

REPUBLIC OF THE PHILIPPINES  
**METROPOLITAN TRIAL COURT**  
NATIONAL CAPITAL, JUDICIAL REGION  
BRANCH NO. 72, PASIG CITY, MM

CITYSTATE SAVINGS BANK, INC.  
Plaintiff

CIVIL CASE NO. 11151

-versus-

FELIX B. MACALE  
Defendant

X-----x

**MOTION TO HOLD EXECUTION IN ABEYANCE**

COMES now the herein Defendant, by and through the undersigned counsel and before this Honorable Court, respectfully moves for holding in abeyance the issuance of a writ of execution in the above-entitled case, respectfully alleging the following legal grounds, law, jurisprudence, facts and circumstances in support thereto;

1. That a third party claimant, DON ESTEBAN BENITEZ TALLANO AND DON GREGORIO MADRIGAL ACOP FOUNDATION INC. has interposed its ownership claim over the subject lots as against the Plaintiff Citystate Savings Bank in whose name the title to the said lot has been earlier consolidated AND that said claim is through a Cancellation of/Declaration of Nullity of Title (TCT) No. PT-125260 and PT-125261., docketed as CIVIL CASE NO. 70571-PSG now pending before the REGIONAL TRIAL COURT BRANCH 67,PASIG CITY, copy of the verified Petition of DON ESTEBAN BENITEZ TALLANO AND DON GREGORIO MADRIGAL ACOP FOUNDATION INC. herewith attached and marked as **ANNEX 'A'** hereof;

2. That herein Plaintiff CITYSTATE SAVINGS BANK, in the above-entitled case where it is the Defendant HAS ALREADY filed its ANSWER, copy herewith attached and marked as **ANNEX 'B'** hereof;

3. That while it is true that the primary and basic issue before this Honorable Metropolitan Trial Court is that of possession, it is noteworthy that legal possession flows and emanates from one's ownership over the land or property, now the very issue in the above entitled case before a proper court of competent jurisdiction, herein REGIONAL TRIAL COURT, Branch 67, Pasig City.

4. That in order to give the higher court a free hand to finally determine the ownership over the said lots and in order not to subvert or pre-empt any final determination of the issues of **rights of ownership, of legal possession, of actual physical possession and of collection of lease rentals**, this Honorable lower court should hold in abeyance any further action in this decided case until the higher court has finally determined the above-cited fundamental and legal issues; this is further dictated by the rule of hierarchy of courts and judicial court in a long line of subsisting and prevailing jurisprudence;

WHEREFORE, above premises considered, it is respectfully moved that any further action in this case be held in abeyance *a quo* by this Honorable Court in order to await the final determination of the cancellation/declaration of nullity of title in the higher REGIONAL TRIAL COURT OF PASIG CITY, Branch No. 67;

Mandaluyong City for Pasig City, March 26, 2006

(SGD) ALEJO F. ESTEPA  
Counsel for the Movant-Plaintiff  
#632, 9 de Febrero St., Mandaluyong City  
IBP No. 642155 Mla 2/22/06  
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COPY FURNISHED BY REG. MAIL  
ATTY. TEODORO D. VILLAPENA JR  
2<sup>nd</sup> Floor, Citystate Center Bldg., 709 Shaw Blvd.  
Pasig City

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THE CLERK OF COURT  
RTC BR67, PASIG

### EXPLANATION

Due to lack of appropriate personnel, the above MOTION is served to opposing Counsel at his given address through substituted service of registered mail, actual proof of mailing is the registry receipt attached across his name by the Post Office of \_\_\_\_\_ on \_\_\_\_\_.

(SGD) ALEJO F. ESTEPA