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WHEREFORE, the petition is *GRANTED*. The Resolution of the COMELEC, Second Division, in SPA Case No. 07-410, promulgated on August 28, 2007, is declared *NULL* and *SET ASIDE*, and petitioner Florentino P. Blanco is held eligible to run for an elective office.

No costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Tinga, Chico-Nazario, Reyes, Leonardo-de Castro, and *Brion, JJ.,* concur.

Carpio Morales, Velasco, Jr., and *Nachura, JJ.,* on official leave.

EN BANC

[G.R. No. 182484. June 17, 2008]

DANIEL MASANGKAY TAPUZ, AURORA TAPUZ-MADRIAGA, LIBERTY M. ASUNCION, LADYLYN BAMOS MADRIAGA, EVERLY TAPUZ MADRIAGA, EXCEL TAPUZ, IVAN TAPUZ and MARIAN TIMBAS, *petitioners, vs.* **HONORABLE JUDGE ELMO DEL ROSARIO, in his capacity as Presiding Judge of RTC Br. 5, Kalibo, SHERIFF NELSON DELA CRUZ, in his capacity as Sheriff of the RTC, THE PHILIPPINE NATIONAL POLICE stationed in Boracay Island, represented by the PNP STATION COMMANDER, THE HONORABLE COURT OF APPEALS IN CEBU 18th DIVISION, SPOUSES GREGORIO SANSON & MA. LOURDES T. SANSON,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; FORUM SHOPPING; ELUCIDATED. — "Forum shopping is the institution of two or more actions or proceedings 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. Forum shopping may be resorted to by any party against whom an adverse judgment or order has been issued in one forum, in an attempt to seek a favorable opinion in another, other than by appeal or a special civil action for *certiorari*. Forum shopping trifles with the courts, abuses their processes, degrades the administration of justice and congest court dockets. Willful and deliberate violation of the rule against it is a ground for summary dismissal of the case; it may also constitute direct contempt."

2. ID.; MUNICIPAL CIRCUIT TRIAL COURTS; JURISDICTION IN FORCIBLE ENTRY AND UNLAWFUL DETAINER CASES, EXPLAINED. — The MCTC correctly assumed jurisdiction over the private respondents' complaint, which specifically alleged a cause for forcible entry and not — as petitioners may have misread or misappreciated — a case involving title to or possession of realty or an interest therein. Under Section 33, par. 2 of The Judiciary Reorganization Act, *as amended by Republic Act (R.A.) No. 7691*, exclusive jurisdiction over forcible entry and unlawful detainer cases lies with the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts. These first-level courts have had jurisdiction over these cases — called *accion interdictal* — even before the R.A. 7691 amendment, based on the issue of pure *physical* possession (as opposed to the *right* of possession). This jurisdiction is regardless of the assessed value of the property involved; the law established no distinctions based on the assessed value of the property forced into or unlawfully detained. Separately from *accion interdictal* are *accion publiciana* for the recovery of the right of possession as a plenary action, and *accion reivindicacion* for the recovery of ownership. Apparently, these latter actions are the ones the petitioners refer to when they cite Section 33, par. 3, in relation with Section 19, par. 2 of The Judiciary

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Reorganization Act of 1980, as amended by Republic Act No. 7691, in which jurisdiction may either be with the first-level courts or the regional trial courts, *depending* on the assessed value of the realty subject of the litigation. As the complaint at the MCTC was patently for forcible entry, that court committed no jurisdictional error correctible by *certiorari* under the present petition.

3. ID.; WRIT OF AMPARO; NOT A WRIT TO PROTECT CONCERNS THAT ARE PURELY PROPERTY OR COMMERCIAL, NOR A WRIT TO BE ISSUED ON AMORPHOUS AND UNCERTAIN GROUNDS. — The writ of amparo was originally conceived as a response to the extraordinary rise in the number of killings and enforced disappearances, and to the perceived lack of available and effective remedies to address these extraordinary concerns. It is intended to address violations of or threats to the rights to life, liberty or security, as an extraordinary and independent remedy beyond those available under the prevailing Rules, or as a remedy supplemental to these Rules. **What it is not, is a writ to protect concerns that are purely property or commercial. Neither is it a writ that we shall issue on amorphous and uncertain grounds.** Consequently, the Rule on the Writ of Amparo — in line with the extraordinary character of the writ and the reasonable certainty that its issuance demands — requires that every petition for the issuance of the writ must be supported by justifying allegations of fact, to wit: "(a) The personal circumstances of the petitioner; (b) The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation; ***(c) The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits***; ***(d) The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report***; (e) The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person

responsible for the threat, act or omission; and (f) The relief prayed for. The petition may include a general prayer for other just and equitable reliefs." The writ shall issue if the Court is preliminarily satisfied with the *prima facie* existence of the ultimate facts determinable from the supporting affidavits that detail the circumstances of how and to what extent a threat to or violation of the rights to life, liberty and security of the aggrieved party was or is being committed. Also, the Rule on the Writ of Amparo provides for rules on the institution of separate actions, for the effect of earlier-filed criminal actions, and for the consolidation of petitions for the issuance of a writ of amparo with a subsequently filed criminal and civil action. These rules were adopted to promote an orderly procedure for dealing with petitions for the issuance of the writ of amparo when the parties resort to other parallel recourses.

4. ID.; WRIT OF *HABEAS DATA*; PETITION THEREOF REQUIRES SOME MATERIAL ALLEGATIONS OF THE ULTIMATE FACTS. — Section 6 of the Rule on the Writ of *Habeas Data* requires the following material allegations of ultimate facts in a petition for the issuance of a writ of *habeas data*: "(a) The personal circumstances of the petitioner and the respondent; ***(b) The manner the right to privacy is violated or threatened and how it affects the right to life, liberty or security of the aggrieved party; (c) The actions and recourses taken by the petitioner to secure the data or information; (d) The location of the files, registers or databases, the government office, and the person in charge, in possession or in control of the data or information, if known;*** *(e) The reliefs prayed for, which may include the updating, rectification, suppression or destruction of the database or information or files kept by the respondent.* In case of threats, the relief may include a prayer for an order enjoining the act complained of; and (f) Such other relevant reliefs as are just and equitable."

APPEARANCES OF COUNSEL

Movement of Attorneys for Brotherhood Integrity and Nationalism for petitioners.

Stephen C. Arceño for Sps. Sanson.

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R E S O L U T I O N

BRION, *J.*:

Before us for the determination of sufficiency of form and substance (*pursuant to Sections 1 and 4 of Rule 65 of the Revised Rules of Court; Sections 1 and 5 of the Rule on the Writ of Amparo;*[1] *and Sections 1 and 6 of the Rule on the Writ of Habeas Data*[2]) is the petition for *certiorari* and for the issuance of the writs of amparo and *habeas* data filed by the above-named petitioners against the Honorable Judge Elmo del Rosario [in his capacity as presiding judge of RTC Br. 5, Kalibo], Sheriff Nelson de la Cruz [in his capacity as Sheriff of the RTC], the Philippine National Police stationed in Boracay Island, represented by the PNP Station Commander, the Honorable Court of Appeals in Cebu, 18th Division, and the spouses Gregorio Sanson and Ma. Lourdes T. Sanson, respondents.

The petition and its annexes disclose the following material antecedents:

The private respondents spouses Gregorio Sanson and Ma. Lourdes T. Sanson (the "*private respondents*"), filed with the Fifth Municipal Circuit Trial Court of Buruanga-Malay, Aklan (the "*MCTC*") a complaint[3] dated 24 April 2006 for **forcible entry** and damages with a prayer for the issuance of a writ of preliminary mandatory injunction against the petitioners Daniel Masangkay Tapuz, Aurora Tapuz-Madriaga, Liberty M. Asuncion, Ladylyn Bamos Madriaga, Everly Tapuz Madriaga, Excel Tapuz, Ivan Tapuz and Marian Timbas (the "*petitioners*") and other John Does numbering about 120. The private respondents alleged in their complaint that: (1) they are the registered owners under TCT No. 35813 of a 1.0093-hectare parcel of land located at Sitio Pinaungon, Balabag, Boracay, Malay, Aklan (the "*disputed land*"); (2) they were the disputed land's prior possessors when

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[1] A.M. No. 07-9-12-SC.

[2] A.M. No. 08-1-16-SC.

[3] *Rollo*, pp. 71-76.

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the petitioners — armed with bolos and carrying suspected firearms and together with unidentified persons numbering 120 — entered the disputed land by force and intimidation, without the private respondents' permission and against the objections of the private respondents' security men, and built thereon a nipa and bamboo structure.

In their Answer[4] dated 14 May 2006, the petitioners denied the material allegations of the complaint. They essentially claimed that: (1) they are the actual and prior possessors of the disputed land; (2) on the contrary, the private respondents are the intruders; and (3) the private respondents' certificate of title to the disputed property is spurious. They asked for the dismissal of the complaint and interposed a counterclaim for damages.

The MCTC, after due proceedings, rendered on 2 January 2007 a decision[5] in the private respondents' favor. It found prior possession — the key issue in forcible entry cases — in the private respondents' favor, thus:

"The key that could unravel the answer to this question lies in the Amended Commissioner's Report and Sketch found on pages 245 to 248 of the records and the evidence the parties have submitted. It is shown in the Amended Commissioner's Report and Sketch that the land in question is enclosed by a concrete and cyclone wire perimeter fence in pink and green highlighter as shown in the Sketch Plan (p. 248). Said perimeter fence was constructed by the plaintiffs 14 years ago. The foregoing findings of the Commissioner in his report and sketch collaborated the claim of the plaintiffs that after they acquired the land in question on May 27, 1993 through a Deed of Sale (Annex 'A', Affidavit of Gregorio Sanson, p. 276, rec.), they caused the construction of the perimeter fence sometime in 1993 (Affidavit of Gregorio Sanson, pp. 271-275, rec.).

From the foregoing established facts, it could be safely inferred that the plaintiffs were in actual physical possession of the whole lot in question since 1993 when it was interrupted by the defendants (sic) when on January 4, 2005 claiming to (sic) the Heirs of Antonio

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[4] *Id.*, pp. 87-102.

[5] Penned by Judge Raul C. Barrios, *id.*, pp. 108-115.

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Tapuz entered a portion of the land in question with view of inhabiting the same and building structures therein prompting plaintiff Gregorio Sanson to confront them before BSPU, Police Chief Inspector Jack L. Wanky and Barangay Captain Glenn Sacapaño. As a result of their confrontation, the parties signed an Agreement (Annex 'D', Complaint p. 20) wherein they agreed to vacate the disputed portion of the land in question and agreed not to build any structures thereon.

The foregoing is the prevailing situation of the parties after the incident of January 4, 2005 when the plaintiff posted security guards, however, sometime on or about 6:30 A.M. of April 19, 2006, the defendants some with bolos and one carrying a sack suspected to contain firearms with other John Does numbering about 120 persons by force and intimidation forcibly entered the premises along the road and built a nipa and bamboo structure (Annex 'E', Complaint, p. 11) inside the lot in question which incident was promptly reported to the proper authorities as shown by plaintiffs' Certification (Annex 'F', Complaint, p. 12) of the entry in the police blotter and on same date April 19, 2006, the plaintiffs filed a complaint with the Office of the Lupong Tagapamayapa of Barangay Balabag, Boracay Island, Malay, Aklan but no settlement was reached as shown in their Certificate to File Action (Annex 'G', Complaint, p. 13); hence the present action.

Defendants' (sic) contend in their answer that 'prior to January 4, 2005, they were already occupants of the property, being indigenous settlers of the same, under claim of ownership by open continuous, adverse possession to the exclusion of other (sic).' (Paragraph 4, Answer, p. 25).

The contention is untenable. As adverted earlier, the land in question is enclosed by a perimeter fence constructed by the plaintiffs sometime in 1993 as noted by the Commissioner in his Report and reflected in his Sketch, thus, it is safe to conclude that the plaintiffs where (sic) in actual physical possession of the land in question from 1993 up to April 19, 2006 when they were ousted therefrom by the defendants by means of force. Applying by analogy the ruling of the Honorable Supreme Court in the case of *Molina, et al. vs. De Bacud*, 19 SCRA 956, if the land were in the possession of plaintiffs from 1993 to April 19, 2006, defendants' claims to an older possession must be rejected as untenable because possession as a fact cannot be recognized at the same time in two different personalities.

Defendants likewise contend that it was the plaintiffs who forcibly entered the land in question on April 18, 2006 at about 3:00 o'clock in the afternoon as shown in their Certification (Annex 'D', Defendants' Position Paper, p. 135, rec.).

The contention is untenable for being inconsistent with their allegations made to the commissioner who constituted (sic) the land in question that they built structures on the land in question only on April 19, 2006 (Par. D.4, Commissioner's Amended Report, pp. 246 to 247), after there (sic) entry thereto on even date.

Likewise, said contention is contradicted by the categorical statements of defendants' witnesses, Rowena Onag, Apolsida Umambong, Ariel Gac, Darwin Alvarez and Edgardo Pinaranda, in their Joint Affidavit (pp. 143-144, rec.) [sic] categorically stated 'that on or about April 19, 2006, a group of armed men entered the property of our said neighbors and built plastic roofed tents. These armed men threatened to drive our said neighbors away from their homes but they refused to leave and resisted the intruding armed men.'

From the foregoing, it could be safely inferred that no incident of forcible entry happened on April 18, 2006 but it was only on April 19, 2006 when the defendants overpowered by their numbers the security guards posted by the plaintiffs prior to the controversy.

Likewise, defendants (sic) alleged burnt and other structures depicted in their pictures attached as annexes to their position paper were not noted and reflected in the amended report and sketch submitted by the Commissioner, hence, it could be safely inferred that these structures are built and (sic) situated outside the premises of the land in question, accordingly, they are irrelevant to the instant case and cannot be considered as evidence of their actual possession of the land in question prior to April 19, 2006."[6]

The petitioners appealed the MCTC decision to the Regional Trial Court ("*RTC,*" Branch 6 of Kalibo, Aklan) then presided over by Judge Niovady M. Marin ("*Judge Marin*").

On appeal, Judge Marin granted the private respondents' motion for the issuance of a *writ of preliminary mandatory injunction* through an Order dated 26 February 2007, with the

[6] *Id.*, pp. 111-113.

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issuance conditioned on the private respondents' posting of a bond. The writ[7] — authorizing the immediate implementation of the MCTC decision — was actually issued by respondent Judge Elmo F. del Rosario (the "*respondent Judge*") on 12 March 2007 after the private respondents had complied with the imposed condition. The petitioners moved to reconsider the issuance of the writ; the private respondents, on the other hand, filed a motion for demolition.

The respondent Judge subsequently denied the petitioners' Motion for Reconsideration and to Defer Enforcement of Preliminary Mandatory Injunction in an Order dated 17 May 2007.[8]

Meanwhile, the petitioners opposed the motion for demolition.[9] The respondent Judge nevertheless issued *via* a Special Order[10] a writ of demolition to be implemented fifteen (15) days after the Sheriff's written notice to the petitioners to voluntarily demolish their house/s to allow the private respondents to effectively take actual possession of the land.

The petitioners thereafter filed on 2 August 2007 with the Court of Appeals, Cebu City, a Petition for Review[11] (under Rule 42 of the 1997 Rules of Civil Procedure) of the ***Permanent Mandatory Injunction and Order of Demolition of the RTC of Kalibo, Br. 6 in Civil Case No. 7990***.

Meanwhile, respondent Sheriff Nelson R. dela Cruz issued the Notice to Vacate and for Demolition on 19 March 2008.[12]

It was against this factual backdrop that the petitioners filed the present petition last 29 April 2008. The petition contains

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[7] *Id*., p. 191.

[8] *Id.*, p. 44.

[9] *Id*., pp. 66-70.

[10] *Id*., p. 79.

[11] *Id*., pp. 117-150; dated and filed 2 August 2007.

[12] *Id*., p. 116.

and prays for three remedies, namely: a petition for *certiorari* under Rule 65 of the Revised Rules of Court; the issuance of a writ of *habeas data* under the Rule on the Writ of *Habeas Data*; and finally, the issuance of the writ of amparo under the Rule on the Writ of Amparo.

To support the petition and the remedies prayed for, the petitioners present factual positions diametrically opposed to the MCTC's findings and legal reasons. Most importantly, the petitioners maintain their claims of *prior possession* of the disputed land and of *intrusion* into this land by the private respondents. The material factual allegations of the petition — bases as well of the petition for the issuance of the writ of amparo — read:

"29. On April 29, 2006 at about 9:20 a.m. armed men **sporting 12 gauge shot guns intruded into the property of the defendants** [the land in dispute]. They were not in uniform. They fired their shotguns at the defendants. Later the following day at 2:00 a.m. two houses of the defendants were burned to ashes.

30. These armed men [without uniforms] removed the barbed wire fence put up by defendants to protect their property from intruders. Two of the armed men trained their shotguns at the defendants who resisted their intrusion. One of them who was identified as SAMUEL LONGNO *y* GEGANSO, 19 years old, single, and a resident of Binunan, Batad, Iloilo, fired twice.

31. **The armed men torched two houses of the defendants reducing them to ashes. [...]**

32. These acts of TERRORISM and (heinous crime) of ARSON were reported by one of the HEIRS OF ANTONIO TAPUZ [...]. The terrorists trained their shotguns and fired at minors namely IVAN GAJISAN and MICHAEL MAGBANUA, who resisted their intrusion. Their act is a blatant violation of the law penalizing Acts of Violence against women and children, which is aggravated by the use of high-powered weapons.

[…]

34. That the threats to the life and security of the poor indigent and unlettered petitioners continue because the private respondents Sansons have under their employ armed men and they are influential with the police authorities owing to their financial and political clout.

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35. The actual prior occupancy, as well as the ownership of the lot in dispute by defendants and the atrocities of the terrorists [introduced into the property in dispute by the plaintiffs] are attested by witnesses who are persons not related to the defendants are therefore disinterested witnesses in the case namely: Rowena Onag, Apolsida Umambong, Ariel Gac, Darwin Alvarez and Edgardo Penarada. Likewise, the affidavit of Nemia T. Carmen is submitted to prove that the plaintiffs resorted to atrocious acts through hired men in their bid to unjustly evict the defendants."[13]

The petitioners posit as well that the MCTC has no jurisdiction over the complaint for forcible entry that the private respondents filed below. Citing Section 33 of *The Judiciary Reorganization Act of 1980, as amended by Republic Act No. 7691*,[14] they maintain that the forcible entry case in fact involves issues of title to or possession of real property or an interest therein, with the assessed value of the property involved exceeding ₱20,000.00; thus, the case should be originally cognizable by the RTC. Accordingly, the petitioners reason out that the RTC — to where the MCTC decision was appealed — equally has no jurisdiction to rule on the case on appeal and could not have validly issued the assailed orders.

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[13] *Id.*, pp. 11-12.

[14] Section 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases*. — Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall exercise:

[…]

(3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the disputed property or interest therein does not exceed Twenty Thousand Pesos (₱20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty Thousand Pesos (₱50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots.

OUR RULING

We find the petitions for *certiorari* and issuance of a writ of *habeas data* fatally defective, both in substance and in form. The petition for the issuance of the writ of amparo, on the other hand, is fatally defective with respect to content and substance.

The Petition for *Certiorari*

We conclude, based on the outlined material antecedents that led to the petition, that the petition for *certiorari* to nullify the assailed RTC orders has been **filed out of time**. It is not lost on us that the petitioners have a pending petition with the Court of Appeals (the "*CA petition*") for the review of the same RTC orders now assailed in the present petition, although the petitioners never disclosed *in the body of the present petition* the exact status of their pending CA petition. The CA petition, however, was filed with the Court of Appeals on 2 August 2007, which indicates to us that the assailed orders (or at the very least, the latest of the interrelated assailed orders) were received on ***1 August 2007*** at the latest. The present petition, on the other hand, was filed on April 29, 2008 or more than eight months from the time the CA petition was filed. Thus, the present petition is separated *in point of time* from the assumed receipt of the assailed RTC orders by at least eight (8) months, *i.e.*, beyond the reglementary period of sixty (60) days[15] from receipt of the assailed order or orders or from notice of the denial of a seasonably filed motion for reconsideration.

We note in this regard that the petitioners' counsel stated in his attached "Certificate of Compliance with Circular #1-88 of the Supreme Court"[16] ("*Certificate of Compliance*") that "*in the meantime the RTC and the Sheriff issued a NOTICE TO*

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[15] Under Section 4, Rules 65 of the Revised Rules of Court.

[16] *Rollo*, pp. 27-28; A separate substitute compliance for the required Statement of Material Dates in petitions for *certiorari* under the second paragraph of Section 3, Rule 46, in relations with Rules 56 and 65 of the Revised Rules of Court.

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VACATE AND FOR DEMOLITION not served to counsel but to the petitioners who sent photo copy of the same NOTICE to their counsel on April 18, 2008 by LBC." To guard against any insidious argument that the present petition is timely filed because of this Notice to Vacate, we feel it best to declare now that the counting of the 60-day reglementary period under Rule 65 cannot start from the April 18, 2008 date cited by the petitioners' counsel. The Notice to Vacate and for Demolition is not an order that exists independently from the RTC orders assailed in this petition and in the previously filed CA petition. It is merely a notice, made in compliance with one of the assailed orders, and is thus an administrative enforcement medium that has no life of its own separately from the assailed order on which it is based. It cannot therefore be the appropriate subject of an independent petition for *certiorari* under Rule 65 in the context of this case. The April 18, 2008 date cannot likewise be the material date for Rule 65 purposes as the above-mentioned Notice to Vacate is not even directly assailed in this petition, as the petition's Prayer patently shows.[17]

Based on the same material antecedents, we find too that the petitioners have been guilty of willful and deliberate misrepresentation before this Court and, at the very least, of forum shopping.

By the petitioners' own admissions, they filed a petition with the Court of Appeals (docketed as CA-G.R. SP No. 02859) for the review of the orders now also assailed in this petition, but brought the present recourse to us, allegedly because "*the CA did not act on the petition up to this date* and *for the petitioner* (sic) *to seek relief in the CA would be a waste of time and would render the case moot and academic since the CA refused to resolve pending urgent motions and the Sheriff is determined to enforce a writ of demolition despite the defect of LACK OF JURISDICTION.*"[18]

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[17] *Id.,* p. 24.

[18] *Id.*, p. 9, par. 23 of the Petition.

Interestingly, the petitioners' counsel — while making this claim in the body of the petition — at the same time represented in his Certificate of Compliance[19] that:

"x x x x x x x x x

(e) the petitioners went up to the Court of Appeals to question the WRIT OF PRELIMINARY INJUNCTION copy of the petition is attached (*sic*);

(f) **the CA initially issued a resolution denying the PETITION because it held that the ORDER TO VACATE AND FOR DEMOLITION OF THE HOMES OF PETITIONERS is not capable of being the subject of a PETITION FOR RELIEF,** copy of the resolution of the CA is attached hereto; *(underscoring supplied)*

(g) Petitioners filed a motion for reconsideration on August 7, 2007 but up to this date the same had not been resolved copy of the MR is attached (*sic*).

x x x x x x x x x"

The difference between the above representations on what transpired at the appellate court level is replete with significance regarding the petitioners' intentions. We discern — from the petitioners' act of misrepresenting in the body of their petition that "*the CA did not act on the petition up to this date*" while stating the real Court of Appeals action in the Certification of Compliance — the intent to hide the real state of the remedies the petitioners sought below in order to mislead us into action on the RTC orders without frontally considering the action that the Court of Appeals had already undertaken.

At the very least, the petitioners are obviously seeking to obtain from us, *via* the present petition, the same relief that it could not wait for from the Court of Appeals in CA-G.R. SP No. 02859. The petitioners' act of seeking *against the same parties* the nullification of *the same RTC orders* before the appellate court and before us *at the same time,* although made through different mediums that are both improperly used, constitutes willful and deliberate forum shopping that can

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[19] *Supra*, at note 16.

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sufficiently serve as basis for the summary dismissal of the petition under the combined application of the fourth and penultimate paragraphs of Section 3, Rule 46; Section 5, Rule 7; Section 1, Rule 65; and Rule 56, all of the Revised Rules of Court. That a wrong remedy may have been used with the Court of Appeals and possibly with us will not save the petitioner from a forum-shopping violation where there is identity of parties, involving the same assailed interlocutory orders, with the recourses existing side by side at the same time.

To restate the prevailing rules, "forum shopping is the institution of two or more actions or proceedings 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. Forum shopping may be resorted to by any party against whom an adverse judgment or order has been issued in one forum, in an attempt to seek a favorable opinion in another, other than by appeal or a special civil action for *certiorari*. Forum shopping trifles with the courts, abuses their processes, degrades the administration of justice and congest court dockets. Willful and deliberate violation of the rule against it is a ground for summary dismissal of the case; it may also constitute direct contempt."[20]

Additionally, the required verification and certification of non-forum shopping is defective as one (1) of the seven (7) petitioners — Ivan Tapuz — did not sign, in violation of Sections 4 and 5 of Rule 7; Section 3, Rule 46; Section 1, Rule 65; all in relation with Rule 56 of the Revised Rules of Court. Of those who signed, only five (5) exhibited their postal identification cards with the Notary Public.

In any event, we find the present petition for *certiorari*, on its face and on the basis of the supporting attachments, to be devoid of merit. The MCTC correctly assumed jurisdiction over the private respondents' complaint, which specifically alleged

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[20] *Spouses Julita dela Cruz v. Pedro Joaquin,* G.R. No. 162788, July 28, 2005, 464 SCRA 576.

a cause for forcible entry and not — as petitioners may have misread or misappreciated — a case involving title to or possession of realty or an interest therein. Under Section 33, par. 2 of The Judiciary Reorganization Act, *as amended by Republic Act (R.A.) No. 7691*, exclusive jurisdiction over forcible entry and unlawful detainer cases lies with the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts. These first-level courts have had jurisdiction over these cases — called *accion interdictal* — even before the R.A. 7691 amendment, based on the issue of pure *physical* possession (as opposed to the *right* of possession). This jurisdiction is regardless of the assessed value of the property involved; the law established no distinctions based on the assessed value of the property forced into or unlawfully detained. Separately from *accion interdictal* are *accion publiciana* for the recovery of the right of possession as a plenary action, and *accion reivindicacion* for the recovery of ownership.[21] Apparently, these latter actions are the ones the petitioners refer to when they cite Section 33, par. 3, in relation with Section 19, par. 2 of The Judiciary Reorganization Act of 1980, as amended by Republic Act No. 7691, in which jurisdiction may either be with the first-level courts or the regional trial courts, *depending* on the assessed value of the realty subject of the litigation. As the complaint at the MCTC was patently for forcible entry, that court committed no jurisdictional error correctible by *certiorari* under the present petition.

In sum, the petition for *certiorari* should be dismissed for the cited formal deficiencies, for violation of the non-forum shopping rule, for having been filed out of time, and for substantive deficiencies.

The Writ of Amparo

To start off with the basics, the writ of amparo was originally conceived as a response to the extraordinary rise in the number of killings and enforced disappearances, and to the perceived lack of available and effective remedies to address these

[21] *Reyes v. Sta. Maria*, No. L-33213, June 29, 1979, 91 SCRA 164.

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extraordinary concerns. It is intended to address violations of or threats to the rights to life, liberty or security, as an extraordinary and independent remedy beyond those available under the prevailing Rules, or as a remedy supplemental to these Rules. **What it is not, is a writ to protect concerns that are purely property or commercial. Neither is it a writ that we shall issue on amorphous and uncertain grounds.** Consequently, the Rule on the Writ of Amparo — in line with the extraordinary character of the writ and the reasonable certainty that its issuance demands — requires that every petition for the issuance of the writ must be supported by justifying allegations of fact, to wit:

"(a) The personal circumstances of the petitioner;

(b) The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;

(c) The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;

(d) The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;

(e) The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and

(f) The relief prayed for.

The petition may include a general prayer for other just and equitable reliefs."[22]

The writ shall issue if the Court is preliminarily satisfied with the *prima facie* existence of the ultimate facts determinable from the supporting affidavits that detail the circumstances of

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[22] Section 5 of the Rule on the Writ of Amparo.

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how and to what extent a threat to or violation of the rights to life, liberty and security of the aggrieved party was or is being committed.

The issuance of the writ of amparo in the present case is anchored on the factual allegations heretofore quoted,[23] that are essentially repeated in paragraph 54 of the petition. These allegations are supported by the following documents:

"(a) Joint Affidavit dated 23 May 2006 of Rowena B. Onag, Apolsida Umambong, Ariel Gac, Darwin Alvarez and Edgardo Pinaranda, supporting the factual positions of the petitioners, *id*., petitioners' prior possession, private respondents' intrusion and the illegal acts committed by the private respondents and their security guards on 19 April 2006;

(b) Unsubscribed Affidavit of Nemia Carmen *y* Tapuz, alleging the illegal acts (firing of guns, *etc*.) committed by a security guard against minors — descendants of Antonio Tapuz;

(c) Unsubscribed Affidavit of Melanie Tapuz *y* Samindao, essentially corroborating Nemia's affidavit;

(d) Certification dated 23 April 2006 issued by Police Officer Jackson Jauod regarding the incident of petitioners' intrusion into the disputed land;

(e) Certification dated 27 April 2006 issued by Police Officer Allan R. Otis, narrating the altercation between the Tapuz family and the security guards of the private respondents, including the gun-poking and shooting incident involving one of the security guards;

(f) Certification issued by Police Officer Christopher R. Mendoza, narrating that a house owned by Josiel Tapuz, Jr., rented by a certain Jorge Buenavente, was ***accidentally burned by a fire***."

On the whole, what is clear from these statements — both sworn and unsworn — is the overriding involvement of property issues as the petition traces its roots to questions of physical possession of the property disputed by the private parties. If at all, issues relating to the right to life or to liberty can hardly be discerned except to the extent that the occurrence of *past*

[23] At pages 7-8 of this Resolution.

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violence has been alleged. The right to security, on the other hand, is alleged only to the extent of the threats and harassments implied from the presence of "armed men bare to the waist" and the alleged pointing and firing of weapons. **Notably, none of the supporting affidavits compellingly show that the threat to the rights to life, liberty and security of the petitioners is imminent or is continuing**.

A closer look at the statements shows that at least two of them — the statements of Nemia Carreon *y* Tapuz and Melanie Tapuz are practically identical and *unsworn.* The Certification by Police Officer Jackson Jauod, on the other hand, simply narrates what had been reported by one Danny Tapuz *y* Masangkay, and even mentions that the burning of two residential houses was "accidental."

As against these allegations are the cited MCTC factual findings in its decision in the forcible entry case which rejected all the petitioners' factual claims. These findings are significantly complete and detailed, as they were made under a full-blown judicial process, *i.e.*, after examination and evaluation of the contending parties' positions, evidence and arguments and based on the report of a court-appointed commissioner.

We preliminarily examine these conflicting factual positions under the backdrop of a dispute (with incidents giving rise to allegations of violence or threat thereof) that was brought to and *ruled upon by* ***the MCTC***; subsequently brought ***to the RTC*** *on* an *appeal that is still pending*; still much later brought ***to the appellate court*** *without conclusive results*; and then brought ***to us*** *on interlocutory incidents involving a plea for the issuance of the writ of amparo* that, if decided as the petitioners advocate, may render the pending RTC appeal moot.

Under these legal and factual situations, we are far from satisfied with the *prima facie* existence of the ultimate facts that would justify the issuance of a writ of amparo. Rather than acts of terrorism that pose a continuing threat to the *persons* of the petitioners, the violent incidents alleged appear to us to be purely *property-related* and focused on the disputed land. Thus, if the petitioners wish to seek redress and hold the alleged

perpetrators criminally accountable, the remedy may lie more in the realm of ordinary criminal prosecution rather than on the use of the extraordinary remedy of the writ of amparo.

Nor do we believe it appropriate at this time to disturb the MCTC findings, as our action may carry the unintended effect, not only of reversing the MCTC ruling independently of the appeal to the RTC that is now in place, but also of nullifying the ongoing appeal process. Such effect, though unintended, will obviously wreak havoc on the orderly administration of justice, an overriding goal that the Rule on the Writ of Amparo does not intend to weaken or negate.

Separately from these considerations, we cannot fail but consider too at this point the indicators, clear and patent to us, that the petitioners' present recourse *via* the remedy of the writ of amparo is a mere subterfuge to negate the assailed orders that the petitioners sought and failed to nullify before the appellate court because of the use of an improper remedial measure. We discern this from the petitioners' misrepresentations pointed out above; from their obvious act of forum shopping; and from the recourse itself to the extraordinary remedies of the writs of *certiorari* and amparo based on grounds that are far from forthright and sufficiently compelling. To be sure, when recourses in the ordinary course of law fail because of deficient legal representation or the use of improper remedial measures, neither the writ of *certiorari* nor that of amparo — extraordinary though they may be — will suffice to serve as a curative substitute. The writ of amparo, particularly, should not issue when applied for as a substitute for the appeal or *certiorari* process, or when it will inordinately interfere with these processes — the situation obtaining in the present case.

While we say all these, we note too that the Rule on the Writ of Amparo provides for rules on the institution of separate actions,[24] for the effect of earlier-filed criminal actions,[25] and

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[24] SEC. 21. *Institution of Separate Actions.* — This Rule shall not preclude the filing of separate criminal, civil or administrative actions.

[25] SEC. 22. *Effect of Filing of a Criminal Action*. — When a criminal action has been commenced, no separate petition for the writ shall be filed.

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for the consolidation of petitions for the issuance of a writ of amparo with a subsequently filed criminal and civil action.[26] These rules were adopted to promote an orderly procedure for dealing with petitions for the issuance of the writ of amparo when the parties resort to other parallel recourses.

Where, as in this case, there is an ongoing civil process dealing directly with the possessory dispute and the reported acts of violence and harassment, we see no point in separately and directly intervening through a writ of amparo in the absence of any clear *prima facie* showing that the right to life, liberty or security — the *personal* concern that the writ is intended to protect — is immediately in danger or threatened, or that the danger or threat is continuing. We see no legal bar, however, to an application for the issuance of the writ, *in a proper case*, by motion in a pending case on appeal or on *certiorari*, applying by analogy the provisions on the co-existence of the writ with a separately filed criminal case.

The Writ of *Habeas Data*

Section 6 of the Rule on the Writ of *Habeas Data* requires the following material allegations of ultimate facts in a petition for the issuance of a writ of *habeas data*:

"(a) The personal circumstances of the petitioner and the respondent;

(b) The manner the right to privacy is violated or threatened and how it affects the right to life, liberty or security of the aggrieved party;

The reliefs under the writ shall be available by motion in the criminal case.

The procedure under this Rule shall govern the disposition of the reliefs available under the writ of *amparo*.

[26] SEC. 23. *Consolidation.* — When a criminal action is filed subsequent to the filing of a petition for the writ, the latter shall be consolidated with the criminal action.

When a criminal action and a separate civil action are filed subsequent to a petition for a writ of *amparo*, the latter shall be consolidated with the criminal action.

After consolidation, the procedure under this Rule shall continue to apply to the disposition of the reliefs in the petition.

***(c) The actions and recourses taken by the petitioner to secure the data or information*;**

***(d) The location of the files, registers or databases, the government office, and the person in charge, in possession or in control of the data or information, if known*;**

(e) The reliefs prayed for, which may include the updating, rectification, suppression or destruction of the database or information or files kept by the respondent.

In case of threats, the relief may include a prayer for an order enjoining the act complained of; and

(f) Such other relevant reliefs as are just and equitable."

Support for the *habeas data* aspect of the present petition only alleges that:

"1. […] Similarly, a petition for a WRIT OF *HABEAS DATA* is prayed for so that the PNP may release the report on the burning of the homes of the petitioners and the acts of violence employed against them by the private respondents, furnishing the Court and the petitioners with copy of the same;

[…]

66. Petitioners apply for a WRIT OF *HABEAS DATA* commanding the Philippine National Police [PNP] to produce the police report pertaining to the burning of the houses of the petitioners in the land in dispute and likewise the investigation report if an investigation was conducted by the PNP."

These allegations obviously lack what the Rule on Writ of *Habeas Data* requires as a minimum, thus rendering the petition fatally deficient. Specifically, we see no concrete allegations of unjustified or unlawful violation of the right to privacy related to the right to life, liberty or security. The petition likewise has not alleged, much less demonstrated, any need for information under the control of police authorities other than those it has already set forth as integral annexes. The necessity or justification for the issuance of the writ, based on the insufficiency of previous efforts made to secure information, has not also been shown. In sum, the prayer for the issuance of a writ of *habeas data* is

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nothing more than the "*fishing expedition*" that this Court — in the course of drafting the Rule on *habeas data* — had in mind in defining *what the purpose of a writ of habeas data is not.* In these lights, the outright denial of the petition for the issuance of the writ of *habeas data* is fully in order.

WHEREFORE, premises considered, we hereby *DISMISS* the present petition *OUTRIGHT* for deficiencies of form and substance patent from its body and attachments.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Reyes, and *Leonardo-de Castro, JJ.,* concur.

Carpio Morales, Velasco, Jr., and *Nachura, JJ.,* on official leave.