

**CRISTITA BUSTON-ARENDAIN AND HEIRS OF BAUTISTA ARENDAIN
REPRESENTED BY CRISTITA BUSTON-ARENDAIN, PETITIONERS, VS.
ANTONIA GIL, MIGUEL ANTONIO GIL, MARLYN GIL AND MANOLO
GIL, RESP...**

G.R. No. 172585. June 26, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Assailed in the instant Petition for Review on Certiorari are (1) the Decision[1] of the Court of Appeals in CA-G.R. CV No. 63440 dated 20 January 2006 denying the appeal of the petitioners; and (2) the Resolution[2] of the same court dated 31 March 2006 denying their Motion for Reconsideration.

The antecedent facts of the present case are as follows:

On 24 October 1995, herein respondent Antonia Gil (married to the late Miguel Gil) and her children, the herein respondents Miguel Antonio, Marlyn, and Manolo, all surnamed Gil, filed a complaint with the Regional Trial Court (RTC) of Davao City, Branch 16, for the declaration of nullity of titles, quieting of title, recovery of possession, accounting, damages with notice of lis pendens, with prayer for receivership, against spouses Domingo Arendain and Irene Taroy-Arendain (spouses Domingo and Irene); spouses Bautista Arendain and herein petitioner Cristita Buston-Arendain (spouses Bautista and Cristita); the Register of Deeds of Davao City; the Community Environment Natural Resources Office (CENRO), Davao City; and the Director of Lands. Their complaint was docketed as Civil Case No. 23963-95.

In their complaint,[3] respondents alleged that they are co-owners of parcels of land with a total land area of 50,130 square meters located in Cabantian, Davao City, and covered by the following original certificates of title (OCTs): (1) OCT No. P-6075, in the name of Miguel Gil, covering 25,080 square meters; (2) OCT No. P-6079, in the name of Miguel Gil, covering 10,771 square meters; and (3) OCT No. P-6080, in the name of Antonia Gil, covering 14,279 square meters. Respondents averred that Miguel and Antonia acquired their titles as early as 1976.

Respondents accused the spouses Domingo and Irene and spouses Bautista and Cristita of fraudulently and maliciously obtaining, sometime in March 1981, the following OCTs: (1) OCT No. 10541, in the name of Domingo Arendain, married to Irene Taroy-Arendain, including therein the lot already registered in the name of respondent Miguel Gil under OCT No. P-6079; and (2) OCT No. P-10522, in the name of Bautista Arendain married to petitioner Cristita Buston-Arendain, covering the same lot registered in the name of respondent Antonia Gil under OCT No. P-6080.

Since 1976 up to the present, through threats of bodily harm utilized by the spouses Domingo and Irene and Bautista and Cristita, respondents were illegally deprived of enjoyment and possession over the aforementioned parcels of land. The former being adjacent owners of lands having common boundaries with respondents' land,

have extended their boundaries and enlarged their parcels of lands by usurping the real rights of ownership/possession of the latter over the said lands.

The CENRO, in its answer to respondents' complaint, explained that:

- That there is pending before the DENR-CENRO XI-4C x x x involving Original Certificate of Title No. P-10552, issued in the name of Bautista Arendain, and Original Certificate of Title No. P-6080, issued in the name of Antonia C. Gil;
- That the administrative case above-mentioned is docketed as Lot No. 7566 (portion of Lot 1080), Cad-102, Cabantian, Davao City, as shown in the enclosed Order of Investigation, dated August 03, 1993, herewith attached as Annex "A" [4];
- That parties were previously sent copies of said Annex "A" but as of date, the Applicant-Patentee Antonia C. Gil has not actively pursued the matter with the DENR, hence, said Office cannot categorically state at this point in time whether or not any of the certificates of title above-mentioned has preference over that of the other pending the termination of administrative proceedings;
- That the then District Land Officer was Mr. Uldarico G. Aquino at the time Original Certificate of Title No. P-6080 was issued to Antonia C. Gil, whereas the then District Land Officer was Atty. Bienvenido Sambrano at the time Original Certificate of Title No. P-10522 was issued to Bautista Arendain, married to Cristita Buston;
- That undersigned public respondent has no objection to the pursuit of this case before this Honorable Court provided that Plaintiff Antonia C. Gil submit[s] the necessary manifestation before the DENR-CENRO XI-4C x x x for the withdrawal of the case x x x so that the matter can be singly and fully litigated before this forum only.

WHEREFORE, it is respectfully prayed of this Honorable Court that the instant complaint be heard without need of separate administrative proceedings before the DENR-CENRO x x x.[5]

In their answer[6] to respondents' complaint, spouses Domingo and Irene and spouses Bautista and Cristita essentially sought the outright dismissal of the same on the grounds that respondents had no cause of action against them and the RTC lacked jurisdiction over the case because respondents had not exhausted all administrative remedies.

The case was thereafter called for pre-trial conference. Both spouses Domingo and Irene and spouses Bautista and Cristita failed to file their pre-trial brief and to appear for pre-trial; sequentially, the RTC issued an Order[7] dated 11 September 1996 declaring them "as in default."

The spouses Bautista and Cristita via a Petition for Certiorari [8] filed with the Court of Appeals, docketed as CA-G.R. SP No. 44118, assailed the issuance by the RTC of the order of default against them. However, in a Decision dated 30 September 1997,[9] the appellate court dismissed CA-G.R. SP No. 44118 and affirmed the order of default of the RTC. [10] The spouses Bautista and Cristita[11] then filed a Petition for Review on Certiorari before this Court, docketed as G.R. No. 131877, challenging the dismissal by the Court of Appeals of their Petition in CA-G.R. SP No. 44118. In a Resolution of this Court dated 18 March 1998,[12] G.R. No. 131877 was dismissed since the said appeal was filed beyond the reglementary period[13] and the petition failed to sufficiently show that the Court of Appeals had committed any reversible error in rendering the questioned judgment.[14]

Hence, the proceedings in Civil Case No. 23963-95 resumed. On the basis of the evidence presented by the respondents, the RTC rendered its Decision on 28 October 1998, the dispositive portion of which reads:

PREMISES CONSIDERED, judgment is hereby rendered:

I DECLARING -

1) OCT No. P-10522 in the name of Bautista Arendain as totally null and void;

2)

OCT No. P-10541 in the name of Domingo Arendain as null and void but only in so far as it covers/involves or/affects the 10,771 square meters in P-6079;

II ORDERING -

1)

the Register of Deeds of Davao City to cancel totally OCT No. P-10522 and OCT No. P-10541 but only in so far as it involves the 10,771 square meters in P-6079;

2)

Defendants-spouses Domingo Arendain and Irene Taroy-Arendain and defendants-spouses Bautista Arendain and Cristita Buston Arendain to vacate the parcels of land covered by OCT No. P-6075, P-6079 and P-6080.[15]

From the foregoing judgment rendered by the trial court, only the spouses Bautista and Cristita filed with the Court of Appeals an appeal docketed as CA-G.R. CV No. 63440. Spouses Domingo and Irene no longer appealed; hence, the RTC Decision dated 28 October 1998 has become final and executory as to them.[16]

In a Decision dated 20 January 2006, the Court of Appeals denied spouses Bautista and Cristita's appeal, ratiocinating that:

As correctly found by the court a quo, OCT No. P-6079 in the name of MIGUEL GIL married to ANTONIA GIL which was transcribed in the registration book for the province of Davao City on 13 August 1976 covered Lot 5022-C, Csd-11-001848, consisting of ten thousand seven hundred and seventy-one (10,771) square meters. This parcel of land is one of the two parcels of land embraced in OCT No. P-10541 in the name of DOMINGO ARENDAIN married to IRENE TAROY and which was transcribed in the registration book for the province of Davao City on 18 March 1981. Likewise, OCT No. P-6080 in the name of ANTONIA C. GIL married to MIGUEL GIL which was transcribed in the registration book for the province of Davao City on 13 August 1976 included the same parcel of land covered by OCT No. P-10522 in the name of Bautista Arendain married to CRISTITA BUSTON and which was transcribed in the registration book for the province of Davao City on 12 March 1981.

It is well-settled that once a patent is registered and the corresponding certificate of title is issued, the land ceases to be part of public domain and becomes private property over which the Director of Lands has neither control nor jurisdiction. Equally settled is the rule that the doctrine requiring prior exhaustion of administrative remedies before recourse to courts may be had is confined to public lands. It is inapplicable to private lands.

x x x x

In the case at bench, the records disclosed that original certificates of title were issued over subject parcels of land in favor of MIGUEL GIL and ANTONIA GIL as early as 1976, thus, subject parcels of land ceased to be part of the public domain and became private property over which the Director of Lands has neither control nor jurisdiction. Consequently, the doctrine of exhaustion of administrative remedies before recourse to courts does not apply.[17]

The Court of Appeals thus ruled:

WHEREFORE, the appeal DENIED (sic) and the assailed Decision is AFFIRMED in toto.[18]

Herein petitioners now come before this Court raising the following issues in their petition:

FIRST:

The Honorable Court of Appeals erred in affirming the decision of the trial court declaring as null and void OCT No. P-10522 in the name of Petitioners when respondents have not yet exhausted the administrative remedies, thus, in effect, departed from the accepted and usual course of judicial proceedings as would justify the call for an exercise of the power of supervision by this Honorable Court.

SECOND:

In filing the instant petition for review on certiorari, the Petitioners did not commit forum shopping.[19]

Significantly, in their petition,[20] herein petitioners Cristita Buston-Arendain and heirs of Bautista Arendain,[21]represented by Cristita Buston-Arendain, insist that herein respondents failed to exhaust administrative remedies when they filed Civil Case No. 23,963-95 before the RTC, Branch 16 of Davao City, on 24 October 1995 [22] without awaiting the resolution by the DENR-CENRO Davao City of the administrative case filed by Antonia Gil involving OCT No. P-10552 covering Lot No. 7566 in the name of spouses Bautista and Cristita Buston-Arendain.

The Court denies the petition at bar.

Under the doctrine of exhaustion of administrative remedies, an administrative decision must first be appealed to the administrative superiors at the highest level before it may be elevated to a court of justice for review. [23] This Court has consistently held that before a party is allowed to seek the intervention of the court, it is a pre-condition that he should have availed himself of all the means of administrative processes afforded him. Hence, if a remedy within the administrative machinery can still be resorted to by giving the administrative officer concerned every opportunity to decide on a matter that comes within his jurisdiction, then such remedy should be exhausted first before the court's judicial power can be sought. The premature invocation of the court's intervention is fatal to one's cause of action. Accordingly, absent any finding of waiver or estoppel, the case is susceptible of dismissal for lack of cause of action.[24]

This doctrine of exhaustion of administrative remedies is not without its practical and legal reasons; for one thing, availment of administrative remedy entails lesser expenses and provides for a speedier disposition of controversies. It is no less true to state that the courts of justice, for reasons of comity and convenience, will shy away from a dispute until the system of administrative redress has been completed and complied with so as to give the administrative agency concerned every opportunity to correct its error and to dispose of the case.[25]

However, the principle of exhaustion of administrative remedies, as tested by a battery of cases, is not an ironclad rule. This doctrine is a relative one, and its flexibility is called upon by the peculiarity and uniqueness of the factual and circumstantial settings of a case. Hence, it is disregarded (1) when there is a violation of due process; (2) when the issue involved is purely a legal question; (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction; (4) when there is estoppel on the part of the administrative agency concerned; (5) when there is irreparable injury; (6) when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter; (7) when to require exhaustion of administrative remedies would be unreasonable; (8) when it would amount to a nullification of a claim; (9) when the subject matter is a private land in land case proceedings; (10) when the rule does not provide a plain, speedy and adequate remedy; and (11) when there are circumstances indicating the urgency of judicial intervention.[26]

Based on the ninth exception stated in the preceding paragraph, the doctrine requiring the prior exhaustion of

administrative remedies before recourse to the courts can be had is confined to land cases involving public lands; it is inapplicable to cases in which the subject matter is private lands. Upon registration, the homestead granted to Antonia and Miguel Gil ceased to have the character of public land and so was removed from the operation of the doctrine of exhaustion of administrative remedies.[27]

Since the free patent applications of Miguel and Antonia Gil over the disputed lots were granted and the corresponding certificates of title were accordingly issued in their names in 1976, the said properties then became private and ceased to be part of the public domain, over which the Director of Lands no longer has control or jurisdiction. The pieces of land thus covered by OCTs No. P-6079 and No. P-6080, in the names of Miguel and Antonia Gil, respectively, thereby assume the character of registered properties in accordance with the provisions of Section 122[28] of the Land Registration Act, and the remedy of any party who has been injured by their alleged fraudulent registration is an action for reconveyance instituted before the proper trial courts.[29]

An original certificate of title issued on the strength of a homestead patent partakes of the nature of a certificate of title issued in a judicial proceeding and becomes indefeasible and incontrovertible upon the expiration of one year from the date of promulgation of the order of the Director of Lands for the issuance of the patent. Thus, while the Director of Lands has the power to review homestead patents, he may do so only so long as the land remains part of the public domain, but once the patent is registered and a certificate of title issued, the land ceases to be part of the public domain and becomes private property over which the Director of Lands has neither control nor jurisdiction. [30]

Upon its registration, the land falls under the operation of Act No. 496[31] and becomes registered land. Time and again, we have said that a Torrens certificate is evidence of an indefeasible title to property in favor of the person whose name appears thereon.[32]

That the patent applications of Miguel and Antonia Gil over the disputed lots were approved and that their certificates of title thereto were issued five years ahead of respondents are questions of fact already settled by both the RTC and the Court of Appeals. It is axiomatic that factual findings of trial courts, when adopted and confirmed by the Court of Appeals, are binding and conclusive and will not be disturbed on appeal. This Court is not a trier of facts. It is not its function to examine and determine the weight of evidence supporting the assailed decision. Moreover, well-rooted is the prevailing jurisprudence that only errors of law and not of facts are reviewable by this Court in a petition for review on certiorari under Rule 45 of the Revised Rules of Court.[33]

On the issue that petitioners committed forum shopping when they filed the Petition at bar, respondents beckon this Court to bring our attention to the fact that way back 17 December 1970, the late Bautista Arendain already filed Civil Case No. 7068 before the then Court of First Instance (CFI) of Davao City, Branch 1, entitled, "Bautista Arendain v. The Honorable Director of Lands and Miguel Gil" for Declaration of judgment and/or Order as null and void. [34]

In his complaint in Civil Case No. 7068 against the Director of Lands and Miguel Gil, Bautista Arendain prayed that the Order dated 17 July 1961[35] of the Director of Lands giving due course to Homestead Application No. 85563 in the name of Miguel Gil be declared null and void ab initio. However, while it appears that the then CFI of Davao City, Branch I, already resolved Civil Case No. 7068 filed by Bautista Arendain when it issued an Order[36] dated 19 February 1971 dismissing the complaint therein, only the homestead application number and sketch of the land being disputed were provided in connection with Civil Case No. 7068. This Court cannot therefore ascertain whether said case involves the same property subject of the present petition.

Forum shopping is the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition.

In *Balite v. Court of Appeals*,^[37] the Court held that there is forum shopping when a party seeks to obtain remedies in an action in one court, which has already been solicited, and in other courts and other proceedings in another tribunal. While a party may avail himself of the remedies prescribed by the Rules of Court, such party is not free to resort to them simultaneously or at his/her pleasure or caprice. A party should not be allowed to present simultaneous remedies in two different forums, for it degrades and wreaks havoc upon the rule on orderly procedure. A party must follow the sequence and hierarchical order in availing himself of such remedies and not resort to shortcuts in procedure or to playing fast and loose with the said rules. Forum shopping, an act of malpractice, is considered as trifling with the courts and abusing their processes. It is improper conduct and degrades the administration of justice.^[38]

In the case at bar, since it was not sufficiently established that Civil Case No. 7068 and the present petition involve the same subject matter and/or issues, this Court refrains from making a finding herein that petitioners are indeed guilty of forum shopping.

Nonetheless, all told, the Court still denies the Petition on the basis of its earlier discussion that the doctrine of non-exhaustion of administrative remedies, on which petitioners essentially anchor their Petition, cannot justify the position they have taken.

WHEREFORE, premises considered, the instant Petition is DENIED for lack of merit. The Decision of the Court of Appeals dated 20 January 2006 in CA-G.R. CV No. 63440 affirming in toto the Decision dated 28 October 1998 of the Regional Trial Court, Branch 16, Davao City, in Civil Case No. 23,963-95 is AFFIRMED. Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura and Reyes, JJ., concur.

[1] Penned by Associate Justice Myrna Dimaranan Vidal with Associate Justices Romulo V. Borja and Ricardo R. Rosario, concurring. Rollo, pp. 33-41.

[2] Rollo, p. 44.

[3] Id. at 45.

[4] The Order of Investigation dated 3 August 1993 issued by the Department of Environment and Natural Resources, Office of the Regional Director, reads:

F.P.A. (XI-1) 17553 (Patent No.
(XI-1) 142 (O.C.T. No. P-6080) ANTONIA C. Gil

Applicant-Patentee,

- versus - x : : : :

RED Claim No. _____

FENR " " _____ CENR " " _____

Lot No. 7566 (Portion of

Lot 1080) Cad. 102 Cabantian, DAVAO CITY

F.P.A. (XI-1) 20829 :

(Free Patent No. (XI-1) 4656

:

(O.C.T. No. P-10522) BAUTISTA
ARENDAIN,

Applicant-Patentee. : : :

X ----- X

ORDER OF INVESTIGATION

It appearing that Original Certificate of Title No. P-10552, registered and recorded in the name of Bautista Arendain is the same and identical tract of land likewise covered by Original Certificate of Title No. P-6080 registered in the name of Antonia C. Gil, identified as Lot No. 7566 (Portion of lot 1080) Cad. 102, situated at Cabantian, Davao City.

IT IS ORDERED, that the CENR Officer, CENRO XI-4C, Davao City (East) cause the investigation of this case in strict accordance with Sections 6 and 7 of Lands Administrative Order No. 6 and with the guidelines set forth under Lands Office Circular No. 68, dated August 28, 1978, and thereafter, submit his report with the corresponding comment and recommendation to this Office within forty-five (45) days from the termination of the investigation for evaluation and appropriate action.

SO ORDERED.

Davao City, Philippines

ISRAEL C. GADDI

OIC, Regional Executive Director (Rollo, p. 70)

[5] Rollo, pp. 67-68.

[6] Id. at 59.

[7] The RTC Order states:

ORDER

On motion of the plaintiffs, the defendants Domingo Arendain, Irene Taroy-Arendain, Bautista Arendain and Cristita Bustos Arendain are declared as in default for failure to file their pre-trial brief and failure to appear for pre-trial this afternoon and also the defendant CENRO is declared as in default, for failure to file Pre-trial brief.

The Director of Lands and the Registry of Deeds did not file their answer. The reception of plaintiffs' evidence ex-parte is set on November 7, 1996, at 2:00 P.M.

Plaintiffs are directed to file a motion to declare defendants Registry of Deeds and the Director of Lands in default. (Rollo, p. 158-A.)

[8] Entitled Bautista Arendain, et al. v Hon. Romeo Marasigan. The petitioners in CA-G.R. SP No. 44118 are not completely enumerated in the case title so it cannot be stated with certainty whether spouses Domingo and Irene joined the spouses Bautista and Cristita in CA-G.R. SP No. 44118 before the Court of Appeals.

[9] Rollo, p. 159.

[10] Id. at 159.

[11] Entitled Bautista Arendain, et al. v. Antonio Gil, et al. Rollo, p. 164.

[12] Rollo, p. 164.

[13]

Rule 45

APPEAL BY CERTIORARI TO THE SUPREME COURT

x x x x

SEC. 2. Time for filing; extension. - The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition.

[14] G.R. No.131877 was denied with finality and judgment ordered entered in the Book of Entries of judgment in a resolution of this Court dated 2 June 1998. (Rollo, p. 165.)

[15] Rollo, p. 74.

[16] Failure to interpose an appeal within the reglementary period renders an order or decision final and executory unless a party files a motion for reconsideration within the 15-day reglementary period. x x x. (Heirs of the Late Flor Tungpalan v. Court of Appeals, G.R. No. 136207, 21 June 2005, 460 SCRA 392, 397.)

[17] Rollo, pp. 38-40.

[18] Id. at 15.

[19] Id. at 124-125.

[20] Id. at 22.

[21] Bautista Arendain died on 5 January 2005. Rollo, p. 22.

[22] Rollo, p. 45.

[23] Philippine Health Insurance Corporation v. Chinese General Hospital and Medical Center G.R. No. 163123, 15 April 2005, 456 SCRA 459, 472.

[24] Soto v. Jareno, 228 Phil. 117, 119 (1986).

[25] Paat v. Court of Appeals, 334 Phil. 146, 152-153 (1997).

[26] Id.

[27] Soto v. Jareno, supra note 24, citing Ramoso v. Obligado , 70 Phil. 86 (1940), Pamintuan v. San Agustin, 43 Phil 558 (1922).

[28] SEC. 122. Whenever public lands x x x belonging to the Government of the [Republic of the Philippines] are alienated, granted, or conveyed to persons or to public or private corporations, the same shall be brought forthwith under the operation of this Act and shall become registered lands. It shall be the duty of the official issuing the instrument of alienation, grant, or conveyance in behalf of the Government to cause such instrument before its

delivery to the grantee, to be filed with the register of deeds for the province where the land lies and to be there registered like other deeds and conveyances, whereupon a certificate shall be entered as in other cases of registered land, and an owner's duplicate certificate issued to the grantee. The deed, grant, or instrument of conveyance from the Government to the grantee shall not take effect as a conveyance or bind the land, but shall operate only as contract between the Government and the grantee and as evidence of authority to the clerk or register of deeds to make registration. The act of registration shall be the operative act to convey and affect the land, and in all cases under this Act registration shall be made in the office of the register of deeds for the province where the land lies. x x x.

[29] Lee Hong Hok v. David, 150-C Phil. 542, 550 (1972).

[30] Heirs of Gregorio Tengco v. Heirs of Jose Aliwalas, G.R. No. L-77541, 29 November 1988, 168 SCRA 198, 203-204.

[31] The Land Registration Act

[32] Republic v. Guerrero, G.R. No.133168, 28 March 2006, 485 SCRA 424, 435-436.

[33] Estate of Salvador Serra Serra v. Heirs of Primitivo Hernaez, G.R. No. 142913, 9 August 2005, 466 SCRA 120, 128-129.

[34] Rollo, p. 196.

[35] Id. at 193.

[36]

ORDER

On the ground that the Court has no jurisdiction over the subject matter or nature of the action and of the relief sought, on motion of defendant Miguel Gil, thru counsel, the above-entitled case is hereby dismissed, without costs. (Rollo, p. 196.)

[37] G.R. No. 140931, 26 November 2004, 444 SCRA 410, 421-422.

[38] Kiani v. Bureau of Immigration and Deportation (BID), G.R. No. 160922, 27 February 2006, 483 SCRA 341, 353-354.

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