# SHERWILL DEVELOPMENT CORPORATION, PETITIONER, VS. SITIO STO. NIÑO RESIDENTS ASSOCIATION, INC. AND/OR NILDA DEVILLERES, AND THE LANDS MANAGEMENT BUREAU, RESPONDENTS.

*G.R. NO. 158455. June 28, 2005*

Ponente: CALLEJO, SR., J.

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**CALLEJO, SR., J.:**

This is a petition for review on certiorari assailing the Order[1] of the Regional Trial Court (RTC) of Muntinlupa City, Branch 205, dismissing Civil Action No. 02-237 on the ground of litis pendentia and forum shopping.

Petitioner Sherwill Development Corporation is the registered owner of two parcels of land in Muntinlupa, Rizal. Lot 88 is covered by Transfer Certificate of Title (TCT) No. 131918[2] consisting of 8,774 square meters, while Lot 86, with an area of 16,766 square meters, is covered by TCT No. 131919.[3] Both lots form part of the Muntinlupa Estate, while the titles thereon were issued by the Registry of Deeds of Rizal on September 24, 1913.

On October 16, 2002, the petitioner filed a Complaint[4] for quieting of title against respondents Sitio Sto. Niño Residents Association, Inc. (SSNRAI), Nilda Devilleres, and the Lands Management Bureau (LMB). The petitioner made the following allegations in its complaint:

> 6. Since petitioner acquired subject two (2) lots in 1984, it has dutifully paid realty taxes thereon. A copy of its latest tax-payment receipt is attached as Annex "E."
>
> 7. In the late 1960s and the 1970s, and up to the 1980s, unauthorized persons, without the prior knowledge and consent of petitioner and/or Mr. Lipio, by force, stealth and strategy, unlawfully entered and occupied the lots covered by TCT Nos. 131918 and 131919. Among said unauthorized persons are members and officers of SSNRAI, Devilleres included;
>
> 8. Said LMB Case No. 7-98 is the first step of respondents to disturb and/or cast clouds on TCT Nos. 131918 and 131919, as in fact they are disturbing and casting clouds over said titles. From all indications, LMB is set to recommend to the Philippine Government, [through] the Office of the Solicitor General (OSG), the "nullification" of TCT Nos. 131918 and 131919 and/or the reversion thereof to the Philippine Government, despite the fact that the latter, sometime in 1927 or thereabout, sold and/or disposed of subject lots, then covered by Original Certificate of Title (OCT) No. 684, pursuant to Act No. 1120 and other pertinent laws. Petitioner is the third or fourth transferee and buyer in good faith of the lots in question. Certainly, its titles (TCT Nos. 131918 and 131919) have long become indefeasible and conclusive, considering that indefeasibility and conclusiveness of titles accrue one year after the issuance thereof.[5]

As part of its prayer for relief, the petitioner prayed that a writ of preliminary injunction be issued, ordering the LMB to cease and desist from proceeding with the hearings in LMB Case No. 7-98, a case pending before it where petitioner's titles to the subject lots were being questioned by the respondents SSNRAI and Nilda Devilleres. Thus:

> WHEREFORE, petitioner most respectfully prays for the following:
>
> (a) The immediate issuance of a writ of preliminary injunction against LMB, ordering it to cease and desist from hearing or continuing its hearing of LMB Case No. 7-98; thereafter, after due hearing, the issuance of another order making said injunction permanent; and
>
> (b) The quieting of title of TCT Nos. 131918 and 131919, and the complete removal of any and all clouds thereon, and the accompanying declaration that said titles are indefeasible and conclusive against the whole world, as in fact they are.
>
> Petitioner further prays for other reliefs which this Honorable Court may deem proper to grant.[6]

The trial court set the hearing of the prayer of the writ of preliminary injunction at 8:30 a.m. of November 22, 2002.[7] On November 6, 2002, the private respondents, through counsel, filed a Motion to Dismiss[8] the petition on the following grounds:

> (a) THE PETITION ITSELF IS FATALLY DEFECTIVE AS THE CERTIFICATE OF NON-FORUM SHOPPING DID NOT SPECIFY AND/OR DISCLOSE THE PENDENCY OF THE ADMINISTRATIVE CASE, LANDS MANAGEMENT BUREAU CASE NO. 7-98;
>
> (b) PETITIONER IS GUILTY OF FORUM-SHOPPING; and
>
> (c) THERE IS ANOTHER ACTION PENDING BETWEEN THE PARTIES INVOLVING THE SAME SUBJECT MATTER AND FOR THE SAME CAUSE.

In its opposition to the motion to dismiss, the petitioner averred that contrary to the private respondents' allegations, it did disclose the pendency of LMB Case No. 7-98 in paragraph 3 of its petition, to wit:

> 3. Said LMB Case No. 7-98 was filed on May 5, 1995 and is, at present, being heard by [the] LMB thru Hearing Officer Rogelio C. Mandar, the same Special Investigator-Designate who, on Feb. 12, 1998, wrote the LMB Director thru the Chief, Legal Division, recommending "that an order be issued directing the Surveys Divisions of this Office or its duly-authorized representatives to conduct verification and relocation survey" of subject lots. In effect, Atty. Mandar as such Hearing Officer has already prejudged the case in favor of SSNRAI. A copy of the petition filed by SSNRAI (minus annexes) is attached as Annex "B," and that of Atty. Mandar's letter consisting of seven (7) pages (minus annexes), as Annex "C;"[9]

According to the petitioner, there was no identity of actions and reliefs sought in the two cases. The petitioner pointed out that in LMB Case No. 7-98, the private respondents (as the petitioners therein) sought the declaration of the nullity of the said titles issued in its favor, on their claim that their issuance was "highly irregular and erroneous," and that the subject properties were not disposed of in accordance with Act No. 1120, otherwise known as the Friar Lands Act. On the other hand, in SP Civil Action No. 02-237, the petitioner's right of action was based on the private respondents' act of disturbing and casting clouds over TCT Nos. 131918 and 131919, considering that such titles have long become indefeasible and conclusive.

The motion to dismiss filed by the private respondents was submitted for resolution on November 15, 2002.[10]

In its Order[11] dated February 24, 2003, the trial court dismissed the petition on the grounds of litis pendencia and forum shopping. In so ruling, the trial court made the following ratiocination:

> As alleged in the petition filed with the LMB itself, quoted elsewhere in this order, and as shown in the copy of said petition attached to this petition, herein petitioner is respondent therein and herein private respondents are petitioners there. The element of identity of parties is therefore present. The cause of action and reliefs sought in the two sets of cases are, likewise, identical. The ultimate issue involved in both is who between the parties has a better right to the properties covered by TCT Nos. 131918 and 131919 which are alleged in the LMB


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> case to originally constitute a portion of the Muntinlupa Friar Lands Estate titled in the name of the government. As to the third requirement that the result of the first action is determinative of the second, it is true here inasmuch as the Lands Management Bureau, public respondent herein before which the case earlier filed is pending, absorbed the functions and powers of the Bureau of Lands (abolished by Executive Order No. 131) and is mandated by law to implement the provisions of the Public Land Act (Com. Act No. 141) which governs the administration and disposition of lands commonly known as "friar lands," so an earlier recourse to it would be an exercise of the doctrine of exhaustion of administrative remedies, regardless of which party is successful.
>
> It is clear from the petition that what the petitioner wants is for this court to enjoin public respondent from proceeding with the case before it and take over the same which it cannot and should not do.
>
> WHEREFORE, this case is hereby dismissed on the grounds of litis pendencia and forum shopping. No cost.
>
> SO ORDERED.[12]

The petitioner filed a motion for reconsideration, which the trial court denied in an Order[13] dated May 29, 2003.

Hence, the present petition, on the following question of law: whether or not the grounds of litis pendentia and forum shopping insofar as SP Civil Action No. 02-237 is concerned are applicable. The petitioner puts forth the following arguments:

- THE GROUNDS OF "LITIS PENDENCIA AND FORUM SHOPPING" RELIED UPON BY THE COURT A QUO IN DISMISSING SP. CIVIL ACTION NO. 02-237 AND DENYING PETITIONER'S MOTION FOR RECONSIDERATION ARE SHAKY AT BEST. IN FACT, THEY ARE NON-EXISTENT.[14]

- MOREOVER, AS ALREADY RAISED BY PETITIONER IN ITS REPLIES TO RESPONDENTS' COMMENTS ON ITS AFORESAID MOTION FOR RECONSIDERATION, LMB HAS NO JURISDICTION TO TRY LMB CASE NO. 7-98 INASMUCH AS CASES LIKE THIS FALL UNDER THE EXCLUSIVE ORIGINAL JURISDICTION OF REGIONAL TRIAL COURTS.[15]

To bolster its pose that no forum shopping and litis pendentia exist, the petitioner invokes the ruling of the Court in Silahis International Hotel, Inc. v. NLRC, et al.,[16] averring that when a party does not pursue simultaneous remedies in fora, there is no forum shopping. The petitioner reiterates that the issue and the causes of action in LMB Case No. 7-98 and SP Civil Action No. 02-237 are different. It points out that it certainly is not "a party against whom an adverse judgment or order has been rendered in one forum"; neither has it instituted "two or more actions or proceedings grounded on the same cause." The petitioner further insists that the LMB has no jurisdiction to try LMB Case No. 7-98; it is the regional trial courts that have original jurisdiction in such cases. The petitioner points out that the private respondents failed to file an action for nullification of TCT Nos. 131918 and 131919 within the one-year period from the date of issuance of the subject titles and are, therefore, barred from questioning the said titles. The petitioner further points out that the certificates of title under the Torrens system of registration cannot be collaterally attacked. The petitioner concludes that the trial court should not have dismissed SP Civil Action No. 02-237, but instead should have given it due course.

The Office of the Solicitor General (OSG), for its part, points out that the parties in both cases are identical. It further points out that LMB Case No. 7-98 was filed as early as 1995, and that the petitioner subsequently initiated SP Civil Action No. 02-237 obviously to preempt the outcome of the case before the Lands Management Bureau. Hence, the trial court correctly dismissed SP Civil Action No. 02-237 on the ground of litis pendentia.

The OSG further contends that the determination of whether there was a violation of the Friar Lands Act, the very issue raised in the two cases, is well within the authority of the LMB to investigate, it being the agency of the

government charged with administrative control over Friar Land Estates under Commonwealth Act No. 2550. As such, according to the OSG, the LMB has primary jurisdiction over the subject matter. The OSG points out that the petitioner's resort to the courts is premature, considering that the LMB has primary jurisdiction over the matter.

The OSG, likewise, avers that the petitioner is guilty of violating Section 5, Rule 7 of the Rules of Court, on certification against forum shopping. It points out that the petitioner's representative, Roland Leslie V. Lipio, certified under oath that the petitioner "had no knowledge of any action pending before any tribunal or agency." It further points out that it cannot be said that the petitioner was unaware of LMB Case No. 7-98, since it even filed an Answer therein on July 31, 1995. To justify the dismissal of the case, the OSG cites the ruling of the Court in Republic v. Carmel Development, Inc.[17]

The Ruling of the Court

At the outset, the Court notes that the petitioner assails an order of dismissal issued by the RTC, with direct recourse to this Court. It must be stressed that in so doing, the petitioner violated an established policy, one that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further overcrowding of the Court's docket.[18] There is, after all, a hierarchy of courts which is determinative of the venue of appeals.[19] This rule may be relaxed only for special and important reasons clearly and specifically set out in the petition.[20] The petitioner should thus have filed its petition first before the Court of Appeals, conformably with this principle of hierarchy of courts. The Court notes that the petitioner failed to satisfactorily explain its failure to comply with or its non-observance of judicial hierarchy.

Even upon the merits of the case, the petition at bar is still destined to fail for the following additional reasons:

First. Contrary to the petitioner's contention, at this instance, it is the courts which should defer the exercise of jurisdiction on the matter. Jurisdiction having been correctly assumed by the Director of Lands over the parties' conflicting claims, the case should, in accordance with law, remain there for final adjudication.[21] After all, the Director of Lands, who is the officer charged with carrying out the provisions of the Public Land Act, has control over the survey, classification, lease, sale or any other form of concession or disposition and management of the public lands, and his finding and decision as to questions of fact, when approved by the Secretary of Agriculture and Natural Resources (now Secretary of Environment and Natural Resources), is conclusive.[22]

The power and authority of the Director of Lands were discussed in the recent case of Republic of the Philippines v. De Guzman.[23] According to the Court, the Director of Lands does not lose authority over the land even upon the issuance of an original certificate of title over the same. Thus:

> ... The authority of the Director of Lands to investigate conflicts over public lands is derived from Section 91 of the Public Land Act. In fact, it is not merely his right but his specific duty to conduct investigations of alleged fraud in securing patents and the corresponding titles thereto. While title issued on the basis of a patent is as indefeasible as one judicially secured, such indefeasibility is not a bar to an investigation by the Director of Lands as to how such title had been acquired, if the purpose of such investigation is to determine whether or not fraud had been committed in securing such title, in order that the appropriate action for reversion may be filed by the Government.[24]

As a rule then, courts have no jurisdiction to intrude upon matters properly falling within the powers of the LMB.[25]

On the petitioner's claim that its titles to the subject lots have been rendered indefeasible, the pronouncement of the Court in Republic v. Court of Appeals[26] is instructive:

> It is true that under Section 122 of the Land Registration Act, a Torrens title issued on the basis of a free patent or a homestead patent is as indefeasible as one judicially secured. And in repeated previous decisions of this Court that indefeasibility has been emphasized by our holding that not even the Government can file an action for annulment, but at the same time, it has been made clear that an action for reversion may be instituted by the Solicitor General, in the name of the Republic of the Philippines. It is also to the public interest that one who succeeds in fraudulently acquiring title to a public land should not be allowed to benefit therefrom, and the State should, therefore, have an even existing authority, thru its duly-authorized officers, to inquire into the circumstances surrounding the issuance of any such title, to the end that the Republic, thru the Solicitor General or any other officer who may be authorized by law, may file the corresponding action for the reversion of the land involved to the public domain, subject thereafter to disposal to other qualified persons in accordance with law. In other words, the indefeasibility of a title over land previously public is not a bar to an investigation by the Director of Lands as to how such title has been acquired, if the purpose of such investigation is to determine whether or not fraud had been committed in securing such title in order that the appropriate action for reversion may be filed by the Government.[27]

Second. The OSG correctly invoked the doctrine of primary jurisdiction in this case. Indeed, the courts cannot and will not resolve a controversy involving a question which is within the jurisdiction of an administrative tribunal, especially where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact.[28] The doctrine of primary jurisdiction applies where a claim is originally cognizable in the courts, and comes into play whenever enforcement of the claim requires the resolution of issues which, under a regulatory scheme, have been placed within the special competence of an administrative body; in such case, the judicial process is suspended pending referral of such issues to the administrative body for its view. And in such cases, the court cannot arrogate unto itself the authority to resolve a controversy, the jurisdiction over which is initially lodged with an administrative body of special competence,[29] in this case, the LMB.

Third. The trial court correctly ruled that the petitioner’s action was barred by the pendency of the proceedings before the LMB. For litis pendencia to lie, the following requisites must be satisfied:

- Identity of parties or representation in both cases;

- Identity of rights asserted and relief prayed for;

- The relief must be founded on the same facts and the same basis; and

- Identity of the two preceding particulars should be such that any judgment, which may be rendered in the other action, will, regardless of which party is successful, amount to res judicata on the action under consideration.[30]

To the Court’s mind, these requisites are present in the instant case. For one, the parties in the LMB case and in SP Civil Action No. 02-237 are the same. There is, likewise, identity of rights asserted and reliefs prayed for. The petition filed by the private respondents SSNRAI and its President Devilleres before the LMB alleged that the lots in question had been the subject of “double titling”; on the other hand, the petition with prayer for preliminary injunction filed before the RTC sought the declaration from the court that TCT Nos. 131918 and 131919, in the name of the petitioner, are indefeasible and conclusive as against the whole world. The resolution of the foregoing issue would likewise require the presentation of evidence from the parties. Verily, the conclusion in one proceeding would amount to the adjudication of the merits on the other – that is, a favorable ruling from the LMB would have virtually removed any and all existing “clouds” from the petitioner’s titles to the subject property; in the same vein, a declaration of the indefeasibility of TCT Nos. 131918 and 131919 would preempt any ruling of the LMB on the matter.

Indeed, the underlying principle of litis pendentia is the theory that a party is not allowed to vex another more


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than once regarding the same subject matter and for the same cause of action. This theory is founded on the public policy that the same subject matter should not be the subject of controversy in court more than once in order that possible conflicting judgments may be avoided, for the sake of the stability of the rights and status of persons.[31] The RTC of Muntinlupa City, Branch 205, recognized this doctrine when it dismissed SP Civil Action No. 02-237 to avoid the possibility of two contradictory decisions on the question of the validity of the subject titles.

In any case, should the petitioner disagree with the ruling of the LMB, it is not precluded from taking the matter up to with the courts of law.

Fourth. To determine whether a party violated the rule against forum shopping, the test applied is whether the elements of litis pendentia are present or whether a final judgment in one case will amount to res judicata in another.[32] Considering our pronouncement that the requisites of litis pendentia barred the filing of SP Civil Action No. 02-237, the RTC correctly dismissed the same on the additional ground of forum shopping.

WHEREFORE, considering the foregoing, the petition is DENIED for lack of merit. The Order of the Regional Trial Court of Muntinlupa City, Branch 205, dismissing SP Civil Action No. 02-237 on the ground of litis pendentia and forum shopping, is AFFIRMED.

**SO ORDERED.**

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

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[1] Penned by Judge Myrna V. Lim-Verano.

[2] Records, pp. 24-25.

[3] Records, pp. 26-28.

[4] Id. at 1-9.

[5] Id. at 4-5.

[6] Records, p. 7.

[7] Id. at 41.

[8] Id. at 43-48.

[9] Records, p. 57.

[10] Id. at 71.

[11] Id. at 81-83.

[12] Records, pp. 82-83.

[13] Rollo, p. 33.

[14] Id. at 6.

[15] Rollo, p. 16.

[16] G.R. No. 104513, 4 August 1993, 225 SCRA 94.

[17] G.R. No. 142572, 20 February 2002, 377 SCRA 459.


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[18] People v. Cuaresma, G.R. No. 67787, 18 April 1989, 172 SCRA 415; reiterated in Liga ng mga Barangay National v. Atienza, Jr., G.R. No. 154599, 21 January 2004, 420 SCRA 562 and Microsoft Corporation v. Best Deal Computer Center Corporation, G.R. No. 148029, 24 September 2002, 389 SCRA 615.

[19] Del Rosario v. Montaña, G.R. No. 134433, 28 May 2004, 430 SCRA 109, citing People v. Court of Appeals, 301 SCRA 566 (1999).

[20] See Zamboanga Barter Goods Retailers Association, Inc. v. Lobregat, G.R. No. 145466, 7 July 2004, 433 SCRA 624; Cuñada v. Drilon, G.R. No. 159118, 28 June 2004, 432 SCRA 618. See also Advincula-Velasquez v. Court of Appeals, G.R. Nos. 111387 and 127497, 8 June 2004, 431 SCRA 165.

[21] Cerdon v. Court of Appeals, G.R. No. 47422, 6 April 1990, 184 SCRA 198.

[22] In Re: Petition Seeking for Clarification as to the Validity and Forceful Effect of Two Final and Executory Conflicting Decisions of the Supreme Court, G.R. No. 123780, 17 December 1999, 321 SCRA 62, citing Vda. De Calibo v. Ballesteros, 15 SCRA 37.

[23] Republic of the Phils. v. De Guzman, 383 Phil. 151 (2000).

[24] Id. at 160-161.

[25] Heirs of Lourdes Saez Sabanpan v. Comorposa, G.R. No. 152807, 12 August 2003, 408 SCRA 692.

[26] G.R. No. 60169, 23 March 1990, 183 SCRA 620, citing Piñero, Jr. v. Director of Lands, 57 SCRA 386 (1974).

[27] Id. at 627-628.

[28] Villaflor v. Court of Appeals, G.R. No. 95694, 9 October 1997, 280 SCRA 297.

[29] Id. at 327.

[30] Tirona v. Alejo, G.R. No. 129313, 10 October 2001, 367 SCRA 17, citing Tourist Duty Free Shops, Inc. v. Sandiganbayan, 323 SCRA 358 (2000).

[31] Tirona v. Alejo, supra.

[32] Tirona v. Alejo, supra, citing Solid Homes, Inc. v. Court of Appeals, 337 Phil. 605 (1997).


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