

**GODOFREDO T. SWAN, GERMAN T. SWAN, GABRIEL T. SWAN AND
GLENN T. SWAN, PETITIONERS, VS. HONORABLE COURT OF
APPEALS, SPOUSES PATROCINIO LLADONES AND NIEVES
LLADONES, RESPONDENTS.**

G.R. No. 97319. August 04, 1992

Ponente: NOCON, J.

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NOCON, J.:

The petitioners, the brothers Swan, pray that this Court, in G.R. No. 104554, restrain the Quezon City Regional Trial Court, Branch 85, from proceeding with the execution pending appeal of the ejectment case elevated to said court by petitioners, on the ground that this Court in G.R. No. 97319 has already given due course to their petition wherein they pray that the respondent Court of Appeals' Decision of January 14, 1991 ordering the dismissal of their complaint against the private respondents in the Quezon City RTC, Branch 104, as well as its Resolution of February 19, 1991, denying their motion for reconsideration of said decision be set aside.

The Record discloses that the disputed property in the case at bar is a People's Homesite and Housing Corporation (PHHC) lot designated as Block 5, Lot 21 of the Bago-Bantay, Quezon City Subdivision Plan.

Petitioners claim that sometime in 1959, their parents, Atanacio B. Swan and Maria T. Swan, came to settle permanently in Bago Bantay, Q.C. and occupied said disputed lot. At that time the Bago-Bantay area was being subdivided by the government to be awarded to the occupants. The spouses Lladones moved in opposite them occupying a portion of Block 5, Lot 22 sometime in 1961. Atanacio B. Swan had to file in November 28, 1967 another application to purchase said lot as he found his application was missing when he followed up his original application. Around ten years later, or on January 14, 1977, the spouses Lladones filed another application to purchase the disputed lot (Block 5, Lot 21) when they discovered that Block 5, Lot 22 -- which they (Spouses Lladones) were occupying -- was awarded to another family (the Zenarosa family). Said spouses Lladones, allegedly without the knowledge of the Swans, obtained TCT No. 286437 over said Block 5, Lot 21 on March 26, 1982. Thus, the Swans filed Civil Case Q-90--5183 against the spouses Lladones for annulment and cancellation of title. When the Quezon City RTC did not dismiss their complaint as moved by the spouses Lladones, the matter was brought up by the spouses Lladones to the respondent Court of Appeals which then reversed the Quezon City RTC on the ground that the Swans' action should have been a special civil action for certiorari wherein the National Housing Authority (NHA) (successor of the PHHC) should have been alleged to have gravely abused its discretion in awarding the disputed lot to the spouses Lladones. The decision of the respondent court became the basis of G.R. No. 97319.

Private respondents, on the other hand, in their Rejoinder stated that:

"The above parcel of land is already 'pulverished' by several cases on it.

"The first one was on July 1, 1977, filed by Sps. Teodoro and Fortunata Laher, one of the several occupants,

together with Maria Swan, mother of herein petitioners, against NHA. Patrocinio Lladones, Walter Balanga and Sabas Insiong to annul the award of the lot to Patrocinio Lladones by NHA covered by said TCT No. 286437, before the Regional Trial Court of Quezon City, Branch V, presided by Hon. Eduardo C. Tutaan.

"On January 11, 1982, the court a quo then issued an Order dismissing the case.

"Plaintiffs (Laher) elevated the case on certiorari, prohibition and mandamus in CA-G.R. SP No. 14209-R to the Court of Appeals, which afterwards, rendered a decision denying said petition stating that the court a quo then did not commit grave abuse of discretion in dismissing the complaint.

"Then, Patrocinio Lladones filed a case of recovery of possession against Teodoro Laher before Branch 101, Regional Trial Court of Quezon City, presided by Hon. Pedro T. Santiago docketed as Civil Case No. Q-40957.

"In that case plaintiff (Lladones) won. x x x

"The defendant here did not appeal the above decision.

"As a consequence of the above case, on November 12, 1985, Patrocinio Lladones filed two ejectment cases before the Metropolitan Trial Court, Branch 34, Quezon City against Maria Swan, mother of herein petitioners and Raymundo Ala, another occupants (sic) of the premises in question, docketed as Civil Cases No. 48810 and 48811, respectively.

"On November 29, 1988, a decision was promulgated by the court (in favor of Lladones). x x x

"In the afternoon of September 14, 1989, defendants were ejected and their shanties were demolished and removed from the parcel of land covered by TCT No. 286437.

"However, on same date, on or about 5:00 P.M., defendants, herein petitioners re-entered the premises.

"Consequently, on February 14, 1990, private respondents filed a case of forcible entry with prayer for preliminary injunction against petitioners before the Metropolitan Trial Court of Metro Manila, Branch 37, Quezon City, docketed as Civil Case No. 37--2571.

"On April 6, 1990, petitioners filed a Civil Case of Annulment and Cancellation of TCT No. 286437 against private respondents, before Regional Trial Court, National Capital Judicial Region, Branch 104, Quezon City, docketed as Civil Case No. Q-90-5183, the subject matter of this petition.

"On May 29, 1991, a decision was promulgated in Civil Case No. 37-2571 (in favor of the private respondents spouses Lladones). x x x"[1]

In the meantime, as above-stated, Civil Case No. 37-2571, Quezon City, Metropolitan Trial Court, Branch 37, had been decided in favor of herein private respondents on May 19, 1991.[2] Although petitioners (as defendants therein) appealed said case to the Quezon City RTC, Branch 85, private respondents' motion for execution pending appeal was granted by said appellate court on February 10, 1992.[3] Petitioners were given 5 days from March 23, 1992 to vacate the disputed lot by Sheriff Bernas.[4] Petitioners now come to this Court and pray that We enjoin the ejectment proceedings.[5]

The sheriff's notice to vacate is the reality that confronts Us. It gives credence to private respondents' version of the antecedents of the case -- specially their claim that petitioners did not appeal --

(1) the annulment case filed on July 1, 1977 by the spouses Laher and Maria T. Swan (deceased mother of petitioners) against the National Housing Authority, Patrocinio Lladones (one of the private respondents), Walter Balanga and Sabas Insiong to contest the award of the disputed lot (covered by TCT No. 286437) to private respondent Patrocinio Lladones by the NHA. This was filed before the then Court of First Instance of Rizal,

Quezon City, Branch V, presided by the Hon. Eduardo C. Tutaan. The case was dismissed on January 11, 1982. This was elevated to the Court of Appeals (CA-G.R. SP No. 14209-R) which Court denied the same[6]; and

(2) the case of recovery of possession filed by private respondent Patrocinio Lladones against Teodoro Laher before Branch 101, Quezon City RTC, docketed as Civil Case No. Q-40957 which was decided in Lladones' favor on March 7, 1985.[7]

Precisely because these two (2) aforementioned cases were not appealed, the private respondents filed two ejectment cases against Maria Swan and one Raymunda Ala, another occupant in the disputed lot in Branch 34, Quezon City RTC, docketed as Civil Case No. 48810[8] and 48811, respectively.

On November 29, 1988, a decision was issued by the inferior court in the ejectment cases, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, the Court finds for the plaintiff and against Maria Swan and Raymunda Ala, to wit:

1. Ordering the defendants aforesaid and all persons claiming rights and interests under them to vacate the premises located at No. 81 Antique St., Bago-Bantay, Quezon City and to surrender possessions thereof to the plaintiff.

xxx xxx xxx

SO ORDERED."[9]

Petitioners, as defendants in said ejectment cases, were ejected in the afternoon of September 14, 1989. But they reentered the premises around 5:00 o'clock in the afternoon of the same date. This forced private respondents to file a forcible entry case against petitioners before Branch 37, Quezon City RTC, docketed as Civil Case No. 37-2571.

This case was decided in private respondents' favor on May 29, 1991 but it was appealed by petitioners to Branch 85, Quezon City RTC. However, private respondents' motion for execution pending appeal was granted on February 10, 1992. Thus the petitioners were served the sheriff's notice to vacate on March 23, 1992. Hence, this petition for certiorari, prohibition, injunction with prayer for a restraining order docketed as G.R. No. 104554.

Petitioners fault the respondent Court of Appeals for granting private respondents' petition therein, thus ordering that petitioners' complaint in Civil Case No. Q-90-5183 in the Quezon City RTC be dismissed, on the ground that the proper remedy of petitioners "should have been a special civil action for certiorari alleging grave abuse of discretion amounting to lack or excess of jurisdiction on the part of NHA,[10] based on the case of Raymundo vs. PHHC.[11]

In Raymundo vs. PHHC, the petitioner Raymundo therein was awarded on December 3, 1964, Block E-122-D, Lot 2, Piñahan, Quezon City. As the said lot had not been appraised then, she was required to pay a reservation deposit of P500.00 which she paid on December 7, 1964. On June 6, 1968, for failure of Raymundo to comply with the requirements demanded of her by the respondent PHHC, the latter passed Resolution No. 1132 cancelling the award of the lot in question. On January 4, 1969, Raymundo filed in the Court of First Instance of Rizal, Branch XVII a complaint for specific performance against herein respondent PHHC and its Board Director Fructuoso Suzara and PHHC employee Rodeo Pagdanganan to compel the PHHC to sell to her the lot in question with prayer for issuance of preliminary injunction to restrain respondent PHHC from selling the lot in question to another applicant.

On June 16, 1970, the trial court therein rendered judgment dismissing Raymundo's complaint without

pronouncement as to costs, on the ground that Raymundo, having failed to comply with her obligations under her application to purchase the lot in question, had no right to compel respondent PHHC to maintain its award in her favor. A motion for reconsideration and/or new trial was denied on July 13, 1970. Not satisfied, Raymundo appealed to the Court of Appeals which certified the same to the Supreme Court.

The Supreme Court affirmed the trial court's ruling that what was entered into between petitioner Raymundo and respondent PHHC was just a mere "Sworn Application to Purchase a Lot" and not a perfected Contract of Sale and that Raymundo, not having complied with PHHC's rules and regulations, could not qualify for the award of the PHHC lot in question therein.

The Court therein further stated -- and this is the ruling respondent Court relied upon -- that:

"The power to dispose of the lands placed under the administration of Philippine Homesite and Housing Corporation is lodged in said body. There is no provision of law authorizing courts to review decisions of respondent PHHC and to take cognizance of actions to annul awards of sale or any other action made by it pursuant to the authority granted it by law. If the courts are to take cognizance of cases involving errors or abuse of power exercised by the respondent PHHC, the remedy would be by means of an action for certiorari or prohibition to set aside the orders or decisions of the respondent, and not a direct action for specific performance as the one instituted in this case. But this special civil action would not lie unless there is an allegation of abuse of discretion or lack of jurisdiction." [12]

Petitioners are correct. Their action in the court below (Civil Case No. Q-90-5183) being one for annulment of title of the private respondents, the Regional Trial Courts have original jurisdiction to entertain the same. [13] What Raymundo prohibits is the cognizance by the courts of actions to annul NHA awards of sale of its lots. Actually, the next step for annulling an NHA award of sale is an appeal to the Office of the President within 33 days from receipt of the NHA decision awarding the lot to another party. [14] After which step, the aggrieved party can go to the Courts via Rule 65.

The questioned decision of the respondent Court of Appeals in G.R. No. 97319 has to be reversed and set aside.

However, We cannot order that Civil Case Q-90-5183 be reinstated. It is clear from the records of the case that Civil Case No. Q-90-5183, filed last April, 1990 was basically the same case filed much earlier in July of 1977 before Branch V of the then Court of First Instance of Rizal at Quezon City, presided by Judge Tutaan, entitled *Sps. Teodoro and Fortunata Laher and Maria Swan vs. NHA, Patrocinio Lladones, Walter Balanga and Sabas Insiong*.

The 1990 civil case has to be dismissed on the ground of *res judicata*.

The first three requisites for the application of the principle of *res judicata* are present. [15] The 1977 annulment case [16] was decided in favor of the private respondents (defendants therein) Lladones, et. al., and the same was appealed by petitioners (plaintiffs therein) to the Court of Appeals as CA-G.R. SP No. 14209-R. This has become final. [17]

As for the fourth requisite, it should be noted that the petitioners and private respondents are both plaintiffs and defendants, respectively, in the 1977 and 1990 annulment cases. Thus, there is identity of parties, although, in the 1977 case, one Laher was a co-plaintiff of the petitioners, and one Walter Balanga and Sabas Insiong were co-defendants of the private respondents Lladoneses. The co-plaintiffs and co-defendants of the 1977 case thus shared an identity of interests, respectively.

That there is identity of subject matter, there can be no question. True, it is that the 1977 case was for annulment of the award given to Patrocinio Lladones, Walter Balanga and Sabas Insiong while the 1990 case was for

annulment of title of Patrocinio Lladones. No matter how differently formulated, however, the same basic relief was sought -- the annulment of the award by the NHA of the disputed lot to the Spouse Lladones so that the petitioners would have the opportunity to obtain the award of the disputed lot for themselves.

One test of identity of causes of action is whether or not the judgment sought in a subsequent case will be inconsistent with the prior judgment.[18] If no inconsistency will result, the prior judgment cannot be held to be at bar. In the 1977 case, the petitioners did not get any relief as the Court of Appeals affirmed the order of the trial court dismissing the complaint for annulment of the award to private respondent Patrocinio Lladones and others. Although there is no copy of the 1977 judgment in the Rollo, the recovery of possession case[19] that the private respondents filed in Branch 101 of the Quezon City RTC, states in a portion of the Decision of that case as follows:

"This is a case for recovery of possession of a piece of land covered by TCT No. 286437 in the name of plaintiff, issued by the Register of Deeds of Quezon City on March 26, 1982. It likewise appears that the same property was the subject of CA-G.R. No. 14209-SP before the Honorable Court of Appeals which was decided in favor of plaintiff and its decision has become final. The plaintiff alleged that the occupation of a portion of the premises by defendant for many years was merely tolerated.

X X X XXX XXX

"Whether the defendant was in prior possession of the subject land is immaterial. The law is that prescription cannot run against a Torrens title which is indefeasible such as what plaintiff has no (sic) can prior possession negate such title. Besides the question of ownership/possession appears to have already (been) threshed out in substance by the then Honorable Court of Appeals in favor of herein plaintiff in CA-G.R. No. 14209--SP.' "

If affirmative relief will be given to the petitioners in the 1990 case, that judgment will definitely be inconsistent with the prior judgment in the 1977 case where the "question of ownership/possession appears to have already (been) threshed out in substance" by the Court of Appeals in CA-G.R. No. 14209-SP which reviewed said 1977 case. Tried by the inconsistency test, therefore, identity (at the very least, substantial identity) of causes of action must be held to be present.

Having declared that petitioners can no longer question the award of the NHA lot involved to the private respondents, the spouses Lladones, the latter should now be allowed to occupy the property, the possession of which has been withheld from them for almost 15 years.

It is high time that We write finis to a litigation that has been pending for years not only to the prejudice of the prevailing parties, but also to the prompt determination of controversies, and in violation of the fundamental concept that public policy and sound practice demand that judgments of Courts should become final at some definite date fixed by law.[20]

WHEREFORE, the assailed decision of respondent Court being questioned in G.R. No. 97319 is SET ASIDE. However, Civil Case No. Q-90-5183 is hereby ordered DISMISSED. The prayer for a temporary restraining order in G.R. No. 104554 is denied. Costs against petitioners.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

[1] Pages 55-57, Rollo, G.R. No. 97319.

[2] Page 17, Rollo, G.R. 104554.

- [3] Page 18, Rollo, G.R. 104554.
- [4] Page 19, Rollo, G.R. 104554.
- [5] G.R. No. 104554.
- [6] Page 55, Rollo, G.R. No. 97319.
- [7] Page 56, Rollo, G.R. No. 97319.
- [8] Mentioned by petitioner in his petition on pp. 6 and 13, Rollo, G.R. No. 97319.
- [9] Page 58-59, Rollo.
- [10] Page 37, Rollo, G.R. No. 97319; p. 3, Decision of the Court of Appeals.

[11] 114 SCRA 717.

- [12] Raymundo vs. PHHC, 114 SCRA 717.
- [13] Section 19(2), B.P. 129, as amended.
- [14] Rule 8(5a), EO 19 (1966), 62 O.G. 18, pp. 2940, 2942.
- [15] The requisites essential for the application of the principle of res judicata are: (1) there must be a final judgment or order; (b) said judgment or order must be on the merits; (3) the Court rendering the same must have jurisdiction over the subject matter and the parties; and (4) there must be between the two cases identity of parties, identity of subject matter, and identity of cause of action (Valencia vs. RTC of Quezon City, Br. 90, 184 SCRA 80, 90, 91).
- [16] This was actually an annulment of NHA award case filed directly with the courts. Both parties appeared to have actively participated in the court's proceedings and so it is assumed that the appeal to the Office of the President was waived.
- [17] Page 68, Rollo.
- [18] Tan vs. Amador, 66 SCRA 61, cited in Valencia vs. RTC of Quezon City, 184 SCRA 80, 92.
- [19] Civil Case No. Q-40957, RTC, Quezon City, Br. 101, entitled Patrocinio Lladones vs. Sps. Teodoro and Fortunata Laher.
- [20] Op. Cit., 95.

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