# REPUBLIC REAL ESTATE CORPORATION AND PASAY CITY, PETITIONERS-APPELLANTS, VS. REPUBLIC OF THE PHILIPPINES AND CULTURAL CENTER OF THE PHILIPPINES, RESPONDENTS-APPELLEES.

Ponente: SADANG, J.

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**SADANG, J.:**

This is an appeal seeking to nullify the Orders[1] dated August 16, 2010 and February 7, 2011, of the Regional Trial Court, Branch 108, Pasay City in Civil Case No. 09-0830-CFM.

The Antecedents
On May 29, 2009, petitioners-appellants Republic Real Estate Corporation (RREC) and Pasay City (hereafter, petitioners), both represented by Alentajan Law Office, filed a Petition[2] for Declaration of Unconstitutionality of Presidential Decree No. 774[3]. Impleaded as respondents were the Republic of the Philippines and the Cultural Center of the Philippines (CCP).

Petitioners alleged that: Sometime in 1959, they entered into a Reclamation Agreement whereby RREC would reclaim 300 hectares at the Manila Bay. RREC shall advance the cost of the reclamation as a loan to Pasay City and, as alternative payment, RREC has the option to purchase at most 60% of the reclaimed land at P10.00 per square meter and the payment shall be applied against the outstanding obligation of Pasay City. In 1961, during the reclamation, the legality of the contract was questioned before the Court of First Instance of Rizal but the case was dismissed for lack of merit. While the appeal was pending before the Court of Appeals (CA), President Marcos issued Presidential Decree (P.D.) No. 3-A, whereby Construction Development Corporation of the Philippines took over the reclamation contract. On August 22, 1975, President Marcos issued P.D. No. 774 whereby 50.47 hectares of the reclaimed land in Pasay City were assigned, transferred and conveyed to the CCP. On the basis of P.D. No. 774, Transfer Certificate of Title (TCT) Nos. 75676, 75678, 75679, 75681, 75682, 75683, 75685 were issued in the name of CCP. The lands covered by these titles are part of the 55 hectares reclaimed by RREC. On January 28, 1992, the CA rendered a decision finding the contract to be legal and valid, thus, the Republic was ordered to return to RREC and Pasay City the reclaimed lands. On April 28, 1992, the CA rendered an Amended Decision limiting petitioners' claim to 35 hectares of open spaces where no buildings have been erected by the government. On November 25, 1998, the Supreme Court, in G.R. No. 103882 and G.R. No. 105276, applying the principle of quantum meruit, ordered the Republic to pay petitioners P10,926,071.29, plus interest of six (6%) percent per annum from May 1, 1962 until full payment. On October 17, 2000, the Supreme Court issued a Resolution declaring that its November 25, 1998 decision is final and executory. On May 4, 2007, the RTC of Pasay, Branch 109, issued an Order granting the Motion for Execution, thus, a writ of execution dated May 8, 2007 was issued. Thereafter, the RTC issued an Order denying the Republic's Very Urgent Motion to Quash the Writ of Execution and the Sheriff's Notice of Execution and Notice to Pay. The Republic filed a Motion for Reconsideration but it was denied in an Order dated February 28, 2007. In accordance with the writ of execution, the Sheriff levied on two parcels of land belonging to the Republic/CCP under TCT No. 75676 (Lot

22) and TCT No. 75681 (Lot 29) and said lots were the subject of an auction sale wherein RREC and Pasay City were the only bidders. These lots are part of the 50.47 hectares gratuitously transferred to CCP under PD No. 774.

Petitioners alleged that PD No. 774 is unconstitutional because it impaired the obligation of contract between them and said decree amounts to an arbitrary and despotic confiscation of property without regard to due process and other constitutional rights.

Petitioners prayed that PD No. 774 be declared unconstitutional, that the transfer of 50.47 hectares to CCP be declared null and void, that TCT Nos. 76676, 75678, 75679, 75682, 75685 be cancelled, and that the lands covered by PD No. 774 be transferred to RREC and Pasay City and TCTs be issued in their names.

By special appearance, respondent CCP filed a Motion to Dismiss[4] on the ground that the RTC has not acquired jurisdiction over it due to non-service of summons.

On August 27, 2009, the Republic, through the Office of the Solicitor General (OSG) also filed a Motion to Dismiss,[5] dated August 24, 2009, on these grounds: (a) lack of jurisdiction; (b) no cause of action because the constitutionality of PD No. 774 has been passed upon in G.R. No. 103882 and G.R. No. 105276; (c) petitioners are bereft of legal personality to institute the present petition; (d) the petition which prays for the ultimate relief of reconveyance of real property has been barred by res judicata; (e) petitioners are guilty of forum shopping; (f) petitioners are estopped from claiming reconveyance which has been prayed for in G.R. No. 103882 and G.R. No. 105276; (g) petitioner Pasay City is not properly represented by the City Legal Officer as mandated by Section 481 (B) (3) (I) of the Local Government Code. On August 20, 2009, the RTC issued an Order directing the issuance of summons to the Republic and the CCP.

On March 3, 2010, the Republic filed a Manifestation and Motion[6] praying that its Motion to Dismiss, dated August 24, 2009, be resolved.

On September 15, 2009, CCP filed a Very Urgent Omnibus Motion[7] (for Reconsideration of the August 20, 2009 Order; To Recall Wrongfully Issued Summons dated August 24, 2009 and to Suspend, Nullify and Set Aside Reglementary Period to File Responsive Pleading).

On February 9, 2010, the RTC issued an Order[8] denying CCP's Motion to Dismiss.

On May 28, 2010, the RTC issued an Order[9] directing the Republic and CCP to file their answer in view of the denial of CCP's motion to dismiss in the February 9, 2010 Order.

On July 1, 2010, the Republic filed a Motion for Reconsideration[10] of the May 28, 2010 Order, pointing out that it was only the motion to dismiss of CCP that was dismissed by the court but not its motion to dismiss. The Republic prayed that its Motion to Dismiss dated August 4, 2009 be resolved. The hearing of the motion was set on July 9, 2010.

On July 9, 2010, the RTC issued an Order[11] giving petitioners 15 days to file their comment/opposition to the motion. The OSG was given the same number of days upon receipt to file its reply.

On July 19, 2010, the CCP filed its Answer with Special & Affirmative Defenses and Compulsory Counterclaim.[12]

On July 21, 2010, petitioners filed their Opposition/Comment to the Republic's Motion for Reconsideration.[13]

On August 10, 2010, the Republic filed a Reply (Re: Opposition/Comment to Republic's Motion for Reconsideration dated June 29, 2010).[14]

On August 16, 2010, the RTC issued the first assailed Order,[15] the fallo of which reads:


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> WHEREFORE, after finding merits in the motion to dismiss filed by the Republic, this Court hereby grants the same.
>
> SO ORDERED.

The RTC dismissed the complaint on these grounds: 1) Pasay City was represented by a private law firm and not by the City Legal Officer; 2) the petition is a collateral attack on the titles; 3) res judicata has set in; and 4) the petition has no cause of action.

On February 7, 2011, the RTC issued its second assailed Order[16] denying petitioners' Motion for Reconsideration[17] (of the Order dated August 16, 2010).

Hence, this appeal assigning these alleged errors committed by the RTC:

> I. THE LOWER COURT COMMITTED GRAVE, SERIOUS AND REVERSIBLE ERROR WHEN IT GRANTED THE REPUBLIC OF THE PHILIPPINES' DEFECTIVE MOTION TO DISMISS AND MOTION FOR RECONSIDERATION, AND IN EFFECT ORDERED THE DISMISSAL OF THE INSTANT CASE ON CERTAIN DUBIOUS GROUNDS NOT EVEN PROVIDED, AUTHORIZED OR SANCTIONED BY RULE 16 OF THE RULES OF COURT.
>
> II. THE LOWER COURT COMMITTED GRAVE SERIOUS AND REVERSIBLE ERROR WHEN IT RECOGNIZED AND ACTED ON THE DEFECTIVE MOTION FOR RECONSIDERATION FILED BY THE REPUBLIC, IN VIOLATION OF THE MANDATORY RULE ON NOTICE OF HEARING PROVIDED UNDER SECTION 4, RULE 15 OF THE RULES ON CIVIL PROCEDURE.

Ruling

The issues raised by petitioners may be boiled down to two: 1) whether the Republic's motion for reconsideration violated the three-day notice rule; 2) whether the decision of the Supreme Court in G.R. No. 103882 and G.R. No. 105276 constitutes res judicata in this case.

We shall first resolve the procedural issue.

Petitioners contend that the Republic's motion for reconsideration should not have been considered by the RTC because it was fatally defective as it violated the three-day notice rule.

The three-day notice rule is embodied in Sections 4, 5, and 6 of Rule 15 of the Rules of Court which read:

> SECTION 4. Hearing of motion. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.
>
> Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.
>
> SECTION 5. Notice of hearing. – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.
>
> SECTION 6. Proof of service necessary. – No written motion set for hearing shall be acted upon by the court without proof of service thereof.

It is clear that the rules mandate that the other party receives a copy of the written motion at least three days before the date set for its hearing. The purpose of the three-day notice rule, which was established not for the benefit of the movant but rather for the adverse party, is to avoid surprises upon the latter and to grant it sufficient


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time to study the motion and to enable it to meet the arguments interposed therein.[18]

However, the three-day notice rule is not a hard and fast rule.[19] Neither is it an absolute rule. A liberal construction of the procedural rules is proper where the lapse in the literal observance of a rule of procedure has not prejudiced the adverse party and has not deprived the court of its authority.[20] The test is the presence of opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based.[21] Thus, in Jehan Shipping Corporation v. National Food Authority[22] it was ruled that despite the lack of notice of hearing of the motion for reconsideration, there was substantial compliance with the requirements of due process because the other party had the opportunity to be heard and had filed pleadings in opposition to the motion.[23]

At this point, it must be stated that, as correctly noted by the Republic, the May 28, 2010 Order that was sought to be reconsidered did not deny said party's motion to dismiss which was filed as early as August 27, 2009. The Republic filed the motion for reconsideration of the May 28, 2010 Order simply to seek the resolution of its motion to dismiss. Thus, acting on the motion, the RTC issued the assailed August 16, 2010 Order granting the Republic's motion to dismiss. The motion for reconsideration, which merely prayed for the resolution of a pending motion to dismiss, is not a litigious motion that required notice of hearing.

But even if the motion for reconsideration were to be considered a litigious motion, the RTC did not err in acting on it. The records show that the motion was set for hearing on July 9, 2010 at 8:30 AM. A copy of the motion was sent to Atty. Alentajan via registered mail on July 1, 2010[24] and it was received by petitioners on July 8, 2010, or a day before the scheduled hearing. On the day of the hearing on July 9, 2010, the RTC did not act on the motion but issued another Order[25] giving petitioners 15 days to file their comment or opposition thereto. On July 21, 2010, petitioners filed their Opposition/Comment to the motion for reconsideration. Considering that petitioners were given the opportunity to give their side of the issue, a liberal application of the rules is proper. The RTC did not err in acting on the motion.

Petitioners contend that the grounds upon which the RTC dismissed their petition – Pasay City was not represented by the City Legal Officer, the petition is a collateral attack on the titles, and forum shopping, are affirmative defenses which can only be resolved after a full-blown trial. They are not grounds to dismiss under Rule 16 of the Rules of Court.

The CCP counters that the grounds for dismissal are not exclusive. CCP insists that the petition is a collateral attack on the TCTs and there is res judicata because the ultimate relief of reconveyance has already been adjudged and finally determined by the Supreme Court in G.R. Nos. 103882 and 105276.

For its part, the Republic argues that: 1) the RTC did not acquire jurisdiction due to improper service of summons; 2) petitioners have no cause of action to assail PD 774 based on the non-impairment clause because their reclamation contract has already been declared invalid in G.R. Nos. 103882 and 105276; 3) petitioners have no legal personality to institute the petition; 4) the petition is barred by res judicata; 5) petitioners are guilty of forum shopping; 6) petitioners are estopped from seeking reconveyance because they had sought the execution of the judgment in G.R. Nos. 103882 and 105276 which awarded them compensatory damages based on equity.

At bottom, the determinative issue is whether the decision of the Supreme Court in G.R. No. 103882/G.R. No. 105276 is res judicata in this case. It is therefore imperative to examine these cases.

G.R. No. 103882 is entitled “Republic of the Philippines, petitioner, v. Court of Appeals and Republic Real Estate Corporation, respondents, Cultural Center of the Philippines, Intervenor.” In this case, the Republic assailed the ruling of the CA that upheld the validity of Pasay City Ordinance Nos. 121 and 158 and the Reclamation

Agreement between Pasay City and RREC.

G.R. No. 105276 is entitled “Pasay City and Republic Real Estate Corporation, petitioners v. Court of Appeals and Republic of the Philippines, respondents.” In this case, Pasay City and RREC alleged that the CA erred in not declaring PD No. 3-A unconstitutional.

The two cases were consolidated and resolved by the Supreme Court in its Decision promulgated on November 25, 1998. The facts were stated by the Supreme Court, thus:

> Republic Act No. 1899 (“RA 1899”), which was approved on June 22, 1957, authorized the reclamation of foreshore lands by chartered cities and municipalities. Section 1 of said law, reads:
>
> “SECTION 1. Authority is hereby granted to all municipalities and chartered cities to undertake and carry out at their own expense the reclamation by dredging, filling, or other means, of any foreshore lands bordering them, and to establish, provide, construct, maintain and repair proper and adequate docking and harbor facilities as such municipalities and chartered cities may determine in consultation with the Secretary of Finance and the Secretary of Public Works and Communications.”
>
> On May 6, 1958, invoking the aforecited provision of RA 1899, the Pasay City Council passed Ordinance No. 121, for the reclamation contracts, and prescribing terms and conditions therefor. The said Ordinance was amended on April 21, 1959 by Ordinance No. 158, which authorized the Republic Real Estate Corporation (“RREC”) to reclaim foreshore lands of Pasay City under certain terms and conditions.
>
> On April 24, 1959, Pasay City and RREC entered into an Agreement for the reclamation of the foreshore lands in Pasay City.
>
> On December 19, 1961, the Republic of the Philippines (“Republic”) filed a Complaint for Recovery of Possession and Damages with Writ of Preliminary Preventive Injunction and Mandatory Injunction, docketed as Civil Case No. 2229-P before the former Court of First Instance of Rizal, (Branch 7, Pasay City).
>
> On March 5, 1962, the Republic of the Philippines filed an Amended Complaint questioning subject Agreement between Pasay City and RREC (Exhibit “P”) on the grounds that the subject-matter of such Agreement is outside the commerce of man, that its terms and conditions are violative of RA 1899, and that the said Agreement was executed without any public bidding.
>
> The Answers of RREC and Pasay City, dated March 10 and March 14, 1962, respectively, averred that the subject-matter of said Agreement is within the commerce of man, that the phrase “foreshore lands” within the contemplation of RA 1899 has a broader meaning than the cited definition of the term in the Words and Phrases and in the Webster's Third New International Dictionary and the plans and specifications of the reclamation involved were approved by the authorities conncerned.[26]

The Supreme Court further stated that on January 11, 1973, PD No. 3-A was issued to amend PD No. 3. The decree provides that the “provisions of any law to the contrary notwithstanding, the reclamation of areas under water, whether foreshore or inland, shall be limited to the National Government or any person authorized by it under a proper contract” and that “(c)ontracts for reclamation still legally existing or whose validity has been accepted by the National Government shall be taken over by the National Government on the basis of quantum meruit, for proper prosecution of the project involved by administration.”

Acting on the two cases, the Supreme Court granted the petition of the Republic in G.R. No. 103882 and declared Pasay City Ordinance No. 121, dated May 6, 1958 and Ordinance No. 158, dated April 21, 1959, as well as the Reclamation Agreement entered into between Pasay City and RREC pursuant to said city ordiances, as null and void. However, under the principle of unjust enrichment, the Republic was ordered to pay Pasay City and RREC the amount of P10,926,071.29 plus interest thereon of 6% per annum from May 1, 1962 until full payment, which


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amount represents the actual reclamation work that said parties had already done as verified by the former Ministry of Public Highways.

The Supreme Court found erroneous the opinion of the CA that the term “foreshore lands” in RA 1899 includes submerged areas. It ruled that if Congress intended to include submerged areas it should have so provided but it did not, hence, submerged areas are excluded from the term “foreshore lands.” The High Court cited a December 22, 1966 opinion of then Justice Secretary Claudio Teehankee, based on the case of Ponce et al. v. Gomez,[27] that the contractual stipulation for the reclamation of submerged lands off Cebu City are ultra vires and void.

In this case, although petitioners denominated their petition as a petition for the “declaration of unconstitutionality of PD 774,” a reading of the allegations and reliefs sought shows that it is really an action for cancellation of the Torrens titles issued to CCP and the reconveyance of said titles to petitioners. Briefly, petitioners claim that the lands covered by the titles sought to be cancelled are the subject of a reclamation contract between them and that PD 774 which transferred said lands to CCP is unconstitutional because it impaired their rights under said contract. Petitioner's cause of action clearly springs from their reclamation contract which they claim is valid and may not be impaired by law. In turn, the reclamation contract derives its life from Pasay City Ordinance Nos. 121 and 158. It is plain, however, that in G.R. No. 103882 and G.R. No. 105276 the Supreme Court had already emphatically ruled that said city ordinances and reclamation agreement are null and void because the lands subject matter thereof are submerged lands that cannot be considered “foreshore lands.” The Supreme Court ruled that “foreshore lands” under RA 1899, which can be reclaimed by chartered cities and municipalities, does not include submerged land. Under the decision of the Supreme Court, Pasay City did not have the power to pass the ordinances authorizing the reclamation contract. It is patent that the reclamation contract relied upon by petitioners may not be the source of rights or obligations for the simple reason that its object is part of the public domain and therefore beyond the commerce of man. Petitioners cannot find refuge in the non-impairment clause of the Constitution because said provision obviously presupposes the existence of a valid contract. Moreover, considering that the lands transferred to the CCP by PD 774 are part of the public domain petitioners do not have a cause of action to declare the unconstitutionality of said law.

The decision of the Supreme Court in G.R. No. 103882 and G.R. No. 105276 constitutes res judicata in this case.

Res judicata literally means a matter adjudged, a thing judicially acted upon or decided, a thing or matter settled by judgment.[28] Res judicata lays the rule that an existing final judgment or decree rendered on the merits, and without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit.[29]

The elements of res judicata are: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action. Should identity of parties, subject matter, and causes of action be shown in the two cases, then res judicata in its aspect as a “bar by prior judgment” would apply. If as between the two cases, only identity of parties can be shown, but not identical causes of action, then res judicata as “conclusiveness of judgment” applies.[30]

All the elements of res judicata are present here. The decision of the Supreme Court declaring null and void the reclamation contract and the city ordinances authorizing said contract had long attained finality. In fact, as pointed out by the OSG, petitioners have sought execution of said judgment which directed the Republic to pay them the amount of P10,926,071.29. There being identity of parties, subject matter, and causes of action, res judicata in its

aspect as a bar by prior judgment applies. Bar by prior judgment is a ground for dismissal of an action under Section 1(f), Rule 16 of the Rules of Court. That the present petition was denominated by petitioners as a petition for declaration of nullity of PD 774 does not prevent the setting in of res judicata. A change in the form of action or in the relief sought does not remove a proper case from the application of res judicata. In other words, a party cannot, by varying the form, 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 between the same parties.[31] To reiterate, the doctrine of res judicata provides that a final judgment on the merits rendered by a court of competent jurisdiction is conclusive as to the rights of the parties and their privies and constitutes an absolute bar to subsequent actions involving the same claim, demand, or cause of action.[32]

WHEREFORE, the appeal is DENIED. The Orders dated August 16, 201033 and February 7, 201134 of the Regional Trial Court, Branch 108, Pasay City, in Civil Case No. 09-0830-CFM are AFFIRMED.

**SO ORDERED.**

Librea-Leagogo, J., Chairperson, and [*]Hernando, JJ., concur.

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[*] Vice J. Javier, per Office Order No. 51-15-RSF dated February 16, 2015.

[1] Rollo, pp. 66-69, 63

[2] Records, pp. 3-17

[3] Otherwise known as “Decree on Assigning, transferring and conveying in fee simple to the Cultural Center of the Philippines certain parcels of land of the public domain situated in the City of Pasay.”

[4] Records, pp. 131-135.

[5] Id., pp. 143-184.

[6] Id., pp. 322-330

[7] Id., pp. 280-286.

[8] Id., pp. 320-321.

[9] Id., p., 331.

[10] Id., pp. 336-345.

[11] Id., p. 399.

[12] Id. pp. 400-416

[13] Id., pp. 417-429

[14] Id., pp. 440-451.

[15] Id., pp. 456-459

[16] Supra at note 1.

[17] Id., pp. 462-473.

[18] Sembrano v. Ramirez, 248 Phil. 260, 266 (1988) cited in United Pulp and Paper Co., Inc., v. Acropolis

Central Guaranty Corporation, G.R. No. 171750, January 25, 2012.

[19] United Pulp and Paper Co., Inc. v. Acropolis Central Guaranty Corporation, id.

[20] E & L Mercantile, Inc. v. Intermediate Appellate Court, 226 Phil. 299 (1986).

[21] Jehan Shipping Corporation v. National Food Authority,G.R. No. 159750, 14 December 2005, 477 SCRA 781.

[22] G.R. No. 159750, 14 December 2005, 477 SCRA 781.

[23] Preysler v. Manila Southcoast Development Corporation, G.R. No. 171872, June 28, 2010 citing Jehan Shipping Corporation v. National Food Authority, id.

[24] Records, p. 344.

[25] Id., p. 399.

[26] 299 SCRA 199, at 212-214

[27] L-22669, February 3, 1966

[28] Manila Electric Company v. Philippine Consumers Foundation, Inc., G.R. No. 101783, 23 January 2002, 374 SCRA 262, 272 citing 46 Am Jur § 514.

[29] Oropeza Marketing Corporation v. Allied Banking Corporation, G.R. No. 129788, 3 December 2002, 393 SCRA 278, 286.

[30] Social Security Corporation v. Rizal Poultry and Livestock Association, Inc. G.R. No. 167050, June 1, 2011 citing Oropeza Marketing Corporation v. Allied Banking Corporation, 441 Phil. 551, 564-565 (2002).

[31] Ramos v. Pangasinan Transport Company, Inc. 79 SCRA 171, cited in Heirs of Juana Gaudiane v. Court of Appeals, G.R. No. 119879, March 11, 2004

[32] Taganas v. Emuslan, G.R. No. 146980, 2 September 2003, 410 SCRA 237, 241-242 citing Allied Banking Corporation v. Court of Appeals, G.R. No. 108089, 10 January 1994, 229 SCRA 252.

[33] Rollo, pp. 66-69.

[34] Id., p. 63.


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