

**UNIVERSITY OF THE PHILIPPINES, PETITIONER, VS. GERTRUDES V. SUSI, LEONARDO P. DIMACULANGAN, FEMAR REALTY AND DEVELOPMENT CORPORATION, THE REGISTER OF DEEDS OF QUEZON CITY, THE C...**

*G.R. No. 130912. February 14, 2003*

Ponente: AZCUNA, J.

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**AZCUNA, J.:**

This is a petition for review of a Resolution of the Regional Trial Court, Branch 225, of Quezon City, dated May 13, 1997, in Civil Cases Nos. Q-94-21245 and Q-94-21637, which dismissed the second case on the ground of the pendency of the first case.

Petitioner University of the Philippines, a State institution of higher learning, acquired from the Philippine Government its Diliman Campus through a Deed of Sale dated March 1, 1949. Pursuant thereto, Transfer Certificate of Title No. 9462 was issued and registered in the Registry of Deeds for Quezon City. Subsequently, TCT No. 9462 was subdivided into five (5) titles: TCT Nos. RT-27912 (192686); RT-58201 (192687); RT-57441 (192688); RT-107350 (192689); and RT-57197 (192690). Petitioner's Diliman Campus is approximately 4,930,981.30 square meters in area.

Respondent Gertrudes V. Susi claims ownership of a part of petitioner's aforesaid campus, particularly the portion located along Commonwealth Avenue between the Iglesia ni Cristo and the Philippine Social Science Building. This is allegedly covered by said respondent's Transfer Certificates of Title Nos. 68134, 68135 and 68136. The last two titles were sold by respondent Susi to respondents Leonardo P. Dimaculangan and Femar Realty and Development Corporation.

After three unsuccessful attempts by them to enter and fence off said disputed portion, respondents filed on August 22, 1994, an action for damages and injunction with a prayer for temporary restraining order and/or preliminary injunction, against petitioner and some of its officials, for alleged violation of their rights of ownership over said land titles. The case was docketed as Civil Case No. Q-94-21425 and raffled to Branch 104 of the Regional Trial Court of Quezon City.

On September 13, 1994, petitioner filed an action for cancellation of respondents' titles with a prayer for temporary restraining order and/or preliminary injunction, before the Regional Trial Court of Quezon City, docketed as Civil Case No. Q-94-21637.

The damages case and the cancellation of titles case were later consolidated and assigned to Branch 225 of the Regional Trial Court of Quezon City.

On February 19, 1997, respondents in the damages case filed a motion to dismiss the cancellation of titles case on the ground of forum shopping. Petitioner opposed the motion on April 7, 1997, stating that the filing of a direct action to cancel titles is required by law. As aforesaid, on May 13, 1997, the trial court issued the Resolution,

now under review, the dispositive portion of which states:

“WHEREFORE, premises considered, Civil Case No. Q-94-21637 filed by the University of the Philippines is hereby ordered DISMISSED. Let the pre-trial of this case be set on July 14, 1997 at 2:00 in the afternoon, Room 231, Hall of Justice Building, quezon City. Notify all parties concerned.

SO ORDERED.”[1]

The sole issue before us is whether the cancellation of titles case was properly dismissed on the ground of forum shopping in view of the filing and pendency of the damages case.

We agree with petitioner that the dismissal is erroneous. The damages case cannot possibly deal with the issue of the cancellation of the titles since such a remedy can only be pursued in a separate and direct action for said purpose. It is settled doctrine that certificates of titles under the Torrens system of registration cannot be collaterally attacked.[2] Hence, there was need for petitioner to file the second case if it were to seek cancellation of respondents’ titles, and the issue therein is not, and cannot be, raised in the first case.

As to petitioner’s counterclaim in the damages case, the same referred to a compulsory claim for damages and attorney’s fees, and did not seek cancellation of respondents’ titles. Similarly, respondents in their damages case sought to recover damages from petitioner and its officials, and not the cancellation of petitioner’s titles.

Clearly, therefore, there is no forum shopping.

WHEREFORE, the petition is GRANTED and the Resolution of May 13, 1997 is REVERSED and SET ASIDE and respondents are required to proceed with Civil Case No. Q-94-21637 which is hereby REINSTATED. No Costs.

**SO ORDERED.**

Davide, Jr., C.J., (Chairman), Vitug, and Ynares-Santiago, JJ., concur.

Carpio, J., no part. I was member of U.P. Board of Regents when this case was filed.

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[1] Rollo, p. 28-A.

[2] Domingo v. Santos, 55 Phil. 361 (1930); Director of Lands v. Gan Tan, 89 Phil. 184 (1951); Cimafranca v. IAC, 147 SCRA 611 (1987).

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