LU DO AND LU YM CORPORATION, COMPLAINANT, VS. AZNAR BROTHERS REALTY CO., RESPONDENT.

G.R. NO. 143307. April 26, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Assailed in this petition for review on certiorari is the May 24, 2000 Decision[1] of the Court of Appeals in CA-G.R. SP No. 43642, which dismissed the petition filed by herein petitioner Lu Do and Lu Ym Corporation and sustained the January 9, 1997 Resolution[2] of the Office of the President (OP) dismissing petitioner's appeal from the November 22, 1995 Order[3] of the Department of Environment and Natural Resources (DENR).

The issue to be resolved in this case is whether there exist supervening circumstances that would justify suspension of the enforcement of, or the quashal of the alias writ of execution issued to implement the September 18, 1986 Decision[4] of the then Minister of Natural Resources in MNR Case No. 4096,[5] which this Court sustained in a resolution dated July 20, 1994, in G.R. No. 116342 (hereafter referred to as the first Lu Do case).

The settled facts in the first Lu Do case show that an 8,485 square meter land located in Sawang, San Nicolas, Cebu City, was the subject of both an award of Foreshore Lease in favor of herein respondent Aznar Brothers Realty Company, a partnership engaged in buying and selling real properties and in livestock and agriculture business; and of the subsequent Miscellaneous Sales Application filed by petitioner, a manufacturer and exporter of coconut oil products.[6] This controversy gave rise to an administrative case docketed before the Bureau of Lands as B.L. Conflict No. 45, D.L.O. Conflict No. 126.[7]

Meanwhile, on July 21, 1965, petitioner took possession of the coveted land. Since then and up to the present, it introduced improvements on the land, such as, bodega for copra, cylindrical tank for coconut oil and automotive shop. Petitioner's occupation of the land was by virtue of a purported provisional permit alleged to have been issued by the Bureau of Lands. Such permit, however, was found to be inexistent in the records, hence, the improvements introduced by petitioner were held to have been made in bad faith.[8]

On July 21, 1974, the Director of Lands rendered a decision revoking the award in favor of respondent and directing the reauction of the subject land.[9] Respondent filed a motion for reconsideration but was denied.

Respondent appealed to the Minister of Natural Resources. On September 18, 1986, the Minister acting through the Assistant Secretary for Legal Affairs, rendered a decision in MNR CASE No. 4096, reversing the decision of the Director of Lands; upholding the award of the land in favor of respondent; and ordering petitioner to remove the improvements on the land, otherwise, the same would be forfeited in favor of the government. The dispositive portion thereof, states:

> WHEREFORE, the decision dated 21 June 1977 should be, as hereby it is, SET ASIDE, and the award of the area in question in favor of Aznar Brothers Realty Company shall continue to be given DUE COURSE. Lu Do and Lu Ym Corporation shall remove the improvements it has introduced in the area consisting of structures such as bodega, water tank, etc.; otherwise, the same shall be forfeited in favor of the government,

SO ORDERED.[10]

Petitioner elevated the case[11] to the Court of Appeals which directly addressed respondent's qualification as an awardee of a foreshore lease as well as the issue of who as between petitioner and respondent has a better right over the litigated land. Ruling in favor of respondent, the appellate tribunal dismissed the petition for lack of merit and for failure to state the material dates in the petition to show the timeliness of its filing.

A petition for review, docketed as G.R. No. L-115342 was filed by petitioner before this Court. On July 20, 1994, we issued a resolution dismissing the petition for: (a) failure to pay the correct amount of sherriff's fees and clerk's commission; and (b) failure to show that a reversible error was committed by the Court of Appeals. The decretal portion thereof provides:

> ACCORDINGLY, the Court Resolved to DENY the petition for review on certiorari with prayer for a writ of preliminary injunction and/or temporary restraining order of the decision dated April 29, 1994 of the Court of appeals in CA G.R. Sp. No. 29944 for failure to comply with requirement no. one (1), as the payment of fees lacks P200.00 deposit for sheriff's fee and P2.00 for clerk's commission or a total of P202.00.
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> Besides, even if the petition complied with the aforesaid requirement, it would still be denied, as petitioners failed to show that a reversible error was committed by the appellate court.[12]

Said decision became final and executory on October 10, 1994.[13]

On February 13, 1995, petitioner filed with the Lands Management Bureau, the instant Motion to Suspend Enforcement of Decision, To Rebid Land in Dispute and/or To Quash Order of Execution.[14] It contended that the improvements it introduced in the land since 1965, in the form of automotive shop, bodega for copra, cylindrical tank for coconut oil, increased to not less than P9,335,400.00, and it would be unfair for the government to forfeit said improvements in its favor. Petitioner further argued that the land in question should be rebidded in view of dissolution of respondent partnership by reason of the death of two of its partners; and because the questioned land is no longer a proper subject of a foreshore application, it, having ceased to be a foreshore land and having been transformed into an area suitable for industrial/commercial purposes.

The Director of the Lands Management Bureau referred[15] petitioner's Motion to Suspend Enforcement of Decision to the Secretary of the DENR which on November 22, 1995, held that said motion is a mere dilatory ploy and an attempt to relitigate settled issues. The dispositive portion thereof, reads:

> WHEREFORE, in view of the foregoing considerations, the instant Motion is hereby DENIED. Let the entire records of the case be forwarded to the Regional Executive Director, DENR Region VII, for immediate execution of the 18 September 1986 Decision of this Office as affirmed by the Decision of the Court of Appeals dated 29 April 1994 and by the Resolution of the Supreme Court dated 20 July 1994.
>
> SO ORDERED.[16]

A motion for reconsideration of the foregoing order was denied on February 27, 1996.[17]

On appeal, the Office of the President dismissed petitioner's recourse for lack of merit.[18] Its motion for reconsideration suffered the same fate.[19]

Unfazed, petitioner sought relief with the Court of Appeals. In addition to its arguments advanced in the Motion to Suspend Enforcement of Decision, petitioner averred that the award in favor of respondent should be revoked because it failed to commence introduction of improvements within six months from the date of the award, a requirement under Section 64 (d) of Commonwealth Act No. 141 or the Public Land Act. It also argued that the June 21, 1974 Decision of the Director of Lands which was favorable to it and which revoked the award of the

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lease to respondent had already become final and executory because the former counsel of respondent failed to file an appeal memorandum within the reglementary period; hence, the Minister of Natural Resources can no longer reverse the same in its decision dated September 18, 1986.

On May 24, 2000, the Court of Appeals dismissed the petition for lack of merit. It held that the invalid service of the order to file memorandum on respondent's former counsel prevented the June 21, 1974 decision of the Director of Lands from becoming final and executory. The reversal of said decision by the Minister of Natural Resources is therefore proper. The appellate court further ruled that the death of some of the partners of respondent did not dissolve the partnership because the award was transmitted to the deceased partners' heirs; and that the conversion of the land into one suited for commercial purposes will not frustrate the award in favor of respondent because the same land was a foreshore land at the time it was awarded to the latter. The Court of Appeals also held that the failure of respondent to introduce improvements in the land will not warrant the revocation of the award because it was in fact petitioner who brought possessory instability over the land by questioning every facet of the award to respondent.

Hence, this petition raising the following arguments:

> - THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DISREGARDED THE FACT THAT THE DECISION OF THE DIRECTOR OF LANDS DATED JUNE 21, 1974, WHICH WAS FAVORABLE TO PETITIONER AND WHICH REVOKED THE AWARD IN FAVOR OF RESPONDENT AZNAR BROTHERS REALTY COMPANY OF THE LAND IN DISPUTE, HAD ALREADY BECOME FINAL AND EXECUTORY.
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> - THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT FAILED TO APPRECIATE THAT THE DECISION OF THE DIRECTOR OF LANDS DATED JUNE 21, 1974 IS CORRECT.
>
> - IN ANY CASE, THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN RULING THAT THE DECISION DATED SEPTEMBER 18, 1986 OF THE MINISTER OF NATURAL RESOURCES HAS BECOME IRREVOCABLE AND IN THEREBY DISREGARDING AND IGNORING FACTS AND CIRCUMSTANCES WHICH SUPERVENED AFTER THE AWARD IN FAVOR OF RESPONDENT AND WHICH HAVE AN EFFECT ON SAID AWARD.
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> - THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DISREGARDED AND IGNORED THE FACT THAT THE SUBJECT LAND HAD ALREADY BEEN CONVERTED INTO LAND SUITED MAINLY FOR COMMERCIAL AND INDUSTRIAL PURPOSES AND MAY NO LONGER BE CLASSIFIED AS FORESHORE LAND.
>
> - THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT HOLDING THAT THE FAILURE OF RESPONDENT TO INTRODUCE IMPROVEMENTS ON THE SUBJECT PROPERTY IS FATAL TO ITS APPLICATION.
>
> - THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT HOLDING THAT THE DEATH OF TWO OF THE PARTNERS OF RESPONDENT AZNAR BROTHERS REALTY CO. RENDERED IMPOSSIBLE THE GIVING OF DUE COURSE TO THE FORESHORE LEASE AWARD IN FAVOR OF RESPONDENT, AND THAT IN ANY CASE, RESPONDENT WAS NOT QUALIFIED TO BE AN AWARDEE OF PUBLIC LAND.

- THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT RESOLVING THE OTHER ISSUES, GROUNDS, ARGUMENTS RAISED BY PETITIONER IN ITS PETITION FOR REVIEW, AND IN RELYING INSTEAD ON THE DECISION OF THE MINISTER OF NATURAL RESOURCES DATED SEPTEMBER 18, 1986, ON THE DECISION OF THE COURT IN CA-G.R. SP NO. 29944, AND ON THE RESOLUTION OF THE EXECUTIVE SECRETARY DATED JANUARY 9, 1997.

- THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT RESOLVING PETITIONER'S "MOTION TO SUSPEND ENFORCEMENT OF DECISION, TO REBID LAND IN DISPUTE, AND/OR TO QUASH ORDER OF EXECUTION (IF ANY)" DATED FEBRUARY 10, 1995.

- THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DISREGARDED AND IGNORED THE VAST, SUBSTANTIAL AND VALUABLE IMPROVEMENTS INTRODUCED BY PETITIONER ON THE LAND IN DISPUTE.

- THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT RULING THAT IMPLEMENTATION OF THE DECISION OF SEPTEMBER 18, 1986 OF THE MINISTER OF NATURAL RESOURCES WILL BE MOST UNFAIR AND INEQUITABLE TO PETITIONER.[20]

The petition is devoid of merit.

At the outset, it should be stressed that the arguments raised by petitioner cannot wheedle this Court to re-examine factual matters that had already become final and executory more than a decade ago. Under the doctrine of conclusiveness of judgment which is also known as "preclusion of issues" or "collateral estoppel," issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action.[21] Once a judgment attains finality it becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.[22] Hence, no amount of legal maneuvers could reinstate the Director of Lands' July 21, 1974 Decision which is favorable to petitioner nor set aside the Minister of Natural Resources' September 18, 1986 Decision which upheld the respondent's right and qualifications to lease the contested land. In a resolution dated July 20, 1994, we categorically held that the Court of Appeals committed no reversible error in dismissing the recourse filed by petitioner questioning the September 18, 1986 Decision of the Minister of Natural Resources. This resolution of the Court is an adjudication both on the technical issues and on the substantial issues raised, particularly on the qualification of respondent and on the validity of the award in its favor.[23] Thus, only the supervening events that would allegedly justify the suspension of the execution of the September 18, 1986 Decision of the Minister of Natural Resources will be addressed here.

Petitioner claims that the following material changes in the circumstances since the time the award was given to respondent, justify the suspension of the execution of the decision, to wit: (1) the death of two of respondent's partners; (2) the substantial improvements introduced by petitioner on the land; (3) the failure of respondent to commence introduction of improvements within six months from the date of the award; and (4) the conversion of the subject property from foreshore land to commercial/industrial land.

In ruling that the death of two partners of respondent did not disqualify the latter from being an awardee of a foreshore lease, the Court of Appeals correctly cited the case of Eusebio v. Sociedad Agricola de Balarin.[24] The issue in the said case was whether Sociedad Agricola de Balarin, a partnership, became extinct by reason of the

death of all the partners, making the heirs of the deceased partners without legal personality to pursue the Sales Application previously filed by the said deceased partners before the Bureau of Lands. Holding that the death of the partners did not automatically forfeit the rights they acquired over the land and that their heirs and the new association established by them should be considered subrogated in the place of the original partners, the Court explained that:

> There is no question that, under the Civil Code of 1889 then in force, the death of any one of the partners dissolved the old partnership (Art. 1700, old Civil Code; Bearneza vs. Dequilla, 43 Phil. 237), the case not being one where there are surviving partners continuing the partnership with the heirs of deceased partners. Hence, technically, the old Sociedad Agricola de Balarin organized by Lacalle and registered in 1923 and the new partnership of the same name and registered in 1955 are separate and distinct juridical persons.
>
> But the dissolution of the original Sociedad Agricola de Balarin did not automatically entail the forfeiture of the rights it had acquired in the lots in dispute, through its improvements and occupancy, continued without interruption by the heirs of the original partners. The heirs remained in possession until 1943 when, as a consequence of war operations and later due to bloody encounters between government forces and the dissident bands, they had to vacate and stay out until 1951, when the area was declared once more safe for reoccupation and settlement. It is but equitable, as declared in the decision of the Director of Lands and of the Secretary of Agriculture, that the heirs of the original partners, as well as the new association established by them, should be considered subrogated in place of the original partners, as well as the new association established by them, should be considered subrogated in place of the original "Sociedad Agricola de Balarin", and allowed to continue with the sales application despite the distinct personality of the heir[s'] new association despite the distinct personality of the heirs' new partnership. Under section 105 of the Public Land Act, the heirs-at- law of a natural person, who dies before the final grant, are subrogated to his rights and obligations, and entitled to have issued to them the patent or final concession upon proof of compliance with the requirements of the law. There is no cogent reason why the provisions of this section should not be made to apply in favor of the heirs of the partners of the original Sociedad Agricola, since a partnership is, in the ultimate analysis, but a collectivity of natural persons banded together for a common purpose; provided, of course, the aforementioned heirs cleave to the original ends of the association, as they have done in this case.[25]

Contrary to the claim of petitioner, said doctrine is applicable in the instant case because despite the death of two[26] of respondent's partners, the seven surviving partners continued the operations and businesses of the partnership.[27] If in Eusebio v. Sociedad Agricola de Balarin, where all the partners died, the Court did not forfeit the acquired rights of the heirs over the cotroverted land, with more reason that we should not forfeit the award in favor of respondent which was survived by seven partners who continued the operations of the partnership, pursued their lease application and defended their right against petitioner.

Neither will the improvements introduced on the land forestall the execution of the Minister of Natural Resources' September 18, 1986 Decision. That petitioner was in bad faith in introducing said improvements is a matter already settled in the first Lu Do case. In the said controversy, we sustained the findings of the Court of Appeals and of the then Minister of Natural Resources that petitioner had no authority to occupy the land because the alleged provisional permit issued by the Bureau of Lands does not exist in the records. The introduction of improvements on the land was therefore held to have been made in bad faith.[28] Under the doctrine of immutability of judgments, this conclusion can no longer be reviewed in the present suit.[29] Besides, the right to lease the land is subject of a pending case and any improvement introduced thereon, if not removed, is at the risk of being forfeited in favor of the government. Petitioner should be made to bear the outcome of this case which turned out to be adverse to it.

Moreover, even granting that petitioner truly has a provisional permit to use and occupy the land, forfeiture of the

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permanent improvements introduced thereon is still proper. Under Section 38 of the Public Land Act, at the expiration of the lease, all buildings and other permanent improvements made by the lessee shall become the property of the government. Leases of public lands run for a period of 25 years, renewable once for another period of not to exceed 25 years. Thus, -

> SEC. 38. Leases shall run for a period of not more than twenty-five years, but may be renewed once for another period of not to exceed twenty-five years, in case the lessee shall have made important improvements which, in the discretion of the Secretary of [the Department of Environment and Natural resources], justify a renewal. Upon final expiration of the lease, all buildings and other permanent improvements made by the lessee, his heirs, executors, administrators, successors, or assigns shall become the property of the Government, and the land together with the said improvements shall be disposed of in accordance with the provisions of Chapter five of this Act.

In the instant case, the purported temporary or provisional permit of petitioner enabled it to use the subject land since 1965 up to the present, or for more than 40 years. It was able to occupy the land for a period equivalent to a full term of a lease, and for almost the entire duration of the maximum period allowed for a renewal thereof. Petitioner cannot therefore pretend that the September 18, 1986 Decision of the Minister of Natural Resources ordering it to remove the improvements on the land, is greatly disadvantageous to it. Petitioner is in fact placed in a better position because it was allowed to remove its improvements, unlike legitimate awardees of the right to lease a public land whose improvements become government property at the expiration of the lease. Hence, the motion to suspend the execution of the decision based on the existence of said improvements, the value of which was not even substantiated, is utterly without basis.

Then too, the alleged failure of respondent to satisfy the requirement of Section 64 (d) of the Public Land Act, will not frustrate the execution of the final decision in the first Lu Do case. Section 64 (d), provides:

> (d) The lessee shall construct permanent improvements appropriate for the purpose for which the lease is granted, shall commence the construction thereof within six months from the date of the award of the right to lease the land, and shall complete the said construction within eighteen months from said date.

Petitioner attempts to impress upon this Court that the failure to comply with the aforecited condition unqualifiedly revokes the award. This, however, is not the tenor of this condition considering that the government may even waive rescission on this ground. This is clear from the last paragraph of Section 64 of the Public Land Act which states:

> The violation of one or any of the conditions specified in the contract shall give rise to the rescission of said contract. The Secretary of Agriculture and Natural Resources [now the Secretary of the DENR] may, however, subject to such conditions as he may prescribe, waive the rescission arising from a violation of the conditions of subsection (d), or extend the time within which the construction of the improvements shall be commenced and completed.

Furthermore, respondent cannot be made to suffer any adverse consequence of the failure to introduce improvements because it never had a real opportunity to take possession of the land which, since 1965 up to the present, is under the control and possession of petitioner who successfully evaded the execution of the September 18, 1986 Decision of the Minister of Natural Resources. Said judgment had been the subject of several alias writs of execution but to no avail. In fact, there is a pending ejectment suit filed by respondent against petitioner to enable it to legally recover possession of the subject land.[30]

In the same vein, there is no merit in the contention of petitioner that the questioned foreshore lease should be revoked because the land is no longer a foreshore land having been converted by it (petitioner) to a commercial/industrial land. Indeed, the Court of Appeals correctly held that since the said land was a foreshore

land at the time the application was filed, the right to lease the same should still be awarded to respondent. To forfeit the right of respondent would be the height of injustice as it would reward petitioner for successfully stalling the enforcement of a final and executory decision.

Even assuming that there exist supervening circumstances authorizing the revocation of the award in favor of respondent, the petition is still dismissible considering that petitioner has no legal personality to file an action for such revocation or for the rebidding of the contested land.

In actions where the ultimate relief sought is the reversion of the land to the government, it is the latter which has the legal personality to file the suit. The rationale is that since the land subject of the action originated from a grant by the government, its cancellation is a matter between the grantor and the grantee.[31] By parity of reasoning, in actions to revoke an award in favor of a grantee which would result in the reversion of the possessory right over the land to the government and not the disposition thereof to any private person or entity, the proper party is the government who gave the grantee the right to occupy the land.

In the instant case, the final and executory resolution of the Court which sustained the award of the grant to lease the contested land in favor of respondent effectively obliterated any right which petitioner might have had as an applicant of a grant over the land. As far as any suit to disqualify or revoke the award to respondent is concerned, petitioner is a stranger with no legal personality to maintain such action. This is because the revocation of the award will not vest any right on petitioner.

Under Section 2, Rule 3 of the Rules of Court, every action must be prosecuted or defended in the name of the real party-in-interest, or one who stands to be benefited or injured by the judgment in the suit. Real interest means present and substantial interest, as distinguished from a mere expectancy or a future, contingent, subordinate consequential interest.[32] Thus, mere applicants of sales patents over a public land or lessees hoping to be given the right to purchase the same were held not proper parties to institute a case for cancellation of the grantee's award or title.[33]

Here, the suit filed by petitioner should be dismissed for lack of the requisite real interest. For one, the only interest it has is the hope that it would emerge as the highest bidder in the sought reauction of the questioned land. For another, it has no right to insist on the reauction of subject land which remains to be part of the public domain and which the government, in the exercise of its discretion, may reclassify and/or dispose of by modes other than by sale or lease to private individuals or entities.

And even granting that petitioner is a legitimate holder of a temporary permit to occupy the land, said permit will not vest him legal personality to seek the revocation of respondent's award. Being merely temporary, its permit may be revoked at any time by the Secretary of the DENR. Section 68 of the Public land Act reads:

> SEC. 68. The Secretary of Agriculture and Natural Resources [now the Secretary of the DENR] may grant to qualified persons temporary permission, upon payment of a reasonable charge, for the use of any portion of the lands covered by this chapter for any lawful private purpose, subject to the revocation at any time when, in his judgment, the public interest shall require it.

In seeking the cancellation of respondent's award, even as a holder of a temporary permit to occupy the land, petitioner's interest is also based on a mere expectancy. That is, a hope that should said award be cancelled, the DENR Secretary would refrain from exercising his/her judgment to revoke the temporary permit. Indeed, this contingent interest will not vest legal personality on petitioner to challenge the award in favor of respondent.

WHEREFORE, the instant petition is DENIED and the May 24, 2000 Decision of the Court of Appeals in CA-G.R. No. SP No. 43642 is AFFIRMED. Let the records of the case be remanded to the Regional Executive

Director, DENR, Region VII for the execution of the September 18, 1986 Decision of the Minister of Natural Resources in MNR CASE No. 4096.

SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez, and Callejo, Sr., JJ., concur.
Chico-Nazario, J., on official leave.

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[1] Penned by Associate Justice Hilarion L. Aquino and concurred in by Associate Justices Portia Aliño-Hormachuelos and Eloy R. Bello, Jr.; rollo, pp. 218-230.

[2] O.P. Case No. 96-C-6417, rollo, pp. 156-161.

[3] DENR Case No. 4096, rollo, pp. 144-149.

[4] Rollo, pp. 103-120.

[5] Now the Secretary of the DENR.

[6] Rollo, pp. 218-219.

[7] Id. at 97.

[8] CA Decision in CA-G.R. SP No. 29944, rollo, p. 253.

[9] Rollo, pp. 97-102.

[10] Id. at 120.

[11] Docketed as CA-G.R. SP No. 29944, rollo, pp. 246-256.

[12] Rollo, p. 257.

[13] Id.

[14] Id. at 132-141.

[15] Id. at 33.

[16]Id. at 149.

[17] Id.at 155.

[18]Resolution dated January 9, 1997, rollo, pp. 156-161.

[19] Order dated February 27, 1997, rollo, pp. 162-164.

[20] Rollo, pp. 13-15.

[21]Piñero v. National Labor Relations Commission, G.R. No. 149610, August 20, 2004, 437 SCRA 113, 117.

[22] Manotok Realty Inc. v. CLT Realty Development Corporation, G.R. No. 123346, November 29, 2005.

[23] Komatsu Industries (Phils.) Inc. v. Court of Appeals, 352 Phil. 440, 448 (1998).

[24] 123 Phil 379 (1966).

[25] Id. at 385-386.

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[26] Atty. Jose B. Aznar and Merito B. Aznar.

[27] Respondent's Vehement Opposition, records, volume I, p. 249.

[28] April 29, 1994 Decision of the Court of Appeals in CA-G.R. SP No. 29944, records, volume I, p. 228.

[29] Manotok Realty Inc. v. CLT Realty Development Corporation, supra note 22.

[30] Comment, rollo, p. 243.

[31] Caro v. Sucaldito, G.R. No. 157536, May 16, 2005, 458 SCRA 595, 605.

[32]Moran, Comments on the Rules of Court, Volume I, 1995 Edition, p. 213, citing Oglesby v. Springfield Marine Bank, 52 N.E. 2d. 1600, 385 III. 414; Flowers v. Germann, 1 N.W. 2d 424; see also Weber v. City of Cheyenne, 97 P. 2d 667, 699, quoting 47 C.J. 35.

[33]Caro v. Sucaldito, supra note 31 at 606-607, citing Tankiko c. Cezar, 362 Phil. 184 (1999) and VSC Commercial Enterprises, Inc. v. Court of Appeals, 442 Phil. 269 (2002).

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