

**LEONOR MAGDANGAL, MARIA PENAFLORIDA, PERLA MAGBAG,
GUILLERMO CIRICO, ESTELITA SABINIANO, VIVIAN CARLOS,
GERTRUDIS TRAPSI, LOLITA BONGALA, ERLINDA PENAFLORIDA,
EUFROSINA TONGCO, ...**

G.R. No. 83828. November 16, 1989

Ponente: CORTES, J.

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CORTES, J.:

Assailed in this petition for prohibition is the constitutionality of Batas Pambansa Blg. 875, which excluded from the National Park Reservation in Olongapo City, a certain portion of the land embraced therein known as Lot 21 and ceded the ownership and possession thereof to the government of Olongapo City to be used exclusively for a cultural, trade and tourism center site.

This is not the first time the controversy was brought to this Court by petitioners, who had built on Lot 21 and who had incorporated themselves into the "Pag-asa Lot Owners Association, Inc." In G.R. No. 62784, entitled "Pag-asa Lot Owners Association, Inc., et al. v. Office of the Mayor of Olongapo City, et al.," the Court, in a Resolution dated September 7, 1983 dismissed the petition for declaratory relief "without prejudice to filing the appropriate remedy in the proper forum." In G.R. No. 71362, entitled "Pag-asa Lot Owners Association, Inc., et al. v. The City Mayor of Olongapo and/or Olongapo City, et al.," where the constitutionality of B.P. Blg. 875* was challenged, the Court in a Resolution dated October 9, 1985, dismissed the petition for lack of merit. The text of the Resolution read:

The motion of the Solicitor General for a second extension of fifteen (15) days from September 13, 1985 within which to file comment on the petition for declaratory relief, is GRANTED. Considering the allegations, issues and arguments adduced in the aforesaid petition as well as private respondents' comment thereon, and dispensing with the Solicitor General's comment, the Court Resolved to DISMISS the petition for lack of merit.

As respondents correctly argue, considering the dismissal of G.R. No. 71362, the threshold issue posed is whether or not this petition is already barred by *res judicata*.

The settled rule is that a final order or judgment on the merits, rendered by a court having jurisdiction over the subject matter and the parties, is conclusive in a subsequent case between the same parties and their successors-in-interest litigating the same thing and issue, though such judgment may be erroneous. This is known as the rule of *res judicata*, and for it to operate, the following requisites must be present: (a) the former judgment must be final; (b) it must be rendered by a court having jurisdiction over the subject matter and the parties; (c) it must be a judgment on the merits; and (d) there must be, between the first and second actions, identity of parties, of subject matter and of cause of action [*San Diego v. Cardona*, 70 Phil. 281 (1940); *Deang v. IAC*, G.R. No. 71313, September 24, 1987, 154 SCRA 250.]

We find present all the requisites for the application of the rule of *res judicata* to bar this petition.

It is not disputed that the judgment of the Court in G.R. No. 71362, which dismissed the petition therein for lack of merit, had long become final.

The jurisdiction of this Court over the issue of the constitutionality of B.P. Blg. 875 and over the parties is not open to doubt.

The resolution in G.R. No. 71362 dismissing the petition for lack of merit is definitely a judgment on the merits of the case even though it was only a minute resolution [Sy v. Tuvera, G.R. No. 76639, July 16, 1987, 152 SCRA 103.]

Finally, there is between G.R. No. 71362 and the present case an identity of the parties, the subject matter and the cause of action. Petitioners in the present case were also the petitioners in G.R. No. 71362 together with the Pag-asa Lot Owners Association, Inc., of which they are members. In both cases, the subject matter is the constitutionality of B.P. Blg. 875. While the petition in G.R. No. 71362 is for declaratory relief and the present petition is for prohibition, the fundamental cause of action in both is the same, i.e., that B.P. Blg. 875 impairs the obligation of contracts and constitutes deprivation of property without due process of law. We have held that a party cannot, by varying the form of action or adopting a different method of presenting the case, escape the application of the rule of res judicata [Ibabao v. IAC, G.R. No. 74848, May 20, 1987, 150 SCRA 76.]

Clearly, the present action is already barred by res judicata. The issue of the constitutionality of B.P. Blg. 875 was squarely raised in G.R. No. 71362 and the Court, after considering the petition and private respondent's comment, dismissed the petition for lack of merit. This bars the present action.

WHEREFORE, the Court Resolved to DISMISS the present petition.

Fernan, C.J., Narvasa, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, and Regalado, JJ., concur.
Melencio-Herrera, J., on leave.

* B.P. Blg. 875 provides:

SECTION 1. - A certain portion of land otherwise known as Lot 21, Ts-308 of the City of Olongapo which, under Proclamation Numbered Four hundred seventy-eight, Series of Nineteen hundred and sixty-eight, forms part of the area declared as National Park Reservation in the City of Olongapo, is detached and excluded from said National Park Reservation.

Lot 21, Ts-308 is more particularly described and bounded as follows:

* * *

SECTION 2. - The ownership and possession of Lot 21, Ts-308 is hereby ceded to the Government of the City of Olongapo to be used exclusively for cultural, trade and tourism center site purposes under the provisions of Republic Act Numbered Forty-six hundred and forty-five, as amended, otherwise known as the Charter of the City of Olongapo, and the provisions of Commonwealth Act Numbered One hundred forty-one, as amended otherwise known as the Public Land Act.

SECTION 3. - In the event that private rights or an equity to any portion of the said lots have been acquired by any private party, such rights or equity should be recognized by the City of Olongapo and the corresponding compensation or reimbursement therefor should be provided for in accordance with existing laws.

SECTION 4. - This Act shall take effect upon its approval.

Approved, June 12, 1985. [81 O.G. 2753-2755.]

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