the Rules of Court:

⁴⁹ *Id.* at 158-159. Underscoring supplied.

⁵⁰ *Lorenzo Shipping Corp. v. Distribution Management Association of the Philippines*, 672 Phil. 1, 11 (2011).

⁵¹ *Id.*

⁵² *Id.* at 14-15. Emphasis supplied.

Section 3. Indirect contempt to be punished after charge and hearing.
— After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt;

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f) Failure to obey a subpoena duly served;

(g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings. (3a)

A comparison of the reliefs sought by the Kaimos in the Forcible Entry Case and KCBC in the Contempt Case shows that the second element of forum shopping is absent.

In the Forcible Entry Case, the Kaimos prayed for the following:

WHEREFOR[E], it is respectfully prayed that judgment be rendered declaring defendants to have unlawfully deprived plaintiffs of possession over the subject BUILDING, ordering the former to vacate and peacefully turn over possession over the BUILDING to plaintiffs including all personal property found in the premises as will be proved during trial, and ordering it to pay the latter the following sums:

1. Monthly rental over all the units they have taken over from 22 October 2015 until they actually vacate and turn over possession of the premises to plaintiffs.



2. Actual Damages in the form of attorney's fees in the amount of P200,000.00 as acceptances fee and P5,000.00 for each hearing/meeting and pleading or paper filed in this case, plus actual expenses as proven.

3. Actual Damages in the form of property damage and loss of personal property as will be proven later.

4. Cost of Suit.

Such further or other relief just or equitable are also prayed for.⁵³

Meanwhile, in the Contempt Case, KCBC sought the following:

WHEREFOR[E], it is respectfully prayed that:

1. A temporary restraining order be immediately issued ordering respondent to desist from
 - a) harassing other tenants still on the premises, forcing them to cancel their lease with petitioner.
 - b) constructing structures on the premises to further their hold on the premises, and
 - c) taking out property from the building.
2. That a hearing be set the soonest possible time, after which a preliminary mandatory injunction be issued against respondent, directing them to vacate and peacefully return possession over the building and properties inside to petitioner.
3. That after due notice and hearing that respondents be declared guilty of INDIRECT CONTEMPT OF COURT and penalties be imposed upon them for such acts, including actual damages and losses incurred by petitioner due to respondent's hostile take over of the building.

Such further or other relief just or equitable are also prayed for.⁵⁴

In the Forcible Entry Case, the Kaimos mainly prayed for the return of possession of their *own individual units* in the Kaimo Building and payment of monthly rentals that they lost because of the unlawful dispossession by Laverne, in addition to damages. In the Contempt Case, KCBC claims that Laverne's hostile takeover of the Kaimo Building, as a whole, constitutes indirect contempt for blatantly defying the earlier orders of Branch 220 that quashed the Writ of Possession. In fact, Branch 220 emphasized when it ordered the quashal of the Writ of Possession that the "occupants of the building are either condominium unit owners or lessees of the same, who hold title separate from the late Edmundo Kaimo."⁵⁵

⁵³ *Rollo*, p. 105.

⁵⁴ *Id.* at 145.

⁵⁵ *Id.* at 67.



Simply stated, the cause of action in the Forcible Entry Case is the dispossession of the Kaimos from their respective units due to the hostile takeover of Laverne. On the other hand, the Contempt Case is founded on the blatant disregard by Laverne of the Branch 220 Orders when it took the law into its own hands, without a Writ of Possession, which Branch 220 had previously quashed.

Accordingly, it is a basic rule in civil cases, including an action for forcible entry, that the party having the burden of proof must establish his case by a preponderance of evidence, which simply means “evidence which is of greater weight, or more convincing than that which is offered in opposition to it.”⁵⁶

c. The identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amounts to res judicata in the action under consideration

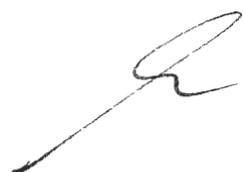
In the Contempt Case, KCBC generally prayed that Laverne and its representatives be declared guilty of indirect contempt and the penalties under Rule 71 of the Rules be imposed upon them. On the other hand, the ultimate purpose of the Forcible Entry Case, is to regain possession of the illegally divested units of the Kaimos. The judgment in the Contempt Case would not amount to *res judicata* in the Forcible Entry Case as the causes of actions and reliefs sought in both cases are different from each other. Therefore, the third element of forum shopping is absent.

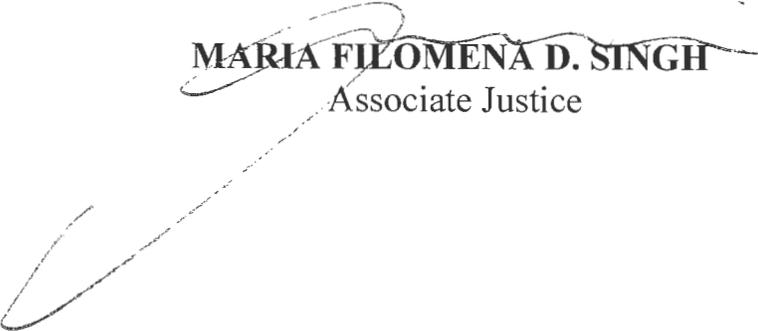
In view of the foregoing, the Petition must succeed.

WHEREFORE, the Petition is **GRANTED**. The Decision, dated March 18, 2021, and the Resolution, dated November 23, 2021, of the Court of Appeals, in CA-G.R. CV No. 109098, are **REVERSED**. Civil Case No. R-QZN-15-10155-CV is ordered **REINSTATED** and the Regional Trial Court, Branch 226, Quezon City is directed to proceed with its resolution with utmost dispatch.

SO ORDERED.

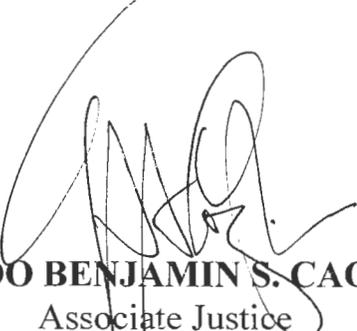
⁵⁶ *Buduhan v. Pakurao*, 518 Phil. 285, 293 (2006).





MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson



HENRI JEAN PAUL B. INTING
Associate Justice



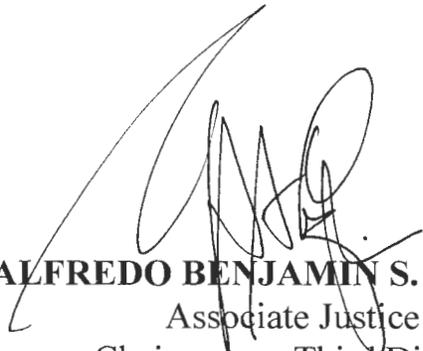
SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

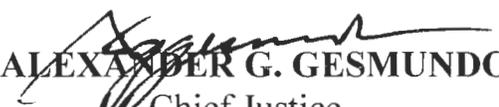
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

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.



ALEXANDER G. GESMUNDO
Chief Justice

