

**CARLOS I. UMINGA, PETITIONER, VS. HON. CYNTHIA M. FLORENDO,
AS PRESIDING JUDGE OF RTC-BRANCH 39, SAN JOSE CITY, NUEVA
ECIJA, AND LEONARDA VIADO VDA. LOVINA, RESPONDENTS.**

Ponente: BARZA, J.

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BARZA, J.:

In this petition for certiorari, Carlos Uminga seeks to nullify the: (a) Order[1] dated January 23, 2013, which granted the motion to dismiss filed by private respondent Leonarda Viado vda. Lovina; and (b) Order[2] dated September 30, 2013, denying petitioner's motion for reconsideration, issued by the Regional Trial Court, Branch 39, San Jose City.

The facts as culled from the record:

Petitioner filed before the court a quo a complaint for Declaration of Nullity of Tax Declarations and Damages against respondent. Respondent is the heir of Brigida (Brigida) Viado, who died without an issue. During her lifetime, Brigida owned a parcel of land with an area of 1.5000 hectares, located at San Roque, Lupao, Nueva Ecija.

Petitioner alleged that before Brigida died in 1953, she orally bequeathed said land in favor of her niece, Dominga Ignacio, petitioner's mother. Since then, petitioner and his predecessor-in-interest took possession of the land as owners, peacefully, openly, continuously and adversely up to the present. Petitioner discovered lately that the property which was previously covered by Tax Declaration No. 289, in the name of Brigida was cancelled and now covered by Tax Declaration No. 05-14023-01073, in the name of respondent. Petitioner found out that respondent allegedly falsified a deed of sale in her favor dated July 14, 1976, and registered it in the Assessor's Office of Nueva Ecija. According to petitioner, Brigida Viado could not have sold the property to respondent in 1976 when she had long died in 1953. Petitioner averred that the Tax Declaration issued in the name of respondent is null and void and did not vest any right whatsoever to respondent.

Respondent filed her Manifestation and Motion to Dismiss[3] asserting that the case before the court a quo should be dismissed on ground of *litis pendencia*, as there was a case for "Ejectment, Collection of Unpaid Rental with Prayer for Injunction," docketed as DARAB Case No. 1678, filed by private respondent against petitioner before the Department of Agrarian Reform Adjudication Board, Office of the Provincial Agrarian Reform Adjudicator of Nueva Ecija. Respondent argued that in said case, the Tax Declaration which is the subject of annulment in the instant case was used as evidence showing respondent's ownership of the subject landholding.

In petitioner's answer before the DARAB, he likewise raised the same issue and challenged the validity of the subject tax declaration.

In DARAB Case No. 1678, the facts as synthesized by the DARAB, Office of Provincial Adjudicator, Branch II, Talavera, Nueva Ecija:

"In substance, the petitioner alleges *inter alia*: That she is the declared owner of the subject landholding as per

Tax Declaration No. 15-023-0662; That respondent Carlos Uminga is the tenant of 8,000 square meters or in the half (½) portion of the subject landholding; That the respondent Carlos Uminga has not been deliberately paying the annual lease rental of six (6) cavans of palay at fifty (50) kilos each of the subject landholding since 2007; That the respondent Carlos Uminga has sub-leased the subject landholding in favor of his co-respondent Dominador D. Uminga, who is now in possession of the same as per Pagpapatunay duly issued by the Barangay Captain of the locality without the knowledge and consent of the herein petitioner; That prior to the filing of the instant petition, the petitioner sought the assistance of the BARC concerned for a mediation to thresh out the matter, but no amicable settlement was reached as per the BARC's Certification. The petitioner prays for the extinguishment of her tenancy relationship with the respondent Carlos Uminga; for the respondent Carlos Uminga to pay his lease rental arrears since 2007 up to the present; for the dispossession of the respondents, or any other persons acting for and in their behalves from the subject landholding.

In their Answer with Counterclaim with Affirmative Defenses, the respondents deny all the material allegations in the petition and aver instead that: x x x The petitioner is not the true owner of the subject landholding as per tax Declaration No. 6355 issued in the name of the petitioner with a note written in Pilipino thereon, although she may have acquired the same on the basis of a falsified deed of sale between her and the previous owner Brigida Viado who died as per her Death Certificate without issue and intestate on July 1, 1953 which means to say that the deed of sale was fictitious and fraudulent intended to deny the legal heirs of the late Brigida Viado wherein one of whom is the respondent Carlos Uminga their lawful inheritance; Carlos Uminga has never been a tenant of the petitioner and hence, he is not obligated to deliver anything to herein petitioner; x x x”

The DARAB based the ownership of the property on Tax Declaration No. 15-023-00662, in the name of respondent, thus, it found petitioner to have been remiss in his obligations as tenant and ordered petitioner to surrender possession and cultivation of the landholding.

Petitioner sought an action before the court a quo for the annulment of the Tax Declaration No. 05-14023-01073, Tax Declaration No. 6335[4] and all previous tax declarations of the landholding in the name of respondent.

In the assailed Order dated January 23, 2013, the court a quo declared that after it examined the Answer filed by respondent, the same issue was raised in both cases, and “movant is correct in stating that there is another action pending between the same parties for the same cause,”[5] thus, it granted respondent's motion to dismiss and dismissed the case. Petitioner filed a motion for reconsideration but this was denied in the Order dated September 30, 2013.

Hence, the instant petition.

The only issue to be resolved is: Is there *litis pendentia*?

This Court resolves in the negative.

Litis pendentia refers to the situation where another action is pending between the same parties for the same cause of action so that one of these actions is unnecessary and vexatious. The dismissal of a civil action on the ground of *litis pendentia* is based on the policy that a party is not allowed to vex another more than once regarding the same subject matter and for the same cause of action in order that possible conflicting judgments may be avoided for the sake of the stability of the rights and statuses of persons.[6]

The requisites of *litis pendentia* are:

(1)

Identity of parties or at least such as represent the same interest in both actions;

(2)

Identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and

(3)

The identity in the two cases should be such that the judgment that may be rendered in one would, regardless of which party is successful, amount to res judicata in the other.

All of the requisites must be present. Absent one requisite, there is no litis pendentia.[7]

In this case, the second and third requisites are wanting.

The test to determine whether the causes of action are identical is to ascertain whether the same evidence will sustain both actions, or whether there is an identity in the facts essential to the maintenance of the two actions. If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action.[8]

The issues and the reliefs prayed for in this petition are different from the DARAB case so that the causes of action remain entirely distinct from each other.

In the ejectment and collection of unpaid lease filed before the DARAB, the issue is the failure of petitioner to pay the lease rentals of the landholding. In contrast, in the annulment of tax declaration, the issue is the validity of the tax declaration to support respondent's ownership. Note that in the instant suit, petitioner claims that Brigida orally bequeathed the subject landholding to petitioner's mother, Dominga Ignacio and that Brigida could not have conveyed the property to respondent because allegedly, at the time a deed of sale was executed between Brigida and respondent on July 14, 1976, Brigida was already dead.

The issue of ejectment and non-payment of rentals cannot therefore be identical with the issues of ownership. From these essential differences, the lack of required identity in the causes of action for litis pendentia to exist cannot be denied.

Since the causes of action in the ejectment and collection of unpaid rentals and declaration of nullity of tax declarations are entirely different, a judgment in one case would not amount to res judicata in the other. "[F]or res judicata to bar the institution of a subsequent action[,] the following requisites must concur: (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.[9]

There is no reason to prevent the subject action for declaration of nullity of tax declarations from proceeding separately with the case filed before the DARAB.

WHEREFORE, the petition is GRANTED and the Orders being assailed are SET ASIDE. The case is remanded to the Regional Trial Court, Branch 39, San Jose City, for further proceedings.

SO ORDERED.

Carandang, R. D., Chairperson, and Reyes-Carpio, A., JJ., concur

[1] pp. 8-9 rollo.

[2] p. 10, rollo.

[3] pp. 18-20, rollo.

[4] Annexes “C-3” and “C-4”, pp. 16-17, rollo.

[5] p. 8, rollo.

[6] Quito vs. Stop & Save, G.R. No. 186657, June 11, 2014.

[7] Lui Enterprises Inc. vs. Zuellig Pharma Corp., G.R. No. 193494, March 12, 2014.

[8] Supra at note 6.

[9] Heirs of Miguel vs. Heirs of Miguel, G.R. No. 158916, March 19, 2014.

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