

IN RE: PETITION SEEKING FOR CLARIFICATION AS TO THE VALIDITY AND FORCEFUL EFFECT OF TWO (2) FINAL AND EXECUTORY BUT CONFLICTING DECISIONS OF THE HONORABLE SUPREME COURT. GROUP C...

G.R. No. 123780. September 24, 2002

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Every litigation must come to an end once a judgment becomes final, executory and unappealable.[1] This is a fundamental and immutable legal principle. For “(j)ust as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his case”[2] by the execution and satisfaction of the judgment, which is the “life of the law.”[3] Any attempt to thwart this rigid rule and deny the prevailing litigant his right to savour the fruit of his victory, must immediately be struck down.[4]

For resolution is the motion for reconsideration filed by Dr. Potenciano Malvar and Marcelino Lopez, respondents, of the Decision of this Court[5] in the instant case clarifying that the ruling of the Third Division of this Court in G.R. No. 110900[6] prevails over the Decision rendered by the First Division in G.R. No. 90380.[7]

The heirs of Hermogenes Lopez, the heirs of Elino Adia, Ambrosio Aguilar and Eduardo V. Santos were engaged in a legal tug-of-war over the ownership of a parcel of land located in Barrio De la Paz, Antipolo City with an area of 19 hectares, 48 ares and 88 centares more or less, described and delineated in Plan H-138612.[8]

I

Records show that as early as 1920, Fermin Lopez was in possession of the land. He had it declared in his name for taxation purposes and in 1928, filed a homestead application therefor. After his death in 1943, his son Hermogenes Lopez continued occupying and cultivating the land. In the early part of 1936, Hermogenes inquired from the Bureau of Lands about the status of his late father’s homestead application. He learned that it was not acted upon. He then filed his homestead application over the same land, docketed as Homestead Application No. 138612. After he had shown full compliance with the requirements of the Public Land Act, the Director of Lands, on February 7, 1939, approved Plan No. H-138612 in the name of Hermogenes Lopez. Thereafter, the Director of Lands ordered the issuance of the corresponding patent to him.[9] Hermogenes continued to occupy the land as its recognized owner until he transferred his rights thereto in favor of Ambrosio Aguilar through a deed of sale executed on July 31, 1959.[10]

Records also show that on August 24, 1944, the land was registered in the name of Fernando Gorospe under Original Certificate of Title (OCT) No. 537, pursuant to Free Patent No. 54072 based on the same Homestead Application No. 138612 (of Hermogenes Lopez) but in Gorospe’s name.[11] Gorospe, in turn, sold the land to spouses Salvador and Rosario de Tagle. Thus, OCT No. 537 was cancelled and, in lieu thereof, Transfer

Certificate of Title (TCT) No. 46580 was issued in their names on August 17, 1944.[12] On December 9, 1947, spouses Tagle sold the land to Antonio de Zuzuarregui, Sr., who was then issued TCT No. 7375 after TCT No. 46580 was cancelled. Upon Zuzuarregui's death, the property was adjudicated to his widow, Beatriz de Zuzuarregui, who, on December 17, 1959, obtained TCT No. 72438 upon cancellation of TCT No. 7375. On December 16, 1959, the widow sold the land to Eduardo Santos. Thus, TCT No. 72438 was cancelled and in lieu thereof, TCT No. 72439 was issued in his name.[13]

Since no certificate of title was yet issued to Hermogenes Lopez, on July 16, 1959, he filed with the then Court of First Instance (CFI) of Rizal an application for registration of the land, docketed as General Land Registration Commission Records No. 2531. This was opposed by Beatriz de Zuzuarregui and Eduardo Santos, claiming that the land was already registered under TCT No. 7375 in the name of Antonio de Zuzuarregui, Sr.. Thus, the proceedings were suspended.[14]

On December 21, 1959, Hermogenes Lopez filed with the CFI of Rizal a complaint for annulment of OCT 537 and all TCTs derived therefrom against Fernando Gorospe, spouses Tagle, Beatriz de Zuzuarregui and Eduardo Santos. The case was docketed as Civil Case No. 5957. However, the CFI dismissed the complaint on the ground that Hermogenes Lopez was not the real party-in-interest since he had sold the property to Ambrosio Aguilar in December of 1959.[15] This prompted Ambrosio Aguilar to file with the same CFI a similar action against the same defendants, including the Director of Lands, docketed as Civil Case No. 24873. On April 15, 1981, the court rendered judgment in favor of Ambrosio Aguilar, declaring him the true and lawful owner of the land in question and nullifying, for being void ab initio, OCT No. 537 in the name of Fernando Gorospe and all subsequent Transfer Certificates of Title emanating therefrom.[16]

On appeal, docketed as CA-G.R. CV No. 07475, the Court of Appeals, affirmed in toto the trial court's judgment and subsequently denied the motion for reconsideration.[17]

Eduardo Santos then filed a petition for review on certiorari with this Court, docketed as G.R. No. 90380. In a Decision[18] dated September 13, 1990, this Court (First Division) denied the petition and affirmed the Court of Appeals Decision. Speaking through Justice Emilio A. Gancayco, with Chief Justice Andres R. Narvasa, Justices Isagani A. Cruz, Carolina C. Griño-Aquino and Leo D. Medialdea,[19] concurring, this Court ruled that Ambrosio Aguilar, successor-in-interest of Hermogenes Lopez, is the lawful owner of the property and that with respect to Eduardo Santos, successor-in-interest of Fernando Gorospe, the land in dispute was not brought within the operation of the Land Registration Act, thus:

1. Records do not indicate that Fernando Gorospe (Eduardo Santos' predecessor-in-interest) filed "any application for the parcel of land in question." [20] No evidence was submitted to prove that the registration in Gorospe's name was made pursuant to a satisfactory showing of his compliance with the requirements for homestead application under the Public Land Act, i.e., that Gorospe took possession and began to work on the property, introduced improvements thereon, and cultivated the same, etc..

2. Formidable pieces of evidence[21] were presented to support the claim of ownership of Hermogenes Lopez, Ambrosio Aguilar's predecessor-in-interest, over the property, to wit: (a) the original tracing cloth of Plan H-138612 (Exhibit "A-3") which was surveyed for Hermogenes Lopez; (b) the Microfilm of Plan H-138612 bearing the corresponding Accession No. 103378 (Exhibit "D-1"); (c) the Whiteprint of Plan H-138612, also bearing the same Accession No. 103378 (Exhibit "D"); (d) the Inventory Book prepared in the year 1951 by the Bureau of Lands (Exhibit "XX") containing a list of salvaged plans, among which was Plan H-138612 as surveyed for Hermogenes Lopez; (e) the Index Card of the Bureau of Lands (Exhibit "XX-2") showing that Plan H-138612 is one of the salvaged plans and that the same is in the name of Hermogenes Lopez; (f) the consolidated

Plan AP-6450 (Exhibit “X”) prepared by the Bureau of Lands which shows that Hermogenes Lopez is the owner of the parcel of land covered by Plan H-138612; (g) Plans H-147383, Psu-146727 and F 1543 showing the boundary of the land owned by Hermogenes Lopez; and (h) testimonies of persons in the Bureau of Lands which proved that Hermogenes Lopez filed a homestead application bearing No. H-138612 covering the property and that the same was duly processed by the Bureau after he had complied with all the requirements of the law.

3. Contrary to Eduardo Santos’ claim, he cannot be considered an innocent purchaser in good faith and for value. He made admissions indicating previous knowledge of the status of the property. Neither he nor his predecessor-in-interest, Fernando Gorospe, had been in possession of the property. He also admitted his prior conviction for illegal construction for fencing the property and constructing a hut thereon. Most telling was his opposition to the application for registration of Hermogenes Lopez in General Land Registration Commission Records No. 2531 filed with the then CFI of Rizal on July 16, 1959. In other words, Eduardo Santos already knew of the existence of Hermogenes’ claim on the property and yet, he persisted in acquiring the same.

4. As an applicant-possessor who complied with all the necessary requirements for the grant by the Government under the Public Land Act through actual, open, continuous and public possession, Hermogenes Lopez, predecessor-in-interest of Ambrosio Aguilar, is deemed to have already acquired by operation of law, not only a right to a grant, but the grant itself by the government for it is not necessary that a certificate of title be issued to Hermogenes in order that said grant may be sanctioned by the courts - an application therefor being sufficient under the law.

5. There were some irregularities in the issuance of OCT No. 537 in Fernando Gorospe’s name, to wit: (a) although it appears on the very face of OCT No. 537 that it was issued because of Homestead Plan H-138612, approved in the name of Hermogenes Lopez, the form used for OCT No. 537 is for a free patent and not for a homestead patent; and (b) OCT No. 537 was issued on August 24, 1944, while TCT No. 46580 derived therefrom, in the names of spouses Tagle who bought the property from Fernando Gorospe, appears to have been issued ahead, or on August 17, 1944, which means that OCT No. 537 was cancelled even before it was issued.

The above Decision in G.R. No. 90380 (rendered by the First Division) became final and executory on November 29, 1990.[22]

III

It appears that the heirs of the late Elinio Adia began pursuing their adverse claim of ownership over the same property only in the early part of the 1980s.

In 1983, the Adia heirs filed protests with the Bureau of Lands, now known as Lands Management Bureau (LMB), questioning the authenticity of the approved homestead patent of Hermogenes Lopez. The then Regional Director Rodolfo A. Paelmo dismissed the protests,[23] prompting the Adia heirs to charge him before the Tanodbayan with grave misconduct, abuse of discretion and violation of Republic Act No. 3019. On February 14, 1983, these charges were dismissed by the Tanodbayan.[24]

For their part, the Lopez heirs, on July 16, 1984, filed with the Regional Trial Court (RTC), Branch 71, Antipolo City, a complaint for cancellation of the 1959 deed of sale executed between their predecessor-in-interest, Hermogenes Lopez, and Ambrosio Aguilar over the property, docketed as Civil Case No. 463-A. The Lopez heirs alleged that the sale was made by Hermogenes Lopez who was “unsufficiently educated.”[25] After hearing, the trial court rendered its decision (a) declaring void ab initio the 1959 Lopez-Aguilar deed of sale, (b) decreeing the Lopez heirs as “the true and Absolute owners of the said parcel of land,” and (c) restoring to the Lopez heirs possession thereof.[26] The trial court found that Hermogenes sold the land to Aguilar before the issuance of the

corresponding homestead patent or title in his name. Ambrosio Aguilar interposed an appeal to the Court of Appeals, docketed as CA G.R. CV No. 06242. During the pendency of this appeal, the Appellate Court issued an order of execution pending appeal in favor of the Lopez heirs. On August 18, 1987, the Court of Appeals affirmed the RTC assailed decision.[27]

On March 28, 1985, the Adia heirs filed with the same RTC a separate action for partial quashal of the writ of execution with application for preliminary injunction, docketed as Civil Case No. 613-A, against the Lopez heirs.

When the trial court did not take any action on their application for a writ of preliminary injunction, the Adia heirs filed a petition for certiorari with the Court of Appeals, docketed as AC-G.R. SP No. 05942. In a Decision dated July 15, 1985, the Court of Appeals dismissed the petition, holding that:

“3. More importantly, the filing of the instant petition appears to be a last-ditched effort on petitioners’ (Adia) part to prevent execution of two judgments confirming the validity of the ownership of private respondents, through their predecessors-in-interest.

“The due approval of the homestead application of Hermogenes Lopez in 1939 (in reiteration of the application of his father Fermin) was confirmed in Civil Case No. 24873. Later, the alleged sale of the property by the uneducated Hermogenes to the Aguilar was set aside in Civil Case No. 463-A. In fine, it is now beyond dispute that private respondents (Heirs of Lopez) are the judicially acknowledged and recognized owners of the property.

“But this is not all. The authenticity of the title based on the homestead application of Hermogenes Lopez was the subject of protests filed by herein petitioners with the Bureau of Lands. These protests were, however, dismissed by Regional Director Rodolfo A. Paelmo, and for such action the poor Director was even charged by petitioners before the Tanodbayan for grave misconduct, abuse of discretion and violation of Republic Act No. 3019. The complaint was dismissed on February 14, 1983 with the Tanodbayan observing that the action of Director Paelmo was in consonance with the decision in Civil Case No. 25875 wherein Ambrosio Aguilar was declared the owner of the property on the basis of the approved application and decree in favor of Hermogenes Lopez, and also in view of the documents presented by Director Paelmo consisting of the approved plan in the name of Hermogenes Lopez.”[28]

On July 8, 1985, the Adia heirs filed another protest with the LMB, docketed as B.L. Claim 653, assailing Plan H-138612 issued to Hermogenes Lopez and praying that the property be titled in their names.

On December 10, 1990, then LMB Director Abelardo Palad rendered a decision in B.L. Claim 653 totally at variance with and virtually disregarding the final Decision of this Court in G.R. No. 90380. Director Palad dismissed the claim of Hermogenes Lopez and those claiming rights under him, and ordered the reconstitution of the homestead application of Elino Adia, or in lieu thereof, the filing of a new application by his heirs, thus:

“WHEREFORE, Plan H-138612 appearing in the records of this Office in the name of the heirs of Hermogenes Lopez is hereby as it is, corrected and amended, in that it shall thereafter be considered to be recorded in the name of Elino Adia, now his heirs, represented by Emiliano and Juliana Adia. The claims of Hermogenes Lopez and all those claiming under him, Francisco R. Cruz and the Overlooking Storeowners and Planters Association, Inc. are hereby dismissed and this case dropped from the records. The homestead application of Elino Adia, covering plan H-138612 shall be reconstituted or in lieu thereof, a new application may be filed by the Heirs of Elino Adia, which shall thereafter be given due course. Within the period of sixty (60) days from receipt of this order, the O.S. & P.A. shall vacate and remove whatever improvements they have in the premises.”[29]

On January 23, 1991, the Lopez heirs filed an urgent motion for reconsideration of the LMB decision, contending that the LMB has no more jurisdiction to entertain, investigate and decide questions of ownership over the

property considering this Court's Decision in G.R. No. 90380 declaring Hermogenes Lopez and his heirs the lawful owners of the land.

Meanwhile, on February 8, 1991, the Register of Deeds of Marikina City, pursuant to the Decision of this Court (First Division) in G.R. No. 90380, issued TCT No. 196256 in favor of the Lopez heirs. The following annotation appears at the back of said title:

"Entry No. 252049/T. No. 196256 – ORDER – by virtue of an order issued by the Regional Trial Court of Antipolo, Rizal, Branch 71 in Civil Case No. 463-A, the 2nd par. On the face of this certificate of title has been cancelled and superseded in view of the nullification of Original Certificate of Title No. 537 and all titles emanating therefrom up to Transfer Certificate of Title No. 117266. This certificate of title is hereby amended as Issued by virtue of the Decision of the Supreme Court in G.R. No. 90380 on September 13, 1990 (in relation to the Decision in Civil Case No. 463-A as affirmed by the Court of Appeals in CA-G.R. C.V. No. 06242 and the Supreme Court in G.R. No. 81092) which declared that Hermogenes Lopez, now his heirs, as the true and rightful owner by virtue of Homestead Patent Application No. 138612 and the corresponding homestead patent issued in his favor in June 1939, after complying with the requirements of Commonwealth Act No. 141, as amended, otherwise known as the Public Land Act." [30] (Emphasis supplied)

Going back to the Adia heirs' protest before the LMB, it appears that on January 29, 1992, then LMB Director Palad denied the Lopez heirs's urgent motion for reconsideration of the LMB's decision in favor of the Adia heirs. Forthwith, the Lopez heirs filed a petition for certiorari with the Court of Appeals (docketed as CA-G.R. SP No. 27602) assailing the LMB's decision and the order denying their motion for reconsideration.

Surprisingly, on February 26, 1993, the Court of Appeals, in CA-G.R. SP No. 27602, rendered judgment denying the petition of the Lopez heirs and affirming the LMB's decision. It held that this Court's Decision in G.R. No. 90380 did not bind the government, thus:

1. Other than the Lopez heirs' claim that they are the heirs of Hermogenes Lopez, there is no concrete evidence that the property ceased to become part of the public domain;
2. The Supreme Court Decision in G.R. No. 90380 did not bind the government, particularly the LMB, since the latter agency was not impleaded as a party in Civil Case No. 2473 (Ambrosio Aguilar vs. Fernando Gorospe, et al.) for annulment of OCT No. 537 and all titles emanating therefrom, which case eventually reached the Supreme Court as G.R. No. 90380;
3. The principle of *res judicata* is inapplicable; and
4. The Lopez heirs failed to exhaust all administrative remedies.

From this adverse judgment, the Lopez heirs filed a petition for review on certiorari with this Court, docketed as G.R. No. 110900. The Third Division of this Court, in a Resolution dated August 11, 1993, denied the petition on two (2) grounds: (a) petitioners failed to attach to the petition a duplicate original or certified true copy of the assailed Court of Appeals Decision, as required by this Court's Revised Circular 1-88 (which took effect on July 1, 1991); and (b) even if there was no violation of the Circular, "no reversible error was committed by the appellate court." In effect, this Court (Third Division) recognized the Adia heirs' claim over the land as valid and, therefore, dismissed the claim of the Lopez heirs. By this ruling, the Third Division reversed and set aside the previous Decision of the First Division in G. R. No. 90380 declaring Hermogenes Lopez and his heirs the lawful owners of the land.

Thus, on December 27, 1994, the OIC of the Provincial Environment and Natural Resources Officer of Antipolo City issued eight (8) free patents, in the names of all the Adia heirs. On January 26, 1995, the Register of Deeds of Marikina City issued the corresponding eight (8) Original Certificates of Title, also in their names.

IV

On October 6, 1995, the Lopez heirs, joined by Dr. Potenciano Malvar, who, on April 20, 1995, bought a portion of the land from the former, filed with the trial court (RTC, Branch 71, Antipolo City) a motion for the issuance of an alias writ of execution of the decision in Civil Case No. 463-A pursuant to the Decision of this Court in G. R. No. 90380 in favor of the Lopez heirs. It must be remembered that in Civil Case No. 463-A, the said trial court annulled the 1959 sale between Hermogenes Lopez and Ambrosio Aguilar and restored to the Lopez heirs possession of the property.

On December 11, 1995, the RTC granted the motion and issued a writ of execution which would call for the demolition of the communication facilities and other structures belonging to the Intelligence and Security Group (ISG) of the Philippine Army which also purchased a portion of the property from the Adia heirs. This prompted Col. Pedro R. Cabuay, Jr., Group Commander of the ISG, to file with this Court on February 27, 1996 the present “Petition Seeking for Clarification as to the Validity and Forceful Effect of Two (2) Final and Exeutory but Conflicting Decisions (in G.R. No. 90380 and G.R. 110900) of the Honorable Supreme Court.” The petition was assigned to the Third Division of this Court.

In a Resolution dated January 20, 1997, the Third Division dismissed Col. Cabuay, Jr.’s “Petition for Clarification” as it does not raise any justiciable issue. Forthwith, Col. Pedro R. Cabuay, Jr. and the Adia heirs (intervenors) filed separate motions for reconsideration.

The case remained dormant for over two (2) years. On June 9, 1999, acting upon the said motions, the Third Division issued a Resolution treating the “Petition for Clarification” as a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended. The issue raised, therefore, is whether or not the Court of Appeals acted with grave abuse of discretion in affirming the LMB decision in B.L. Claim 653 and disregarding the Decision of this Court (First Division) in G.R. No. 90380.

Six (6) months after, or on December 17, 1999, the Third Division rendered the instant Decision holding, in effect, that the Court of Appeals did not act with grave abuse of discretion; and clarifying that the Resolution of this Court in G.R. No. 110900 issued by the Third Division “prevails over” the Decision in G.R. No. 90380^[31] rendered by the First Division and declaring that the Adia heirs’ titles are valid, while those of the Lopez heirs are void. The dispositive portion of the instant Decision reads:

“WHEREFORE,

1. The validity of Original Certificates of Title Nos. P-819, P-820, P-821, P-822, P-823, P-824, P-825 and P-826, registered in the name of Heirs of Elino Adia, represented by Juliana Adia, is UPHeld;
2. All certificates of title issued to the Heirs of Hermogenes Lopez and successors-in-interest, and all titles originating from any of the certificates of title so issued to the Heirs of Hermogenes Lopez, including Transfer Certificates of Title Nos. 207990, 207991, 207992, 207993, 207994, 207995, 207996, 207997, 207998, 207999, 208000, 208001, 208002, 208358, over subject tract of land, as well as TCT No. 216876 issued to Primex Corporation, and any other title derived therefrom are declared null and void;
3. The Heirs of Hermogenes Lopez and all persons claiming any right under them, including but not limited to Primex Corporation, and Dr. Potenciano Malvar, as well as all members of the Overlooking Storeowners and Planter’s Association, Inc., their assignees and successors-in-interest, are ordered to remove all their improvements on the areas covered by the Original Certificates of Title Nos. P-819 to P-826 aforementioned and to surrender possession thereof to the Heirs of Elino Adia, represented by Juliana Adia; and
4. The writ of demolition, issued by Branch 71 of the Regional Trial Court, Antipolo City, in Civil Case No.

463-A, is SET ASIDE. No pronouncement as to costs.

“SO ORDERED.”[32]

The above Decision was penned by Justice Fidel P. Purisima.

Thereupon, Dr. Potenciano Malvar and Marcelino Lopez seasonably filed a “Motion for Reconsideration with Alternative Prayer for Referral to the Court En Banc.”

The Adia heirs filed an opposition to the motion for reconsideration.

On August 15, 2000, the Court En Banc resolved to accept the present case which was referred to it en consulta by the Third Division.

On May 24, 2001, the Office of the Solicitor General (OSG) filed its comment on the motion for reconsideration. The OSG submits that “the right of the Lopezes over the land in question is superior to that of the Adias.”[33]

V

Considering the conflicting rulings rendered by the First and Third Divisions, the Court En Banc, therefore, has to break the impasse and must now resolve, once and for all, this basic issue: As between the Lopez heirs and the Adia heirs, who lawfully own the subject property?

THE EN BANC RULING

The weight of evidence and jurisprudence shows that the Lopez heirs are the lawful owners of the land in controversy.

To recall, G.R. No. 90380 rendered by the First Division, through Justice Emilio A. Gancayco, recognizes the right of ownership of Hermogenes Lopez (predecessor-in-interest of the Lopez heirs) over the property by reason of his continuous possession since 1920 and his full compliance with the requirements by the Public Land Act for the issuance of a homestead patent. Upon the other hand, G.R. No. 110900 of the Third Division affirmed, in a Resolution, the Court of Appeals Decision in CA-G.R. SP No. 27602 sustaining the LMB decision in B.L. CLAIM 653 dismissing Hermogenes Lopez’ claim over the property and ordering the reconstitution of the homestead application of the Adia heirs’ predecessor-in-interest, Elino Adia, or in lieu thereof, the filing of a new application by the heirs of Elino Adia.

In justifying the adjudication of the property to the Adia heirs, the Court of Appeals held:

“Now, while it is true that Hermogenes Lopez had filed an application for a Homestead Patent over the subject land, and his application was determined as superior to the claims of other persons by the courts, such determination in the cases that finally reached the Supreme Court did not bind the government, particularly the Lands Management Bureau. The cases cited by petitioners as having declared the subject land as private property because the homestead patent thereon was confirmed by the Supreme Court did not bind the LMB for two reasons: (1) it was not, and was not impleaded as, a party to said cases, and (2) the cases were in personam in nature, in which while the subject thereof was a right over a piece of land, the controversy was in essence between different persons asserting conflicting claims.

“The subject property being part of the public domain is within the exclusive jurisdiction of the Lands Management Bureau. It is not only mandated by the Public Land Act but the Supreme Court itself has decreed it to be so x x x.”[34] (Emphasis supplied)

Verily, the reason why the Court of Appeals set aside the claim of the Lopez heirs is because they did not implead

the Director of Lands in their case challenging the validity of the Adia heirs' titles.

It appears from the very caption of the complaint in Civil Case No. 24873[35] – the case that reached this Court as G.R. No. 90380 – that the Director of Lands was impleaded as co-defendant by plaintiff Ambrosio Aguilar (successor-in-interest of Hermogenes Lopez) who sought the nullification of OCT No. 537 in the name of Fernando Gorospe (the Adia heirs' predecessor-in-interest) and all TCTs emanating therefrom. The Director of Lands even filed his ANSWER[36] through his Counsel and Special Attorney, Irineo C. Alday. In fact, the decision of the trial court in the same Civil Case No. 24873 also mentioned that the Director of Lands filed his ANSWER.[37]

The participation of the Director of Lands in Civil Case No. 24873 having been incontrovertibly established, the Government and the Adia heirs are bound by the decision therein. We reiterate that this decision was affirmed by the Court of Appeals in CA-G.R. CV No. 07475 and by this Court in G.R. No. 90380, holding that Hermogenes Lopez complied with the requirements of the Public Land Act. Having been issued the corresponding Homestead Patent, he is recognized as the owner of the land, thus:

“In the early part of 1936, Hermogenes Lopez went to the Bureau of Lands and inquired about his father's homestead application. He was informed that said application was still unacted upon and was advised to apply in his own name. He complied and his application was docketed as homestead application No. 138612. Subsequently, he was able to prove compliance with the requirements of the Public Land Act and, as a matter of course, the land was surveyed by a government surveyor and on 7 February 1939 the resulting plan H-138612 was approved by the Director of Lands. The latter thereafter ordered the issuance of the corresponding patent in the name of Hermogenes Lopez (page 33, Rollo). He has been in actual and continuous possession thereof and was recognized as its owner until he transferred his rights to Ambrosio Aguilar, private respondent herein, on 31 July 1959.”[38] (Emphasis supplied)

With the ruling of this Court in G.R. No. 90380 that Hermogenes Lopez is the lawful owner, LMB Director Abelardo Palad should have refrained from adjudicating the property to the Adia heirs since it ceased to be of the public domain and beyond his authority to dispose of.

To be more precise, the property became the private property of Hermogenes Lopez as early as 1950, or after the lapse of 30 years of continued possession by Hermogenes and his father Fermin Lopez that began in 1920. This is so because jurisprudence consistently declares that the mere lapse of the statutory period of 30 years of open, continuous and exclusive possession of disposable public land automatically transforms the same into private property and vests title on the possessor. Thus:

“x x x [U]nder the provisions of Republic Act No. 1942, which the respondent court held to be inapplicable to the petitioner's case, with the latter's proven occupation and cultivation for more than 30 years since 1914, by himself and by his predecessors-in-interest, title over the land has vested on petitioner so as to segregate the land from the mass of public land. Thereafter, it is no longer disposable under the Public Land Act as by free patent. x x x.

“As interpreted in several cases (Susi vs. Razon, et al., 48 Phil. 424 [1925] ; Mesina vs. Pineda Vda. De Sonza, G.R. No. L-14722, [May 25, 1960]), when the conditions as specified in the foregoing provision are complied with, the possessor is deemed to have acquired, by operation of law, a right to a grant, a government grant, without the necessity of a certificate of title being issued. The land, therefore, ceased to be of the public domain and beyond the authority of the Director of Lands to dispose of. The application for confirmation is a mere formality, the lack of which does not affect the legal sufficiency of the title as would be evidenced by the patent and the Torrens title to be issued upon the strength of said patent.”[39]

“Nothing can more clearly demonstrate the logical inevitability of considering possession of public land which is of the character and duration prescribed by statute as the equivalent of an express grant from the State than the dictum of the statute itself (Section 48 [b] of the Public Land Act) that the possessor(s) ‘x x x shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title x x x.’ No proof being admissible to overcome a conclusive presumption, confirmation proceedings would, in truth be little more than a formality, at the most limited to ascertaining whether the possession claimed is of the required character and length of time; and registration thereunder would not confer title, but simply recognize a title already vested. The proceedings would not originally convert the land from public to private land, but only to confirm such a conversion already affected by operation of law from the moment the required period of possession became complete. x x x”[40]

“...[A]lienable public land by a possessor, personally or through his predecessor-in-interest, openly, continuously and exclusively for the prescribed period (30 years under the Public Land Act, as amended) is converted to private property by the mere lapse or completion of said period, ipso jure.”[41]

“In the Acme decision, this Court upheld the doctrine that open, exclusive and undisputed possession of alienable public land for the period prescribed by law creates the legal fiction whereby the land, upon completion of the requisite period ipso jure and without need of judicial or other sanction, ceases to be public land and becomes private property.”[42]

“...[O]pen, continuous and exclusive possession for at least 30 years of alienable public land ipso jure converts the same to private property (Director of Lands vs. IAC, 214 SCRA 604 [1992]). This means that occupation and cultivation for more than 30 years by an applicant and his predecessors-in-interest, vest title on such applicant so as to segregate the land from the mass of public land (NPC vs. Court of Appeals, 218 SCRA 41 [1993]).”[43]

To be sure, the LMB, beginning 1950, no longer had the authority to dispose of the area in favor of the Adia heirs. The same had been segregated from the mass of public land in that year and converted to Hermogenes Lopez’ private property over which the government had lost jurisdiction. We advert to a few more pertinent pronouncements by this Court, thus:

“Under the provisions of Act No. 2874 pursuant to which the title of private respondents’ predecessor-in-interest was issued, the President of the Philippines or his alter ego, the Director of Lands, has no authority to grant a free patent for land that has ceased to be a public land and has passed to private ownership, and a title so issued is null and void. The nullity arises, not from fraud or deceit, but from the fact that the land is not under the jurisdiction of the Bureau of Lands. The jurisdiction of the Director of Lands is limited only to public lands and does not cover lands privately owned. The purpose of the Legislature in adopting the former Public Land Act, Act No. 2874, was and is to limit its application to lands of the public domain, and lands held in private ownership are not included therein and are not affected in any manner whatsoever thereby. Land held in freehold or free title, or of private ownership, constitutes no part of the public domain and cannot possibly come within the purview of said Act No.2874, inasmuch as the ‘subject’ of such freehold or private land is not embraced in any manner in the title of the Act and the same are excluded from the provisions or text thereof.”[44]

“Following the Susi doctrine (48 Phil. 424), therefore, private respondents are deemed to have acquired, by operation of law, not only a right to grant, but also a grant of the Government over the controversial land. By such grant, the property in litigation is segregated from the public domain; and becomes private property, over which necessarily, the Director of Lands no longer has jurisdiction.

x x x x x x x x.

“Private ownership of land (as when there is prima facie proof of ownership like a duly registered possessory information) is not affected by the issuance of a free patent over the same land, because the Public Land Act

applies only to lands of the public domain. The Director of Lands has no authority to grant to another a free patent for land that has ceased to be a public land and has passed to private ownership.”[45]

Another reason why the Lopez heirs’ claim of ownership must be upheld is the applicability of the “law of the case” doctrine. We explained this doctrine as follows:

“... It need not be stated that the Supreme Court, being the court of last resort, is the final arbiter of all legal questions properly brought before it and that its decision in any given case constitutes the law of that particular case. Once its judgment becomes final it is binding on all inferior courts, and hence beyond their power and authority to alter or modify.[46]

x x x x x x x x

“Reasons of public policy, judicial orderliness, economy and judicial time and the interests of litigants, as well as the peace and order of society, all require that stability be accorded the solemn and final judgments of the courts or tribunals of competent jurisdiction. There can be no question that such reasons apply with greater force on final judgments of the highest Court of the land.”[47]

We stress that the Decision of this Court (First Division) in G.R. No. 90380 is the law of the case binding upon the LMB and the Court of Appeals and is beyond their authority to reverse.

We, therefore, rule that the Court of Appeals gravely abused its discretion in affirming the LMB decision in B.L. Claim 653 and ignoring the Decision of this Court in G.R. No. 90380. The Third Division of this Court was misled, so to speak, in resolving in G.R. 110900 that “no reversible error was committed by the Appellate Court.”

Section 4, sub-paragraph (3), Article VIII of the 1987 Constitution, provides:

“x x x no doctrine or principle of law laid down by the (Supreme) Court en banc or its Divisions may be modified or reversed except by the Court sitting en banc.”

A Decision rendered by a Division of this Court in violation of the above constitutional provision would be in excess of jurisdiction and, therefore, invalid.[48]

WHEREFORE, the motion for reconsideration is hereby GRANTED and the instant Decision is RECONSIDERED. The Resolution dated August 11, 1993 of the Third Division in G.R. No. 110900 upholding the validity of the land titles in the names of the Adia heirs is SET ASIDE. The Decision dated September 13, 1990 of the First Division in G.R. No. 90380 declaring the LOPEZ HEIRS the lawful owners of the land in question is REINSTATED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Mendoza, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, and Callejo, Sr., JJ., concur.

Vitug, J., please see separate opinion.

Panganiban, J., no part. Former partner of a party’s counsel in the motion for reconsideration.

[1] See Section 1, Rule 39, 1997 Rules of Civil Procedure, as amended.

[2] Videogram Regulatory Board vs. Court of Appeals, et al., per Panganiban, J., 265 SCRA 50-51, 56 (1996), cited in Fortich, et al. vs. Corona, et al., 298 SCRA 678-679, 693 (1998).

[3] Carreon vs. Buissan, 70 SCRA 57, 59 (1976), citing Bank of U.S. vs. Halstead, 6 Law Ed. 264-267, 268.

[4] See *Fortich, et al. vs. Corona, et al.*, 289 SCRA 624, 629, 651 (1998); *Nasser vs. Court of Appeals*, 245 SCRA 20, 29 (1995); *Times Transit Credit Cooperative, Inc. vs. National Labor Relations Commission*, 304 SCRA 11, 17 (1999); *Sy Chin vs. Court of Appeals*, 345 SCRA 673 (2000).

[5] Third Division.

[6] Minute Resolution dated August 11, 1993.

[7] *Santos vs. Court of Appeals*, 189 SCRA 550 (1990).

[8] P. 3 of Annex “3,” Motion for Reconsideration, Rollo, Vol. II, p. 2149. See also Decision in G.R. No. 90380, *supra*, p. 552.

[9] Decision in G.R. No. 90380, *ibid.*, p. 552. The then Court of First Instance (CFI) of Rizal, in its Decision in Civil Case No. 24873, observed that the Director of Lands, after ordering the issuance of the corresponding patent in the name of Hermogenes Lopez, “transmitted (said order) to the Registry of Deeds of Rizal for transcription and issuance of certificate of title in favor of the applicant Hermogenes Lopez. For unknown reasons, however, no certificate of title was issued to Hermogenes Lopez. x x x.” Rollo, Vol. II, p. 1249.

[10] See also Decision dated February 5, 1985 of the Regional Trial Court (RTC) in Civil Case No. 463-A, Rollo, Vol. II, pp. 1248-1249.

[11] The Decision in G.R. No. 90380 observed that “(t)his is one of the irregularities noted by the trial court, although it appears on the very face of the Certificate of Title itself that OCT No. 537 was issued because of Homestead Plan H-138612, which was approved in the name of Lopez, the form used for OCT No. 537 is for a free patent and not for a homestead patent (Page 477, Records, Civil Case No. 24873).” See 189 SCRA 552-553 (1990).

[12] The Decision in G.R. No. 90380 further observed: “This means that OCT No. 537 was cancelled even before it was issued. The Court of Appeals also noted this anomaly (page 38, Rollo), just one of the many attending the issuance of OCT No. 537.” See 189 SCRA 553 (1990).

[13] 189 SCRA 553 (1990).

[14] *Ibid.*

[15] *Ibid.*, p. 554.

[16] Pp. 480-481, Records, Civil Case No. 24873, *ibid.*

[17] 189 SCRA 554 (1990).

[18] *Ibid.*, p. 550.

[19] These Magistrates had retired from this Court, except Justice Leo D. Medialdea. He died during his incumbency.

[20] *Ibid.*, p. 556.

[21] *Ibid.*, pp. 556-557.

[22] Entry of Judgment of even date.

[23] Rollo, Vol. I, p. 82.

[24] Ibid., pp. 82-83.

[25] Rollo, Vol. II, p. 1241.

[26] Ibid., p. 1252.

[27] Ibid., p. 1273.

[28] Rollo, Vol. I, pp. 82-83.

[29] Cited in the Decision of G.R. No. 123780, 321 SCRA 70 (1999).

[30] Annex “EE” of Intervenors’ Memorandum, Rollo, Vol. II, pp. 1413-1414.

[31] 321 SCRA 85 (1999).

[32] Ibid., p. 87.

[33] P. 57 of Comment dated May 4, 2001, Rollo, Vol. III.

[34] Decision dated February 26, 1993, CA-G.R. SP No. 27602, p. 60.

[35] Annex “1” of Respondents’ Motion For Reconsideration, Rollo, Vol. II, p. 2136.

[36] Annex “2,” *ibid.*, pp. 2146-2147.

[37] Annex “3,” *ibid.*, pp. 2148-2148-A.

[38] Santos vs. Court of Appeals, 189 SCRA 552 (1990).

[39] Herico vs. Dar, 95 SCRA 437, 443-444 (January 28, 1980), reiterated in Director of Lands vs. Iglesia Ni Kristo, 200 SCRA 606, 609-610 (August 16, 1991).

[40] Director of Lands vs. Intermediate Appellate Court, 146 SCRA 509 (1986).

[41] *Ibid.*, reiterated in Pineda vs. Court of Appeals, 183 SCRA 602 (1990).

[42] Director of Lands vs. Manila Electric Company, 153 SCRA 686 (1987).

[43] Republic vs. Court of Appeals and Spouses Mario B. Lapiña and Flor De Vega, 235 SCRA 567 (1994).

[44] Agne vs. Director of Lands, 181 SCRA 795-796 (1993), citing Lizada vs. Omanan, 59 Phil. 547 (1934); Lacaste vs. Director of Lands, 63 Phil. 654-655 (1936); Garcia vs. Dinero, 80 Phil. 474 (1948); Ramirez vs. Court of Appeals, 30 SCRA 297 (1969); De los Angeles vs. Santos, 12 SCRA 622 (1964).

[45] Pineda vs. Court of Appeals, 183 SCRA 602 (1990), citing Garcia vs. Director of Lands, 80 Phil. 424 (1948).

[46] Lee Bun Ting vs. Aligaen, 76 SCRA 416, 427 (1977), citing Kabigting vs. Acting Director of Prisons, 6 SCRA 281, 286 (1962).

[47] Lee Bun Ting vs. Aligaen, *ibid.*, p. 428.

[48] Record of the Constitutional Commission of 1986, Vol. One (July 14, 1986), pp. 521-522.

SEPARATE OPINION

VITUG, J.:

In not upholding the prior decision in G.R. No. 90380 over the subsequent ruling in G.R. No. 110900, the questioned ponencia is premised thusly—

1. The subject property is disposable and alienable public land falling under the jurisdiction of the Director of Lands (now Land Management Bureau or, hereinafter, the “LMB”). Decisions of the LMB, once approved by the Secretary of the Department of Environment and Natural Resources (“DENR”), are conclusive on factual questions. Accordingly, G.R. No. 110900, where the LMB would appear to have concluded that the Adia Spouses and their heirs had preferential right to the property, having possessed the same since 1929, should be sustained;

2. G. R. No. 90380 adjudicating the parcel of land to the Heirs of Hermogenes Lopez, although promulgated prior to G.R. No. 110900, is not binding on the LMB since the latter has not been impleaded a party thereto;

3. G.R. No. 90380 and G.R. No. 110900 are in personam in nature, even when a parcel of land is the subject of dispute, concerning different parties with conflicting claims. On the one hand, G.R. No. 90380 only involves the issue of possession; upon the other hand, G.R. No. 110900 has squarely raised the issue of the validity of the homestead patent of the Lopezes which is assailed for being tainted with fraud.

Thus, per the ponencia under consideration, the ruling in G.R. No. 90380 has not been considered to be the law of the case so as to bar G. R. No. 110900.

Relative to the first ground, respondents Dr. Potenciano Malvar, et al., eloquently argued that their predecessor-in-interest, Hermogenes Lopez, had first asserted his claim on the subject property on 16 July 1959 when he filed an application for registration (docketed General Land Registration Commission Records No. 2531). Lopez subsequently initiated court proceedings for the annulment of certain certificates of title covering the property. The matter culminated in a favorable decision on 26 July 1973; in the meantime, Hermogenes Lopez had sold the property to Ambrosio Aguilar. Aguilar forthwith filed another case, Civil Case No. 24873, against the same defendants - Heirs of Fernando Gorospe, Salvador P. Tagle, Rosario G. de Tagle, Beatriz de Zuzmanegui, Eduardo V. Santos and the Director of Lands, in which the proceedings in the prior case were adopted. The case ultimately reached this Court, docketed G.R. No. 90380, and was decided in favor of Aguilar, successor-in-interest of Hermogenes Lopez, on 13 September 1990.

The Heirs of Elinio Adia, in their case, first made known their claim to the property on 10 September 1985, when they lodged their protest with the LMB. The LMB decision in their favor was sustained by this Court in G.R. No. 110900.

The trial court in Civil Case No. 24873, the Court of Appeals in CA-G.R. CV No. 07475 and this Court in G. R. No. 90380 uniformly held that Fermin Lopez, father of Hermogenes Lopez, was in possession of the land as early as 1920, and that possession had been held by his successors-in-interest up to the present time. In *Director of Lands vs. Intermediate Appellate Court*,^[1] possession of alienable public land, personally or through a predecessor-in-interest, openly, continuously and exclusively for 30 years would convert, ipso jure, the land to private property by the mere lapse or completion of the period. Accordingly, as early as 1950 or 30 years since 1920, when Fermin Lopez first had possession over the land, the property was transformed into one of private ownership, and, thenceforth, beyond the jurisdiction of the LMB. So, also, the LMB had since ceased to have any authority to adjudicate the ownership of the land to the Adia Heirs, let alone in 1985 or 35 years later.

Anent the second and third grounds, it would not be all that accurate to insist that the decision of this Court in G.

R. No. 90380 did not bind the LMB upon the thesis of its not being a party thereto. Annex 1 of the instant motion for reconsideration would disclose that the LMB (then Director of Lands) was the last of nine (9) defendants in Civil Case No. 24873 (which ultimately became G.R. No. 90380) filed by Ambrosio Aguilar before the then Court of First Instance of Pasig, Rizal, in 1976. Annex 2 of the same motion would also indicate that the Director of Lands, in fact, filed an Answer to the complaint. Being a party to G.R. No. 90380, the ruling thereon, holding Aguilar, the successor-in-interest of Hermogenes Lopez, to be the rightful owner of the land in question was binding on the LMB.

Neither could successors-in-interest of the Adia spouses aptly assert that the ruling in G.R. No. 90380 was not binding on them. In *Director of Lands vs. Sisican*,^[2] this Court ruled:

“x x x Appellants, however, contend that they were not parties in Civil Case No. 655 and, hence, not bound by the decision therein.

“It must be remembered that as applicants of supposedly public land, whatever right appellants may have over the lots applied for, is only derived from the government. Since, the government, represented by the Director of Lands, was a party in Civil Case No. 655 and is bound by the decision therein, appellants cannot properly claim to be excluded from the enforcement and effect thereof. And, if at the time the free patents were issued in 1953, the land covered therein has already been decreed as private property of another and, therefore, not a part of the disposable land of the public domain, then applicants-patentees acquired no right or title to the land, and certainly the Director of Lands has reason to ask for the cancellation of the patents and titles thus erroneously issued.”

It might not be amiss to add that there exists another case, for quieting of title, filed by the Heirs of Elinio Adia and their transferees versus the Heirs of Hermogenes Lopez before the RTC Antipolo, Rizal. The case later found its way to this Court in G.R. No. 127350. In its extended resolution, dated 03 February 1997, this Court, consistent with its previous ruling in G.R. No. 90380, granted the motion of the Lopezes for the dismissal of the case on the ground of *res judicata*.

Regrettably, the ponencia has been unable to heretofore fully appreciate the truly complex facts and circumstances attendant not only to the case at bar but also to the other cases inextricably related to it. I, therefore, vote to grant the motion for reconsideration.

[1] 146 SCRA 509. This case expressly set aside the doctrine in *Meralco vs. Castro- Bartolome* (114 SCRA 799).

[2] 13 SCRA 516.

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