JOSE MANUEL STILIANOPULOS, PETITIONER, VS. THE CITY OF LEGASPI, RESPONDENT.

G.R. No. 133913. October 12, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The annulment of a final judgment on the ground of extrinsic fraud prescribes within four years from the discovery of the fraud. On the other hand, a petition for annulment based on lack of jurisdiction may be barred by laches. In any event, once a controlling legal principle is established by final judgment, the same parties may no longer litigate the same matter again.

The Case

Before us is a Petition for Review on Certiorari assailing the Decision[1] of the Court of Appeals[2] (CA) dated January 21, 1998 and its Resolution[3] dated May 18, 1998 in CA-GR SP No. 34326, dismissing Jose Manuel Stilianopulos' action to annul the final Order dated September 16, 1964 in Cad. Case No. RT-763, which directed the Register of Deeds to reconstitute the Original Certificates of Title (OCT) over certain properties in favor of the City of Legaspi.

The Antecedent Facts

On September 26, 1962, the City of Legaspi filed a Petition for the judicial reconstitution of its titles[4] to twenty parcels of land, including Lot 1 (Psd 3261), the certificates of which had allegedly been lost or destroyed during World War II.[5] On September 16, 1964, the trial court ordered the Register of Deeds to reconstitute the Original Certificates of Title over these lots including OCT No. 665[6] in favor of the applicant.

On August 4, 1970, the City filed a Complaint for quieting of title over Lot 1, Psd-3261 (covered by OCT No. 665) against Carlos V. Stilianopulos alias Chas V. Stilianopulos, Ana Estela Stilianopulos, and the American Oxygen and Acetylene Company.[7] While this case was pending, Carlos V. Stilianopulos died. As a consequence, TCT No. T-1427 which was registered under his name was cancelled, and TCT No. 13448 was issued in the name of his son, petitioner herein, on July 12, 1974.[8] On February 29, 1984, the trial court rendered its Decision, which upheld the validity of TCT No. 13448 and its superiority to OCT No. 665. Thus, petitioner was declared the lawful owner of the disputed property, Lot 1, Psd-3261.[9]

On appeal by both parties,[10] the Court of Appeals[11] in its Decision of October 16, 1987, reversed the trial court and ruled in favor of the City of Legaspi. Petitioner's recourse to this Court was dismissed in a Minute Resolution promulgated on August 17, 1988,[12] on the ground that the issue raised was factual in nature. Reconsideration was denied in the Resolution of October 26, 1988.

Undaunted, petitioner filed an action for the cancellation of OCT No. 665,[13] which the trial court subsequently dismissed on August 15, 1989 on the ground of res judicata.[14] On appeal,[15] the CA affirmed the trial court, reasoning that petitioner's action was "an action for annulment of the order" of the reconstitution of OCT No.

665 and was therefore not cognizable by the trial court.[16]

Refusing to accept defeat, on June 13, 1994, petitioner again filed before the Court of Appeals a new action[17] for annulment of the September 16, 1964 Order based on three grounds: "(1) that the Respondent City of Legaspi procured OCT No. 665 fraudulently; (2) that the original certificate of title which was judicially reconstituted was non-existent: and (3) that the court which ordered the reconstitution lack[ed] jurisdiction."[18]

Before the CA, herein petitioner alleged (1) that the City of Legaspi had omitted in its Petition for Reconstitution of Title the name and address of his predecessor-in-interest, Chas V. Stilianopulos, who at the time, was the occupant and possessor of the disputed property; and (2) that as early as January 26, 1953 and February 10, 1953, the respondent had actual knowledge that the petitioner's predecessor-in-interest was the registered owner and possessor of said Lot 1. He added that on January 26, 1953, the petitioner's predecessor-in-interest and the herein respondent had jointly petitioned the trial court in Cad. Case No. MM-302 for the approval of the consolidation subdivision plan and the technical description of said Lot 1, as well as for the issuance by the Register of Deeds of the corresponding Transfer Certificates of Title to the subject property in the name of the petitioner's predecessor-in-interest.[19]

He further alleged that Lot 1, the disputed property, had never been issued an original certificate of title before World War II, as it was "not an original/mother lot but a derived/resulting subdivision which came into existence only on February 10, 1953." His father and predecessor-in-interest was allegedly the registered owner of (1) Lot No. 9703-A, as evidenced by Transfer Certificate of Title No. 3227, taken by transfer from Transfer Certificate of Title No. 3224, which had been entered at the Register of Deeds of Legaspi, Albay, on August 12, 1936, and administratively reconstituted from the owner's duplicate as TCT No. 93 (3227) 20625 on June 20, 1949; and (2) Lot No. 1023, evidenced by Transfer Certificate of Title No. 1912 entered at the Register of Deeds of Legaspi, Albay, on October 10, 1931, which was administratively reconstituted from the owner's duplicate as TCT No. 98 (1912) 20626 on June 21, 1949.

These two lots were consolidated and subdivided into Lot 1 with an area of 5,808 square meters for Chas V. Stilianopulos; and Lot 2 with an area of 1,003 square meters for the City of Legaspi to which it had been donated by petitioner on September 13, 1952, as a city street to be named Stilianopulos Boulevard; and Lot 3, containing an area of 3,205 square meters for Chas V. Stilianopulos, per Consolidation Subdivision Plan Pcs-3261 surveyed on July 6, 1952. In the Deed of Donation executed on September 13, 1952, the respondent acknowledged that the petitioner's predecessor-in-interest was the absolute owner of the derived or resulting Lot 2 donated to it.[20]

As earlier mentioned, the Petition was dismissed by the Court of Appeals through the assailed Decision and denied reconsideration through the assailed Resolution.

Ruling of Respondent Court

The Court of Appeals ruled that "the prescriptive period for extrinsic fraud has lapsed [and] the petitioner is likewise guilty of laches in the filing of this case for annulment."

Res judicata had also set in against petitioner, as there was an identity of parties and causes of action -- ownership and possession of the lot covered by OCT No. 665 -- between the earlier case for quieting of title and his Petition for Annulment. Further, petitioner did not raise the issue of lack of jurisdiction in the earlier case; thus, he was guilty of laches.

Hence, this Petition.[21]

Assignment of Errors

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In his Memorandum, petitioner failed to submit “a clear and concise statement of the issues” as required in our Resolution dated November 16, 1998.

However, from the “Arguments”[22] found in the Memorandum, we gather petitioner’s assignment of errors as follows: (1) "the prescriptive period for extrinsic fraud has [not] lapsed" and (2) the reconstitution court had no jurisdiction and “petitioner is [not] guilty of laches.” In addition, the Court will pass upon the CA holding that this case is also barred by res judicata.

This Court’s Ruling

The Petition has no merit.

First Issue:

Prescriptive Period for Annulment Based on Extrinsic Fraud

Presence of Extrinsic Fraud

Petitioner contends that respondent committed extrinsic fraud when it alleged in its Petition for Reconstitution of Title that it was the owner of Lot 1, Pcs-3261, and that the Original Certificate of Title to said lot issued in its name had either been lost or destroyed during the last war.

Respondent was allegedly aware all along that (1) Lot 1 was never covered by an original certificate of title because it was derived merely from the consolidation and subdivision of Lot Nos. 9703-A and 1023 on February 10, 1953;[23] (2) as a derived lot, it was for the first time issued Transfer Certificate of Title No. T-1427 only on March 5, 1953;[24] (3) the Report of the Commissioner of Land Registration stated that Decree No. 85234 pertained to Lot No. 9703, not to the lost or destroyed OCT No. 665 as it was made to appear in the reconstituted title;[25] (4) petitioner’s father and respondent jointly petitioned for the approval of the consolidation-subdivision plan of Lot Nos. 9703 and 1023, resulting in the creation of Lots 1, 2 and 3 in Cad. Case No. MM-302;[26] and (5) petitioner’s father donated Lot 2 to respondent.[27]

Further, petitioner and his predecessor-in-interest were not named in the Petition for Reconstitution as occupants or “persons in possession” of the disputed land or notified of said proceedings, in violation of Section 12(e) of Republic Act No. 26.[28] Instead of disputing it, both the CA and the respondent allegedly elected to remain silent on these contentions.

For fraud to become a basis for annulment of judgment, it has to be extrinsic or actual.[29] It is intrinsic when the fraudulent acts pertain to an issue involved in the original action or where the acts constituting the fraud were or could have been litigated.[30] It is extrinsic or collateral when a litigant commits acts outside of the trial which prevents a party from having a real contest, or from presenting all of his case, such that there is no fair submission of the controversy.[31]

Our examination of the facts shows that, indeed, respondent failed (1) to state in its Petition for Reconstitution that Lot 1 was occupied and possessed by petitioner’s predecessor-in-interest and (2) to give him notice of such proceedings. Deliberately failing to notify a party entitled to notice constitutes extrinsic fraud.[32]

Prescriptive Period

Although the CA and the respondent impliedly admitted the presence of extrinsic fraud, both contend, however, that the prescriptive period for filing an action based thereon had already run out on the petitioner. The appellate court said:[33]

> “If the ground for the annulment is extrinsic fraud, the action has to be filed within four (4) years from the time

> the fraud is discovered pursuant to the provisions of Article 1891 of the Civil Code. xxx.
>
> "We find in this case that the prescriptive period for extrinsic fraud has lapsed xxx,
>
> "Cad. Case No. RT-763 was a petition for reconstitution of title dated September 26, 1962 filed by the City of Lega[s]pi thru the then incumbent Mayor Luis S. Los Baños with the Court of First Instance of Albay on September 28, 1962. It resulted in the issuance of the Order dated September 16, 1964 which ordered, among others, the Register of Deeds of Lega[s]pi to reconstitute the titles of Lega[s]pi City over a number of lots, including Lot 1 which is claimed by the petitioner as owned by his predecessor-in-interest. Pursuant thereto, Original Certificate of Title No. 665 was issued in the name of respondent Lega[s]pi City. There is no showing that the order was appealed by any party and has thus become final.
>
> "Petitioner claims that the City of Lega[s]pi is guilty of fraud in not notifying his predecessor-in-interest, Chas. V. Stilianopulos, about the petition for reconstitution of title and that they were never informed of the proceedings or the decision therein rendered thus resulting in the issuance of O.C.T. No. 665 to the City of Lega[s]pi, while they hold T.C.T. No. T-1427 covering the said lot.
>
> "Assuming that petitioner or his father Chas. V. Stilianopulos was intentionally not notified of the proceedings by the City of Lega[s]pi, the records do show that precisely to quiet its O.C.T. No. 665 over the property, the City of Lega[s]pi brought the matter to court.
>
> "In Civil Case No. 4183 for Quieting of Title filed by the City of Lega[s]pi on August 4, 1970 against Stilianopulos over the same parcel of land, one of the reliefs prayed for by the plaintiff City of Lega[s]pi was to have the plaintiff declared as the lawful owner of Lot 1, Psd-3261 which is a portion of Lot 9703-A and covered by O.C.T. No. 665 in the name of the plaintiff. xxx.
>
> "As early as 1970, therefore, the petitioner was made aware of the existence of O.C.T. No. 665 in favor of the City of Lega[s]pi which he now claims was issued through fraud. Yet, the petitioner failed to file proceedings to annul the Order of reconstitution of O.C.T. No. 665."

Petitioner argues that the four-year prescriptive period for filing the Petition for Annulment should begin, not from August 4, 1970, when the action for quieting of title was filed, but from the discovery of the fraud by the petitioner's counsel "shortly after March 24, 1988." Petitioner filed the action for cancellation of title based on extrinsic fraud on May 26, 1988, or sixty-one days after the "discovery" of the fraud. Said action allegedly interrupted the running of the prescriptive period until May 26, 1994, when petitioner received a copy of the CA Decision in the case for cancellation of title. Hence, petitioner submits that less than three months had lapsed after the filing of the Petition for Annulment at the CA.

Petitioner's arguments are untenable. He could and should have raised the issue of extrinsic fraud in the action for quieting of title. It was then that he became aware of the reconstituted title in the name of respondent. A simple check on the records of the reconstitution proceedings would have revealed that it was conducted without notice to the petitioner's father.

Thus, we find no sufficient explanation why March 24, 1988 should be reckoned as the date when the prescriptive period should begin. Simply unacceptable is the contention that petitioner's counsel discovered the extrinsic fraud "shortly after March 24, 1988"[34] only. Granting arguendo that the prescriptive period should begin when petitioner's counsel read the Land Registration Commission Report, the "discovery" should have been made earlier, because the Report had been made available to the said counsel when it was attached to the respondent's Appeal Brief on April 5, 1986, or at the latest, when the CA Decision was promulgated on October 16, 1987. There was absolutely no excuse why petitioner had to wait until the finality of the Decision in the case for quieting of title, before raising the issue of extrinsic fraud in order to annul the Decision in the reconstitution proceedings. Clearly, the facts constituting the fraud should have been known to petitioner's

predecessor-in-interest, when the Petition to quiet the title was filed in 1970.

Under Article 1391 of the Civil Code, an action for annulment shall be brought within four years from the discovery of the fraud;[35] that is, within four years from the discovery of the fraudulent statements made in the application.[36] Clearly, the period for raising this issue lapsed a long time ago.

Second Issue: Annulment Based on Lack of Jurisdiction

Jurisdiction of the Reconstitution Court

Petitioner also avers that the trial court had no jurisdiction to order the reconstitution of OCT No. 665, because respondent failed to state in its Petition that his predecessor-in-interest was in possession of Lot 1, or to give him notice of the said proceedings. The appellate court debunked this contention by ruling that he was the one guilty of laches, which thus cured the defect in the reconstitution court's jurisdiction. Petitioner became aware of the reconstitution proceedings when the action for quieting of title was instituted in 1970, and the CA held that the lapse of more than twenty years before he filed the present action to annul the judgment in those proceedings constituted an unreasonable delay.

From the above allegation, it appears that the trial court had no jurisdiction. First, under Section 13 of RA 26, the sending of notice to the occupant of the land covered by the title sought to be reconstituted is mandatory and jurisdictional.[37] If no notice of the date of hearing of a reconstitution case is served on the possessor or anyone else having interest in the property involved, the order of reconstitution is null and void.[38]

Second, reconstitution of title is simply the reissuance of a new duplicate certificate of title allegedly lost or destroyed in its original form and condition.[39] Thus, it arises from the loss or destruction of the owner's copy of the certificate. In the case at bar, the title to Lot 1 was not lost or destroyed. It remained in the possession of the petitioner's father and was eventually passed on to him. If a certificate of title has not been lost but is in fact in the possession of another person, then the reconstituted title is void and the court that rendered the Decision had no jurisdiction.[40]

Laches as a Defense

However, the CA ruled that the delay of more than twenty years since petitioner learned of the reconstituted title was unreasonable, giving rise to the presumption that he had abandoned the idea of seeking annulment of the proceedings on the ground of lack of jurisdiction, and that he had opted to take other actions instead.

Petitioner disputes this CA ruling, arguing that (1) on May 26, 1988, he filed Cad. Case No. M-10108 for the cancellation of OCT No. 665, thus negating the presumption that he had abandoned the annulment of the reconstitution proceedings; (2) he could not file the action for annulment while the Petition for Cancellation of Title was still pending, because of the rule against forum-shopping; (3) there was no unreasonable delay in the filing of his Petition for Annulment, which was filed just eighteen days after his receipt of the CA Decision upholding the dismissal of his Petition for Cancellation of Title; and (4) the application of the equitable doctrine of laches in this case will perpetrate fraud and injustice against him.

We remain unconvinced. Laches is the failure or neglect, for an unreasonable or unexplained length of time, to do that which by exercising due diligence could or should have been done earlier, warranting the presumption that the right holder has abandoned that right or declined to assert it.[41] This inaction or neglect to assert a right converts a valid claim into a stale demand.[42]

Laches prevents a litigant from raising the issue of lack of jurisdiction.[43] True, petitioner filed the annulment Complaint right after the dismissal of the cancellation-of-title case, but it is equally true that it was filed only after

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the quieting-of-title case had been decided in favor of the respondent. By participating in the quieting-of-title case and arguing therein his defenses against the legality of the title of the respondent in order to establish his rights over the disputed property, petitioner is deemed to have chosen this action over the annulment of the reconstitution proceedings.

Annulment of the reconstitution proceedings was belatedly resorted to only after the CA had reversed the trial court and upheld the reconstituted title of respondent. Laches bars a party from invoking lack of jurisdiction for the first time on appeal for the purpose of annulling everything done, with his active participation, in the case below.[44]

It cannot be said either that the application of laches would work an injustice against petitioner, because he was given a fair chance in the quieting-of-title case to prove his ownership of the disputed lot.

Furthermore, by seeking the reexamination of the ownership of the disputed lot, petitioner accepted the jurisdiction of the court which heard the action for quieting of title. A litigant cannot invoke the jurisdiction of a court to secure affirmative relief and, after failing to obtain such relief, to repudiate or question that same jurisdiction.[45] Clearly, laches has attached and barred the petitioner’s right to file an action for annulment.

To show the cogency of the foregoing disquisition, the interrelation of these rules has recently been synthesized and codified in the 1997 Rules of Civil Procedure, which provides that an action for annulment of judgment based on extrinsic fraud must be filed within four years from its discovery or, if based on lack of jurisdiction, before it is barred by laches.[46]

Third Issue:

Res Judicata and the Second Cycle of Review

To show that there is no res judicata between the earlier case and this Petition for annulment of judgment, petitioner uses the appellate court's pronouncement in the action for quieting of title that “the matter of the regularity of the judicial proceedings for the reconstitution of [OCT] No. 665 affecting its validity has not been raised in the pleadings.”

Petitioner has jumped to the wrong conclusion. What the CA said was that he had not raised the defense of the nullity of the reconstitution proceedings. It did not rule that res judicata would not bar a subsequent action for annulment of judgment. Indisputably, he misinterpreted the CA.

We are convinced that indeed res judicata has already set in. This conclusion is the most persuasive argument raised by the appellate court. The principle applies when the following elements are present (1) a judgment has became final; (2) such judgment was rendered on the merits; (3) the court that rendered it had jurisdiction over the subject matter and the parties; and (4) there was identity of parties, subject matter and causes of action between the previous and the subsequent action.[47] There is identity of cause of action between a case for annulment of title and one for annulment of judgment.[48] Causes of action are identical when there is an identity in the facts essential to the maintenance of the two actions, or where the same evidence will sustain both actions. If the same facts or evidence can sustain either, the two actions are considered the same, so that the judgment in one is a bar to the other.[49]

The underlying objectives or reliefs sought in both the quieting-of-title and the annulment-of-title cases are essentially the same -- adjudication of the ownership of the disputed lot and nullification of one of the two certificates of title. Thus, it becomes readily apparent that the same evidence or set of facts as those considered in the quieting-of-title case would also be used in this Petition.

The difference in form and nature of the two actions is immaterial and is not a reason to exempt petitioner from the effects of res judicata.[50] The philosophy behind this rule prohibits the parties from litigating the same issue more than once. When a right or 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, as long as it remains unreversed, should be conclusive upon the parties and those in privity with them. Verily, there should be an end to litigation by the same parties and their privies over a subject, once it is fully and fairly adjudicated.[51]

It is also readily apparent that the action for annulment of judgment was in effect a second cycle of review regarding a subject matter which has already been finally decided. Material facts or questions that had been in issue in a former action and were then admitted or judicially determined are conclusively settled by a judgment rendered therein. Such facts or questions become res judicata and may not again be litigated in a subsequent action between the same parties or their privies, regardless of the form the issue may take in the subsequent action -- whether the subsequent action involves the same or a different form of proceeding, action, subject matter, claim or demand.[52]

Plainly, a second cycle of review is prohibited. Whatever has once been irrevocably established as the controlling legal principle in an earlier final judgment continues to be the law of the case between the same parties in another suit, as long as the facts on which such decision was predicated continue to be the facts of the dispute before the court.[53]

Despite the presence of extrinsic fraud and lack of jurisdiction in the reconstitution of OCT No. 665, the annulment of the reconstitution order at this time is futile. At most, petitioner in this case can only prove possession of the lot at the time of the reconstitution proceedings. However, even if the reconstitution proceedings and the reconstituted title were annulled, the ownership of the disputed lot by the respondent has already been settled in the quieting-of-title case. Therefore, the petitioner is legally bound to abide by the Decision in the earlier case, as he has allowed the trial court to determine the ownership of the disputed lot and the nullity of his title. He has lost any legal right to pose the same question for litigation again before a court of law.

WHEREFORE, this Petition is hereby DENIED and the assailed Decision and Resolution AFFIRMED. The Register of Deeds of Albay is ORDERED to CANCEL TCT No. 13448. Costs against petitioner.

SO ORDERED.

Melo (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] Rollo, pp. 33-43.

[2] Ninth Division, composed of Justice Salome A. Montoya, chairman and ponente; Justices Delilah Vidallon-Magtolis and Rodrigo V. Cosico, members, both concurring.

[3] Rollo, pp. 31-32.

[4] Docketed as Cadastral Case No. RT-763 before the Court of First Instance of Albay, Branch II.

[5] CA Decision, p. 4; rollo, p. 37.

[6] Ibid

[7] Docketed as Civil Case No. 4183 before the Regional Trial Court of Legaspi City, Branch VIII.

[8] Memorandum for Petitioner, pp. 2-3; rollo, pp. 72-73.

[9] Ibid., p. 3; rollo, p. 73. See also Memorandum for Respondent, p. 2; rollo, p. 112.

[10] Docketed as CA-GR CV No. 06900

[11] Twelfth Division composed of JJ. Pedro A. Ramirez, ponente; Luis A. Javellana, chairman; and Minerva P. Gonzaga-Reyes, member, both concurring.

[12] GR No. 82430.

[13] Docketed as GRL Cad. Case No. M-10108 before the Regional Trial Court of Legaspi City, Branch V.

[14] Memorandum for Petitioner, p. 5; rollo, p. 75.

[15] Docketed as CA-GR CV No. 24429.

[16] Memorandum for Petitioner, pp. 5-6; rollo, pp. 75-76. See also Memorandum for Respondent, p. 6; rollo, p. 116.

[17] Docketed as CA-GR SP No. 34326, the precursor to the present case.

[18] CA Decision, p. 1; rollo, p. 34.

[19] Ibid., p. 2; rollo, p. 35.

[20] CA Decision, pp. 2-3; rollo, pp. 35-36.

[21] This case was deemed submitted for resolution on January 25, 1999 upon this Court’s receipt of the Memorandum for the Respondent. Petitioner's Memorandum was received earlier.

[22] Memorandum for the Petitioner, pp. 25-37; rollo, pp. 95-107.

[23] Memorandum for Petitioner, p. 14; rollo, p. 84.

[24] Ibid., p. 15; rollo, p. 85.

[25] Ibid., p. 16; rollo, p. 86.

[26] Ibid., p. 13; rollo, p. 83.

[27] Ibid., p. 14; rollo, p. 84.

[28] Ibid., pp. 13-14; rollo, pp. 83-84.

[29] Santos v. Court of Appeals, 224 SCRA 673, 681, July 21, 1993.

[30] Heirs of Manuel A. Roxas v. Court of Appeals, 270 SCRA 309, 318-319, March 21, 1997.

[31] Ibid.; Strait Times, Inc. v. Court of Appeals, 294 SCRA 714, 721-722, August 28, 1998; and Cosmic Lumber Corporation v. Court of Appeals, 265 SCRA 168, 179-180, November 29, 1996.

[32] Salva v. Salvador, 18 Phil 193, 200, January 3, 1911.

[33] CA Decision, pp. 4-5; rollo, pp. 37-38.

[34] Memorandum for Petitioner, p. 21; rollo, p. 91.

[35] Cimafranca v. IAC, supra; Dumanon v. Butuan City Rural Bank, 119 SCRA 193, 199, December 15, 1982; Lopez v Court Appeals, 169 SCRA 271, 277, January 20, 1989; Bael v. Court Appeals, 169 SCRA 617, 624, January 30, 1989; Asuncion v. Court Appeals, 150 SCRA 353, 362, May 20, 1987.

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[36] Tomas Roco v. Gimeda, 104 Phil 1011, 1014, December 27, 1958; and Cimafranca v. Intermediate Appellate Court, 147 SCRA 611, 619, January 31, 1987.

[37] Secs. 12 & 13, RA No. 26; Director of Lands v. Court of Appeals, 102 SCRA 370, 435, January 27, 1981; and Republic v. Court of Appeals, 247 SCRA 551, 556, August 23, 1995.

[38] Ibid., p. 439; Alabang Development Corp. v. Valenzuela, 116 SCRA 261, 271-272, August 30, 1982.

[39] Rivera v. Court of Appeals, 244 SCRA 218, 223, May 22, 1995.

[40] Strait Times v. CA, supra, p. 724; Demetriou v. Court of Appeals, 238 SCRA 158, 162, November 14, 1994; and New Durawood Co., Inc. v. Court of Appeals, 253 SCRA 740, 747-748, February 20, 1996.

[41] Agra v. Philippine National Bank, GR No. 133317, June 29, 1999, pp. 11-12; Madija v. Patcho, 132 SCRA 540, 551, October 23, 1984; Españo Sr. v. Court of Appeals, 268 SCRA 511, 514, February 17, 1997.

[42] Cimafranca v. IAC, supra, p. 620.

[43] Romualdez v. RTC, Br. 7, Tacloban City, 226 SCRA 408, 414, September 14, 1993; Cimafranca v. IAC, supra, p. 621. See also Roberto Abad, “Attack on Jurisdiction, When Barred by Estoppel by Laches,” 46 SCRA 149-157.

[44] Maersk-Tabacalera Shipping Agency (Filipinas), Inc. v. Court of Appeals, 187 SCRA 646, 651, July 20, 1990.

[45] Garment and Textile Export Board v. Court of Appeals, 268 SCRA 258, 297, February 13, 1997.

[46] Section 3, Rule 47, 1997 Rules of Civil Procedure.

[47] Guevara v. Benito, 247 SCRA 570, 573, August 23, 1995; Mangoma v. Court of Appeals, 241 SCRA 21, 25, February 1, 1995; and Carlet v. Court of Appeals, 275 SCRA 97, 106, July 7, 1997

[48] Linzag v. CA, 291 SCRA 304, 313, June 26, 1998; Carlet v. CA, supra. In Mangoma v. CA, there was identity of cause of action between the specific performance case for execution of deeds of sale and the annulment of titles cases based on the same contract to sell.

[49] Linzag v. Court of Appeals, supra; Concepcion v. Agana, 268 SCRA 307, 318, February 17, 1997; Carlet v. CA, supra, p. 107; Mendiola v. Court of Appeals, 258 SCRA 492, 502, July 5, 1996.

[50] Linzag v. CA, supra, p. 315; Carlet v. CA, supra, p. 109.

[51] Linzag v. CA, supra, p. 315.

[52] Carlet v. CA, supra; and Veloso Jr. v. Court of Appeals, 261 SCRA 196, 202, August 28, 1996.

[53] Veloso Jr. v. CA, supra; Agustin v. Court of Appeals, 271 SCRA 457, 462, April 18, 1997; and Ybañez v. Court of Appeals, 253 SCRA 540, 550-551, February 9, 1996.

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