

BIÑAN STEEL CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS, MYLENE C. GARCIA AND MYLA C. GARCIA, RESPONDENTS.

G.R. No. 142013. October 15, 2002

Ponente: CORONA, J.

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CORONA, J.:

Before us are two consolidated petitions: (1) G.R. No. 142013, a special civil action for certiorari and mandamus seeking to annul and set aside the Resolutions[1] of the Court of Appeals dated October 21, 1999 and January 31, 2000, denying petitioner Biñan Steel Corporation's motion for intervention and motion for reconsideration, and (2) G.R. No. 148430, seeking to set aside the decision[2] and resolution of the Court of Appeals dated February 10, 2000 and May 31, 2001, respectively, dismissing the petition of petitioners Mylene C. Garcia and Myla C. Garcia for violating the rules on forum-shopping.

Stripped of the non-essentials, the facts of the case are as follows:

On July 22, 1998, Biñan Steel Corporation (BSC) filed with the Regional Trial Court of Manila a complaint against Joenas Metal Corporation and spouses Ng Ley Huat and Leticia Dy Ng (the spouses Ng) for collection of a sum of money with damages, docketed as Civil Case No. 98-89831.

On July 24, 1998, the trial court[3] issued a Writ of Preliminary Attachment after BSC filed an attachment bond. Pursuant thereto, on July 27, 1998, the sheriff of Branch 7 of the RTC of Manila, Manuelito P. Vilorio, levied on the property registered in the names of the spouses Ng and covered by TCT No. 11387 of the Registry of Deeds of Quezon City. This property under preliminary attachment was in fact mortgaged to the Far East Bank and Trust Company (FEBTC), now Bank of the Philippine Islands (BPI), and consisted of a 268-square-meter lot located at 14 Tulip Road, Gardenville Town and Country Homes, Congressional Avenue, Project 8, Quezon City.

On August 5, 1998, a sheriff's return was filed by Vilorio, stating that, as of that date, summons was not served upon the defendant spouses Ng because they could not be located. BSC caused the filing of a motion to serve the summons by publication which was granted. Summons by publication thereafter ensued.

In the meantime, defendant-spouses Ng sold the property to petitioners (in G.R. No. 148430) Mylene and Myla Garcia by means of a deed of sale dated June 29, 1998. Said transaction was registered only about a month-and-a-half later, on August 12, 1998, after the mortgagee FEBTC gave its approval to the sale. On August 19, 1998, TCT No. 11387 in the name of the spouses Ng was cancelled and, in lieu thereof, TCT No. 194226 in the names of Mylene and Myla Garcia was issued. The annotation of the preliminary attachment made earlier on July 27, 1998 by sheriff Vilorio on the old title, TCT No. 11387, was transferred to TCT No. 194226.

On August 28, 1998, the Garcias filed a complaint-in-intervention in Civil Case No. 98-89831 pending at Branch 7 of the Manila RTC, alleging that they were the registered owners of the property covered by TCT No. 194226 which was the subject of BSC's writ of preliminary attachment. Said complaint-in-intervention was denied by the trial court for lack of merit.

On April 14, 1999, the trial court rendered judgment by default in favor of BSC, the dispositive portion of which was:

WHEREFORE, decision is hereby rendered in favor of plaintiff Biñan Steel Corporation, and against defendants Joenas Metal Corporation, Ng Ley Huat and Leticia Dy Ng, ordering the latter to jointly and severally:

1. pay the plaintiff the amount of FIVE MILLION EIGHT HUNDRED FIFTY SIX THOUSAND PESOS (P5,856,000.00) as actual damages;
2. pay the plaintiff the amount of ONE MILLION PESOS (P1,000,000.00) as and for consequential damages;
3. pay the plaintiff the amount equivalent to 25% of the total amount due the plaintiff from the defendant as and for attorney's fees; and
4. to pay the costs of suit.

SO ORDERED.[4]

On June 14, 1999, a Notice of Sale of Execution on Real Property was issued by respondent sheriff Rufo J. Bernardo. It scheduled the public auction of the property on July 7, 1999.

Meanwhile, on February 18, 1999, in view of the dismissal of their complaint-in-intervention, the Garcias filed an action against BSC, sheriff Manuelito P. Viloria, the Register of Deeds of Quezon City and FEBTC (now BPI) for cancellation of the notice of levy annotated on TCT No. 194226 before Branch 98 of the Regional Trial Court of Quezon City,[5] docketed as Civil Case No. 99-36804. The Garcias claimed that they were the registered owners of the property in dispute, having acquired the same on June 29, 1998 by means of a deed of sale with assumption of mortgage from spouses Ng Ley Huat and Leticia Dy Ng.

In said case in the Quezon City RTC, the Garcias were able to secure a temporary restraining order enjoining sheriff Rufo J. Bernardo or any person acting in his behalf from continuing with the public auction sale of the subject property initially scheduled on July 7, 1999. This TRO was disregarded by the Manila RTC.

Acting on the ex-parte manifestation with motion to proceed with the execution sale filed by BSC, Judge Enrico Lanzanas of Branch 7, RTC, Manila affirmed, on July 8, 1999, his previous order and directed the public auction of the attached property, unless otherwise enjoined by the Court of Appeals or this Court. Thereafter, the public auction was rescheduled from July 7, 1999 to August 6, 1999.

On August 4, 1999, the Garcias filed another case with the Court of Appeals for the issuance of a writ of preliminary injunction with prayer for temporary restraining order which sought to perpetually enjoin Judge Lanzanas and sheriff Bernardo from proceeding with the public auction on August 6, 1999. Their petition did not implead BSC as private respondent.

In a resolution dated August 5, 1999, the Third Division of the Court of Appeals[6] temporarily restrained public respondents Judge Lanzanas and Bernardo from proceeding with the public auction of the subject property. Hence, the scheduled public sale on August 6, 1999 did not transpire. This prompted petitioner BSC to file a motion for intervention on August 16, 1999, praying that it be allowed to intervene and be heard in the case as private respondent, and to comment and oppose the petition filed by the Garcias. Likewise, said motion sought to oppose the prayer for preliminary injunction with urgent request for the issuance of the temporary restraining order.

On October 21, 1999, the First Division of the Court of Appeals, in its resolution,[7] denied BSC's motion for intervention on the ground that its rights could be protected in a separate proceeding, particularly in the

cancellation case filed by the Garcias. BSC's motion for reconsideration was likewise denied on January 31, 2000. Thus, on March 13, 2000, BSC filed with this Court a special civil action for certiorari and mandamus, docketed as G.R. No. 142013, seeking to annul and set aside the Resolutions of the Court of Appeals dated October 21, 1999 and January 31, 2000. BSC is invoking the following issues:

I

THE RESPONDENT HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN DENYING PETITIONER'S MOTION FOR INTERVENTION FOR BEING IMPROPER AS INTERVENOR'S RIGHTS MAY BE PROTECTED IN A SEPARATE PROCEEDING IN CIVIL CASE NO. 99-36804 OF THE RTC, BRANCH 98, QUEZON CITY, FOR CANCELLATION OF THE NOTICE OF LEVY ANNOTATED ON TCT NO. 194226.

II

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT TO ENTERTAIN PETITIONER'S INTERVENTION WOULD NECESSARY (SIC) PRE-EMPT THE ADJUDICATION OF ISSUES IN CIVIL CASE NO. 99-36804 BECAUSE EVIDENCE AND COUNTER-EVIDENCE WILL BE PRODUCED BY THE PARTIES IN THE INJUNCTION SUIT, AND THIS WILL UNDULY DELAY OR PREJUDICE THE ADJUDICATION OF THE RIGHTS OF THE PRINCIPAL PARTIES.

III

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN RULING THAT THE ALLOWANCE OR DISALLOWANCE OF A MOTION TO INTERVENE IS ADDRESSED TO THE SOUND DISCRETION OF THE COURT, OVERLOOKING THE FACT THAT IN THE INSTANT CASE, THE APPELLATE COURT DID NOT EXERCISE WISELY ITS SOUND DISCRETION WHEN IT DENIED PETITIONER'S MOTION FOR INTERVENTION.

Similarly, the Fifteenth Division of the Court of Appeals, in its decision[8] dated February 10, 2000, dismissed the petition of the Garcias for violating the rules on forum-shopping. It denied their motion for reconsideration on May 31, 2001.

The Garcias thus filed with this Court a petition for review on certiorari, docketed as G.R. No. 148430, seeking to set aside the February 10, 2000 decision of the Court of Appeals as well as its resolution dated May 31, 2001 denying their motion for reconsideration, raising the following errors:

I

WHETHER OR NOT PETITIONERS WERE GUILTY OF VIOLATING THE RULES ON FORUM-SHOPPING.

II

WHETHER OR NOT PETITIONERS ARE ENTITLED TO THE ISSUANCE OF A WRIT OF INJUNCTION.

Subsequently, G.R. No. 142013 and G.R. No. 148430 were consolidated pursuant to this Court's Resolution dated February 27, 2002.

In the meantime, on August 4, 2001, the Garcias were again served by the sheriff of the Manila RTC with a notice

of sale of execution of the disputed property scheduled for August 7, 2001. Because no TRO was issued by this Court, the public auction ordered by the Manila RTC was held as scheduled and the property was awarded to BSC as the highest bidder.

On August 15, 2001, a little too late, this Court[9] issued the TRO sought by the Garcias in a resolution which partially stated that:

Acting on the Petitioners' Urgent Motion for the Issuance of a temporary restraining order and/or writ of preliminary injunction dated August 6, 2001, praying that public respondents be enjoined from proceeding with the conduct of the public auction sale involving Petitioners' property, registered under TCT No. 194226 of the Registry of Deeds of Quezon City, the Court Resolved to ISSUE the TEMPORARY RESTRAINING ORDER prayed for, effective immediately until further orders from this Court.[10]

A year after the public auction, on August 6, 2002, the Garcias, fearful of the impending consolidation of title in favor of BSC, filed before this Court an urgent ex-parte motion for the issuance of an order maintaining the status quo ante. They wanted to prevent the consolidation of the title and possession by BSC until such time as the rights and interests of both sets of petitioners in the two cases before us shall have been determined and finally resolved.

Acting on the said motion, on August 9, 2002, the Court[11] resolved to grant the motion and directed the parties to maintain the status quo as of August 6, 2002.

Going over the merits of the petitions, the Court deems it essential to resolve two pivotal issues: (1) who, between BSC and the Garcias, has a better right to the disputed property, and (2) whether the Garcias violated the rule against forum-shopping.

It should be noted that, at the time of the attachment of the property on July 27, 1998, the spouses Ng were still the registered owners of said property. It should also be observed that the preliminary attachment in favor of petitioner BSC was annotated and recorded in the Registry of Deeds of Quezon City on July 27, 1998 in accordance with the provisions of the Property Registration Decree (PD 1529). This annotation produced all the effects which the law gives to its registration or inscription.[12]

This Court has always held that attachment is a proceeding in rem. It is against the particular property, enforceable against the whole world. The attaching creditor acquires a specific lien on the attached property which ripens into a judgment against the res when the order of sale is made. Such a proceeding in effect means that the property attached is an indebted thing and a virtual condemnation of it to pay the owner's debt.[13] This doctrine was validated by this Court in the more recent case of Republic vs. Saludaes[14]:

xxx xxx xxx.

The law does not provide the length of time an attachment lien shall continue after the rendition of the judgment, and it must therefore necessarily continue until the debt is paid, or sale is had under execution issued on the judgment, or until the judgment is satisfied, or the attachment discharged or vacated in some manner provided by law. Thus, if the property attached is subsequently sold, the purchaser of the attached property acquires it subject to an attachment legally and validly levied thereon.

xxx xxx xxx.

In the instant case, the records reveal that the levy on attachment covering the subject property was annotated on TCT No. 11387 on July 27, 1998. The deed of sale executed on June 29, 1998 in favor of the Garcias was approved by FEBTC only on August 12, 1998 which was also the date when the sale was registered. From the foregoing, it can be seen that, when the Garcias purchased the property in question, it was already under a duly registered preliminary attachment. In other words, there was already notice to said purchasers (and the whole

world) of the impending acquisition by BSC, as the judgment creditor, of a legal lien on the title of the Ng spouses as judgment debtors — in case BSC won its case in the Manila RTC.

The Garcias claim they acquired the subject property by means of a deed of sale with assumption of mortgage dated June 29, 1998, meaning, they purchased the property ahead of the inscription of the levy on attachment thereon on July 27, 1998. But, even if consensual, not all contracts of sale became automatically and immediately effective.[15] In *Ramos vs. Court of Appeals*[16] we held:

In sales with assumption of mortgage, the assumption of mortgage is a condition precedent to the seller's consent and therefore, without approval of the mortgagee, the sale is not perfected.

Apart therefrom, notwithstanding the approval of the sale by mortgagee FEBTC (BPI), there was yet another step the Garcias had to take and it was the registration of the sale from the Ngs to them. Insofar as third persons are concerned, what validly transfers or conveys a person's interest in real property is the registration of the deed.[17]

Thus, when the Garcias bought the property on June 29, 1998, it was, at that point, no more than a private transaction between them and the Ngs. It needed to be registered before it could become binding on all third parties, including BSC. It turned out that the Garcias registered it only on August 12, 1998, after FEBTC (now BPI) approved the sale. It was too late by then because, on July 27, 1998, the levy in favor of BSC, pursuant to the preliminary attachment ordered by the Manila RTC, had already been annotated on the original title on file with the Registry of Deeds. This registration of levy (or notice, in layman's language) now became binding on the whole world, including the Garcias. The rights which had already accrued in favor of BSC by virtue of the levy on attachment over the property were never adversely affected by the unregistered transfer from the spouses Ng to the Garcias.

We sympathize with the Garcias but, had they only bothered to check first with the Register of Deeds of Quezon City before buying the property — as a prudent buyer would have done — they would have seen the warning about BSC's superior rights over it. This alone should have been sufficient reason for them to back out of the deal.

It is doctrinal that a levy on attachment, duly registered, has preference over a prior unregistered sale and, even if the prior unregistered sale is subsequently registered before the sale on execution but after the levy is made, the validity of the execution sale should be upheld because it retroacts to the date of levy. The priority enjoyed by the levy on attachment extends, with full force and effect, to the buyer at the auction sale conducted by virtue of such levy.[18] The sale between the spouses Ng and the Garcias was undoubtedly a valid transaction between them. However, in view of the prior levy on attachment on the same property, the Garcias took the property subject to the attachment. The Garcias, in buying registered land, stood exactly in the shoes of their vendors, the Ngs, and their title ipso facto became subject to the incidents or results of the pending litigation[19] between the Ngs and BSC.

Even the alleged lack of actual and personal knowledge of the existence of the levy on attachment over the subject property by the Garcias cannot be sustained by this Court on the ground that one who deals with registered land is charged with notice of the burdens on the property which are duly noted on the certificate of title. On this specific point, we are concerned not with actual or personal knowledge but constructive notice through registration in the Registry of Deeds. Otherwise stated, what we should follow is the annotation (or lack thereof) on the original title on file with the Registry of Deeds, not on the duplicate title in the hands of the private parties.

When a conveyance has been properly recorded, such record is constructive notice of its contents and all interests, legal and equitable, included therein. Under the rule on notice, it is presumed that the purchaser has examined every instrument on record affecting the title. Such presumption is irrefutable and cannot be overcome by any claim of innocence or good faith. Therefore, such presumption cannot be defeated by proof of lack of knowledge

of what the public record contains any more than one may be permitted to show that he was ignorant of the provisions of the law. The rule that all persons must take notice of the facts which the public record contains is a rule of law. The rule must be absolute. Any variation would lead to endless confusion and useless litigation.[20] Otherwise, the very purpose and object of the law requiring public registration would be for naught.

Pertinent to the matter at hand is Article 1544 of the New Civil Code which provides:

If the same thing should have been sold to different vendees, x x x should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.
x x x

Because of the principle of constructive notice to the whole world, one who deals with registered property which is the subject of an annotated levy on attachment cannot invoke the rights of a purchaser in good faith. As between two purchasers, the one who registers the sale in his favor has a preferred right over the other who has not registered his title even if the latter is in actual possession of the immovable property.[21] And, as between two purchasers who both registered the respective sales in their favor, the one who registered his sale ahead of the other would have better rights than the other who registered later.

Applying said provision of the law and settled jurisprudence to the instant case, when the disputed property was consequently sold on execution to BSC, this auction sale retroacted to the date of inscription of BSC's notice of attachment on July 27, 1998. The earlier registration thus gave BSC superior and preferential rights over the attached property as against the Garcias[22] who registered their purchase of the property at a later date. Notably, the Garcias were not purchasers for value in view of the fact that they acquired the property in payment of the loan earlier obtained from them by the Spouses Ng.[23]

All told, the purchaser of a property subject to an attachment legally and validly levied thereon is merely subrogated to the rights of the vendor and acquires the property subject to the rights of the attachment creditor. An attaching creditor who registers the order of attachment and the sale by public auction of the property to him as the highest bidder acquires a superior title to the property as against a vendee who previously bought the same property from the registered owner but who failed to register his deed of sale.[24]

Petitioners Garcias failed to show that BSC acted in bad faith which would have impelled this Court to rule otherwise.

The foregoing considerations show that the Garcias are not entitled to the issuance of a writ of preliminary injunction from this Court. For the issuance of the writ to be proper, it must be shown that the invasion of the right sought to be protected is material and substantial, that the right of the Garcias is clear and unmistakable and that there is an urgent and paramount necessity for the writ to prevent serious damage.[25] Such requirements are all wanting in the case at bar. Thus, in view of the clear and unmistakable absence of any legal basis for the issuance thereof, the same must be denied.

On the second question — whether the Garcias violated the rule against forum-shopping — we answer in the affirmative.

The Court of Appeals, in dismissing the Garcias' petition on the ground of forum-shopping, explained:

A party is guilty of forum-shopping where he repetitively availed of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by some other court (Gatmaytan vs. Court of Appeals, 267 SCRA 487).

The test to determine whether a party violated the rule against forum-shopping is where the elements of litis

pendentia are present or where a final judgment in one case will amount to res judicata in another (Solid Homes, Inc. vs. Court of Appeals, 271 SCRA 157).

What is truly important to consider in determining whether forum-shopping exists or not is the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating possibility of conflicting decisions being rendered by the different fora upon the same issues (Golangco vs. Court of Appeals, 283 SCRA 493).

The above jurisprudence instructs us the various indicia of forum-shopping. The more important of these are: when the final judgment in one case will amount to res judicata in another, or where the cases filed are substantially founded on the same transactions and the same essential facts and circumstances, or raising substantially the same issues, or more importantly, where there exists the possibility of conflicting decisions being rendered by different fora upon the same issues.

If we take a look closely on the instant Petition for Injunction, forum-shopping is evident. In Civil Case No. 99-36804 raffled to Branch 98 of RTC- Quezon City, petitioners therein prayed for the cancellation of the notice of levy in their title. They are claiming that the controverted property is owned by them such that the respondent therein has no right to levy on their property, petitioners not being the respondent's debtor. In the present petition, petitioners seek that the scheduled auction sale of the same property be perpetually enjoined, claiming that the property is owned by them and that the same is erroneously made to answer for liability not owing by them. Ultimately, the two actions involve the same essential facts and circumstances, and are raising the same issues.

x x x The propriety of the issuance of injunction would depend on the finding that the petitioners have a clear legal right over the property - a right in esse or the existence of a right to be protected. Thus, this court must make a categorical finding of fact. This very same issue of fact - who as between the two contending parties have a better right to the property - is the very issue presented before the RTC of Quezon City. Clearly therefore, this Court and that of RTC - Quezon City are called upon to decide on the same issues based on the same essential facts and circumstances. Hence, the possibility of these two courts rendering or coming up with different or conflicting decisions is very much real. Needless to say, the decision in one case would constitute res judicata in the other. The instant petition for injunction obviously violates the rule on forum-shopping.

We agree with the Court of Appeals.

As clearly demonstrated, the willful attempt by the Garcias to obtain a preliminary injunction in another court (the Court of Appeals) after they filed a case seeking the same relief from the original court (the Quezon City RTC) constitutes grave abuse of the judicial process. Such contemptuous act is penalized by the summary dismissal of both actions as mandated by paragraph 17 of the Interim Rules and Guidelines issued by this Court on January 11, 1983 and Supreme Court Circular No. 28-91, to wit:

x x x

SUBJECT: ADDITIONAL REQUISITES FOR PETITIONS FILED WITH THE SUPREME COURT AND THE COURT OF APPEALS TO PREVENT FORUM-SHOPPING OR MULTIPLE FILING OF PETITIONS AND COMPLAINTS.

The attention of the Court has been called to the filing of multiple petitions and complaints involving the same issues in the Supreme Court, the Court of Appeals or different Divisions thereof, or any other tribunal or agency, with the result that said tribunals or agency have to resolve the same issues.

x x x x x x x x.

3. Penalties.

(a) Any violation of this Circular shall be a cause for the summary dismissal of the multiple petition or complaint;

x x x x x x x x.

In Bugnay Construction & Development Corporation vs. Laron,[26] we declared:

Forum-shopping, an act of malpractice, is proscribed and condemned as trifling with the courts and abusing their processes. It is improper conduct that degrades the administration of justice. The rule has been formalized in Paragraph 17 of the Interim Rules and Guidelines issued by this Court of January 11, 1983, in connection with the implementation of the Judiciary Reorganization Act x x x. The Rule ordains that (a) violation of the rule shall constitute a contempt of court and shall be a cause for the summary dismissal of both petitions, without prejudice to the taking of appropriate action against the counsel or party concerned.

The rule against forum-shopping has been further strengthened by the issuance of Supreme Court Administrative Circular No. 04-94. Said circular formally established the rule that the deliberate filing of multiple complaints to obtain favorable action constitutes forum-shopping and shall be a ground for summary dismissal thereof.

Accordingly, the Garcias cannot pursue simultaneous remedies in two different fora. This is a practice which degrades the judicial process, messes up the orderly rules of procedure and is vexatious and unfair to the other party in the case.

We rule therefore that the execution sale in favor of BSC was superior to the sale of the same property by the Ngs to the Garcias on August 12, 1998. The right of petitioner BSC to the ownership and possession of the property, the surrender of the owner's duplicate copy of TCT No. 194226 covering the subject property for inscription of the certificate of sale, the cancellation of TCT No. 194226 and the issuance of a new title in favor of BSC, is affirmed without prejudice to the right of the Garcias to seek reimbursement from the spouses Ng.

In view of our disposition of the first issue resulting in the denial of the Garcias' petition, the petition of BSC praying that it be allowed to intervene therein has been rendered moot. The Court thus finds it unnecessary to discuss it.

WHEREFORE, the petitions are DENIED. The Resolution dated August 9, 2002 issued by this Court directing the parties to maintain the status quo as of August 6, 2002 is hereby lifted and set aside. The Registry of Deeds of Quezon City is hereby ordered to cancel TCT No. 194226 in the names of Myla and Mylene Garcia and issue a new title in favor of BSC without further delay.

SO ORDERED.

Puno (Chairman), and Panganiban, JJ., concur.

Sandoval-Gutierrez, J., no part. participated in G.R. No. 148430.

Morales, J., no part - concur in assailed decision of the Court of Appeals.

[1] Penned by Justice Eloy R. Bello, Jr. and concurred in by Presiding Justice Jainal D. Rasul, and Associate Justice Ruben T. Reyes (First Division).

[2] Penned by Justice Eloy R. Bello, Jr. and concurred in by Associate Justices Conchita Carpio-Morales and Jose L. Sabio, Jr. (Fifteenth Division).

[3] Presiding Judge Enrico A. Lanzanas.

[4] Rollo, pp. 237-238.

[5] Presiding Judge Justo M. Sultan.

[6] Justices Jainal D. Rasul, Eloy R. Bello, Jr. and Ruben T. Reyes.

[7] Penned by Associate Justice Eloy R. Bello, Jr. and concurred in by Presiding Justice Jainal D. Rasul and Associate Justice Ruben T. Reyes.

[8] Penned by Associate Justice Eloy R. Bello, Jr., and concurred in by Associate Justices Conchita Carpio-Morales and Jose L. Sabio, Jr.

[9] Third Division.

[10] Rollo, p. 407.

[11] Second Division.

[12] Director of Lands vs. Abad, 61 Phil. 479, 486 (1935).

[13] Government, et. al., vs. Paula Mercado, 67 Phil. 409 (1939); Yambao and Garcia vs. Po Huat Suy, 52 Phil. 237 (1928).

[14] 327 SCRA 449 (2000).

[15] PNB vs. Court of Appeals, 262 SCRA 464 (1996).

[16] 279 SCRA 118 (1997).

[17] Vda. De Alcantara vs. Court of Appeals, 252 SCRA 457 (1996)

[18] First Integrated Bonding & Insurance Co., Inc. vs. Court of Appeals, 261 SCRA 203 (1996).

[19] Voluntad vs. Dizon, 313 SCRA 209 (1999).

[20] Legarda and Prieto vs. Saleeby, 31 Phil. 590, 600 (1915).

[21] Po Lam vs. Court of Appeals, 316 SCRA 721 (1999); Balatbat vs. Court of Appeals, 261 SCRA 128 (1996).

[22] Oliva vs. Court of Appeals, 166 SCRA 632, 637 (1988); Campillo vs. Philippine National Bank, 28 SCRA 220, 228 (1969).

[23] Rollo, p. 20, G.R. No. 148430.

[24] Worcester vs. Ocampo, 34 Phil. 646 (1916); Lanci vs. Yangco, 52 Phil. 563 (1928); Laxamana vs. Carlos, 57 Phil. 722 (1932).

[25] Sy vs. Court of Appeals, 313 SCRA 328 (1999).

[26] 176 SCRA 240 (1989).

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