

Republic of the Philippines
HUMAN SETTLEMENTS ADJUDICATION COMMISSION
Regional Adjudication Branch VII
11th Floor, MDCT Building, Lot 9, Block 20, Leyte Loop,
Cebu Business Park, Barangay Hipodromo, Cebu City

ALLAN DOUGLAS WILSON
Complainant,

RVII-REM-231031-0071

-versus-

**TAFT PROPERTY
DEVELOPMENT, INC.,**
Respondents.

X -----/

ORDER OF DISMISSAL

Before this Office is a complaint for delivery of title and for payment of damages, attorney's fees and cost of litigation.

However, this Office finds that the complaint failed to state a cause of action against the Respondent.

Failure to state a cause of action refers to the insufficiency of allegation in the pleading. In "failure to state a cause of action," the examination is limited to the complaint in that whether it contains an averment of the three (3) essential elements of a cause of action, namely: (a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (b) an obligation on the part of the named defendant to respect or not to violate such right; and (c) an act or omission on the part of the named defendant violative of the right of the plaintiff or constituting a breach of the obligation of defendant to the plaintiff for which the latter may maintain an action for recovery. Dismissal on the ground of

"failure to state a cause of action" is a procedural remedy to resolve a complaint saving the parties the costs of going into trial.¹

In this case, Complainant failed to allege any right that has been violated by an act or omission of Respondent.

Admittedly, the Complainant, Allan Douglas Wilson, is the second buyer of a condominium unit identified as Unit 45-Q of Horizons Tower 2 after purchasing the same from Roderick Dinoy Manatad, who is the original or first buyer, by virtue of a Deed of Absolute Sale dated 08 August 2022.

The Respondent is not a party or privy to the said Deed of Absolute Sale.

Considering that there is no privity of contract, it follows that the Complainant has no legal personality to institute the instant complaint or cause of action against the Respondent for breach of contract and for specific performance.

It is an elementary rule that every action must be prosecuted or defended in the name of the real party-in-interest.²

A real party in interest is one who has a legal right. Since a contract may be violated only by the parties thereto as against each other, in an action upon that contract, the real parties-in-interest, either as plaintiff or as defendant, must be parties to the said contract. The action must be brought by the person who, by substantive law, possesses the right sought to be enforced.³

It is worth stressing that a complaint that fails to state a cause of action is dismissible.

¹ See *Philippine National Bank vs. Elenita V. Abello, Ma. Elena Elizabeth A. Fider, Jonathan V. Abello, Manuel V. Abello, Jr. and Vincent Edward V. Abello* (G.R. No. 242570, September 18, 2019)

² See Section 8, Rule 3, Rules of Procedure of the Human Settlements Adjudication Commission.

³ See *Ma. Teresa Vidal, Lulu Marquez and Carlos Sobremonte versus Ma. Teresa O. Escueta represented by Herman O. Escueta*, G.R. No. 156228, December 10, 2003

Pursuant to Sections 27 and 99 of the Rules⁴, the Regional Adjudicator shall *motu proprio* dismiss the complaint without prejudice upon a finding that the case does not fall within the jurisdiction of the HSAC, **the complaint fails to state a cause of action**, or the same is not sufficient in form and substance.

WHEREFORE, premise considered, this Office is left with no other recourse but to dismiss the instant complaint without prejudice.

SO ORDERED. 20 November 2023, Cebu City, Philippines.


JOE VINSON M. EMPACES

Copy furnished:

ALLAN DOUGLAS WILSON

Complainant

Unit 45-Q, 45th Floor, Horizons Tower 2

General Maxilom Ave., Cogon-Ramos, Cebu City

Contact No.: 0963 637 4588

⁴ "xxx the Regional Adjudicator shall *motu proprio* dismiss the Complaint upon a finding that the case does not fall within the jurisdiction of the HSAC, the Complaint fails to state a cause of action, or the same is not sufficient in form and substance."