

CRISTINA DE KNECHT AND RENE KNECHT, PETITIONERS, VS. HON. COURT OF APPEALS; HON. MANUEL DUMATOL, AS JUDGE, REGIONAL TRIAL COURT, BRANCH 112, PASAY CITY; HON. CONCHITA C. MORALES...

G.R. No. 108015. May 20, 1998

Ponente: PUNO, J.

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PUNO, J.:

In G.R. No. 108015, petitioners Cristina de Knecht and Rene Knecht seek to annul and set aside the decision of the Court of Appeals[1] in CA-G.R. SP No. 28089 dismissing an action to annul (1) the decision and order of the Regional Trial Court, Branch 112, Pasay City,[2] in LRC Case No. 2636-P; (2) the order of the Regional Trial Court, Branch 110, Pasay City[3] in LRC Case No. 2652-P; and (3) the orders of dismissal by Regional Trial Court, Branch 119, Pasay City in Civil Case No. 2961-P;[4] and (4) the orders and the writ of possession issued by the Regional Trial Court, Branch 111, Pasay City,[5] in Civil Case No. 7327.

In G.R. No. 109234, petitioners Cristina de Knecht and Rene Knecht seek to annul the decision of the Court of Appeals[6] in CA-G.R. SP No. 27817 which dismissed the petition for certiorari questioning the order of the Regional Trial Court, Branch 111, Pasay City[7] denying its "Motion for Intervention and to Implead Additional Parties" in Civil Case No. 7327.

The instant case is an unending sequel to several suits commenced almost twenty years ago over the same subject matter. This involves a parcel of land with an area of 8,102.68 square meters, more or less, located at the corner of the south end of the E. de los Santos Avenue (EDSA)[8] and F.B. Harrison in Pasay City. The land was owned by petitioners Cristina de Knecht and her son, Rene Knecht, under Transfer Certificate of Title (TCT) No. 9032 issued in their names by the Register of Deeds of Pasay City. On the land, the Knechts constructed eight (8) houses of strong materials, leased out the seven and occupied one of them as their residence.

In 1979, the Republic of the Philippines initiated Civil Case No. 7001-P for expropriation against the Knechts' property before the then Court of First Instance of Rizal, Branch 111, Pasay City.[9] The government sought to utilize the land for the completion of the Manila Flood Control and Drainage Project and the extension of the EDSA towards Roxas Boulevard.

The CFI issued a writ of possession. On petition of the Knechts, however, this Court, in G.R. No. L-51078, held that the choice of area for the extension of EDSA was arbitrary. We annulled the writ of possession and enjoined the trial court from taking further action in Civil Case No. 7001-P.[10]

In 1982, the City Treasurer of Pasay discovered that the Knechts failed to pay real estate taxes on the property from 1980 to 1982.[11] As a consequence of this deficiency, the City Treasurer sold the property at public auction on May 27, 1982 for the sum of P63,000.00, the amount of the deficiency taxes.[12] The highest bidders were respondent Spouses Anastacio and Felisa Babiera (the Babieras) and respondent Spouses Alejandro and Flor

Sangalang (the Sangalangs).

Petitioners failed to redeem the property within one year from the date of sale. In August 1983, Anastacio Babiera filed with respondent Regional Trial Court, Branch 112, Pasay City, a petition for registration of his name as co-owner pro-indiviso of the subject land. This case was docketed as LRC Case No. 2636-P[13] and was filed allegedly without notice to the Knechts. On September 15, 1983, the trial court ordered the Register of Deeds to register Babiera's name and the Knechts to surrender to the Register of Deeds the owner's duplicate of the title.

In October 1983, Alejandro Sangalang filed LRC Case No. 2652-P before the Regional Trial Court, Branch 110, Pasay City.[14] Sangalang also sought to register his name as co-owner pro-indiviso of the subject property. The proceedings were also conducted allegedly without notice to the Knechts. The trial court granted the petition and ordered the Register of Deeds, Pasay City to cancel TCT No. 9032 in the name of the Knechts and issue a new one in the names of Babiera and Sangalang.

Pursuant to said orders, the Register of Deeds cancelled TCT No. 9032 and issued TCT No. 86670 in the names of Sangalang and Babiera. The Knechts, who were in possession of the property, allegedly learned of the auction sale only by the time they received the orders of the land registration courts.

On March 12, 1985, Sangalang and Babiera sold the land to respondent Salem Investment Corporation (Salem) for P400,000.00. TCT No. 86670 was cancelled and TCT No. 94059 was issued in the name of Salem.

Meanwhile, on February 17, 1983, the Batasang Pambansa passed B.P. Blg. 340 authorizing the national government to expropriate certain properties in Pasay City for the EDSA Extension, the EDSA Outfall of the Manila Flood Control and Drainage Project, and the "Cut-Off" of the Estero Tripa de Gallina which were all projects of the National Government.[15] The property of the Knechts was part of those expropriated under B.P. Blg. 340.

In view of this Court's previous ruling in G.R. No. L-51078[16] annulling the expropriation proceedings in Civil Case No. 7001-P, the government apprised this Court of the subsequent enactment of B.P. Blg. 340. On February 12, 1990, we rendered a decision upholding the validity of B.P. Blg. 340 in G.R. No. 87335.[17]

While G.R. No. 87335 was pending in court, on June 24, 1985, the Knechts filed Civil Case No. 2961-P before the Regional Trial Court, Branch 119, Pasay City.[18] They prayed for reconveyance, annulment of the tax sale and the titles of the Babieras and Sangalangs. The Knechts based their action on lack of the required notices to the tax sale.

In the same case, Salem filed on September 26, 1985 a petition for appointment of a receiver. The court granted the petition and on November 7, 1985, appointed Metropolitan Bank and Trust Company as receiver. The Knechts questioned this appointment on a petition for certiorari before the Court of Appeals in CA-G.R. SP No. 08178. The Court of Appeals dismissed the petition which this Court affirmed in G.R. No. 75609 on January 28, 1987.

Meanwhile, Civil Case No. 2961-P proceeded before Branch 119. The Knechts presented their evidence. They, however, repeatedly requested for postponements.[19] At the hearing of September 13, 1988, they and their counsel failed to appear. Accordingly, the trial court dismissed the case for "apparent lack of interest of plaintiffs" x x x "considering that the case had been pending for an unreasonable length of time." [20]

The Knechts moved to set aside the order of dismissal. The motion was denied for late filing and failure to furnish a copy to the other parties.[21] The Knechts questioned the order of dismissal before the Court of Appeals. The appellate court sustained the trial court. They elevated the case to this Court in G.R. No. 89862. The petition was denied for late payment of filing fees and for failure to sufficiently show any reversible error.[22] On January 17,

1990, the petition was denied with finality[23] and entry of judgment was made on February 19, 1990.[24]

Three (3) months later, on May 15, 1990, the Republic of the Philippines, through the Solicitor General, filed before the Regional Trial Court, Branch 111, Pasay City Civil Case No. 7327 "[f]or determination of just compensation of lands expropriated under B.P. Blg. 340." [25] In its amended petition, the National Government named as defendants Salem, Maria del Carmen Roxas de Elizalde, Concepcion Cabarrus Vda. de Santos, Mila de la Rama and Inocentes de la Rama, the heirs of Eduardo Lesaca and Carmen Padilla.[26] As prayed for, the trial court issued a writ of possession on August 29, 1990.[27] The following day, August 30, seven of the eight houses of the Knechts were demolished and the government took possession of the portion of land on which the houses stood.[28]

Meanwhile, Salem conveyed 5,611.92 square meters of the subject property to respondent spouses Mariano and Anacoreta Nocom for which TCT No. 130323 was issued in their names. Salem remained the owner of 2,490.69 square meters under TCT Nos. 130434 and 130435.

Since the Knechts refused to vacate their one remaining house, Salem instituted against them Civil Case No. 85-263 for unlawful detainer before the Municipal Trial Court, Branch 46, Pasay City. As defense, the Knechts claimed ownership of the land and building.[29] The Municipal Trial Court, however, granted the complaint and ordered the Knechts' ejectment. Pursuant to a writ of execution, the last house of the Knechts was demolished on April 6, 1991.[30]

The proceedings in Civil Case No. 7327 continued. As prayed for by Salem, the trial court issued an order on September 13, 1990 for the release of P5,763,650.00 to Salem by the Philippine National Bank (PNB) as partial payment of just compensation.[31] On June 7, 1991, the trial court issued another order to the PNB for the release of P15,000,000.00 as another partial payment to Salem.[32]

On September 9, 1991, the trial court issued an order fixing the compensation of all the lands sought to be expropriated by the government. The value of the subject land was set at P28,961.00 per square meter.[33] This valuation did not include the improvements.[34]

It was after these orders that the Knechts, on September 25, 1991, filed a "Motion for Intervention and to Implead Additional Parties" in Civil Case No. 7327. They followed this with a "Motion to Inhibit Respondent Judge Sayo and to Consolidate Civil Case No. 7327 with Civil Case No. 8423."

Earlier, prior to the "Motion to Inhibit Respondent Judge Sayo and to Consolidate Civil Case No. 7327 with Civil Case No. 8423," the Knechts instituted Civil Case No. 8423 before the Regional Trial Court, Branch 117, Pasay City for recovery of ownership and possession of the property. On January 2, 1992, the trial court dismissed Civil Case No. 8423 on the ground of *res judicata*. The Knechts challenged the order of dismissal in G.R. No. 103448 before this Court. On February 5, 1992, we dismissed the Knechts' "Motion for Extension of Time to File Petition for Certiorari" for non-compliance with Circular No. 1-88[35] and for late filing of the Petition.[36] Entry of judgment was made on May 21, 1992.[37]

In Civil Case No. 7327, the trial court issued an order on April 14, 1992 denying the Knechts' "Motion for Intervention and to Implead Additional Parties." The court did not rule on the "Motion to Inhibit Respondent Judge Sayo and to Consolidate Civil Case No. 7327 with Civil Case No. 8423," declaring it moot and academic.

On April 23, 1992, as prayed for by Mariano Nocom, the trial court ordered the release of P11,526,000.00 as third installment for his 5,611.92 square meters of the subject land. The Knechts questioned the release of this amount before the Court of Appeals in CA-G.R. SP No. 27817. The Knechts later amended their petition to limit their cause of action to a review of the order of April 14, 1992 which denied their "Motion for Intervention and to

Implead Additional Parties."

On March 5, 1993, the Court of Appeals dismissed the petition in CA-G.R. SP No. 27817 and denied the Knechts' intervention in Civil Case No. 7327 after finding that the Knechts had no legal interest on the subject property after the dismissal of Civil Case No. 2961-P. Hence the petition in G.R. No. 109234.

On June 9, 1992, while CA-G.R. SP No. 27817 was pending, the Knechts instituted also before the Court of Appeals an original action for annulment of judgment of the trial courts. This case was docketed as CA-G.R. SP No. 28089. Therein, the Knechts challenged the validity of the orders of the land registration courts in the two petitions of the Sangalangs and Babieras for registration of their names,[38] the reconveyance case[39] and the just compensation proceedings.[40] The Knechts questioned the validity of the titles of the Babieras and Sangalangs, and those of Salem and the Nocoms, and prayed for the issuance of new titles in their names. They also sought to restrain further releases of payment of just compensation to Salem and the Nocoms in Civil Case No. 7327.

The Court of Appeals dismissed the petition for lack of merit on November 24, 1992. Hence the filing of G.R. No. 108015. In a Resolution dated February 1, 1993, we denied the petition finding "no reversible error" committed by the Court of Appeals. The Knechts moved for reconsideration.

Pending a resolution of this Court on the Knechts' motion for reconsideration, respondents Nocom moved for consolidation of the two actions.[41] We granted the motion.

In their petition in G.R. No. 109234, the Knechts alleged that:

"I THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN HOLDING THAT CIVIL CASE NO. 7327 IS NOT AN EMINENT DOMAIN PROCEEDING;

II THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN HOLDING THAT RES JUDICATA HAS SET IN TO BAR THE MOTION FOR INTERVENTION;

III THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN NOT ORDERING RESPONDENT JUDGE TO RULE ON THE MOTION FOR INHIBITION."[42]

In their Motion for Reconsideration in G.R. No. 108015, the Knechts reiterate that:

"I THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN HOLDING THAT THE PETITION FOR ANNULMENT OF JUDGMENT IS BARRED BY RES JUDICATA;

II THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN UPHOLDING THE DEFENSE OF RES JUDICATA EVEN AS ITS APPLICATION INVOLVES THE SACRIFICE OF JUSTICE TO TECHNICALITY."[43]

We rule against the petitioners.

In its decision, the Court of Appeals held that the Knechts had no right to intervene in Civil Case No. 7327 for lack of any legal right or interest in the property subject of expropriation. The appellate court declared that Civil Case No. 7327 was not an expropriation proceeding under Rule 67 of the Revised Rules of Court but merely a case for the fixing of just compensation.[44] The Knechts' right to the land had been foreclosed after they failed to redeem it one year after the sale at public auction. Whatever right remained on the property vanished after Civil Case No. 2961-P, the reconveyance case, was dismissed by the trial court. Since the petitions questioning the order of dismissal were likewise dismissed by the Court of Appeals and this Court, the order of dismissal became final and res judicata on the issue of ownership of the land.[45]

The Knechts urge this Court, in the interest of justice, to take a second look at their case. They claim that they were deprived of their property without due process of law. They allege that they did not receive notice of their tax delinquency and that the Register of Deeds did not order them to surrender their owner's duplicate for annotation of the tax lien prior to the sale. Neither did they receive notice of the auction sale. After the sale, the certificate of sale was not annotated in their title nor in the title with the Register of Deeds. In short, they did not know of the tax delinquency and the subsequent proceedings until 1983 when they received the orders of the land registration courts in LRC Cases Nos. 2636-P and 2652-P filed by the Babieras and Sangalang.[46] This is the reason why they were unable to redeem the property.

It has been ruled that the notices and publication, as well as the legal requirements for a tax delinquency sale, are mandatory;[47] and the failure to comply therewith can invalidate the sale.[48] The prescribed notices must be sent to comply with the requirements of due process.[49] The claim of lack of notice, however, is a factual question. This Court is not a trier of facts. Moreover, this factual question had been raised repeatedly in all the previous cases filed by the Knechts. These cases have laid to rest the question of notice and all the other factual issues they raised regarding the property. *Res judicata* had already set in.

Res judicata is a ground for dismissal of an action.[50] It is a rule that precludes parties from relitigating issues actually litigated and determined by a prior and final judgment. It pervades every well-regulated system of jurisprudence, and is based upon two grounds embodied in various maxims of the common law-- one, public policy and necessity, that there should be a limit to litigation;[51] and another, the individual should not be vexed twice for the same cause.[52] When a right of fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate.[53] To follow a contrary doctrine would subject the public peace and quiet to the will and neglect of individuals and prefer the gratification of the litigious disposition of the parties to the preservation of the public tranquility.[54]

Res judicata applies when: (1) the former judgment or order is final; (2) the judgment or order is one on the merits; (3) it was rendered by a court having jurisdiction over the subject matter and the parties; (4) there is between the first and second actions, identity of parties, of subject matter and of cause of action.[55] Petitioners claim that Civil Case No. 2961-P is not *res judicata* on CA-G.R. SP No. 28089. They contend that there was no judgment on the merits in Civil Case No. 2961-P, i.e., one rendered after a consideration of the evidence or stipulations submitted by the parties at the trial of the case.[56] They stress that Civil Case No. 2961-P was dismissed upon petitioners' failure to appear at several hearings and was based on "lack of interest".

We are not impressed by petitioners' contention. "Lack of interest" is analogous to "failure to prosecute." Section 3 of Rule 17 of the Revised Rules of Court provides:

"Section 3. Failure to Prosecute.-- If plaintiff fails to appear at the time of the trial, or to prosecute his action for an unreasonable length of time, or to comply with these rules or any order of the court, the action may be dismissed upon motion of the defendant or upon the court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by court."

An action may be dismissed for failure to prosecute in any of the following instances: (1) if the plaintiff fails to appear at the time of trial; or (2) if he fails to prosecute the action for an unreasonable length of time; or (3) if he fails to comply with the Rules of Court or any order of the court. Once a case is dismissed for failure to prosecute, this has the effect of an adjudication on the merits and is understood to be with prejudice to the filing of another action unless otherwise provided in the order of dismissal.[57] In other words, unless there be a qualification in the order of dismissal that it is without prejudice, the dismissal should be regarded as an adjudication on the merits and is with prejudice.[58]

Prior to the dismissal of Civil Case No. 2961-P, the Knechts were presenting their evidence. They, however, repeatedly requested for postponements and failed to appear at the last scheduled hearing. This prompted Salem to move for dismissal of the case. The court ordered thus:

"ORDER

It appearing that counsel for the plaintiff has been duly notified of today's hearing but despite notice failed to appear and considering that this case has been pending for quite a considerable length of time, on motion of counsel for the defendant Salem Investment joined by Atty. Jesus Paredes for the defendant City of Pasay, for apparent lack of interest of plaintiffs, let their complaint be DISMISSED.

As prayed for, let this case be reset to September 29, 1988 at 8:30 in the morning for the reception of evidence of defendant's Salem Investment on its counterclaim.

SO ORDERED."[59]

The order of dismissal was based on the following factors: (1) pendency of the complaint for a considerable length of time; (2) failure of counsel to appear at the scheduled hearing despite notice; and (3) lack of interest of the petitioners. Under Section 3, Rule 17, a dismissal order which does not provide that it is without prejudice to the filing of another action is understood to be an adjudication on the merits. Hence, it is one with prejudice to the filing of another action.

The order of dismissal was questioned before the Court of Appeals and this Court. The petitions were dismissed and the order affirming dismissal became final in February 1990. Since the dismissal order is understood to be an adjudication on the merits, then all the elements of res judicata have been complied with. Civil Case No. 2961-P is therefore res judicata on the issue of ownership of the land.

The Knechts contend, however, that the facts of the case do not call for the application of res judicata because this amounts to "a sacrifice of justice to technicality." We cannot sustain this argument. It must be noted that the Knechts were given the opportunity to assail the tax sale and present their evidence on its validity in Civil Case No. 2961-P, the reconveyance case. Through their and their counsel's negligence, however, this case was dismissed. They filed for reconsideration, but their motion was denied. The Court of Appeals upheld this dismissal. We affirmed the dismissal not on the basis of a mere technicality. This Court reviewed the merits of petitioners' case and found that the Court of Appeals committed no reversible error in its questioned judgment.[60]

After years of litigation and several cases raising essentially the same issues, the Knechts cannot now be allowed to avoid the effects of res judicata.[61] Neither can they be allowed to vary the form of their action or adopt a different method of presenting their case to escape the operation of the principle.[62] To grant what they seek will encourage endless litigations and forum-shopping. Hence, the Court of Appeals correctly dismissed CA-G.R. SP No. 28089.

We find, however, that the Court of Appeals erred in declaring that Civil Case No. 7327 was not an expropriation case. It was precisely in the exercise of the state's power of eminent domain under B.P. Blg. 340 that expropriation proceedings were instituted against the owners of the lots sought to be expropriated. B.P. Blg. 340 did not, by itself, lay down the procedure for expropriation. The law merely described the specific properties expropriated and declared that just compensation was to be determined by the court. It designated the then Ministry of Public Works and Highways as the administrator in the "prosecution of the project." Thus, in the absence of a procedure in the law for expropriation, reference must be made to the provisions on eminent domain

in Rule 67 of the Revised Rules of Court.

Section 1 of Rule 67 of the Revised Rules of Court provides:

"Section 1. The complaint.-- The right of eminent domain shall be exercised by the filing of a complaint which shall state with certainty the right and purpose of condemnation, describe the real or personal property sought to be condemned, and join as defendants all persons owning or claiming to own, or occupying, any part thereof or interest therein, showing, so far as practicable, the interest of each defendant separately. If the title to any property sought to be condemned appears to be in the Republic of the Philippines, although occupied by private individuals, or if the title is otherwise obscure or doubtful so that the plaintiff cannot with accuracy or certainty specify who are the real owners, averment to that effect may be made in the complaint."

The power of eminent domain is exercised by the filing of a complaint which shall join as defendants all persons owning or claiming to own, or occupying, any part of the expropriated land or interest therein.[63] If a known owner is not joined as defendant, he is entitled to intervene in the proceeding; or if he is joined but not served with process and the proceeding is already closed before he came to know of the condemnation, he may maintain an independent suit for damages.[64]

The defendants in an expropriation case are not limited to the owners of the property condemned. They include all other persons owning, occupying or claiming to own the property. When a parcel of land is taken by eminent domain, the owner of the fee is not necessarily the only person who is entitled to compensation.[65] In the American jurisdiction, the term "owner" when employed in statutes relating to eminent domain to designate the persons who are to be made parties to the proceeding, refers, as is the rule in respect of those entitled to compensation, to all those who have lawful interest in the property to be condemned,[66] including a mortgagee,[67] a lessee[68] and a vendee in possession under an executory contract.[69] Every person having an estate or interest at law or in equity in the land taken is entitled to share in the award.[70] If a person claiming an interest in the land sought to be condemned is not made a party, he is given the right to intervene and lay claim to the compensation.[71]

The Knechts insist that although they were no longer the registered owners of the property at the time Civil Case No. 7327 was filed, they still occupied the property and therefore should have been joined as defendants in the expropriation proceedings. When the case was filed, all their eight (8) houses were still standing; seven (7) houses were demolished on August 29, 1990 and the last one on April 6, 1991. They claim that as occupants of the land at the time of expropriation, they are entitled to a share in the just compensation.

Civil Case No. 7327, the expropriation case, was filed on May 15, 1990. Four months earlier, in January 1990, Civil Case No. 2961-P for reconveyance was dismissed with finality by this Court and judgment was entered in February 1990. The Knechts lost whatever right or colorable title they had to the property after we affirmed the order of the trial court dismissing the reconveyance case. The fact that the Knechts remained in physical possession cannot give them another cause of action and resurrect an already settled case. The Knechts' possession of the land and buildings was based on their claim of ownership,[72] not on any juridical title such as a lessee, mortgagee, or vendee. Since the issue of ownership was put to rest in Civil Case No. 2961-P, it follows that their physical possession of the property after the finality of said case was bereft of any legality and merely subsisted at the tolerance of the registered owners.[73] This tolerance ended when Salem filed Civil Case No. 85-263 for unlawful detainer against the Knechts. As prayed for, the trial court ordered their ejectment and the demolition of their remaining house.

Indeed, the Knechts had no legal interest in the property by the time the expropriation proceedings were instituted. They had no right to intervene and the trial court did not err in denying their "Motion for Intervention and to

Implead Additional Parties." Their intervention having been denied, the Knechts had no personality to move for the inhibition of respondent Judge Sayo from the case. The Court of Appeals therefore did not err in dismissing CA-G.R. SP No. 27817.

IN VIEW WHEREOF, the Petition in G.R. No. 109234 is dismissed and the Motion for Reconsideration in G.R. No. 108015 is denied. The decisions of the Court of Appeals in CA-G.R. SP No. 27817 and CA-G.R. SP No. 28089 are affirmed.

SO ORDERED.

Regalado, (Chairman), Melo, Mendoza, and Martinez, JJ., concur.

[1] Penned by Justice Pacita Canizares-Nye and concurred in by Justice Manuel Herrera and Justice Justo Torres, Jr., a former member of this Court.

[2] Formerly presided by Judge Manuel Valenzuela; now presided by Judge Manuel Dumatol.

[3] Formerly presided by Judge Manuel Romillo, Jr.; then presided by Judge Conchita Morales (now Justice of the Court of Appeals).

[4] Presided by Judge Aurora Navarette-Recina.

[5] Presided by Judge Sofronio Sayo.

[6] Penned by Justice Salome Montoya and concurred in by Justices Oscar Herrera and Minerva Gonzaga-Reyes.

[7] Presided by Judge Sofronio Sayo.

[8] Formerly del Pan Street.

[9] Civil Case No. 7001-P.

[10] De Knecht v. Bautista, G.R. No. L-51078, 100 SCRA 660 [1980]

[11] "Final Bill of Sale," Annex "1-C" to the Petition, G.R. No. 108015, Rollo, p. 75.

[12] "Certificate of Sale of Delinquent Property to Purchaser," Annexes "1-A" and "1-B" to the Petition, G.R. No. 108015, Rollo, pp. 73, 74

[13] Entitled "Petition to Register the Name of Anastacio Babiera as Co-owner Pro-indiviso of TCT No. 9032."

[14] Entitled "Petition to Register the Name of Alejandrino Sangalang as Co-owner Pro-indiviso of TCT No. 9032."

[15] Sec. 2, B.P. 340.

[16] De Knecht v. Bautista, G.R. No. L-51078, 100 SCRA 660 [1980]; see also proceedings in Note No. 10.

[17] Republic v. de Knecht, G.R. No. 87335, 182 SCRA 142 [1990].

[18] Presided by Judge Aurora Navarette-Recina.

[19] Decision of the Court of Appeals, CA-G.R. SP No. 28089, p. 5, G.R. No. 108015, Rollo, p. 101.

- [20] Order of September 13, 1988, Annex “10” to the Petition, G.R. No. 108015, Rollo, p. 89.
- [21] Annex “10-A” to the Petition, Rollo, G.R. No. 108015, p. 90.
- [22] Annex “6” to Respondent Nocoms’ “Opposition to the Motion for Extension of Time of File Petition for Review on Certiorari with Motion for Contempt,” G.R. No. 109234, Rollo, p.40.
- [23] Annex “7” to Respondent Nocoms’ “Opposition to the Motion for Extension...,” G.R. No. 109234, Rollo, p. 42.
- [24] Annex “8” to Respondent Nocoms’ “Opposition to the Motion for Extension...,” G.R. No. 109234, Rollo, p. 43
- [25] G.R. No. 109234, Petition, p. 7, Rollo, p. 92.
- [26] Annex “B” to the Petition, G.R. No. 109234, Rollo, pp. 148-167.
- [27] Court of Appeals, Rollo, pp. 111-115.
- [28] Petition, p. 6, G.R. No. 108015, Rollo, p. 33.
- [29] Petition, p. 33, G.R. No. 108015, Rollo, p. 60.
- [30] Petition, p. 6, G.R. No. 108015, Rollo, p. 33.
- [31] Annex “11” to the Petition, G.R. No. 108015, Rollo, p. 90.
- [32] Annex “12” to the Petition, G.R. No. 108015, Rollo, p. 91.
- [33] Annex “13” to the Petition, G.R. No. 108015, Rollo, pp. 92-94; Petition, G.R. No. 109234, p. 39, Rollo, p. 124.
- [34] Id.
- [35] For failure to attach proof of service (Annex “9” to Respondent Nocoms’ “Opposition to the Motion for Extension of Time to File Petition for Review on Certiorari with Motion for Contempt,” G.R. No. 109234, Rollo, p. 44.)
- [36] Annex “10” to Respondent Nocoms’ “Opposition to the Motion for Extension of Time to File Petition for Review on Certiorari with Motion for Contempt,” G.R. No. 109234, Rollo, p. 46.
- [37] Annex “13” to Respondent Nocoms’ “Opposition to the Motion for Extension of Time to File Petition for Review on Certiorari with Motion for Contempt,” G.R. No. 109234, Rollo, p.49.
- [38] LRC Cases Nos. 2636-P and 2652-P.
- [39] Civil Case No. 2961-P.
- [40] Civil Case No. 7327.
- [41] Motion to Consolidate by respondent Nocom, Rollo, G.R. No. 109234, pp. 58-66.
- [42] Petition, p. 5., Rollo, p. 90.
- [43] Motion for Reconsideration, p. 2, Rollo, p. 234; see also Petition, p. 8, Rollo, p. 35.
- [44] CA-G.R. SP No. 27817, pp. 5-8, Rollo, G.R. No. 109234, pp. 143-146.

[45] CA-G.R. SP No. 28089, pp. 11-14, Rollo, G.R. No. 108015, pp. 106-110.

[46] Petitions to register the names of Babiera and Sangalang as co-owners of TCT No. 9032.

[47] Pantaleon v. Santos, 101 Phil. 1001 [1957], Velayo v. Ordoveza, 102 Phil. 395, 403-404 [1957]; Presbitero v. Fernandez, 7 SCRA 625 [1963]; also cited in Vitug, Compendium of Tax Law and Jurisprudence, p. 377 [1987].

[48] Id.

[49] Velayo v. Ordoveza, supra, at 403-404.

[50] Rule 16, Sec. 1 [f], Revised Rules of Court.

[51] Republicae ut sit finis litum – Yusingco v. Ong Hing Lian, 42 SCRA 589, 601-602; see also De Ramos v. Court of Appeals, 213 SCRA 207, 214 [1992].

[52] Nemo debetbis vexari et eadem causa – Yusingco v. Ong Hing Lian, supra.

[53] Okol v. Tayug Rural Bank, Inc., 35 SCRA 619, 622-623 [1970]; see also Martin, Rules of Court, vol. 1, p. 852 [1989].

[54] De Ramos v. Court of Appeals, supra, at 214.

[55] De Ramos v. Court of Appeals, supra, at 214-215; American Inter-Fashion Corp. v. Office of the President, 197 SCRA 409, 417 [1991]; Nator v. Court of Industrial Relations, 4 SCRA 727, 733 [1962].

[56] Regalado, Remedial Law Compendium, vol. 1, p. 308 [1988]; Saberon v. Alikpala, 62 O.G. 11267, 11270 [1967] citing Nator v. Court of Industrial Relations, 4 SCRA 727, 733 [1962]; also cited in Martin, supra, at 855.

[57] Insular Veneer v. Plan, 73 SCRA 1, 7-8 [1987]; Malvar v. Pallingayan, 18 SCRA 121, 124 [1996]; Rivera v. Luciano, 14 SCRA 947, 948 [1965]; Guanzon v. Mapa, 7 SCRA 457, 459-460 [1963].

[58] Insular Veneer v. Plan, supra, at 8.

[59] Order of September 13, 1988; Annex “10” to the Petition, G.R. No. 108015, Rollo, p. 89.

[60] Resolution dated November 20, 1989; Annex “6” to Respondent Nocom’s “Opposition to Motion for Extension of Time to File Petition for Review on Certiorari with Motion for Contempt,” G.R. No. 109234, Rollo, p. 40; See also Note No. 20.

[61] Amberti v. Court of Appeals, 195 SCRA 659, 665-666 [1991].

[62] Valera v. Banez, 116 SCRA 648, 655 [1982].

[63] Tenorio v. Manila Railroad Co., 22 Phil. 411, 416-417 [1912]; also cited in Herrera, Remedial Law, vol 3, p. 173 [1991].

[64] Tenorio, supra; Herrera, supra; see also De Ynchausti v. Manila Electric Railroad & Light Co., 39 Phil. 908, 911 [1917].

[65] Francisco, The Revised Rules of Court in the Philippines, vol. IV-B, pp. 378-379 [1972]; citing 18 Am Jur 786-787.

[66] Francisco, supra, at 394, citing Am Jur 964.

[67] Calumet River R. Co. v. Brown, 26 NE 501, 502 [1891]; See 27 Am Jur 2d, “Eminent Domain,” Sec. 391 for a list of other cases.

[68] *Williams v. Jefferson County*, 72 So 2d 920, 926 [1954]; See also 27 Am Jur 2d, *supra*.

[69] *Pierce County v. King*, 287 P 2d 316, 318 [1995].

[70] *Francisco*, *supra*, at 378.

[71] *Francisco*, *supra*, at 394.

[72] Their possession was in the concept of owner or *jus possessionis* (See Vitug, *Compendium of Civil Law and Jurisprudence*, pp. 302-303 [1993]).

[73] The mere holding, or possession without title whatsoever, of property in violation of the right of the owner is wrongful. Examples of this possession are the possession of a thief or usurper (See Tolentino, *Civil Code of the Philippines*, vol. II, p. 241 [1992]).

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