

JOSEFA JUSTO, PLAINTIFF-APPELLEE, VS. JOSE ALESNA, EDITHA PERALTA, HEIRS OF DIEGO GALIZA, REPRESENTED BY ARIEL GALIZA, AND HEIRS OF NENA L. REMIGIO, REPRESENTED BY JULIUS REMIGI...

Ponente: LIBREA-LEAGOGO, C.C., J.

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LIBREA-LEAGOGO, C.C., J.:

Before this Court is an appeal from the Decision[1] dated 03 March 2014 of the Regional Trial Court, Second Judicial Region, Branch 35, Santiago City in the case entitled “Josefa Justo v. Jose Alesna, et al.,” docketed as Civil Case No. 35-3632, the dispositive portion of which reads:

“WHEREFORE, in view of all the foregoing considerations, judgment is hereby rendered in favor of the plaintiff and against the defendants as follows:

1.] SUSTAINING the validity of plaintiff's TCT No. T-130466;

2.] DECLARING as null and void ab initio OCT No. 5942;

3.] DECLARING as null and void ab initio TCT No. T-131855 of Evaristo Dumalina;

4.] NULLIFYING defendants' derivative titles, to wit:

a. TCT No. T-139303 (Evaristo Dumalina);

b. TCT No. T-139304 (Editha Peralta);

c. TCT No. T-139305 (Jose Alesna);

d. TCT No. T-139306 (Diego Galiza);

e. TCT No. T-139307 (Nena Labucay); and

f. TCT No. T-277416 (Sps. Felipe De Vera and Rosalia Suarez).

5.] ORDERING the defendants to pay jointly and severally to the plaintiff the following damages:

- a. Php.100,000.00 as moral damages;
- b. Php.100,000.00 as exemplary damages;
- c. Php.100,000.00 as attorney's fees; and d. Cost of suit.

SO ORDERED.”[2]

Defendants-appellants and plaintiff-appellee filed their Briefs dated 26 November 2014[3] and 15 December 2014,[4] respectively. Per JRD[5] verification, no reply brief was filed as per CMIS. Thus, the appeal is submitted for decision.

FACTUAL ANTECEDENTS

A Complaint[6] for quieting of titles, cancellation of titles with damages was filed on 01 September 2010 by plaintiff Josefa Justo (“Josefa,” for brevity) against Jose Alesna (“Alesna,” for brevity), Editha Peralta (“Peralta,” for brevity), Heirs of Diego Galiza, represented by Ariel Galiza (“Galiza,” for brevity), and Heirs of Nena L. Remigio, represented by Julius Remigio (“Remigio,” for brevity), Felipe De Vera (“De Vera,” for brevity) and Rosalia Suarez (“Suarez,” for brevity), before the Regional Trial Court of Santiago City, docketed as Civil Case No. 3632, and raffled off to Branch 35.

Plaintiff alleged, inter alia, that: she is the registered owner of a parcel of land situated at Poblacion (now Plaridel), Santiago City, Isabela (“subject property,” for brevity), covered by Transfer Certificate of Title No. T-130466 issued by the Registry of Deeds of Isabela; she acquired the subject property by virtue of a Deed of Absolute Sale dated 10 April 1978 executed by Rosita Versola (“Rosita,” for brevity), who was the registered owner of the same; Rosita acquired the subject property by virtue of a Deed of Extra Judicial Settlement Partition; plaintiff came to learn that her title was also formerly covered by Original Certificate of Title No. 5945 (Decree No. 689684) in the name of Spouses Victor Dumalina and Primitiva Etrata (“Sps. Dumalina,” for brevity) of Santiago, Isabela; after the death of Sps. Dumalina, their alleged sole heir Evaristo Dumalina (“Evaristo,” for brevity) executed an Affidavit of Adjudication, and consequently, TCT No. 131855 was issued in his name; for reasons mentioned in an alleged deed, Evaristo reconveyed the subject property to the other defendants, thus, TCT Nos. T-139303, T-139304, T-139305, T-139306, and T-139307 were issued, thereby cancelling TCT No. 131855; Evaristo, the registered owner of the lot covered by TCT No. T-139303, transferred the same in 1983 to defendants De Vera and Suarez, who are now the registered owners thereof; her title dated 20 March 1981 shows that it was a “transfer” from TCT No. T-5452, which has been cancelled, and that the latter was a transfer from OCT No. 6143, pursuant to Decree No. 689684 of the Cadastral Record No. 1496; an examination of defendants' mother title shows that the number (5945) of the OCT, as well as the number of decree (689684), have been altered; the same was a reconstituted title by virtue of a Petition for the Issuance of Original and Duplicate Original Copies thereof filed by Evaristo with the former Court of First Instance, Branch IV, Roxas, Isabela dated 01 April 1981; come 21 May 1981, after more or less 51 days, an Order from the CFI was issued and registered the following day, 22 May 1981, that led to the issuance of TCT No. 131855 dated 05 June 1981, without awaiting finality of the said Order; the CFI has no jurisdiction over the subject matter of the petition as the real property is situated at Poblacion, Santiago, Isabela, and the court that has authority over the same is the former CFI Branch V, Echague, Isabela, thus, the reconstitution proceedings were null and void and no effect; the reconstituted title being null and void and of no effect, it follows that the derivative titles of the defendants have no force and effect; she was in possession and occupation of the subject property at the time that she acquired the same in 1981 by declaring it for taxation purposes; she paid the taxes thereon as evidenced by receipts; she introduced improvements on the subject property; the titles of the defendants, which are apparently valid or effective, but in truth and in fact were invalid, ineffective and void, are casting doubt on her title, which

prejudices the same; and she initiated the action so that the rights of the parties can be determined. Plaintiff prayed that: TCT No. T-130466 issued by the Register of Deeds of Isabela in her name be declared as valid and effective, and freed from the cloud caused by the titles of defendants; the reconstituted title OCT No. 5945 be declared null and void, and without effect; the certificates of title of defendants be cancelled; and defendants be held jointly and severally liable to pay her attorney's fees of Php50,000.00 plus appearance fee of Php2,000.00.

Defendants Alesna, Peralta, Galiza, and Remigio filed their Answer with Counterclaim[7] dated 25 November 2010.

Plaintiff filed a Motion to Consolidate[8] dated 02 December 2010 alleging, inter alia, that there is a necessity for the instant case to be consolidated with Civil Case No. 36-2243 pending before the RTC of Santiago City, Branch 36 ("RTC Branch 36," for brevity).

Defendants filed a Motion to Hear Defendants' Affirmative Defenses[9] dated 20 December 2010, which the trial court granted in its Order[10] dated 03 January 2011.

Plaintiff filed a Motion to Disqualify Distinguished Counsel—Atty. Alfredo Remigio and Expunge from the Record (the) Answer of His Clients[11] dated 28 December 2010 alleging, inter alia, that: from reliable information, Atty. Alfredo Remigio ("Atty. Remigio," for brevity) was the former Municipal Administrator, and now the Municipal Legal Officer of the Municipality of San Mateo, Isabela; and he is disqualified from representing defendants and appearing before the trial court pursuant to Republic Act No. 6713. She also filed her Comments/Opposition (to the affirmative defense of res judicata)[12] dated 14 January 2011.

The trial court issued its Resolution[13] dated 09 February 2011 denying plaintiff's Motion to Disqualify Atty. Remigio etc. and her Motion to Consolidate. In its Order[14] dated 28 February 2011, the trial court held that the affirmative defense of res judicata was deemed waived and abandoned due to defendants' and their counsel's absence on the hearing for the same, despite due notice; and set the pre-trial of the case. Defendants filed its Memorandum to Support the Defense of Res Judicata[15] dated 21 February 2011.

Defendants filed their Pre-trial Brief[16] dated 31 March 2011 and a Motion to Reinstate Affirmative Defense of Res Judicata[17] of even date. Plaintiff filed her Pre-trial Brief[18] dated 01 April 2011. Plaintiff filed her Comments/Opposition (to the Motion to Reinstate the Affirmative Defense of Res Judicata)[19] dated 11 April 2011. The said Motion was granted by the trial court in its Order[20] dated 06 June 2011.

Defendants Peralta and Alesna, et al. presented documentary evidence to prove their affirmative defense of res judicata.[21] Thereafter, plaintiff filed her Comments/Objections (to Documentary Evidence of Defendants Peralta and Alesna, et al. to Prove their Affirmative Defenses)[22] dated 22 July 2011. In its Order[23] dated 01 August 2011, the trial court admitted Exhibits "1" to "10" Peralta and Exhibits "1" to "8" Alesna, et al. Plaintiff filed her Offer of Documentary Evidence in Opposition to Defendants' Affirmative Defenses[24] dated 02 August 2011.

In its Resolution[25] dated 20 December 2011, the trial court found all the requisites of res judicata to be present in the instant case and dismissed the Complaint. Plaintiff filed her Motion for Reconsideration[26] dated 06 January 2012, to which defendants filed their Comment/Opposition[27] dated 21 January 2012. The trial court issued a Resolution[28] dated 05 March 2012 granting plaintiff's Motion, setting aside its 20 December 2011 Resolution, and reinstating plaintiff's Complaint.

Defendants manifested in Court its intention to amend their Answer as a consequence of the Resolution issued against them,[29] which the trial court granted in its Order[30] dated 29 March 2012. Defendants Alesna, Galiza, and Remigio filed their Amended Answer with Counterclaim[31] dated 12 April 2012 alleging, inter alia, by way

of special and affirmative defenses, that: there is res judicata in the instant case; defendants, except De Vera and Suarez, filed a case as plaintiffs, against Rosita, Josefa and Robin[32] So ("Robin," for brevity) for recovery of ownership, possession, preliminary injunction and damages with RTC Branch 36 docketed as Civil Case No. 36-2243; Josefa is the same plaintiff in the instant case; in a Decision dated 08 November 1999, the said court disposed the case in favor of therein plaintiffs and against therein defendants (including herein plaintiff); said Decision was appealed by therein defendants to the Court of Appeals docketed as CA-GR No. 68059, but the same was dismissed in a Decision dated 27 July 2005 and the motion for its reconsideration was denied by the appellate court in a Resolution dated 08 February 2006; therein defendants filed a Petition for Review before the Supreme Court docketed as G.R. No. 171645 which was denied in the Resolution dated 10 July 2006 which became final and executory on 06 November 2006; in its Order dated 21 February 2008, RTC Branch 36 granted therein plaintiffs' motion for the issuance of a writ of execution, and the latter was issued by the clerk of court on 26 February 2008; on 04 September 2000, a copy of the trial court's Decision was recorded as Entry No. 44 at the back of herein plaintiff's TCT No. T-130466; on 11 July 2008, the Writ of Execution was also recorded as Entry No. 7209 on therein plaintiff's title, which was declared null and void; all the elements of res judicata are present in the instant case; there is no question that the Decision dated 08 November 1999 in Civil Case No. 36-2243 has already become final and executory as evidenced by the entry of judgment issued by the Supreme Court; the RTC Branch 36 was clothed with jurisdiction to try and decide Civil Case No. 36-2243; herein plaintiff Josefa is one of the defendants in Civil Case No. 36-2243 while herein answering defendants were the plaintiffs in the said case; the subject matter in the instant case was the parcel of land covered by plaintiff's TCT No. T-130466, which is also the subject matter in Civil Case No. 36-2243; the causes of action in Civil Case No. 36-2243 were recovery of ownership, possession, preliminary injunction and damages while the causes of action in the instant case are quieting of title, and cancellation of title with damages; while the causes of action in the instant case are worded differently from those in Civil Case No. 36-2243, the main objective is the ownership of the subject property; Decree No. 689684 was issued on 10 February 1939 in favor of Sps. Dumlalina covering a parcel of land identified as Lot 6086, Cadastral Survey of Santiago with an area of 13,113 square meters, more or less, situated at Santiago (now Santiago City), Isabela; as a consequence, OCT No. 5945 was issued on 10 February 1939 to Sps. Dumlalina, the parents of Evaristo; upon the death of Sps. Dumlalina, Evaristo, being a lone child, inherited the property; after the Affidavit of Self-Adjudication was registered on 08 June 1981 with the Office of the Registry of Deeds of Isabela, OCT No. 5945 was cancelled and in lieu thereof, TCT No. T-131855 was issued to Evaristo; plaintiff's alleged TCT No. T-130466 was purportedly issued on 20 March 1981 and derived from TCT No. T-5452, which was earlier taken from OCT No. 6143; plaintiff did not attach copies of TCT No. T-5452 and OCT No. 6143 in her Complaint; based on her title, the land covered thereby was originally registered on 11 February 1939 as OCT No. 6143 pursuant to Decree No. 689684 issued in L.R.C. Cadastral Record No. 1496; there was no available machine copy of OCT No. 6143; a perusal of how plaintiff acquired the land shows that her title covered the same land already decreed to Sps. Dumlalina and OCT No. 5945 was issued to the latter on 10 February 1939; plaintiff allegedly purchased the land from Rosita by virtue of a Deed of Sale dated 10 April 1978, who became the owner of the property through a Deed of Extrajudicial Partition of even date; no title was issued to Rosita but she transferred ownership using TCT No. 5452; the latter title was issued on 25 June 1954 to plaintiff Josefa and not to Rosita; plaintiff's documents attached to her Complaint failed to show that Decree No. 689684 was granted to her or her immediate transferor; likewise, TCT No. 5452 did not indicate that the owner Justo Verzola was the grantee of Decree No. 689684 because the latter allegedly acquired the land previously covered by OCT No. 6143, whose owner was unknown because there was no available copy of the same; without any legal and factual bases, plaintiff and/or his predecessor-in-interest Rosita made it appear in her title that it was originally registered on 11 February 1939 or one (1) day after Decree No. 689684 was issued on 10 February 1939; it cannot now be ascertained, due to the absence of OCT No. 6143, whether the same date of original

registration and decree number were recorded therein; Decree No. 689684 was granted to Sps. Dumalina, and no one else; prior to the registration of the Affidavit of Self-adjudication, Evaristo caused the reconstitution of both the original and owner's duplicate copies of OCT No. 5945 in the name of his deceased parents, as evidenced by Entry Nos. 2412 and 2413 at the back of OCT No. 5945 on 22 May 1981; Evaristo caused the reconstitution of his parents' title; plaintiff has no legal and factual bases to challenge the reconstitution of both the original and owner's duplicate copies of OCT No. 5945 because she has not shown that she and/or her predecessor-in-interest Rosita were the grantee of Decree No. 689684; she failed to show that she acquired the subject property from Sps. Dumalina or Evaristo; her title was already declared null and void in Civil Case No. 36-2243; and defendants' titles were all derived from Evaristo's title, the acquisitions of which were all legitimate and beyond dispute by plaintiff. By way of counterclaim, they alleged, inter alia, that: the purported recording of Decree No. 689684 with incorrect date of original registration on 11 February 1939, instead of 10 February 1939, and number of OCT No. 6143 instead of OCT No. 5945 in TCT No. T-130466 and TCT No. 5452 were mysteries which only plaintiff and/or her immediate transferor can explain to the satisfaction of the court to avert nullity of her title; assuming for the sake of discussion that the missing copy of OCT No. 6143 would indicate that the date of original registration was 11 February 1939 and issued pursuant to Decree No. 5984, said missing title, including TCT No. 5452 and plaintiff's title, would certainly be null and void from the beginning because they were issued after 10 February 1939 when Decree No. 689684 and OCT No. 5945 were issued to Sps. Dumalina; thus, they prayed for the dismissal of the Complaint, for plaintiff's TCT No. 130466 to be declared as null and void, and for plaintiff to be ordered to pay them Php50,000.00 as attorney's fees, Php100,000.00 as moral damages, and Php50,000.00 as exemplary damages.

Plaintiff filed her Reply[33] dated 23 April 2012. Defendants also filed their Amended Pre-trial Brief[34] dated 26 April 2012. Counsel for defendant Alesna filed a Motion for Substitution[35] dated 16 July 2012 to substitute deceased Alesna with his heirs. The trial court issued its Pre-trial Order[36] dated 26 July 2012.

Trial ensued.

Antonio Jimmy So ("Jimmy," for brevity) and plaintiff Josefa were presented as witnesses.

Jimmy testified, inter alia, that: he is engaged in the business of lumber and hardware; he knows plaintiff Josefa because she is his sister-in-law, the wife of his brother Robin; he knows of a lot owned by Josefa situated at Plaridel, Santiago City because he was with Josefa when she bought the land, as she asked him to accompany her to see the lot until she paid the same; Josefa is in possession of the subject property; Josefa requested him to supply her some lumber and materials to improve and develop the subject property; it was in May 1985, when Josefa requested him to help her develop the same; the improvements that they have made on the subject property is the fencing of the same with concrete post; Josefa even built eight (8) semi-permanent houses; at first Josefa made a cornic(k) factory then shifted to a chicharon factory until she saw that the business was not quite good, thus, she transformed it into a fish pond, which is still existing; he knows that Evaristo filed a case against Josefa and Robin regarding the lot because the latter showed him the record of the case filed at Branch 36 where they have lost because Josefa and Robin were not able to file an answer; the subject property is now in the possession of Josefa and her husband;[37] his brother did not tell him that the title covering the subject property was nullified; nobody went there telling them to vacate the subject lot; no execution has been done about the subject property;[38] when the title in the name of Josefa was released sometime in March 1981, the latter and her husband were already married; however, at that time, her husband was still a Chinese citizen, hence, the title was not made under the latter's name; Josefa bought the subject property from their neighbor at Plaridel; he knows about the Deed of Sale; and he knows that Josefa and her husband purchased the property together.[39]

Plaintiff Josefa identified her Judicial Affidavit[40] dated 08 May 2013. She testified, inter alia, that: the subject

property covered by TCT No. T-130466 issued by the Register of Deeds of Isabela, situated at Poblacion (now Plaridel) Santiago, Isabela has been registered in her name; she bought the same from Rosita sometime in 1978 as evidenced by a Deed of Sale; Rosita acquired the subject property by inheritance from her parents Justo Versola and Maximina Artates, as evidenced by a Deed of Extra-judicial Settlement Partition; the title of Rosita was transferred in her (Josefa) name; she declared the subject property for taxation purposes and paid real estate taxes and introduced improvements thereon; she presented tax declarations, tax receipts, and photographs of the improvements; Evaristo sued them, claiming ownership and possession of the subject property by reason of a title under his name; they lost in that case because of technicality for their counsel did not inform them of the proceedings; as such, they were not able to answer the complaint against them; when their appeal was denied by the Court of Appeals and the Supreme Court, they initiated this action, because the title under the name of Evaristo was irregularly and illegally issued; the number in the mother title was altered and the Order of Reconstitution of said title was illegally or irregularly issued; after the reconstitution of said OCT, Evaristo executed an Affidavit of Self-Adjudication, thus, TCT No. 131855 was issued in his name; Evaristo reconveyed portions of the land on 25 May 1982 to Peralta, Alesna, Galiza, and Remigio; in 1983, Evaristo sold the portion of his share in the lot to De Vera and Suarez sometime in 1983; Evaristo and the transferees of his title did not declare their lot for taxation purposes and have not paid real estates taxes thereon because she (Josefa) was the one paying taxes thereon;^[41] and when they lost the case, the trial court declared their title null and void.^[42]

Plaintiff filed her Offer of Documentary Evidence^[43] dated 19 July 2013, to which defendants filed their Comments/Objections^[44] dated 16 August 2013. In its Order^[45] dated 29 August 2013, the trial court admitted Exhibits “A” to “N”.

The defense presented Atty. Remigio who identified his Judicial Affidavit^[46] in open court.^[47] He testified, inter alia, that: he knows defendants in the instant case, except De Vera and Suarez, because they were his clients in Civil Case No. (36-)2243 at the RTC of Santiago City, Isabela, Branch 36; he knows plaintiff Josefa as she was one of the defendants in the said civil case with Rosita and Robin; defendants therein filed their Answer through their lawyer Atty. Amado Vallejo, Jr.; during the proceedings therein, defendants and their lawyer failed to appear; plaintiffs therein were allowed by RTC Branch 36 to adduce evidence in their favor; defendants therein did not adduce their evidence despite several notices; RTC Branch 36 rendered a Decision dated 08 November 1999 in the said case; therein defendants appealed the same to the Court of Appeals docketed as CA-GR CV No. 68059, but the same was dismissed; therein defendants filed a petition in the Supreme Court docketed as G.R. No. 171465 entitled “Robin So, et al. v. Evaristo Dumalina, et al.” which was denied in a Resolution dated 10 July 2006; it became final and executory on 06 November 2006; the RTC Branch 36 issued a writ of execution; the writ and the Decision were registered at the back of Josefa's title (TCT No. T-130466) and the execution was partly implemented by Sheriff Roland Tomas (“Sheriff Tomas,” for brevity) of RTC Branch 36; however, the latter died before he could fully implement the Decision; sometime in 2008, he accompanied the sheriff to the subject lot to show him the actual location but could not eject the person thereat because at that time, nobody was present at the house; he then filed with the RTC Branch 36 a motion for the appointment of special sheriff which said court granted; the writ of execution, however, was not fully implemented because defendants therein filed a Motion for Reconsideration of the Order granting the appointment of special sheriff for the reason that he is the Municipal Legal Officer of San Mateo, Isabela, and as such, disqualified to represent plaintiffs therein; he was appointed Municipal Legal Officer of San Mateo, Isabela on 01 July 2008; he was not yet the Municipal Legal Officer during the pendency of the case before RTC Branch 36, Court of Appeals and Supreme Court; the only pleading that he filed while he was the Municipal Legal Officer was the Motion for Appointment for Special Sheriff; he filed his Comment/Opposition to the Motion for Reconsideration averring that his being the Municipal Legal Officer should not be enough reason to disqualify him because all the proceedings were already completed

and the Motion for Appointment of Special Sheriff was just an incident of the completed case; the claim of Josefa that she is the owner of the land is baseless because her title was already declared null and void by the Decision in Civil Case No. 36-2243; and Josefa's claim that Decree No. 689684 was issued to Rosita is not correct because the said decree was issued to Sps. Dumlalina;[48] the Decision in the previous case dated 06 November 2006 became final and executory through a certificate of finality from the Clerk of Court of the Supreme Court; in the previous case, they offered the title of Sps. Dumlalina; he was not aware that OCT No. 5945 has been altered; he was aware that such OCT was the subject of a reconstitution before the CFI of Roxas, Isabela, Branch 4 filed by his client Evaristo; he was aware of the Order issued by the latter court, as well as the affidavit of reconveyance made by Evaristo in favor of the other defendants; it was during that time when the whole parcel of land was subdivided, after the title has been reconstituted; what he knows is that when Evaristo became the owner of the subject property, he went to the premises and introduced some improvements; one time that he accompanied Evaristo there, he saw some fruit trees and some wooden fence; when he went there with Sheriff Tomas, they saw a house, but it was closed and no person was occupying the same; at that time, there was only one house because the other houses were already vacated; he was told that there was a fishpond but he could not see it for himself because of the tall grasses; he saw a fence made of barbed wire and almost rotten wood; he did not inquire as to who erected the houses or who constructed the fishpond, as well as the fences thereon, because he deemed it unnecessary for there was already a judgment and the sheriff was already implementing it;x[49] he could no longer recall when the title of Evaristo was reconstituted; he was the one who prepared the petition but he did not sign it because he was not the counsel on record; he came to know that the petition was filed when Evaristo brought the title to him with all the annotations at the back; the land covered by the title sought to be reconstituted in RTC Roxas is located in Santiago; Evaristo only told him that he filed a petition but did not tell him what happened to the case; he only learned later on that it was granted; and it is of his own personal knowledge that the petition for reconstitution was filed with the RTC of Roxas City.[50]

Defendants filed their Formal Offer of Evidence[51] dated 16 October 2013, to which plaintiff filed her Comments/Objection, etc.[52] dated 04 November 2013. In the Order[53] dated 07 November 2013, the trial court admitted Exhibits "1" to "9". Plaintiff filed a Memorandum[54] dated 06 December 2013 and an Ex-Parte Tender of Documentary Evidence with Motion for their Admission[55] dated 19 March 2014.

The RTC of Santiago City, Branch 35 rendered the assailed Decision[56] dated 03 March 2014, the dispositive portion of which was earlier quoted.[57] Defendants filed a Notice of Appeal[58] dated 05 May 2014 which was given due course in the Order[59] dated 07 May 2014.

Hence, this appeal.

RULING

Defendants-appellants assign the following errors, viz:

- THE TRIAL COURT COMMITTED A REVERSIBLE ERROR WHEN IT DID NOT DISMISS THE CASE ON THE GROUND OF THE RULE ON RES JUDICATA;
- THE TRIAL COURT COMMITTED A GRAVE ERROR WHEN IT DECLARED NULL AND VOID TRANSFER CERTIFICATE OF TITLE NO. 131855 IN THE NAME OF EVARISTO DUMALINA WHO IS NOT A PARTY TO THE INSTANT CASE; (AND)
- THE TRIAL COURT ERRED WHEN IT AWARDED DAMAGES [Moral, exemplary and attorney's fees] AGAINST THE DEFENDANT(S)-APPELLANTS DESPITE THE ABSENCE OF EVIDENCE TO SUPPORT THE SAME.[60]

Defendants-appellants contend in the main that: the case is barred by res judicata/prior judgment/statute of limitations; defendants-appellants (except De Vera and Suarez) filed as plaintiffs in Civil Case No. 36-2243 before the RTC of Santiago City, Branch 36 for recovery of ownership, possession, preliminary injunction and damages against Rosita, Josefa and Robin; after trial on the merits, the said court, in a Decision dated 08 November 1999, disposed the case in favor of plaintiffs therein (herein defendants-appellants); the same was appealed to the Court of Appeals, but the same was dismissed; therein defendants-appellants (including herein plaintiff) filed a Petition for Review before the Supreme Court, which was also denied in a Resolution dated 10 July 2006; the said Resolution became final and executory on 06 November 2006, as evidenced by the Entry of Judgment; in an Order dated 21 February 2008, the RTC Branch 36 granted therein plaintiffs' motion for the issuance of a Writ of Execution, which the Branch Clerk of Court issued on 26 February 2008; a copy of the Decision in Civil Case No. 36-2243 was recorded as entry no. 44 at the back of therein defendant Josefa's title, TCT No. T-130466; on 11 July 2008, a writ of execution was also recorded therein as entry no. 7209; said Decision has been fully implemented; all the elements of res judicata/prior judgment/ statute of limitation, as ground to dismiss under Rule 16 (f) of the Rules of Court, are present in this case; on the first element, there is no question that the Decision dated 08 November 1999 rendered by the RTC Branch 36 in Civil Case No. 36-2243, which was subsequently affirmed by the Court of Appeals and the Supreme Court, had become final and executory; on the second element, the RTC Branch 36 was legally clothed with jurisdiction over the subject matter and the parties to try and decide Civil Case No. 36-2243, thus, all the proceedings therein were legal and legitimate; on the third element, the proceedings before the RTC Branch 36, the Court of Appeals and the Supreme Court, were conducted with observance of due process and procedures, wherein both parties, especially the defendants therein (including herein plaintiff-appellee) were given all the opportunity to present their side of the controversy; on the fourth element, as to the parties, it is not disputed that plaintiff-appellee was one of the defendants in Civil Case No. 36-2243 while defendants-appellants in Civil Case No. 35-3632 were the plaintiffs in Civil Case No. 36-2243; the subject matter in the latter case was the parcel of land covered by defendant Josefa's title, TCT No. T-130466, which was also the subject matter of the instant case, such title, however, was already declared null and void in the Decision of RTC Branch 36; in Civil Case No. 36-2243, the causes of action were recovery of ownership, possession, preliminary injunction and damages while in the instant case, the causes of action are quieting of title, and cancellation of titles with damages; in Civil Case No. 36-2243, the trial court declared therein plaintiffs (herein defendants-appellants) as the legitimate owners of the subject property and declared plaintiff-appellee's title, TCT No. T-130466 as null and void; while the causes of action in this case are worded differently from those in Civil Case No. 36-2443, the main objective is the ownership of the subject property covered by TCT No. T-130466; on 06 September 1933, Decree No. 689684 was issued to Spouses Dumalina covering Lot No. 6086 with an area of 13,113 sq.m., more or less, situated at Santiago City; on the basis of that decree, OCT No. 5945 was issued on 13 February 1939 to the latter, who were the parents of Evaristo; being the lone heir, Evaristo inherited the entire property, by virtue of his execution of an affidavit of self-adjudication; thus, TCT No. T-131855, cancelling OCT No. 5945, was issued to Evaristo; the latter caused the reconstitution of title in the name of his deceased parents as evidenced by Entry Nos. 2412 and 2413 at the back of OCT No. 5945 on 22 May 1981; that plaintiff-appellee's title was derived from TCT No. T-5452, which was derived from OCT No. 6143 (no copy of this title is available) also using Decree No. 689684; OCT No. 6143 was issued on 11 February 1939 or one (1) day after the title of Sps. Dumalina was issued on 10 February 1939; OCT No. 5945 issued to Sps. Dumalina should prevail as the same was issued earlier; the trial court overlooked the more important portions of the Decision dated 08 November 1999 relative to therein defendants' (including herein plaintiff-appellee), failure to adduce their evidence; the failure of plaintiff-appellee to present evidence in the previous case was due to their fault, thus, the RTC Branch 36 declared them to have waived their right to present evidence and submitted the case for decision; as such, the Decision dated 08 November 1999 was

rendered with due process; the RTC Branch 36 duly acquired jurisdiction over the subject matter; thus, plaintiff-appellee cannot validly claim that she was not given the opportunity to adduce evidence; and substantial identity is sufficient to justify res judicata.

Plaintiff-appellee ripostes, inter alia, that: the trial court did not commit a reversible error when it did not dismiss the case on the ground of res judicata; she wonders why defendants-appellants did not elevate the Resolution dated 05 March 2012 of the trial court, setting aside the order of dismissal, before the Court of Appeals; having opted not to appeal such Resolution, it became final and executory; defendants-appellants bowed to the trial court, and now they come to reiterate their position that Civil Case No. 35-3632 has been barred by res judicata; the caption of the two (2) cases, Civil Case No. 36-2243 and Civil Case No. 35-3632, are not the same and the parties do not have the same claims; Civil Case No. 36-2243 is for ownership, possession, preliminary injunction and damages, and the parties are Evaristo, Alesna, Peralta, Heirs of Diego Galiza, and Heirs of Nena Remigio, as plaintiffs vs. Rosita, Josefa and Robin; on the other hand, Civil Case No. 35-3632 is for quieting of title, cancellation of titles with damages and the parties are Josefa vs. Alesna, Peralta, Heirs of Diego Galiza, Heirs of Nena Remigio, De Vera and Suarez; in Civil Case No. 36-2243 there were three defendants, Rosita, Josefa and Robin; Evaristo is not included in Civil Case No. 35-3632, and the plaintiff therein is only Josefa and there are two (2) new defendants, De Vera and Suarez; an action for quieting of title under Article 476 of the Civil Code of the Philippines is entirely different from an action for recovery of ownership; the plaintiffs (defendants-appellants) in Civil Case No. 36-2243 were represented by Atty. Remigio, who has no personality to act as their counsel because he was the Municipal Legal Officer/Administrator of the Municipality of San Mateo, Isabela; they were able to secure a favorable judgment due to the failure of therein defendants (including plaintiff-appellee) to adduce evidence in their favor; they were declared in default and did not have their day in court; the trial court did not commit a grave error when it declared null and void TCT No. 131855 in the name of Evaristo, who is not a party to the instant case; before the instant case, there was a full blown trial in order to determine the legality of the reconstitution of the mother title of herein defendants-appellants; it was glaring that the said title was reconstituted in an illegal manner; an examination of the mother title of defendants-appellants shows that the number 5945 of the OCT has been altered, as well as decree number 689684; it is also interesting to note that the same is a reconstituted title by virtue of a Petition for the Issuance of Original and Duplicate Original copies thereof filed by Evaristo, with the CFI, Branch IV, Roxas, Isabela, dated 01 April 1981, and on 21 May 1981, after more or less 51 days, an Order from the CFI of Roxas was issued, which was registered on the following day, 22 May 1981; it led to the issuance of TCT No. 131855 dated 05 June 1981, without awaiting the finality of said Order; the latter court has no jurisdiction over the subject matter of the said Petition for the subject property was situated at Poblacion, Santiago, Isabela, and the court that has authority over the same was the former CFI Branch V, Echague, Isabela; thus, the reconstitution proceedings were null and void and no effect, whatsoever; the trial court did not err when it awarded damages against defendants-appellants; it should be remembered that the award of damages is discretionary; and the award of attorney's fees by the trial court is reasonable.

The appeal is impressed with merit.

Stripped of verbiage, the threshold issue in this case is whether or not the trial court erred in not dismissing the case a quo on the ground of res judicata.

We find in the affirmative.

Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law. xxx In civil cases, the burden of proof is on the party who would be defeated if no evidence is given on either side. The burden of proof is on the plaintiff if the defendant

denies the factual allegations of the complaint in the manner required by the Rules of Court, but it may rest on the defendant if he admits expressly or impliedly the essential allegations but raises affirmative defense or defenses, which if proved, will exculpate him from liability.[61]

The doctrine of *res judicata* provides that the judgment in a first case is final as to the claim or demand in controversy, between the parties and those privy with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which must have been offered for that purpose and all matters that could have been adjudged in that case. It precludes parties from relitigating issues actually litigated and determined by a prior and final judgment. xxx The rationale for this principle is that a party should not be vexed twice concerning the same cause. Indeed, *res judicata* is a fundamental concept in the organization of every jural society, for not only does it ward off endless litigation, it ensures the stability of judgment and guards against inconsistent decisions on the same set of facts.[62]

In order for *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, causes of action as are present in the civil cases below.[63]

All the elements of *res judicata* are present in the instant case.

The first case, docketed as Civil Case No. 36-2243, for Recovery of Ownership, Possession, Preliminary Injunction and Damages, entitled “Evaristo Dumalina, Jose Alesna, Editha Peralta, Heirs of Diego Galiza rep. by Ariel Galiza and Heirs of Nena L. Remigio rep. by Julius Remigio v. Rosita Verzola, Josefa Justo and Robin So,” was filed before the RTC of Santiago City, Branch 36.[64]The case involved Lot No. 6086 situated at Poblacion, Santiago, Isabela.[65]

The instant second case, docketed as Civil Case No. 35-3632,[66] was for Quieting of Titles, Cancellation of Titles with Damages, entitled “Josefa Justo v. Jose Alesna, Editha Peralta, Heirs of Diego Galiza, represented by Ariel Galiza, and Heirs of Nena L. Remigio, represented by Julius Remigio, Felipe De Vera and Rosalia Suarez” filed before the RTC of Santiago City, Branch 35. The subject matter herein is the same parcel of land (Lot No. 6086)[67] situated at Poblacion (now Plaridel), Santiago City covered by TCT No. T-130466.[68]

In the Decision[69] (Exh. “1” Alesna) dated 08 November 1999 rendered by RTC Branch 36, Santiago City in Civil Case No. 36-2243, it declared plaintiffs therein (Evaristo Dumalina, Jose Alesna, Editha Peralta, Heirs of Diego Galiza rep by. Ariel Galiza and Heir of Nena L. Remigio rep. By Julius Remigio) as the owners of the lot in suit (Lot 6086); declared TCT No. T-130466 and subsequent titles null and void; ordered defendants therein, their heirs, successors and assigns, especially defendant Robin So to vacate the premises immediately and ordered therein defendants to pay, jointly and severally, Php20,000.00 as compensatory damages, Php15,000.00 as attorney's fees and to pay the cost.[70] Said Decision of the RTC Branch 36, in favor of plaintiffs therein (herein defendants-appellants) has long become final and executory. It is well-settled that a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land.[71]

As found in the records of the instant second case (Civil Case No. 35-3632), herein defendants-appellants stated in their Memorandum to Support the Defense of *Res Judicata*[72] dated 21 February 2011, that the said Decision dated 08 November 1999 was appealed by defendants therein (including herein plaintiff-appellee) to this Court, docketed as CA-GR No. 68059, but the same was dismissed in the Decision dated 27 July 2005 and its

reconsideration was also denied in the Resolution dated 08 February 2006[73]; defendants therein filed a Petition for Review on Certiorari dated 03 April 2006 docketed as G.R. No. 171645, which was denied in the Resolution[74] dated 10 July 2006 issued by the Supreme Court (Second Division), for failure to sufficiently show that this Court had committed any reversible error in the questioned judgment to warrant the exercise by the Supreme Court of its discretionary appellate jurisdiction. The said Resolution became final and executory on 06 November 2006 as stated in the Entry of Judgment of the Supreme Court [Second Division] (Exh. "3" Alesna).[75] A Writ of Execution (Exh. "5" Alesna) dated 26 February 2008 was issued by the RTC Branch 36 in the first case.[76] As stated in the Order[77] dated 08 December 2010, Sheriff Rolando Tomas of the RTC Branch 36 died and he was not able to complete the implementation of the Writ of Execution, thus, Deputy Sheriff Mayo Dela Cruz of RTC Branch 21 was designated as Special Sheriff to continue the implementation thereof. In fact, the Decision dated 08 December 1999 of the RTC Branch 36 and the Writ of Execution dated 26 February 2008 were annotated on TCT No. T-130466; SC16618 of the Registry of Deeds of Isabela[78] (Exh. "6" Alesna) in the name of herein plaintiff-appellee Josefa, as Entry No. 44 on 04 September 2000[79] (Exh. "6-1" Alesna) and Entry No. 7209 on 11 July 2008[80] (Exh. "6-2" Alesna), respectively.

The Decision dated 08 November 1999 of the RTC Branch 36 in the first case (Civil Case No. 36-2243) was rendered by a court having jurisdiction over the subject matter and the parties.

As to the disposition of the first case (Civil Case No. 36-2243), the Decision dated 08 November 1999 of the RTC Branch 36 is a judgment on the merits. For res judicata to apply, the final judgment must be on the merits of the case which means that the court has unequivocally determined the parties' rights and obligations with respect to the causes of action and the subject matter of the case.[81] A judgment (is) on the merits "when it determines the rights and liabilities of the parties based on the disclosed facts, irrespective of formal, technical or dilatory objections." [82] Here, the Decision dated 08 November 1999 has unequivocally determined the rights of the parties therein, declaring the plaintiffs therein (herein defendants-appellants) to be the lawful owners of the subject lot, and declared TCT No. T-130466 and subsequent titles as null and void.[83]

Plaintiff-appellees' claim that the Decision dated 08 November 1999 in the first case (Civil Case No. 36-2243) is not on the merits as they were declared in default, holds no water. Herein plaintiff-appellee (therein defendant Josefa), together with the other defendants therein, failed to adduce their evidence in the first case. As found by the RTC Branch 36 in the said final and executory Decision, "(a)s there was no evidence presented by the defendants to contravert (sic) the evidence adduced by the plaintiffs, this (c)ourt has no other alternative but to accept as true the evidence on record introduced by the plaintiffs." [84] It was also found in the Order dated 08 June 1998 of the RTC Branch 36, as quoted in the said Decision, that "xxx defendants xxx have in fact waived their right to present their evidence because they have never appeared in court since then despite several occasions given by the court giving them the opportunities to do so. In fact, counsel for the defendants even agreed that should they fail to appear on June 6, 1997, the court shall have the judicial right to consider the matter for resolution. Should they fail to appear on said date, they shall be deemed to have waived their right to present their evidence, a fact that was not only admitted by counsels but was suggested by the defendants thru counsel." [85] As such, herein plaintiff-appellee Josefa and her other co-defendants in the first case (Civil Case No. 36-2243) failed to present their evidence by their own doing, as they clearly frittered away their opportunity to do so and cannot be heard to complain now, in a futile attempt to disturb the immutable and unalterable Decision of the RTC Branch 36. It is not necessary that there should have been a trial, actual hearing or arguments on the facts of the case. For as long as the parties had full legal opportunity to be heard on their respective claims and contentions, the judgment is on the merits.[86]

We agree with defendants-appellants that there is identity of parties, subject matter and causes of action in the

first case (Civil Case No. 36-2243) and in the instant second case (Civil Case No. 35-3632).

Here, the records show that in the first case (Civil Case No. 36-2243), there were three defendants, namely, Rosita, Josefa and Robin,[87] and that herein defendants-appellants De Vera and Suarez were not impleaded therein. On the other hand, in the instant second case (Civil Case No. 35-3632), there is only one plaintiff, Josefa, and Evaristo was not impleaded as one of the defendants.[88] Despite the same, there is substantial identity of parties.

The principle of *res judicata* may not be evaded by the mere expedient of including an additional party to the first and second action. Only substantial identity is necessary to warrant the application of *res judicata*. The addition or elimination of some parties does not alter the situation.[89] On the element of identity of parties, *res judicata* does not require absolute identity of parties as substantial identity is enough. Substantial identity of parties exists “when there is a community of interest between a party in the first case and a party in the second case, even if the latter was not impleaded in the first case.”[90] Here, there is substantial identity of parties. De Vera and Suarez were the transferees of Evaristo's title, TCT No. T-139303.[91] As such, even if De Vera and Suarez were not impleaded in Civil Case No. 36-2243 and Evaristo was not impleaded in Civil Case No. 35-3632, they represent the same interest. This also holds true with respect to Rosita, Josefa and Robin. Even if Robin and Rosita are not plaintiffs in the instant case, they represent the same interest with plaintiff-appellee because the latter's title was derived from that of Rosita, for plaintiff-appellee bought the same from Rosita[92] as evidenced by a Deed of Sale,[93] while Robin was the husband of plaintiff-appellee.[94] Parties that represent the same interests in two petitions are, thus, considered substantial identity of parties for purposes of *res judicata*. Definitely, one test to determine substantial identity of interest would be to see whether the success or failure of one party materially affects the other.[95] (Moreover,) (i) identity of parties exists ‘where the parties in both actions are the same, or there is privity between them, or they are successors-in-interest by title subsequent to the commencement of the action, litigating for the same thing and under the same title and in the same capacity’.[96] This is true in the instant second case (Civil Case No. 35-3632) since defendants-appellants herein are the successors-in-interest of plaintiff Evaristo in the first case (Civil Case No. 36-2243). Also, the success or failure of either plaintiff therein Evaristo (first case) and herein defendants-appellants De Vera and Suarez (second case) will materially affect the other, which goes the same for the interests of herein plaintiff-appellee Josefa (second case) who is also a defendant, together with Rosita and Robin, in the first case. Therefore, there is privity among the parties in the instant second case (Civil Case No. 35-3632) and those in the first case (Civil Case No. 36-2243).

Further, there is identity of subject matter in the first and second cases as there is no question that both cases involve the same subject property, Lot No. 6086.

Finally, there is identity of causes of action in the first case (Civil Case No. 36-2243) and the instant second case (Civil Case No. 35-3632).

(I) Identity of causes of action does not mean absolute identity; otherwise, a party could easily escape the operation of *res judicata* by changing the form of the action or the relief sought. 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.[97]

The first case (Civil Case No. 36-2243) was for recovery of ownership, possession, preliminary injunction, and damages. On the other hand, the instant second case (Civil Case No. 35-3632) is for quieting of titles, cancellation of titles with damages. Recovery of ownership is in the nature of *accion reivindicatoria*, a suit that has for its

object one's recovery of possession over the real property as owner,[98] while (q)uieting of title is a common law remedy for the removal of any cloud, doubt, or uncertainty affecting title to real property.[99]

Therefore, accion reivindicatoria and quieting of title, have the same objective, which is the determination of ownership of the subject property and put to rest the claims against it. In an accion reivindicatoria, the parties must present evidence that would prove their ownership. (On the other hand,) (i)n an action for quieting of title, the complainant is seeking for “an adjudication that a claim of title or interest in property adverse to the claimant is invalid, to free him from the danger of hostile claim, and to remove a cloud upon or quiet title to land where stale or unenforceable claims or demands exist.[100] Hence, the same evidence will sustain both actions. As such, these two cases are different only in form, for both actions have ownership of the subject property as their main issue, and that the same evidence will sustain the same.

(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 between the same parties or their privies.[101] Otherwise, a party could easily escape the operation of res judicata by changing the form of the action or the relief sought.[102]

In sum, the requisites for res judicata have been satisfied and the second complaint (filed by herein plaintiff-appellee) should, thus, have been dismissed.[103] After losing in the first case (Civil Case No. 36-2243) wherein the Decision adverse to plaintiff-appellee has long become final and executory, she cannot now have the same disturbed or altered by the sheer expedient of filing the second case (Civil Case No. 35-3632). Clearly, the trial court patently erred in not dismissing the instant second case (Civil Case No. 35-3632), and should have stood its ground in the earlier Order[104] dated 20 December 2011, dismissing plaintiff-appellee's Complaint by reason of res judicata which barred the institution of a subsequent action.

Considering the foregoing disquisition, We find no necessity to resolve the other matters raised by the parties.

WHEREFORE, premises considered, the appeal is GRANTED. The Decision dated 03 March 2014 of the Regional Trial Court, Second Judicial Region, Branch 35, Santiago City in Civil Case No. 35-3632 is REVERSED and SET ASIDE and the Complaint is DISMISSED. Costs against plaintiff-appellee.

SO ORDERED.

Lazaro-Javier, and Sadang, JJ., concur.

[1] Rollo, pp. 88-101, penned by Judge Efren M. Cacatian

[2] Id. at 100-101

[3] Id. at 72-87

[4] Id. at 49-65

[5] Id. at 102 (dorsal side)

[6] Record, pp. 2-8

[7] Id. at 131-136

[8] Id. at 128-129

[9] Id. at 161

- [10] Id. at 164
- [11] Id. at 166-167
- [12] Id. at 172-175
- [13] Id. at 179-180
- [14] Id. at 187
- [15] Id. at 190-194
- [16] Id. at 196-198
- [17] Id. at 199-200
- [18] Id. at 202-205
- [19] Id. at 213-216
- [20] Id. at 219
- [21] Id. at 231
- [22] Id. at 225-228
- [23] Id. at 274
- [24] Id. at 275-281
- [25] Id. at 330-334
- [26] Id. at 335-341
- [27] Id. at 346-349
- [28] Id. at 354-356
- [29] Id. at 358
- [30] Id.
- [31] Id. at 366-375
- [32] Referred to as Robinson in some parts of TSN dated 22 August 2012
- [33] Record, pp. 382-383
- [34] Id. at 385-388
- [35] Id. at 398-A
- [36] Id. at 403
- [37] TSN, 22 August 2012, pp. 6-11
- [38] TSN, 01 October 2012, pp. 5-6
- [39] Id. at 8-9
- [40] Record, p. 427-436

- [41] Id. at 430-434
- [42] TSN, 15 July 2013, p. 8
- [43] Record, pp. 449-454
- [44] Id. at 460-461
- [45] Id. at 463
- [46] Id. at 464-469
- [47] TSN, 09 September 2013, p. 4
- [48] Record, pp. 465-468
- [49] TSN, 09 September 2013, pp. 5-10
- [50] Id. at 11-18
- [51] Record, pp. 482-483
- [52] Id. at 485-486
- [53] Id. at 491
- [54] Id. at 496-508
- [55] Id. at 514-515
- [56] Id. at 523-536
- [57] Supra note 2
- [58] Record, pp. 537-538
- [59] Id. at 542
- [60] Rollo, pp. 75-76
- [61] BJDC Construction, etc. v. Nena E. Lanuzo, et al., G.R. No. 161151, 24 March 2014
- [62] Cf. Vilma Quintos, etc., et al. v. Pelagia I. Nicolas, et al., G.R. No. 210252, 25 June 2014
- [63] Emiliano S. Samson v. Spouses Jose and Guillermina Gabor, et al., G.R. No. 182970, 23 July 2014
- [64] Record, p. 137
- [65] Id.
- [66] Id. at 523
- [67] Id. at 9
- [68] Id. at 2-3
- [69] Id. at 137-145
- [70] Id. at 145
- [71] National Housing Authority v. Court of Appeals, et al., G.R. No. 173802, 07 April 2014

[72] Record, pp. 190-194

[73] Id. at 191

[74] Id. at 241, 250

[75] Id. at 242

[76] Id. at 245-246

[77] Id. at 157

[78] Id. at 247

[79] Id. (dorsal side)

[80] Id.

[81] Cf. *Tung Ho Steel Enterprises Corporation v. Ting Guan Trading Corporation*, G.R. No. 182153, 07 April 2014

[82] *Aboitiz Equity Ventures, Inc. v. Victor S. Chiongbian, et al.*, G.R. No. 197530, 09 July 2014 citing *Cabreza, Jr. v. Cabreza*, G.R. No. 181962, 16 January 2012, 663 SCRA 29

[83] Record, p. 145

[84] Id. at 144

[85] Id. at 143-144

[86] *Heirs of Igmedio Maglaque and Sabina Payawal, etc. v. Hon. Court of Appeals, et al.*, G.R. No. 163360, 08 June 2007

[87] Record, p. 137

[88] Id. at 2

[89] *P.L. Uy Realty Corporation v. ALS Management and Development Corporation, et al.*, G.R. No. 166462, 24 October 2012, citing *Cruz v. Court of Appeals*, G.R. No. 164797, 13 February 2006, 482 SCRA 379, 392-393

[90] *Pryce Corporation v. China Banking Corporation*, G.R. No. 172302, 18 February 2014 91 Record, pp. 29, 19

[92] Id. at 497

[93] Id. at 456-457

[94] TSN, 22 August 2012, p. 8

[95] *Pryce Corporation v. China Banking Corporation*, *supra*

[96] Cf. *Digital Telecommunications Philippines, Inc. v. Jessie E. Cantos*, G.R. No. 180200, 25 November 2013

[97] *Villarica Pawnshop, Inc., etc., et al. v. Spouses Roger G. Gernale and Norazon C. Gernale, et al.*, G.R. No. 163344, 20 March 2009

[98] *Carmen Danao Malana, et al. v. Benigno Tappa, et al.*, G.R. No. 181303, 17 September 2009

[99] Cf. *Vilma Quintos, etc., et al. v. Pelagia I. Nicolas, et al.*, *supra*.

[100] Cf. *Heirs of Pacifico Pocdo, etc. v. Arsenia Avila, et al.*, G.R. No. 199146, 19 March 2014

[101] *Villarica Pawnshop, Inc., etc., et al. v. Spouses Roger G. Gernale and Norazon C. Gernale, et al.*, *supra*.

[102] *Pilar Development Corporation v. The Hon. Court of Appeals, et al.*, G.R. No. 155943, 19 August 2013, citing *Cruz v. CA*, 517 Phil. 572, 585 (2006) (further citations omitted)

[103] *Aboitiz Equity Ventures, Inc. v. Victor S. Chiongbian, et al.*, *supra*

[104] *Record*, pp. 330-334

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