

**FORTUNATA MANUGAS VILLARINO ASSISTED BY HER HUSBAND  
ROGELIO VILLARINO, PETITIONERS, VS. MARY Y. AVILA, MILAGROS  
AVILA, JAMES AVILA, EDUARD AVILA, JORGE AVILA AND THE  
PROVINCIAL ...**

*G.R. NO. 131191. September 26, 2006*

Ponente: TINGA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-131191/>

---

**TINGA, J.:**

The instant petition for review on certiorari assails the Decision[1] of the Court of Appeals in CA-G.R. CV No. 43897 and its Resolution denying petitioner's motion for reconsideration of said Decision. The Decision affirmed the order of dismissal of the Regional Trial Court (RTC), Branch 12, Cebu City in Civil Case No. CEB-13599.

The undisputed facts follow:

On February 12, 1993, petitioners Spouses Fortunata M. Villarino and Rogelio Villarino ("Spouses Villarino") filed an action for Annulment of Title, Reconveyance, Damages and Injunction against respondents Mary Y. Avila, Milagros Avila, Eduardo Avila, James Avila, Jorge Avila and the Provincial Sheriff.[2]

The property sought to be reconveyed was a portion of Lot No. 967 situated in San Fernando, Cebu and covered by Original Certificate of Title (OCT) No. 1035. Said title was issued to the Avilas, respondents herein, as the culmination of the land registration proceedings docketed as LRC Case No. N-1175 of the Cebu City RTC.[3] In said case, petitioners herein opposed the application of the Avilas for the registration of Lot No. 967 on the ground that a portion of Lot No. 967 encroached upon Lot No. 968 to the extent of 2,146 square meters.[4] Lot No. 968 is the adjacent property belonging to petitioners per OCT No. 14601 issued in their names. The decision in LRC Case No. N-1175, promulgated on June 16, 1988, had become final and executory. The corresponding decree of registration was issued on January 23, 1989, paving the way for the issuance of OCT No. 1035 in the name of the Avilas.

In their complaint, petitioners averred that the registration of Lot No. 967 was based on an erroneous survey and technical description. They sought the reconveyance of the disputed area and the cancellation of OCT No. 1035 to reflect the consequent reduction in area. The Avilas moved for the dismissal of Civil Case No. CEB-13599 on the ground of *res judicata*. After conducting a preliminary hearing, the RTC issued the order dismissing the case on May 31, 1993.[5]

Petitioners elevated the matter to the Court of Appeals, contending that the RTC erred in dismissing the case based on *res judicata* and in misappreciating their evidence. On April 16, 1997, the appellate court promulgated the assailed Decision. In affirming the RTC's order of dismissal, the Court of Appeals upheld the incontrovertibility of the decree of registration, one year after its issuance. It also debunked the erroneous survey and technical description foisted by petitioners as not the fraud contemplated under Section 53 of Presidential Decree (P.D.) No. 1529, which allows the reconveyance of fraudulently registered land.[6]

Undaunted by the appellate court's subsequent denial of their motion for reconsideration, petitioners filed the instant petition. Imputing error to the Court of Appeals in applying the doctrine of res judicata, they argued that the judgment in LRC Case No. N-1175 is not yet final because the aggrieved party can still avail of the remedy of reconveyance and recovery of damages, and that in LRC Case No. N-1175, the trial court had no jurisdiction over the disputed area since it had already been covered by OCT No. 14601 issued in the name of petitioners.[7]

The petition has no merit. The RTC and the Court of Appeals correctly ruled that petitioners' complaint is barred by res judicata.

For res judicata to serve as an absolute bar to a subsequent action, the following requisites must concur: (1) the former judgment or order must be final; (2) the judgment or order must be on the merits; (3) it must have been rendered by a court having jurisdiction over the subject matter and parties; and (4) there must be between the first and second actions, identity of parties, of subject matter, and of causes of action. When there is no identity of causes of action, but only an identity of issues, there exists res judicata in the concept of conclusiveness of judgment. Although it does not have the same effect as res judicata in the form of bar by former judgment which prohibits the prosecution of a second action upon the same claim, demand, or cause of action, the rule on conclusiveness of judgment bars the relitigation of particular facts or issues in another litigation between the same parties on a different claim or cause of action.[8]

All the elements of res judicata in the mode of bar by prior judgment are present in the instant case. The final decision in LRC Case No. N-1175, which has long been executed, is a bar to the civil case filed by petitioners. There is no question that said decision was an adjudication on the merits. Petitioners and respondents were the same party litigants in LRC Case No. N-1175 and in Civil Case No. CEB-13599.

There is also identity of causes of action and subject matter. The subject matter in Civil Case No. CEB-13599 was a portion of Lot No. 967, the same property that was the subject matter in LRC Case No. N-1175. Petitioners' cause of action in Civil Case No. CEB-13599 would call for the determination and adjudication of ownership over the disputed portion, an issue already passed by the land registration court in LRC Case No. N-1175 when it confirmed the Avilas' title over Lot No. 967.

Petitioners point out, however, that the land registration court in LRC Case No. N-1175 had no jurisdiction over the disputed portion as this had already been decreed in an earlier land registration case and a second decree for the same land is null and void. The argument begs the question and is, therefore, untenable.

More specifically, petitioners claim that the disputed portion is covered by their title, but that it was erroneously included in the survey and technical description of Lot No. 967 subject of the Avilas' land registration application. Precisely, that was the content and thrust of petitioners' opposition to the Avilas' land registration application. But the land registration court debunked the opposition and upheld the application. Petitioners could have appealed the decision of the land registration court. They did not. Their failure to do so rendered said decision final and executory. After the finality of the decision, the decree of registration and the certificate of title were issued as a matter of course. The final decision has appropriately engendered the application of the principle of res judicata.

Petitioners' reliance on *Metropolitan Waterworks and Sewerage Systems (MWSS) v. Court of Appeals*[9] and *Director of Lands v. Court of Appeals*[10] is misplaced. MWSS is a case of overlapping titles where the Court held that where two certificates of title purport to include the same land, the earlier date prevails. The principle in MWSS does not apply to the factual milieu of the instant case as the land registration court in LRC Case No. N-1175 squarely ruled that Lot No. 967 covered by the Avilas' OCT No. 1035 does not encroach upon petitioners' Lot No. 968. In MWSS, the party holding the earlier certificate of title was not a party to the subsequent registration proceeding and, thus, was not able to participate therein. Hence, the principle of res judicata could not

be applied to the filing of a subsequent action for quieting of title.

The pronouncement in *Director of Lands* to the effect that the doctrine of *res judicata* should be disregarded applies only in cases where said doctrine has not been interposed in a motion to dismiss or in an answer. In the case at bar, the defense of *res judicata* was raised by the Avilas in a motion to dismiss and was precisely the trial court's rationale for its dismissal of petitioners' complaint.

WHEREFORE, the instant petition for review on certiorari is DENIED. The Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 43897 are AFFIRMED. Costs against petitioners.

**SO ORDERED.**

Quisumbing, (Chairman), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

---

[1] Penned by Justice Artemon D. Luna, Chairman, Twelfth Division, and concurred in by JJ. Hector L. Hofileña and Artemio G. Tuquero.

[2] Rollo, p. 14.

[3] *Id.*

[4] *Id.*

[5] *Id.* at 90-91.

[6] *Id.* at 26-31.

[7] *Id.* at 19.

[8] *Sta. Lucia Realty and Development, Inc. v. Cabrigas*, 411 Phil. 369, 386 (2001).

[9] G.R. No. 103558, November 17, 1992, 215 SCRA 783.

[10] G.R. No. 45828, June 1, 1992, 209 SCRA 457 (1992).

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.