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The trial court correctly found the defendant guilty of the crime of malversation of public funds through falsification of public documents committed on four (4) occasions, namely: on November 21, 1966, December 19, 1966, January 11, 1967 and February 20, 1967, and rightly imposed the penalty of *reclusion perpetua* for each instance in view of the failure of the defendant to object to the duplicity of the offenses charged in the information. The service of said penalties, however, should be understood to be subject to the provisions of Art. 70 of the Revised Penal Code as amended by Commonwealth Act No. 217.

WHEREFORE, the judgment appealed from should be, as it is hereby, AFFIRMED. With costs against the appellant.

SO ORDERED.

Escolin, Cuevas, Alampay, and *Patajo, Jr. JJ.*, concur.

Aquino (*Chairman*) and *Abad Santos, JJ.*, on leave.

SECOND DIVISION

[G.R. No. L-29094. September 5, 1985]

LEONCIO BONCATO, *plaintiff-appellant, vs.* **CIRILO G. SIASON, MARCELINA F. SIASON and PEOPLE'S HOMESITE AND HOUSING CORPORATION,** *defendants-appellees.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; COMPLAINT; DISMISSAL; WHEN A MOTION TO DISMISS A COMPLAINT IS BASED ON THE GROUND OF FAILURE TO STATE A CAUSE OF ACTION, THE SUFFICIENCY OF THE COMPLAINT SHOULD BE TESTED SOLELY ON THE STRENGTH OF THE

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FACTS ALLEGED THEREIN, AND NO OTHER.— This Court has consistently ruled that when a motion to dismiss a complaint is based on the ground of failure to state a cause of action, the sufficiency of the complaint should be tested solely on the strength of the facts alleged therein, and no other. Otherwise stated, the truth of all the averments pleaded in the complaint is deemed admitted, and if said allegations furnish sufficient basis by which the complaint can be maintained, the same should not be dismissed, regardless of the allegations or defenses that may be put up by the defendant.

2. **ID.; ID.; ID.; ID.; IF THE COURT FINDS THE ALLEGATIONS SUFFICIENT, BUT DOUBTS THEIR VERACITY, THE ONLY COURSE OF ACTION TO TAKE IS TO DENY THE MOTION TO DISMISS, REQUIRE DEFENDANT TO ANSWER, AND THEREAFTER PROCEED TO TRY THE CASE ON THE MERITS.**— As heretofore pointed out, in the resolution of a motion to dismiss, the sufficiency or insufficiency of the cause of action must be determined solely from the face of the complaint, and no other. And if the court finds the allegations sufficient, but doubts their veracity, the only course of action to take is to deny the motion to dismiss, require defendant to answer, and thereafter proceed to try the case on the merits.

3. **ID.; ID.; ID.; CAUSE OF ACTION; ELEMENTS.**— Indeed, the elements of a cause of action are present: there is an alleged right of the plaintiff, a violation of breach of such right was committed by the defendants, and on the basis of the facts alleged in the complaint, a valid judgment could have been rendered in accordance with the relief sought therein.

D E C I S I O N

ESCOLIN, *J.*:

This is an appeal, perfected before the effectivity of Rep. Act No. 5440, from the order of the defunct Court of First Instance of Quezon City, dismissing the complaint filed by plaintiff-appellant Leoncio Boncato in Civil Case No. Q-11570, on ground of lack of cause of action. Said complaint sought to declare null and void [1] the deed of sale over a residential lot

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executed by the People's Homesite and Housing Corporation, PHHC for short, in favor of the spouses Amado A. Tolentino and Angela A. Tolentino, [2] the deed of sale subsequently executed by the Tolentinos over the same lot in favor of the spouses Cirilo Siason and Marcelina Siason, and [3] the certificate of title issued to the spouses Siason.

The principal averments of the complaint disclose the following facts: Plaintiff Leon Boncato was the *bona fide* occupant of a residential lot, belonging to the PHHC, designated as Lot 4, Block E-140 of the subdivision plan Psd-68807, situated in Diliman, Quezon City, otherwise known as the Piñahan area. Sometime in 1956, Boncato constructed a dwelling house on said lot. He was actually in possession thereof when the Piñahan area was reclassified as a residential area by virtue of a Presidential Directive issued by President Magsaysay. Under said Presidential Directive the Piñahan area was ordered subdivided for sale to the actual occupants thereof. Lot 4, Block E-140, with an area of 400 square meters, more or less, was one of the subdivided lots of the Piñahan area.

Plaintiff is qualified under the said Presidential Directive to acquire a residential lot from the PHHC: he is a Filipino citizen and is without a home lot of his own. He filed an application with the defendant PHHC to purchase the lot in question, but the latter took no action thereon on the pretext that the Piñahan area had not yet been subdivided.

On February 20, 1964, a Presidential Directive was issued by President Garcia, directing that —

"In view of the foregoing, it is hereby directed that necessary steps be taken by that corporation (PHHC) to cancel the conditional awards of PHHC lots in the East Avenue subdivision (Piñahan area), Quezon City, made in favor of outsiders who are not occupants of the area in question, those awards are subject to revocation in case the applicants are found not to possess the necessary qualifications; and to cause the immediate sale thereof to the members of Piñahan Homeowners Association who were and are still occupants thereof from the time the area was reclassified and subdivided in accordance with the directive of the late President Magsaysay x x x."

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Another Presidential Directive was issued to the PHHC on January 8, 1965 to the effect that —

"Considering then that it may take sometime for the President to render a decision on the matter, it is hereby directed that the issuance of titles to disputed lots in the PHHC Piñahan subdivision be stopped in the meantime until further advice from his Office."

In order to implement the above Presidential Directives, the President created the Gancayco Committee to investigate the anomalous and irregular awards and/or sales of PHHC lots referred to in said Directives.

Despite the aforementioned Presidential Directives, the PHHC on October 7, 1965, in connivance with the other defendants in order to deprive the plaintiff of his preferential right to purchase the land in question, unlawfully and surreptitiously sold the said lot to the spouses Amado Tolentino and Angela A. Tolentino, although said spouses were legally disqualified from purchasing the same for not being actual occupants thereof, aside from the fact that they had already acquired from the PHHC another residential lot located in Roxas District, Quezon City. Furthermore, the sale had not been cleared by the Gancayco Committee which even at that time was considering the application of the plaintiff to purchase the said lot.

On May 6, 1966, or before the lapse of one year from the date of their purchase from the PHHC, the Tolentinos, "pursuant to the same immoral and unlawful understanding and scheme among the defendants," sold Lot 4 to the defendant spouses Cirilo Siason and Marcelina F. Siason. This transaction was made in flagrant violation of the express provision set forth in the PHHC deed of sale which prohibited the transfer or alienation within one year from one's purchase of a lot from the PHHC. By virtue of the aforementioned deeds of sale, the spouses Siason obtained TCT No. 105073 covering Lot 4.

The PHHC filed an ejectment suit against plaintiff Boncato before the City Court of Quezon City, docketed as Civil Case No. 9974. A decision in said case was rendered in favor of the PHHC; but on appeal, the Court of First Instance of Quezon City dismissed the case for lack of jurisdiction.

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The facts recited above are the very averments set forth in Boncato's complaint for annulment against the defendant PHHC and the spouses Siason.

The defendants filed separate motions to dismiss the complaint on the principal ground that it failed to state a cause of action. In almost identical allegations, they contended that the plaintiff's mere possession of the land and the fact of his having filed a purchase application with the PHHC did not confer upon him any legal right, much less a preferential one, to acquire the disputed property for he was a mere squatter whose application to purchase had neither been accepted nor approved by the PHHC. It was further stressed that plaintiff had no right of action to seek annulment of the deeds of sale entered into by the defendants, he being a total stranger to said transactions.

As pointed out, the trial court dismissed the complaint. It rationalized its posture thus:

"The plaintiff has no cause of action as he had not yet established his legal right to Lot 4, Blk. E-140, East Avenue Subdivision, Diliman; Quezon City. Such being the case, the plaintiff cannot file an action for annulment of the document covering said Lot 4. x x x As previously ruled by this Court, the plaintiff has no cause of action against herein defendants, considering that he had not yet established any legal right whatsoever over the subject matter of this complaint. x x x."

The plaintiff's motion for reconsideration of the order was likewise denied by the trial court, on the basis of its conclusion that "the plaintiff herein is a mere squatter and, therefore, is not entitled to any preferential right which they claimed, considering that a person guilty of illegal entry cannot invoke the benefits of the law."

Hence this appeal.

We find the appeal impressed with merit.

This Court has consistently ruled that when a motion to dismiss a complaint is based on the ground of failure to state a cause of action, the sufficiency of the complaint should be tested

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solely on the strength of the facts alleged therein, and no other.[1] Otherwise stated, the truth of all the averments pleaded in the complaint is deemed admitted, and if said allegations furnish sufficient basis by which the complaint can be maintained, the same should not be dismissed, regardless of the allegations or defenses that may be put up by the defendant.[2]

The complaint in the case at bar averred that the plaintiff is qualified under the Directive of President Magsaysay to acquire a residential lot from the PHHC, he being a Filipino citizen who did not own a homelot of his own; that as actual occupant of Lot 4, he has a preferential right to purchase said lot; that he filed the corresponding application to purchase with the PHHC but the latter, instead of acting thereon, illegally awarded and sold the property to Amado Tolentino and his wife, who in turn transferred the same to the spouses Siason; and that said transactions were illegal, having been perfected in gross violation of the Presidential Directives governing the disposition of the PHHC lot in the Piñahan area. These averments, which are deemed admitted by the defendants, sufficiently point out a right of action on the part of the plaintiff. Indeed, the elements of a cause of action are present: there is an alleged right of the plaintiff, a violation or breach of such right was committed by the defendants, and on the basis of the facts alleged in the complaint, a valid judgment could have been rendered in accordance with the relief sought therein.

The court *a quo*, however, found that the complaint failed to state a cause of action because the plaintiff was "a mere squatter" and, therefore, had no legal right to the disputed property. It should be borne in mind that the complaint was dismissed upon a mere motion to dismiss, not on the strength of any evidence presented by either party, or as a result of a trial on the merits, Since the complaint alleged that plaintiff is "the actual, *bona fide* occupant" of the disputed land, the trial court's holding that plaintiff was "a mere squatter" must have been drawn

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[1] *De Jesus, et al. v. Belarmino, et al.*, 95 Phil. 365.

[2] *Reinares v. Arrastia*, 5 SCRA 748.

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from the defendant's motion to dismiss. But as heretofore pointed out, in the resolution of a motion to dismiss, the sufficiency or insufficiency of the cause of action must be determined solely from the face of the complaint, and no other. And if the court finds the allegations sufficient, but doubts their veracity, the only course of action to take is to deny the motion to dismiss, require defendant to answer, and thereafter proceed to try the case on the merits.

WHEREFORE, the questioned order dismissing the complaint is hereby set aside. Let the records of the case be remanded to the Executive Judge of the Regional Trial Court of Quezon City to be raffled to a branch of said court for appropriate proceedings. No costs.

SO ORDERED.

Concepcion Jr. (Acting Chairman), Cuevas, Alampay, and *Patajo, JJ.*, concur.

Aquino (*Chairman*) and *Abad Santos, JJ.*, on leave.

SECOND DIVISION

[G.R. No. L-56355. September 5, 1985]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **BONIFACIO NAZ *y* OBAL,** *defendant-appellant.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; FINDINGS OF THE TRIAL COURT SUSTAINED ON APPEAL.— We have examined the record of the case and find no reason to set aside the judgment of the trial court finding the appellant guilty of killing his own natural mother. The said