

SPOUSES JOSE R. ONG & MARCELINA ONG, SPOUSES JUAN MANUEL LIM & CLARISSA LIM, SPOUSES CECIL YAP AND JULIA VICTORIA YAP, AND SPOUSES CLIFTON YAP AND ANGELITA YAP, PLAINTIFFS-APPEL...

Ponente: HERNANDO, J.

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HERNANDO, J.:

Before Us is an appeal from the Order[1] dated April 3, 2012 of the Regional Trial Court (RTC), Branch 49 of Tagbilaran City in Civil Case No. 7517, an action for Quieting of Title and Damages with Prayer for a Temporary Restraining Order and Writ of Preliminary Injunction. The said assailed April 3, 2012 Order reconsidered its prior January 17, 2012 Order[2] denying the motion to dismiss filed by defendants-appellees. The reconsidered April 3, 2012 Order disposed as follows:

WHEREFORE, prescinding from the foregoing, the court has no recourse but to reconsider its Order dated January 17, 2012, denying the Motion to Dismiss and/or Affirmative Defenses.

In lieu thereof, a new Order is issued dismissing the instant case on grounds aforestated.

Consequently, the hearing set on May 8, 2012 is cancelled.

SO ORDERED.

Plaintiffs-appellants' motion for reconsideration relative to the April 3, 2012 Order was likewise denied by the RTC in another assailed May 9, 2012 Order[3].

The present appeal was declared submitted for Decision by this Court per Minute Resolution[4] dated June 24, 2014. Not long after, a Motion for Leave to Admit Appellees' Brief[5] with attached Appellees' Brief[6] was filed by private defendants-appellees on July 14, 2014. In said motion, they aver that on July 3, 2014, they filed a motion for reconsideration on this Court's Minute Resolution dated June 24, 2014. Said motion for reconsideration[7] was actually received by this Court only on August 7, 2014. At any rate, in order to afford each parties the opportunity to present their respective arguments and considering that failure to file a brief on time is not a jurisdictional matter, We hereby resolve to NOTE and ADMIT private defendants-appellees' Brief in the interest of substantial justice.

The Antecedents:

Culled from the records are the following material facts:

Subject of the controversy are two parcels of land known as Lot Nos. 6740 and 6741, Gss-07-02-000039, containing an area of Nine Thousand Seven Hundred Sixty (9,760) and Nine Thousand Eight Hundred Fifty-Two (9,852) square meters, respectively, both located in Totolan, Dauis, Bohol.

These lots in controversy were earlier subject of free patent applications filed by herein private defendants

Dominga L. Biliran for Lot No. 6740[8] and Julia Lapos for Lot No. 6741[9] before the Department of Environment and Natural Resources (DENR) Region VII. Private defendants Biliran and Lapos claimed that the lots in controversy (which was then whole) were originally owned by the late Serafino Lopena, as early as 1916, who died a widower and without issue. During his lifetime, Serafino Lopena actually possessed and cultivated these lots. After his death, the same were adjudicated by his siblings, namely, Pacificio, Valeria and Lucrecia by virtue of oral partition in favor of Serafino's sister, Lucrecia Lopena Lapos. Thereafter, Lucrecia Lopena Lapos continued to actually possess and cultivate said lots and planted them with corn and ube.

After the death of Lucrecia Lopena Lapos sometime in the year 1982, said parcels of land were then inherited by her children, namely: Magdalena Lapos Niñeza (deceased), Eutiquio Lopena Lapos, Dominga Lapos Biliran and Julia Lopena Lapos, who then took actual possession and cultivation of said land. The subject land was then subdivided into two lots designated as Lot No. 6740 and Lot No. 6741.

On January 10, 2006, a formal protest on said applications was filed by herein plaintiff Jose R. Ong. The latter claimed that Serafino and Serapio are one and the same person. According to him, he was one of the vendees who bought the subject lots from the heirs of Maria Lopena, as evidenced by an Extra-judicial Settlement of Estate with Simultaneous Sale dated July 6, 2006. Maria Lopena, in turn, inherited the same, being the only child of the late Spouses Serapio Lopena and Macaria Guimbarda. These lots in controversy were allegedly offered to plaintiff Ong by the heirs of the late Serapio Lopena, apparently after learning that he and the other vendees bought the adjacent lot denominated as Lot No. 6718. At the time of the execution of sale, the lots in question were then covered by Tax Declaration Nos. 2003-19-012-00705 and 2003-19-012-00703, respectively.

In a Decision[10] dated April 10, 2008, the DENR Regional Executive Director dismissed the protest and ordered that the free patent applications be further given due course, if there are no other legal impediments. In so ruling, the DENR Regional Executive Director opined:

From the preceding queries and discussions, this Office is persuaded that Serafino Lopena and Serapio Lopena are separate and distinct individuals. As a consequence thereof, the Extra-judicial Settlement and Estate with Simultaneous Sale dated 06 July 2006 executed by the Heirs of Serapio Lopena involving the lots in controversy belonging to Serafino Lopena, in favor of claimant-protestant, Jose R. Ong is ineffectual and void ab initio. It is essential for a seller to transfer ownership (Articles 1458 and 1459 of the Civil Code of the Philippines) and therefore, the seller must be owner of the subject sold. This stems from the principle that nobody can dispose of that which does not belong to him. - "nemo dat quad non habet". (Citations omitted)

Further, it can also be deduced from the Final Investigation Report dated 18 October 2007 that after the actual Ocular Inspection was conducted on the lots in controversy last 13 March 2007, it was ascertained that it was the applicants-respondents who introduced considerable improvements therein by planting g-melina and mahogany trees, bananas and other seasonal crops. In fact, a house made out of light materials can also be found within Lot No. 6741, which was being used as shelter while tending to their planted crops. This is indicative that applicants-respondents are in possession of the lots in controversy. Besides, Narciso Lomonsod, who claimed to be one of the Heirs of Serapio Lopena, who was present at that time, seems to be unfamiliar with the boundaries between Lot Nos. 6740 and 6741. Furthermore, the installation of a perimeter fence, presumably ordered by the claimant-protestant was objected to by the herein applicants-respondents, which to the mind of this Office is a natural reaction of someone whose rights over a certain property has been violated. In fact, this incident was even blotted in the Police Station of Dauis, Bohol.

Finally, applicants-respondents were able to produce a certification that the corresponding Realty Taxes of the lots in controversy from the year 1977 up to 2005 were paid by applicant, Ms. Julia Lapos, per Certification dated 11 July 2006 of Letecia A. Honculada, Municipal Treasurer of the Municipality of Dauis, Bohol. In addition thereto, Tax Declaration Nos. 2003-19-012-01243 and 2003-19-012-01244, of the land in controversy,

all for the year 2007, and still in the name of Serafino Lopena were also submitted, and the corresponding Realty Taxes for the year 2008 was paid per Official Receipt No. 0567035 dated 04 January 2008.

Also, in said Decision, it was categorically stated that the case did not undergo the rigors of a full-blown investigation considering that the contending parties opted to submit the case for resolution based on their Memoranda together with their documentary evidence to substantiate their respective claims and defenses.

A motion for reconsideration relative to said Decision was, thereafter, filed by plaintiff Jose R. Ong but which was subsequently denied by the DENR Regional Executive Director in an Order[11] dated October 15, 2008.

Meanwhile, on November 24, 2008, the instant Complaint[12] for Quieting of Title and Damages with Prayer for a Temporary Restraining Order and Writ of Preliminary Injunction was filed by plaintiffs spouses Jose R. Ong and Marcelina Ong, spouses Juan Manuel Lim and Clarissa Lim, spouses Cecil Yap and Julia Victoria Yap, and spouses Clifton Yap and Angelita Yap before the Regional Trial Court of Tagbilaran, Bohol against private defendants Heirs of Lucrecia Lopena Lapos, namely, Eutiquio Lapos, Dominga Lapos Biliran and Julia Lapos as well as public defendants, namely, DENR Region VII Regional Executive Director Leonardo R. Sibbaluca, CENRO Tagbilaran City, the Municipal Assessor of Dauis, Bohol and the Provincial Assessor of Bohol.

In their Complaint, plaintiffs reiterated, among others, that they acquired by purchase the subject parcels of land from the heirs of the original owner, Serapio Lopena, namely, Pelagio Lomonsod, Teodoro Lomonsod, Narciso Lomonsod and Trefina Lomonsod, who executed an Extrajudicial Settlement of Estate with Simultaneous Sale in their favor. At the time of the sale, Lot Nos. 6740 and 6741 were covered by Tax Declaration Nos. 2003-19-012-00705 and 2003-19-012-00703, respectively. They asserted that said heirs, in turn, acquired by inheritance the subject lots, being the children of the late Maria Lopena, the only child and sole heir of Serapio Lopena.

Plaintiffs also asserted that the late Serapio Lopena and Serafino Lopena are one and the same person. He is the grandfather of the vendors and the uncle of private defendants. According to them, sometime in October 2006, private defendants caused the issuance of Tax Declaration No. 2003-19-012-01244 for Lot No. 6740 and Tax Declaration No. 2003-19-012-01243 for Lot No. 6741 pursuant to a mere self-serving letter dated October 2, 2006, alleging that Serapio Lopena and Serafino Lopena are two distinct and separate persons and that the name Serapio Lopena, as owner of the subject lots, was erroneous. Consequently, through the unfounded and malicious claims of private defendants, new tax declarations were issued in the name of Serafino Lopena. Hence, plaintiffs argued that these tax declarations, including the subsequent revisions thereto, should be declared null and void. On the other hand, Tax Declaration Nos. 2003-19-012-00705 and 2003-19-12-00703, both in the name of Serapio Lopena, should be reverted back.

Plaintiffs further contended that the protest filed by plaintiff Ong against the free patent applications of defendants Dominga Biliran and Julia Lapos was hastily denied by the DENR Region VII without undergoing the rigors of a full-blown trial. Thereafter, a motion for reconsideration was filed seeking for the reversal or setting aside of the order of dismissal and dropping of the protest from the records and that a full-blown trial be conducted, or, in the alternative, to hold the Free Patent Applications in abeyance in order to give plaintiffs the opportunity to file appropriate action in a court of competent jurisdiction to settle once and for all the issues: (1) whether or not Serapio Lopena and Serafino Lopena is one and the same; and (2) as to who is the true owner/s of the subject parcels of land, all in the interest of substantial justice, but said motion was likewise denied outright without hearing.

Accordingly, plaintiffs maintained that consistent with their manifestation to submit the issue of ownership and other pertinent issues in a court of competent jurisdiction which was likewise the basis of their prayer to hold in abeyance the proceedings in the DENR, they filed the instant case.

Subsequently, private defendants filed their Answer with Counterclaim[13] (With Motion to Dismiss on Affirmative Defenses and Opposition to Prayer for Temporary Restraining Order and Writ of Preliminary Injunction). On the other hand, public appellees also filed their Answer[14].

Private defendants moved for the dismissal of the complaint on grounds of lack of jurisdiction and non-exhaustion of the proper administrative remedies. They averred similar allegations to the DENR case that Serafino Lopena and Serapio Lopena are two different persons and that the entry in the tax declarations in the name Serapio Lopena were erroneously made which were nonetheless later corrected and reverted back to Serafino Lopena. They also asserted that the filing of the instant case was but a futile attempt to make up for plaintiffs' failure to appeal the DENR Regional Executive Director's Order to the DENR Secretary. They maintained that plaintiffs have no valid ground for reversion as it was clear that in Tax Declarations Nos. 4946, 7946, 3528, 6002 on the subject lots when they were still a whole land, the same had been declared in the name of Serafino Lopena since 1916.

On January 17, 2012, the trial court denied defendants' motion to dismiss for lack of merit. On motion for reconsideration filed by private and public defendants, the trial court reconsidered its prior denial and thereafter issued an Order dated April 3, 2012 dismissing plaintiffs' Complaint on the grounds of res judicata, forum-shopping and lack of jurisdiction. The trial court opined that while the caption in the present case was for quieting of title and damages, the ultimate issue to be resolved nonetheless boiled down to the question of ownership and possession which was already exhaustively passed upon and resolved on the merits by the DENR Regional Executive Director, which decision has already become final and executory. Hence, res judicata had set in. As a consequence, the instant suit likewise violated the rule on forum-shopping. The trial court further declared that plaintiffs' act of filing a protest on defendants' applications for free patent with the DENR, evinced an implied admission that the subject parcels of land are still within the public domain and that they have submitted to the jurisdiction of the DENR.

After the denial of their motion for reconsideration, plaintiffs-appellants filed the instant appeal anchored on the following assignment of errors.

The Assigned Errors[15]:

I.(IN RULING THAT THIS INSTANT CASE IS ALREADY BARRED BY PRIOR JUDGMENT OR RES JUDICATA ON ACCOUNT OF A PRIOR JUDGMENT IN THE DENR IN RED CLAIM NO. 240 AND THAT THERE IS FORUM SHOPPING ON ACCOUNT OF THE PROTEST FILED BY APPELLANTS IN FREE PATENT APPLICATION NOS. 071219-619-B AND 071219-1970 IN THE DENR CENRO, TAGBILARAN CITY;

II.IN MAKING A STAND THAT THE FILING OF THE PROTEST BY APPELLANT JOSE R. ONG IN FREE PATENT APPLICATION NOS. 071219-619-B AND 071219-1970 IN THE DENR CENRO, TAGBILARAN CITY, IS AN IMPLIED ADMISSION THAT THE SUBJECT PARCELS OF LAND ARE STILL WITHIN THE PUBLIC DOMAIN AND SUBMITTED TO THE JURISDICTION OF THE DENR;

III.IN RECONSIDERING AND TOTALLY REVERSING ITS ORDER DATED 17 JANUARY 2012 DENYING FOR LACK OF MERIT THE MOTION TO DISMISS FILED BY DEFENDANTS-APPELLEE.

Court's Ruling:

The appeal is bereft of merit.

For being interrelated, the errors raised by appellants shall be jointly and successively discussed.

At the outset, We highlight that the present Complaint for Quieting of Title, among others, was dismissed by the

court a quo on grounds of lack of jurisdiction, res judicata and forum-shopping.

Undoubtedly, Section 1 of Rule 16 of the Rules of Court allows the court a quo to dismiss an action on the grounds specifically mentioned therein. It provides, thus:

Section 1. Grounds. - Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

x x x x x x x x

(b) That the court has no jurisdiction over the subject matter of the claim;

x x x x x x x x

(f) That the cause of action is barred by a prior judgment or by the statute of limitations;

x x x x x x x x

Jurisdiction over the subject matter means jurisdiction to hear and determine the general class of cases to which the proceedings in question belong; the power to deal with the general subject involved in the action. Otherwise stated, jurisdiction over the subject matter means the nature of the cause of action and of the relief sought, and this is conferred by the sovereign authority which organized the court and defines its powers.[16] It is a basic rule that jurisdiction over the subject matter is determined by the allegations in the complaint.[17] It is determined exclusively by the Constitution and the law.[18] It cannot be conferred by the voluntary act or agreement of the parties, or acquired through or waived, enlarged or diminished by their act or omission, nor conferred by the acquiescence of the court.[19] Well to emphasize, it is neither for the court nor the parties to violate or disregard the rule, this matter being legislative in character.[20]

At this point, We stress that jurisdiction on questions regarding land ownership is determined by the nature of the land involved. If the land is a public land, the jurisdiction is lodged with the DENR. Otherwise, if the land has already been declared a private land, the authority to adjudicate matters of ownership thereon belongs with the regular courts. This matter was already clarified in *Bagunu v. Aggabao and Acerit*[21] where the Supreme Court held that:

The resolution of conflicting claims of ownership over real property is within the regular courts' area of competence and, concededly, this issue is judicial in character. However, regular courts would have no power to conclusively resolve this issue of ownership given the public character of the land, since under C.A. No. 141, in relation to Executive Order No. 192, the disposition and management of public lands fall within the exclusive jurisdiction of the Director of Lands, subject to review by the DENR Secretary.

In order to convince this Court that the RTC had jurisdiction to entertain their action for Quieting of Title, appellants assert that the lots in question are actually private lands, originally owned by Serapio Lopena, also known as (a.k.a) Serafino Lopena since 1916. Allegedly, these lots were later inherited by Serapio's heirs after his death and subsequently sold by said heirs to appellants. Hence, appellants contend that considering that the subject lots are private lands, free patent titling under Public Lands Act is inapplicable. As a consequence, they filed the instant case for quieting of title before the RTC which has jurisdiction to determine matters pertaining to the ownership of private lands. They stress, further, that the instant case is not an appeal to the decision of the DENR Regional Executive Director with respect to their opposition to the free patent applications, but a different case with different cause of action.

Regrettably, these assertions hold no water.

Firstly, appellants' allegation that the subject lots are private lands was not duly proven and established. It remains an unsubstantiated allegation, unsupported by the evidence on record. No title was ever presented by appellants to at least give a semblance of truth to their allegation that indeed, these lots in dispute are registered land under

private ownership. To highlight, their only basis for such claim consisted of tax declarations issued in favor of Serapio Lopena's name, whose issuance, however, had been questioned before, and later declared erroneous by an earlier decision of, the DENR. Be that as it may, even for purposes of discussion, it bears stressing that tax declarations alone do not suffice to prove one's ownership of properties mentioned therein. At the most, they are merely indicia of a claim of ownership.[22]

Consequently, an inevitable presumption arises that the subject lots are unregistered land and the same still belongs to the mass of the public domain. Under the Regalian Doctrine, which is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land.[23] All lands not appearing to be clearly within private ownership are presumed to belong to the State.[24]

In this light, it is therefore evidently apparent that the RTC had no jurisdiction to entertain appellant's action for quieting of title, among others. This is especially true considering that the lots in dispute are actually subject of free patent applications before the DENR, which has the primary jurisdiction to resolve conflicting claims of title over said properties. In fact, in said proceedings, one of the appellants herein had filed a protest on said applications and that there was already a final and executory judgment thereon particularly on the issues raised by the appellants in the present action.

To recall, it is noteworthy that the same issues raised by appellants in this case such as: (1) whether or not Serapio Lopena and Serfaino Lopena are one and the same person; (2) who are the true owner/s of the subject parcels of land; (3) who are the true heirs/successors in interest of the true owners, were already squarely addressed and resolved definitively by the DENR Regional Executive Director in a Decision dated April 10, 2008 and Order dated October 15, 2008. It is well to note too that appellants did not bother to appeal said decision to the DENR Secretary and ultimately to the Office of the President after their motion for reconsideration was denied. Consequently, these Decision and Order of the DENR Regional Executive Director had attained finality. Necessarily, the same issues already ventilated therein could no longer be re-litigated in another action and before another forum without violating the principle of res judicata.

Jurisprudence teaches us that the decisions and orders of administrative agencies rendered pursuant to their quasi-judicial authority, upon finality, have the force and binding effect of a final judgment within the purview of the doctrine of res judicata.[25]

Under the doctrine of res judicata, a final judgment or decree on the merits rendered by a court of competent jurisdiction is conclusive about the rights of the parties or their privies in all later suits and on all points and matters determined in the previous suit.[26] The foundation principle upon which the doctrine rests is that the parties ought not to be permitted to litigate the same issue more than once; that when a right or fact has been judicially tried and determined by a court (or tribunal) of competent jurisdiction, as long as it remains unreversed, it should be conclusive upon the parties and those in privity with them in law or estate.[27]

The apt observation of the RTC on the matter is worth reiterating, thus:

The same holds true in the instant case, since there was already a prior judgment rendered by the DENR in RED Claim No. 240; the judgment had already become final and executory; it was rendered by a tribunal which has jurisdiction over the subject matter and the parties; the judgment was rendered on the merits, and there being a) identity of parties (the parties are the same); b) identity of subject matter (the same parcels of land; and identity of cause of action.

While it is true that the caption herein is for quieting of title and damages, nevertheless, it cannot be denied that the sole and ultimate issue to be resolved boils down to the question of ownership or possession which was already exhaustively passed upon and resolved on the merits by the Regional Executive Director of the

Department of Environment and Natural Resources, which is already final and executory.

In addition, We stress that the DENR Regional Executive Director, in dismissing appellant Ong's protest, made a categorical declaration that Serapio Lopena and Serafino Lopena are separate and two distinct individuals. It declared that the lots in controversy were actually declared for taxation purposes in the name of Serafino Lopena since 1916 and if there were tax declarations issued in the name of Serapio Lopena, the same were erroneous. It likewise found out that it was private appellees, the Heirs of Serafino Lopena, who introduced considerable improvements on the subject lots, in actual possession thereof and have been paying the realty taxes thereon. It was on these findings that the DENR dismissed appellant Ong's protest and ordered that the free patents applications of private appellees be further given due course, if there are no other legal impediments. Needless to state, these findings already answered all the queries that appellants raised in filing the instant action for quieting of title before the RTC.

Furthermore, We agree with the assertion of public appellee, through the Office of the Solicitor General, that appellants should have first availed themselves of all administrative processes afforded to them by appealing the judgment of the DENR Regional Executive Director to the DENR Secretary, instead of filing another Complaint for Quietening of Title.

It has been consistently declared that the doctrine of exhaustion of administrative remedies is a cornerstone of our judicial system.[28] The thrust of the rule is that courts must allow administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence.[29] The rationale for this doctrine is obvious. It entails lesser expenses and provides for the speedier resolution of controversies.[30] Comity and convenience also impel courts of justice to shy away from a dispute until the system of administrative redress has been completed. [31]

In the case of *Republic v. Lacap*[32], the Supreme Court expounded on the doctrine of exhaustion of administrative remedies and the related doctrine of primary jurisdiction in this wise:

The general rule is that before a party may seek the intervention of the court, he should first avail of all the means afforded him by administrative processes. The issues which administrative agencies are authorized to decide should not be summarily taken from them and submitted to a court without first giving such administrative agency the opportunity to dispose of the same after due deliberation.

Corollary to the doctrine of exhaustion of administrative remedies is the doctrine of primary jurisdiction; that is, courts cannot or will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to the resolution of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact.

Appellants, however, take exception from the above rule. They argue that the rule of exhaustion of administrative remedies is inapplicable in the present case because the DENR committed grave abuse of discretion when it favored private appellees as shown from the fact that CENRO Eusalem Quiwag, in whose office the free patent titling applications were submitted and acted upon, is a son-in-law of private appellees.

These are purely speculations.

It is true that the foregoing doctrine admits of exceptions. In the same case of *Lacap*, the High Court also held:

Nonetheless, the doctrine of exhaustion of administrative remedies and the corollary doctrine of primary jurisdiction, which are based on sound public policy and practical considerations, are not inflexible rules. There are many accepted exceptions, such as: (a) where there is estoppel on the part of the party invoking the doctrine; (b) where the challenged administrative act is patently illegal, amounting to lack of jurisdiction; (c)

where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant; (d) where the amount involved is relatively small so as to make the rule impractical and oppressive; (e) where the question involved is purely legal and will ultimately have to be decided by the courts of justice; (f) where judicial intervention is urgent; (g) when its application may cause great and irreparable damage; (h) where the controverted acts violate due process; (i) when the issue of non-exhaustion of administrative remedies has been rendered moot; (j) when there is no other plain, speedy and adequate remedy; (k) when strong public interest is involved; and, (l) in quo warranto proceedings. x x x

It appears that none of the exceptions exist in the present case. Thus, when the law provides for a remedy against a certain action of an administrative board, body, or officer, relief to the courts can be made only after exhausting all remedies provided therein.[33] At any rate, granting *arguendo* that the DENR committed grave abuse of discretion amounting to excess of jurisdiction, appellants should have instead filed a Petition for Certiorari under Rule 65 of the Rules of Court to assail said DENR's decision.

Verily, appellants' act of filing a separate action for quieting of title before the regular court cannot be countenanced, hence, should be dismissed. It is settled that the non-observance of the doctrine of exhaustion of administrative remedies results in lack of cause of action, which is one of the grounds in the Rules of Court justifying the dismissal of the complaint.[34] This notwithstanding, We should not lose sight that it is the DENR which has the primary jurisdiction over matters relating to the subject lots in question, being public lands.

Finally, We stress too that appellants' actions amount to forum-shopping. There is forum shopping when a party repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court[35], as in this case.

The test to determine the existence of forum shopping is whether the elements of *litis pendentia* are present, or whether a final judgment in one case amounts to *res judicata* in the other. Thus, there is forum shopping when the following elements are present, namely: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amounts to *res judicata* in the action under consideration.[36]

All the enumerated elements are undoubtedly present here. There was an identity of parties in the case before the DENR and in the present case. While not all of appellants actually participated in the proceedings before the DENR, their interest, nonetheless, was properly represented by appellant Ong. Secondly, the lots involved and the rights asserted by both parties as well as their basis in asserting these rights are squarely similar in two cases save for the allegations of appellants that the subject lands are private lands. In any event, the substantial identity of the two cases remains even if the parties should add different grounds or should alter the designation or form of the action.[37] The well-entrenched rule is that a party cannot, by varying the form of action, or adopting a different method of presenting his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated.[38]

Furthermore, the reliefs prayed for by appellants are essentially the same as that in the DENR case, that is to declare Serapio Lopena and Serafino Lopena as one and the same person and that the tax declarations issued in favor of Serapio Lopena be reverted back so that appellants may be declared as the owners of the subject lands. Accordingly, as these issues were already resolved with finality by the DENR, it cannot be litigated once again in another forum. As We have previously discussed, *res judicata* had already set in. Accordingly, forum-shopping is evidently present.

All told, We find no serious or grave error committed by the RTC when it dismissed the instant case.

WHEREFORE, in the light of all the foregoing, the appeal is hereby DENIED and the Orders dated April 3, 2012 and May 9, 2012 of the Regional Trial Court, Branch 49 of Tagbilaran City in Civil Case No. 7517 dismissing the Complaint for Quieting of Title and Damages with Prayer for a Temporary Restraining Order and Writ of Preliminary Injunction, is hereby AFFIRMED. Costs on appellants.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

[1] Record, pp. 229-231.

[2] Record, pp. 198-199.

[3] Record, p. 239.

[4] Rollo, p. 119.

[5] Rollo, pp. 120-121.

[6] Rollo, pp. 122-148.

[7] Rollo, pp. 286-292.

[8] Record, p. 72.

[9] Record, p. 73.

[10] Record, pp. 192-195.

[11] Record, pp. 78-79.

[12] Record, pp. 1-8.

[13] Record, pp. 38-49.

[14] Recor, pp. 109-115.

[15] Rollo, Appellants' Brief, pp. 24-30.

[16] Herrera, Oscar M., Remedial Law I, 2007 Edition, p. 77.

[17] Mendoza v. Germino, G.R. No. 165676, November 22, 2010.

[18] Ibid.

[19] Ibid.

[20] Ibid.

[21] G.R. No. 186487, August 15, 2011.

[22] Republic v. Manimtim, et. al., G.R. No. 169599, March 16, 2011.

[23] Republic v. Medida, G.R. No. 195097, August 13, 2012.

[24] Ibid.

[25] National Spiritual Assembly of the Baha'is of the Philippines v. Pascual, G.R. No. 169272, July 11, 2012.

[26] Heirs of Sotto and Heirs of Barcelona v. Palicte, G.R. No. 159691, June 13, 2013.

[27] Ibid.

[28] Addition Hills Mandaluyong Civic and Social Organization, Inc. v. Megaworld Properties & Holdings, Inc., et. al., G.R. No. 175039, April 18, 2012.

[29] Ibid.

[30] Ibid.

[31] Ibid.

[32] Cited in Addition Hills Mandaluyong Civic and Social Organization, Inc. v. Megaworld Properties & Holdings, Inc., et. al., G.R. No. 175039, April 18, 2012.

[33] Ibid.

[34] Teotico v. Baer, G.R. No. 147464, June 8, 2006.

[35] Asia United Bank, et. al. v. Goodland Company, Inc. G.R. No. 191388, March 09, 2011.

[36] Heirs of Sotto, et. al. v. Palicte, G.R. No. 159691, February 17, 2014.

[37] Asia United Bank, et. al. v. Goodland Company, Inc. G.R. No. 191388, March 09, 2011.

[38] Ibid.

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