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SECOND DIVISION

[G.R. No. 125509. January 31, 2007]

PUBLIC INTEREST CENTER, INC., LAUREANO T. ANGELES, and JOCELYN P. CELESTINO, *petitioners, vs.* **HONORABLE VICENTE Q. ROXAS, in his capacity as Presiding Judge, Regional Trial Court of Quezon City, Branch 227, REPUBLIC OF THE PHILIPPINES, NATIONAL POWER CORPORATION, WESTINGHOUSE ELECTRIC CORPORATION, WESTINGHOUSE ELECTRIC S.A., WESTINGHOUSE INTERNATIONAL PROJECTS COMPANY,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; ACTIONS; LEGAL STANDING; DEFINED.**— In *Integrated Bar of the Philippines v. Zamora*, this Court defined legal standing as follows: "Legal standing" or *locus standi* has been defined as **a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged.** The term "interest" means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. **The gist of the question of standing is whether a party alleges "such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions."**

2. **ID.; ID.; ID.; IN PUBLIC SUITS, THE PLAINTIFF HAS TO ADEQUATELY SHOW THAT HE IS ENTITLED TO JUDICIAL PROTECTION AND HAS A SUFFICIENT INTEREST IN THE VINDICATION OF THE ASSERTED PUBLIC RIGHT.**— In public suits, the plaintiff, representing the general public, asserts a "public right" in assailing an allegedly illegal official action. The plaintiff may be a person who is affected no differently from any other person, and could be suing as a "stranger," or as a "citizen" or "taxpayer." To invest

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him with *locus standi,* the plaintiff has to adequately show that he is entitled to judicial protection and has a sufficient interest in the vindication of the asserted public right.

3. ID.; ID.; TAXPAYERS' SUIT; THE PARTY SUING AS A TAXPAYER MUST PROVE THAT HE HAS SUFFICIENT INTEREST IN PREVENTING THE ILLEGAL EXPENDITURE OF MONEY RAISED BY TAXATION.— In the case of taxpayers' suits, the party suing as a taxpayer must prove that he has sufficient interest in preventing the illegal expenditure of money raised by taxation. Thus, taxpayers have been allowed to sue where there is a claim that public funds are illegally disbursed or that public money is being deflected to any improper purpose, or that public funds are wasted through the enforcement of an invalid or unconstitutional law. More particularly, the taxpayer must establish that he has a personal and substantial interest in the case and that he has sustained or will sustain direct injury as a result of its enforcement or that he stands to be benefited or injured by the judgment in the case, or is entitled to the avails of the suit.

4. ID.; CIVIL PROCEDURE; FORUM SHOPPING; WHEN PRESENT.— Forum shopping exists when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or *certiorari*) in another, or when he institutes two or more actions or proceedings grounded on the same cause, on the gamble that one or the other court would make a favorable disposition. As explained by this Court in *First Philippine International Bank v. Court of Appeals*, forum-shopping exists where the elements of *litis pendentia* are present, and where a final judgment in one case will amount to *res judicata* in the other. Thus, there is forum-shopping when, between an action pending before this Court and another one, there exist: "a) identity of parties, or at least such parties as represent the same interests in both actions, b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and c) the identity of the two preceding particulars is such that any judgment rendered in the other action, will, regardless of which party is successful amount to *res judicata* in the action under consideration; said requisites also constitutive of the requisites for *auter action pendant* or *lis pendens.*". . . [W]here a litigant sues the same party against

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whom another action or actions for the alleged violation of the same right and the enforcement of the same relief is/are still pending, the defense of *litis pendentia* in one case is a bar to the others; and, a final judgment in one would constitute *res judicata* and thus would cause the dismissal of the rest." In determining whether forum shopping exists, it is important to consider the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different *fora* upon the same issues.

5. ID.; ACTIONS; TAXPAYERS' SUIT; THE GENERAL PRINCIPLE OF CLASS ACTIONS THAT A JUDGMENT IN FAVOR OF OR AGAINST THE PARTIES REPRESENTING THE GENERAL CLASS IS, UNDER THE DOCTRINE OF *RES JUDICATA*, IN FAVOR OF OR AGAINST ALL WHO ARE THUS REPRESENTED APPLIES TO LITIGATIONS INSTITUTED BY TAXPAYERS.— A taxpayer's action has been defined as follows: **A taxpayer's bill is essentially a class bill and can be filed only in the common interest of all the taxpayers of the municipality,** to prevent the wrongful expenditure of the money of the municipality or the wasting of its assets.' *Schlanger v. West Berwick Borough,* 261 Pa. 605, 608, 104 A. 764. '**A class bill, as its name implies, is a bill by several members of a class, on behalf of themselves and all others in the class,** and no relief can be granted upon it, except upon a ground which is common to all the members of the class. [Citing cases].' *Ashcom v. Westmont Borough,* 298 Pa. 203, 208, 148 A. 112, 114. As to plaintiffs, **both suits are brought by the plaintiff as a citizen and taxpayer, besides as an individual, and therefore they are taxpayer class actions.** x x x, In *Holman v. Bridges*, 165 Ga. 296(2), 140 S.E. 886, this court held: "Where a taxpayer or property owner brings an action against a county or its officers upon a matter of public or general interest to all other taxpayers of such political subdivision, and the action either expressly or by necessary implication is on their behalf, they are equally bound by the adjudication, and **a judgment is a bar to any subsequent proceeding by them or any of them seeking similar relief upon the same facts.** x x x" The general principle of class actions that a judgment in favor of or against the parties

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representing the general class is, under the doctrine of *res judicata*, in favor of or against all who are thus represented applies to litigations instituted by taxpayers. Accordingly, in a suit brought by citizens and taxpayers to determine a public right or a matter of public interest, all citizens and taxpayers are regarded as parties to the proceedings by representation and are bound by the judgment rendered therein.

6. ID.; CIVIL PROCEDURE; JUDGMENTS; IDENTITY OF PARTIES NEEDED TO SATISFY THE REQUIREMENT IN *LIS PENDENS* OR *RES JUDICATA* REQUIRES ONLY AN IDENTITY OF INTEREST, NOT A LITERAL IDENTITY OF PARTIES.— [I]dentity of parties needed to satisfy the requirement in *lis pendens* or *res judicata* requires only an identity of interest, not a literal identity of parties.

7. ID.; ID.; CERTIFICATION AGAINST FORUM SHOPPING; THE REQUIREMENT TO REPORT TO THE COURTS THE FACT THAT A SIMILAR ACTION HAS BEEN FILED OR IS ALREADY PENDING BEFORE THE COURTS, VIOLATED IN CASE AT BAR.— Petitioners violated the requirement to report to the courts the fact that a similar action had been filed or is already pending before the courts, regardless of who initiated such similar action. For Section 5, Rule 7 of the Rules of Court requires: "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 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

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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."

APPEARANCES OF COUNSEL

Bautista Law Office, Crispin Q. Reyes and *Vicente D. Millora* for petitioners.

Ramon S. Dino for respondent intervenors.

Abello Concepcion Regala & Cruz for WIPCO.

D E C I S I O N

CARPIO MORALES, *J.*:

Challenged via petition for *certiorari* is the Quezon City Regional Trial Court's Resolution dated April 17, 1996 dismissing the Complaint of Public Interest Center, Inc., Laureano T. Angeles and Jocelyn P. Celestino (petitioners) in Civil Case No. Q-95-25597, and Order dated June 18, 1996, denying petitioners' motion for reconsideration.

The antecedent facts, as culled from the records of the case, are as follows:

On February 9, 1976, respondent National Power Corporation (NPC) entered into a contract (the Contract) with respondent Westinghouse Electric S.A. (WESA), an affiliate or subsidiary of respondent Westinghouse Electric Corporation (WESTINGHOUSE), whereby WESA undertook to construct in favor of the NPC a 620-megawatt nuclear power plant at Morong, Bataan and to supply equipment, machineries and services therefor.[1]

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[1] *Rollo*, pp. 128, 160.

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WESA subsequently executed a deed of assignment transferring all its rights and responsibilities in the Contract to its construction arm-agent, respondent Westinghouse International Projects Company (WIPCO).[2]

In 1986, President Corazon Aquino issued Executive Order (E.O.) No. 55, which was later amended by E.O. No. 98, transferring ownership of the already constructed power plant, which had become known as the Bataan Nuclear Power Plant (BNPP), its equipment, materials and facilities, records and uranium fuel, to the National Government or its duly constituted agency.[3] Pursuant to E.O. No. 55, as amended, the National Government assumed all remaining foreign and local obligations incurred by the NPC in financing the construction of the BNPP.[4]

In 1988, the Aquino administration instituted a complaint against WESTINGHOUSE in New Jersey, U.S.A. WESTINGHOUSE later filed an arbitration case in Geneva, Switzerland.[5]

On September 27, 1995, President Fidel Ramos authorized the following government officials as members of a Government Panel to conduct exploratory discussions with WESTINGHOUSE for the possible settlement of pending legal proceedings: Chief Presidential Legal Counsel Antonio T. Carpio,[6] Solicitor General Raul T. Goco, Assistant Secretary Cyril Del Callar, General Counsel Alberto L. Pangcog, and Counsel Mark Augenblick.[7]

Subsequently or on October 4, 1995, President Ramos issued E.O. No. 265, which amended E.O. No. 315 dated January 1, 1988, creating the Presidential Committee on the Bataan Nuclear Power Plant (PC-BNPP Committee).

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[2] *Id.* at 129.

[3] *Id.* at 230-231; Section 1, E.O. 55 as amended.

[4] *Id.* at 231; Section 2, E.O. 55 as amended.

[5] *Id.* at 132.

[6] Now Associate Justice of the Supreme Court.

[7] *Rollo*, p. 146.

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E.O. No. 265 provided that the PC-BNPP Committee[8] "shall be the coordinating and policy-making body on the BNPP, including policies arising from negotiations for a fair commercial settlement of all pending legal claims that will provide a substantial net benefit to the country," which "shall submit its recommendations on BNPP-related policies to the President for approval."[9]

On October 11, 1995, the PC-BNPP Committee issued a "RESOLUTION ADOPTING THE ESSENTIAL TERMS AND CONDITIONS ARRIVED AT BY THE GOVERNMENT PANEL AND WESTINGHOUSE REPRESENTATIVES DURING THE EXPLORATORY DISCUSSIONS FROM SEPTEMBER 29, 1995 TO OCTOBER 9, 1995 FOR A COMPROMISE SETTLEMENT OF THE BNPP CONTROVERSY AND FAVORABLY RECOMMENDING APPROVAL THEREOF TO HIS EXCELLENCY, THE PRESIDENT," the salient points of which Resolution follow:

x x x x x x x x x

NOTING that after a series of talks which started on September 29, 1995, the government panel and Westinghouse representatives (Mr. Briskman and Mr. Robert Gross) on October 9,1995, eventually agreed in principle on a settlement involving a package of more than $100 MILLION, consisting of the following:

(1) $40 Million in cash (transferable by wire to a bank account specified by the Republic)

(2) Two (2) newly manufactured 501-F Econopac combustion turbines, FOB Houston, at 160 MW each or a total of 320 MW valued at $30 Million each, or a total of $60 Million

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[8] The BNPP Committee shall be composed of the Secretary of Energy as Chairman, the Secretary of Finance as Vice-Chairman, and as members, the Secretary of Budget and Management, Secretary of Trade and Industry, Chairman of the Presidential Commission on Good Government, Governor of Bangko Sentral ng Pilipinas, Solicitor General, President of the NPC and President of the Philippine National Oil Company (Sec. 2, E.O. No. 265, x. or 1995).

[9] *Id.* at 147; Section 1, E.O. 265.

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(3) Relinquishment by Westinghouse of the right to recover more than $200,000 in attorney's fees previously awarded by the New Jersey court.

NOTING that in exchange for the foregoing cash and utilities, the parties would secure a dismissal with prejudice of the pending lawsuits, appeals and arbitration between the Republic and National Power Corporation, on one hand, and Westinghouse, its affiliates and Burns & Roe, on the other hand, involving the BNPP controversy and that the Republic would direct National Power Corporation and other government agencies to lift the ban against Westinghouse equipment and technology;

x x x x x x x x x

OBSERVING that the present offer of Westinghouse of $40 Million in cash plus two (2) 501-F's worth $60 Million represents the highest cash offer (since its $10 Million cash offer in 1992) and the most advantageous in kind offer (no discount/rebate component or any corresponding obligation on the side of the Republic);

HAVING IN MIND the uncertainty of the results of the arbitration, the possibility that some of Westinghouse's counterclaims may partly offset any recovery, the prospect that even a favorable arbitration award could be limited to the $40 million cap under the original BNPP contract and that even if the government eventually wins the appeal of the New Jersey verdict, substantial costs would have to be incurred to pursue a new trial, which result is also uncertain;

RECOGNIZING that the present offer of Westinghouse will result in greater net economic benefits to the Republic than any previous settlement offer;

x x x x x x x x x

NOW THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED that PC-BNPP, with the endorsement of the Republic's lawyers and negotiating panel, adopts the foregoing essential terms of the settlement agreement and respectfully recommends to His Excellency, President Fidel V. Ramos, the acceptance and approval thereof.[10] (Underscoring supplied)

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[10] *Id.* at 150-152.

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On October 13, 1995, the Settlement Agreement reflected in the above-questioned Resolution of the PC-BNPP was forged by the Republic and NPC on one hand, and respondent WESTINGHOUSE corporations on the other.[11]

On November 14, 1995, petitioners, as taxpayers, filed with the Regional Trial Court (RTC) of Quezon City a Complaint against herein private respondents, for declaration of nullity of the BNPP contract with application for the issuance of a temporary restraining order and preliminary injunction.[12]

Herein public respondent, Branch 227 of the Quezon City RTC, set the hearing of petitioners' application for the issuance of a temporary restraining order on November 28, 1995 on which date only petitioners and respondents Republic and NPC appeared. No representative of the WESTINGHOUSE corporations having showed up, public respondent directed petitioners to secure a certification from the Securities and Exchange Commission (SEC) on who the resident agent, if any, of said corporations[13] was.

On the same scheduled date of hearing, the Solicitor General, on behalf of respondents Republic and NPC, moved for the dismissal of the Complaint on the ground that petitioners were engaged in forum-shopping, their counsel Atty. Crispin T. Reyes having previously filed cases[14] with causes of action identical thereto.

While Atty. Reyes did not deny having previously filed, in Manila, a complaint, he argued that he was not among the plaintiffs in the complaint filed in Quezon City. Nevertheless, he withdrew as counsel for the plaintiffs – herein petitioners.[15]

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[11] *Id.* at 134.

[12] *Id.* at 106-124.

[13] *Id.* at 37-38.

[14] *"Anti-Graft League of the Philippines, Inc., et al. v. Westinghouse Electric Corp., et al.,"* Civil Case No. 93-66916, Regional Trial Court, Manila; *"Anti-Graft League of the Philippines, Inc., et al., v. Hon. Edilberto G. Sandoval, et al.,"* Court of Appeals, Manila.

[15] *Id.* at 38.

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On December 4, 1995, petitioners filed an Amended Complaint[16] praying for the following reliefs:

> WHEREFORE, it is most respectfully prayed [that]:
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> x x x x x x x x x
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> (2) after due hearing, a preliminary mandatory injunction issue upon a bond executed to the party enjoined in an amount to be fixed by the court ordering defendants National Power Corporation and the Republic of the Philippines to stop and/or not to perform further implementation/execution of their obligation/undertaking under the null and void [B]NPP Nuclear Plant Contract between the National Power Corporation and Westinghouse executed on February 9, 1976 in Manila, Philippines; likewise, from further continuing the payments for the contracted loans/interest based thereon unless otherwise securitized; and also from further implementing/executing their undertaking/obligations under the Settlement Agreement between Republic of the Philippines-National Power Corporation and Westinghouse negotiated on October 9, 1995 and allegedly executed on October 13, 1995;
>
> (3) after hearing on the merits, judgment be rendered declaring the [B]NPP Nuclear Plant Contract executed on February 9, 1976 in Manila and all amendments thereto, together with the loan contracts based thereon, as well as the Settlement Agreement executed on October 13, 1995 by defendant Republic of the Philippines/NAPOCOR with Westinghouse, as inexistent and void *ab initio;*
>
> (4) ordering defendants NAPOCOR and the REPUBLIC OF THE PHILIPPINES to reconvey/turn over the [B]NPP Nuclear Plant equipment and machineries to defendant WESTINGHOUSE ELECTRIC CORPORATION and/or its corporate agents and to restitute or refund to the former all payments paid for the [B]NPP Nuclear Plant to said Westinghouse, with legal interest from the filing of this complaint;
>
> (5) making the preliminary mandatory injunction permanent, and ordering defendant jointly and severally to pay plaintiffs reasonable attorney's fees pursuant to Article 2208 (2) and (11), Civil Code of the Philippines, with costs against defendants; . . . (Underscoring supplied)

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[16] *Id.* at 125-145.

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In essence, the Amended Complaint assailed the validity of and sought to nullify the following contracts:

(a) The BNPP Contract;

(b) The loan contracts entered into by the Republic and NPC to finance the construction of the BNPP; and

(c) The Settlement Agreement entered into by the Republic and NPC with WESTINGHOUSE on October 13, 1995 in settlement of the claims arising from the Contract.

The Republic filed a Motion to Dismiss (With Opposition to the Application for Preliminary Mandatory Injunction)[17] to petitioners' Amended Complaint on the following grounds: (a) *lis pendens* and/or forum-shopping; (b) lack of legal capacity of petitioners to sue; and (c) lack of cause of action.[18]

For its part, the NPC filed its Comment/Motion To Dismiss Plaintiffs' Amended Complaint,[19] alleging that the Amended Complaint failed to state a cause of action against it.

By Order of January 25, 1996, public respondent directed, among other things, petitioners and the Republic and NPC to file their respective memoranda.[20]

On February 26, 1996, petitioners, in compliance with public respondent's order, filed a manifestation that per certification of the SEC, the new resident agent of WIPCO was ACCRA Agents, Inc. Summons was thereupon served upon ACCRA Agents, Inc.

WIPCO soon filed a Motion to Dismiss[21] petitioners' Amended Complaint on the following grounds: (a) petitioners have no legal capacity to sue; (b) the Amended Complaint states no cause of action; and (c) assuming the existence of

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[17] *Id.* at 159-171.

[18] *Id.* at 159.

[19] *Id.* at 229-239.

[20] *Id.* at 262-263.

[21] *Id.* at 243-249.

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a cause of action, the same is nonetheless barred by the statute of limitations.

By the assailed Resolution of April 17, 1996, public respondent DISMISSED petitioners' complaint, holding as follows:

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I. that, with respect to the first cause of action

(i) plaintiffs have violated Supreme Court Administrative Circular 04-94, otherwise known as the Anti-Forum Shopping Rule, which carries with it, among others, the penalty of dismissal of the action;

II. that, with respect to the second cause of action,

(i) this Court has no territorial jurisdiction over foreign and international bodies situated abroad, more so, if such bodies are foreign and international courts;

(ii) this Court has no original and exclusive jurisdiction over the issue of invalidating compromise agreements entered into in foreign and international courts to settle foreign lawsuits pending before such foreign and international courts;

(iii) this Court has no jurisdiction to enjoin court proceedings relative to the compromise agreement entered into in foreign and international courts to settle pending foreign lawsuits;

(iv) the application for preliminary mandatory injunction of plaintiffs is denied for lack of merit . . .

(v) the second cause of action did not allege constitutional, public interest, and judicial policy issues so as to qualify plaintiffs under the relaxed rule, as having standing, . . .

(vi) this Court has not acquired jurisdiction over the persons of foreign defendants WELCO and WESA. . . (Underscoring supplied)

Petitioners' Motion for Reconsideration of public respondent's Resolution dismissing their complaint having been denied by the other assailed Order of June 18, 1996, they filed the present Petition for *Certiorari* and *Mandamus* With Application for A Writ Of Preliminary Injunction And Prayer For A Temporary Restraining Order directly with this Court in view of the "transcendental importance" of the issues involved.

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Petitioners contend that in dismissing their Amended Complaint, public respondent abdicated its constitutional duty to exercise judicial review over the validity of the BNPP Contract, the loan contracts, and the 1995 Settlement Agreement.

Petitioners further contend that, contrary to the finding of public respondent, petitioners did not commit forum-shopping since there is no identity of parties and causes of action in the instant case and in the complaint filed before the Manila RTC.

Finally, petitioners contend that they have sufficiently established that the injury caused to them by the contracts are "actual, direct and immediate" to thus clothe them with standing.

The Solicitor General and WIPCO, opposing the petition, argue that no grave abuse of discretion attended the issuance by public respondent of the assailed resolutions considering that, among other things, petitioners are guilty of forum-shopping; petitioners have no legal standing; and the propriety of entering into a settlement agreement involves a political question and is not subject to judicial review.

The issues then are:

(1) Whether petitioners have legal standing;

(2) Whether petitioners are engaged in forum-shopping;

(3) Whether the validity of the Contract and the contracts of loan entered into by the Republic and NPC with foreign banks to finance the construction of the BNPP, and the propriety of entering into a Settlement Agreement are subject to judicial review; and

(4) Whether courts may set aside a final judgment rendered by a foreign court.

Legal Standing

In *Integrated Bar of the Philippines v. Zamora*,[22] this Court defined legal standing as follows:

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[22] G.R. No. 141284, August 15, 2000, 338 SCRA 81; *Vide Francisco, Jr. v. Nagmamalasakit na mga Mananganggol ng mga Manggagawang Pilipino, Inc.*, G.R. No. 160261, November 10, 2003, 415 SCRA 44.

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"Legal standing" or *locus standi* has been defined as **a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged.** The term "interest" means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. **The gist of the question of standing is whether a party alleges "such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions."** (Citations omitted; emphasis supplied)

In public suits, the plaintiff, representing the general public, asserts a "public right" in assailing an allegedly illegal official action. The plaintiff may be a person who is affected no differently from any other person, and could be suing as a "stranger," or as a "citizen" or "taxpayer." To invest him with *locus standi,* the plaintiff has to adequately show that he is entitled to judicial protection and has a sufficient interest in the vindication of the asserted public right.[23]

In the case of taxpayers' suits, the party suing as a taxpayer must prove that he has sufficient interest in preventing the illegal expenditure of money raised by taxation. Thus, taxpayers have been allowed to sue where there is a claim that public funds are illegally disbursed or that public money is being deflected to any improper purpose, or that public funds are wasted through the enforcement of an invalid or unconstitutional law.[24]

More particularly, the taxpayer must establish that he has a personal and substantial interest in the case and that he has sustained or will sustain direct injury as a result of its

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[23] *Vide: David v. Macapagal-Arroyo*, G.R. No. 171396, May 3, 2006, 489 SCRA 160.

[24] *Del Mar v. Philippine Amusement and Gaming Corporation*, 400 Phil. 307 (2000) citing *Kilosbayan, Inc., et al. v. Morato, et al.*, 320 Phil. 171 (1995); *Dumlao v. Comelec*, G.R. No. 52245, January 22, 1980; *Sanidad v. Commission on Elections*, G.R. No. 44640, October 12, 1976, 23 SCRA 333; *Philconsa v. Mathay*, 124 Phil. 890 (1966); *Pascual v. Sec. of Public Works*, 110 Phil. 331 (1960).

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enforcement[25] or that he stands to be benefited or injured by the judgment in the case, or is entitled to the avails of the suit.[26]

Petitioners' allegations in their Amended Complaint that the loan contracts entered into by the Republic and NPC are serviced or paid through a disbursement of public funds are not disputed by respondents, hence, they are invested with personality to institute the same.

Forum-Shopping

Forum shopping exists when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or *certiorari*) in another, or when he institutes two or more actions or proceedings grounded on the same cause, on the gamble that one or the other court would make a favorable disposition.[27]

As explained by this Court in *First Philippine International Bank v. Court of Appeals*, forum-shopping exists where the elements of *litis pendentia* are present, and where a final judgment in one case will amount to *res judicata* in the other. Thus, there is forum-shopping when, between an action pending before this Court and another one, there exist: "a) identity of parties, or at least such parties as represent the same interests in both actions, b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and c) the identity of the two preceding particulars is such that any judgment rendered in the other action, will, regardless of which party is successful amount to *res judicata* in the action under consideration; said requisites also constitutive of the requisites for auter action pendant or *lis pendens*." . . . [W]here a litigant sues the same party against whom another action or actions for the alleged violation of

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[25] *Gonzales v. Narvasa*, 392 Phil. 518 (2000) citing *People v. Vera*, 65 Phil. 50 (1937).

[26] *Gonzales v. Narvasa, supra*, citing Section 2, Rule 3, Rules of Court and *Board of Optometry v. Colet,* 328 Phil. 1187 (1996).

[27] *Municipality of Taguig v. Hon. Court of Appeals*, G.R. No. 142619, September 13, 2005, 469 SCRA 588 citing *Rudecon v. Singson*, G.R. No. 150798, March 31, 2005; *Chemphil Export and Import Corp. v. Court of Appeals*, 321 Phil. 619 (1995).

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the same right and the enforcement of the same relief is/are still pending, the defense of *litis pendentia* in one case is a bar to the others; and, a final judgment in one would constitute *res judicata* and thus would cause the dismissal of the rest."[28]

In determining whether forum shopping exists, it is important to consider the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different *fora* upon the same issues.[29]

In the present case, it is evident that, *vis-a -vis* the above-mentioned complaint filed in Manila, there exists identity of parties or interests represented, as well as identity of rights or causes of action and reliefs sought.

Thus, the first complaint which was instituted before the Manila RTC by the Anti-Graft League of the Philippines, *et al.* as taxpayers' suit,[30] "*Anti-Graft League of the Philippines, Inc., et al. v. Westinghouse Electric Corp., et al.,*" docketed as Civil Case No. 93-66916, sought to declare null and void the Contract, as well as the same loan contracts entered into by herein respondents Republic and NPC with foreign banks, and to restrain said respondents from making further payments in compliance with the loan contracts.[31]

It appears that the first complaint was dismissed by the Manila RTC upon a motion to dismiss.[32] It further appears that instead of filing an appeal, the therein petitioners Anti-Graft League of the Philippines, Inc. *et al.* filed a petition for *certiorari* with

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[28] *Prubankers Association v. Prudential Bank & Trust Company,* 361 Phil. 744 (1999).

[29] *Municipality of Taguig v. Hon. Court of Appeals, supra,* citing *First Philippine International Bank v. Court of Appeals,* 322 Phil. 280 (1996).

[30] *Rollo,* p. 172.

[31] *Id.* at 183.

[32] *Id.* at 193.

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this Court, which was dismissed by Resolution dated March 1, 1995,[33] and that thereafter or on July 12, 1995, they filed a petition for *mandamus*[34] with the Court of Appeals praying for the following reliefs:

> . . . **that a temporary restraining order be ISSUED *ex-parte* enjoining respondent NATIONAL POWER CORPORATION and the REPUBLIC OF THE PHILIPPINES from paying the loans in question they contracted with respondent banks and insurance companies** for a period of TWENTY (20) DAYS from date of issuance; that after notice to respondents and within said period, said temporary restraining order be CONVERTED into a preliminary injunction with bond as may be fixed by the Court; that after hearing, judgment be RENDERED making the preliminary injunction permanent and **ordering respondent court to reinstate Civil Case No. 93-66916** and to declare respondents WESTINGHOUSE ELECTRIC CORP. (WELCO) and WESTINGHOUSE INTERNATIONAL PROJECTS CO. (WIPCO), respondents foreign banks and insurances companies IN DEFAULT . . . (Emphasis supplied)

The above-said petition for *mandamus* was still pending before the appellate court when herein petitioners filed their complaint, later amended, before the Quezon City RTC.

Petitioners do not deny that the first complaint and the petition for *mandamus* ("first set of cases") and their complaint subject of the present petition involve the same causes of action, are founded upon the same set of facts, and are taxpayers' suits. Nevertheless, they argue that the first set of cases and the present case do not have identity of parties since they were not among the petitioners in the former.

Furthermore, petitioners assert that a taxpayer's suit is not a class suit, hence, judgment in one case does not amount to *res judicata* in the other.

At all events, petitioners contend that there is no absolute identity of causes of action since their Amended Complaint

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[33] *Id.* at 185-186.

[34] *Id.* at 187-228.

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includes the nullification of the Settlement Agreement, which was not raised in the first set of cases.

Petitioner's position does not impress.

A taxpayer's action has been defined as follows:

> **A taxpayer's bill is essentially a class bill and can be filed only in the common interest of all the taxpayers of the municipality**, to prevent the wrongful expenditure of the money of the municipality or the wasting of its assets.' *Schlanger v. West Berwick Borough,* 261 Pa. 605, 608, 104 A. 764. '**A class bill, as its name implies, is a bill by several members of a class, on behalf of themselves and all others in the class**, and no relief can be granted upon it, except upon a ground which is common to all the members of the class. [Citing cases].' *Ashcom v. Westmont Borough,* 298 Pa. 203, 208, 148 A. 112, 114.[35] (Emphasis supplied)
>
> As to plaintiffs, **both suits are brought by the plaintiff as a citizen and taxpayer, besides as an individual, and therefore they are taxpayer class actions**. x x x,
>
> In *Holman v. Bridges*, 165 Ga. 296(2), 140 S.E. 886, this court held: "Where a taxpayer or property owner brings an action against a county or its officers upon a matter of public or general interest to all other taxpayers of such political subdivision, and the action either expressly or by necessary implication is on their behalf, they are equally bound by the adjudication, and **a judgment is a bar to any subsequent proceeding by them or any of them seeking similar relief upon the same facts.** x x x"[36] (Emphasis supplied)

The general principle of class actions that a judgment in favor of or against the parties representing the general class is, under the doctrine of *res judicata*, in favor of or against all who are thus represented applies to litigations instituted by taxpayers.

Accordingly, in a suit brought by citizens and taxpayers to determine a public right or a matter of public interest, all

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[35] *Gericke v. City of Philadelphia,* 353 Pa. 60, 44 A.2d 233 (1945).

[36] *Housing Authority of the City of Atlanta v. Heart of Atlanta Motel, Inc.*, 220 Ga 192, 137 S.E. 2d 647 (1964).

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citizens and taxpayers are regarded as parties to the proceedings by representation and are bound by the judgment rendered therein.[37]

The plaintiff there was another taxpayer of the city, suing in the status of 'citizen and taxpayer,' and the city itself was a co-defendant. The action was instituted September 3, 1958. The first count of the complaint, *Inter alia,* charged the affiliation agreement here in question to be 'void, illegal and of no effect because the City ignored the requirements of the 'local budget law,' N.J.S. 40:2-1 *et seq.*, particularly 40:2-29 and the law pertaining to municipal contracts, particularly 40:50-6, as to the necessity for either budgeting the contract or passing an appropriation ordinance * * *.' Subsequently the plaintiff in that action made a motion for summary judgment on the first count alone, and defendants moved for summary judgment on all counts. We have examined the briefs and affidavits submitted to the trial court on those motions, and it appears therefrom that the matter of the alleged invalidity of the affiliation agreement for alleged noncompliance with N.J.S.A. 40:2-29 and 40:50-6 was argued to the court. The judgment of the court denied plaintiff's motion and granted those of defendants. No appeal therefrom was taken.

x x x x x x x x x

Petitioner first seeks to avoid the effect of the prior judgment on the ground that the subject matter of the two respective proceedings differs. However, this is not, properly speaking, a case of different subject matter, but of different causes of action. Such a difference is immaterial if a postulate of law essential to the success of the party in the later proceeding has been distinctly put in issue and adjudicated Contra in the earlier, particularly where, as here, the subject matter in both proceedings arises out of the same transaction. See 30A Am.Jur., Judgments, s 360, p. 401; Restatement, Judgments, ss 68, 70, comment pp. 319, 320; *N.J. Highway Authority v. Renner,* 18 N.J. 485, 493, 494, 114 A.2d 555 (1955); *Mazzilli v. Accident, etc., Casualty Ins. Co., etc.,* 26 N.J. 307, 314, 139 A.2d 741 (1958) (quotation from *City of Paterson v. Baker,* 51 N.J.Eq. 49, 26 A. 324 (Ch.1893)).

Nor will it avail petitioner that the taxpayer in the earlier action was one other than herself. A taxpayer attacking

[37] 74 Am Jur 2d, Taxpayer's Actions, Sec. 62.

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governmental action in which he has no peculiar personal or special interest is taken to be suing as a representative of all taxpayers as a class. The general rule is that in the absence of fraud or collusion a judgment for or against a governmental body in such an action is binding and conclusive on all residents, citizens and taxpayers with respect to matters adjudicated which are of general and public interest. 50 C.J.S. Judgments s 796, p. 337; cf. *Edelstein v. Asbury Park,* 51 N.J.Super. 368, 389, 143 A.2d 860 (App.Div.1958); see also 18 McQuillin, Municipal Corporations (3rd ed. 1950), s 52.50, pp. 124, 125; 52 Am.Jur., Taxpayers' Actions, s 38, p. 26.[38] (Emphasis and underscoring supplied)

Hence, it is to no avail that petitioners invoke lack of identity of parties. For petitioners in the first set of cases and in the instant case are suing under a common or general interest on a subject matter in a representative capacity, for the benefit of all taxpayers as a class. As this Court has repeatedly ruled, identity of parties needed to satisfy the requirement in *lis pendens* or *res judicata* requires only an identity of interest, not a literal identity of parties.[39]

As regards identity of causes of action, petitioners do not deny that the first set of cases -- the complaint filed in Manila and the petition for *mandamus* filed before the Court of Appeals – involves the same causes of action grounded on the same set of facts as that of the Amended Complaint filed by them. Indeed, the petition for *mandamus* essentially sought to review the Manila RTC order dismissing the first complaint. Petitioners' incorporation of an additional cause of action in their Amended Complaint filed before the Quezon City RTC, occasioned merely by subsequent events, does not absolve petitioners from forum shopping.

Additionally, petitioners violated the requirement to report to the courts the fact that a similar action had been filed or is

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[38] *Petition of Gardiner*, 67 N.J. Super 435, 170 A 2d 820 (1961).

[39] *Vide: First Philippine International Bank, et al. v. Court of Appeals, supra*; *Luzon Development Bank v. Benedicto C. Conquilla*, G.R. No. 163338, September 21, 2005, 470 SCRA 533.

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already pending before the courts, regardless of who initiated such similar action. For Section 5, Rule 7 of the Rules of Court requires:

> 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 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. (Emphasis and underscoring supplied)

Granted that petitioners were initially unaware of the existence of the first set of cases, albeit their counsel was one of the petitioners therein, such fact was already brought to their attention during the hearing of their application for a temporary restraining order[40] conducted after the filing of their Complaint. When petitioners subsequently filed their Amended Complaint, however, they failed to report the pendency of the petition for *mandamus* before the appellate court bearing on the dismissal by the Manila RTC of the complaint filed by the Anti-Graft League of the

[40] *Rollo*, p. 38.

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Philippines, Inc. Public respondent's dismissal of the Amended Complaint in the ground of forum shopping is thus in order.

This leaves it unnecessary to pass on the rest of the issues.

WHEREFORE, the petition is *DENIED*.

Costs against petitioners.

SO ORDERED.

Quisumbing (Chairperson), Tinga, and *Velasco, Jr., JJ.,* concur.

Carpio, J., no part, member of Government Panel mentioned on pages 2 & 3.

FIRST DIVISION

[G.R. No. 126297. January 31, 2007]

PROFESSIONAL SERVICES, INC., *petitioner, vs.* **NATIVIDAD and ENRIQUE AGANA,** *respondents.*

[G.R. No. 126467. January 31, 2007]

NATIVIDAD (Substituted by her children MARCELINO AGANA III, ENRIQUE AGANA, JR., EMMA AGANA ANDAYA, JESUS AGANA, and RAYMUND AGANA) and ENRIQUE AGANA, *petitioners, vs.* **JUAN FUENTES,** *respondents.*

[G.R. No. 127590. January 31, 2007]

MIGUEL AMPIL, *petitioner, vs.* **NATIVIDAD AGANA and ENRIQUE AGANA,** *respondents.*

SYLLABUS

1. CIVIL LAW; QUASI-DELICTS; MEDICAL NEGLIGENCE; THE LEAVING OF SPONGES OR OTHER FOREIGN SUBSTANCES