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Wilfredo V. Lapitan
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Division Clerk of Court
Third Division

SEP 02 2016

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**GOMECO METAL
CORPORATION,**
Petitioner,

G.R. No. 202531

Present:

-versus-

VELASCO, JR., J.,
Chairperson,
PERALTA,
PEREZ,
REYES, and
JARDELEZA, JJ.

**THE COURT OF APPEALS, and
PAMANA ISLAND RESORT
HOTEL AND MARINA CLUB,
INCORPORATED,**
Respondents.

Promulgated:

August 17, 2016

x

Wilfredo V. Lapitan
X

DECISION

PEREZ, J.:

This is a petition for *certiorari*,¹ assailing the Decision² dated 28 December 2011 and Resolution³ dated 28 June 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 119053.

The facts:

Parties and Civil Case No. 4349-V-94

* Respondent's name is stated as Pamana Island Resort and Marine Club, Inc. in the other parts of the records.

¹ Under Rule 65 of the Rules of Court.

² *Rollo*, pp. 56-74. The decision was penned by Associate Justice Samuel H. Gaerlan for the Sixth (6th) Division of the Court of Appeals with Associate Justices Amelita G. Tolentino and Ramon R. Garcia, concurring.

³ *Id.* at 102.

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Petitioner Gomeco Metal Corporation (Gomeco) is a domestic corporation engaged in the business of selling steel and metal products. Respondent Pamana Island Resort Hotel and Marina Club, Inc. (Pamana), on the other hand, is a domestic corporation engaged in the business of operating leisure resorts.

In 1994, Gomeco filed a Complaint for Collection of Sum of Money (Complaint) against Pamana before the Regional Trial Court (RTC) of Valenzuela City. In the Complaint, Gomeco sought to collect payment for the stainless steel products⁴ it sold to Pamana in 1991. The Complaint was raffled to Branch 75 and was docketed as Civil Case No. 4349-V-94.

In 1997, Gomeco and Pamana entered into a Compromise Agreement⁵ to end litigation in Civil Case No. 4349-V-94. The compromise agreement, which required Pamana to pay Gomeco ₱1,800,000.00, was consequently approved by the RTC in an Order dated 16 January 1997.⁶

Writ of Execution and First Notice of Levy

Of the ₱1,800,000.00 that was due Gomeco under the compromise agreement, however, Pamana was actually able to pay only ₱450,000.00. This eventually led the RTC, on 2 March 1998, to issue an order directing Pamana, within twenty (20) days from its receipt thereof, to pay Gomeco ₱1,350,000.00 or the remaining balance under the compromise agreement. Such order, however, was unheeded by Pamana.

Thus, the RTC, upon application therefor by Gomeco, issued a Writ of Execution⁷ on 7 May 1998 commanding the court's sheriff, then one Jaime T. Montes (Sheriff Montes), to enforce the court-approved compromise agreement against Pamana.

Pursuant to the writ of execution, Sheriff Montes first garnished Pamana's bank accounts by sending notices of garnishment with the Philippine National Bank, Metropolitan Bank and Trust Company, Westmont Bank, Union Bank and Prudential Bank. The garnishment of Pamana's accounts with the aforementioned banks yielded futile results, however, as the same failed to satisfy, whether fully or in part, Pamana's indebtedness.

⁴ Records, Vol. I, pp. 1-5; worth ₱995,190.00 plus 10% Value Added Tax and 36% interest per annum.

⁵ Id. at 215-216; Compromise Agreement dated 9 January 1997.

⁶ Id. at 217; Order dated 16 January 1997.

⁷ CA rollo, pp. 52-54.

Hence, on 22 May 1998, Sheriff Montes issued a *Notice of Levy*⁸ placing under levy on execution one of Pamana's real estate properties—the 53,285 square meter Pequeña Island in Subic, Zambales. On the belief that the Pequeña Island is property not registered under the Torrens System, such island was identified in the notice of levy by Tax Declaration No. 007-0001 with Property Index No. 016-13-007-01-001.⁹

Notable, moreover, are the following entries in the notice of levy:

1. The amount of the levy on the Pequeña Island was fixed at “~~₱~~2,065,500.00.”
2. The property being levied, *i.e.*, Pequeña Island, was referred to as “*personal properties*” of Pamana.

Notice of Sheriff's Sale, Execution Sale and CA-G.R. SP No. 62391

On 11 December 2000, with Pamana's indebtedness still unsatisfied, Sheriff Montes issued a *Notice of Sheriff Sale*¹⁰ on the Pequeña Island. Like the notice of levy, the notice of sheriff's sale identified the Pequeña Island through Tax Declaration No. 007-0001 with Property Index No. 016-13-007-01-001. It set the public auction of the Pequeña Island on 10 January 2001.

The notice of sheriff's sale bears the following entries:

1. The amount of levy on the Pequeña Island was fixed at “~~₱~~2,065,00[0].00.”
2. The property levied and the subject of public auction, *i.e.*, the Pequeña Island, was referred to as the “*personal/real properties*” of Pamana.

The notice of sheriff's sale was duly posted and published in a newspaper of general circulation in the manner required by Section 15(c) of Rule 39 of the Rules of Court.

On 28 December 2000, Pamana filed a Petition for Prohibition (with prayer for the issuance of a temporary restraining order) before the CA, seeking to nullify the notice of sheriff's sale and enjoin the public auction of the Pequeña Island scheduled thereunder. The Petition was docketed in the CA as CA-G.R. SP No. 62391 and impleaded Gomeco and Sheriff Montes

⁸ Id. at 55.

⁹ Id. at 98.

¹⁰ Id. at 58.

as respondents. On 9 January 2001, *i.e.*, a day before the public auction of the Pequeña Island was scheduled to take place pursuant to the notice of sheriff's sale, the CA issued a temporary restraining order (TRO) against holding such public auction.

Despite the TRO issued by the CA, however, the public auction of the Pequeña Island still pushed through, as scheduled, on 10 January 2001. As it happened, the TRO was not served upon Gomeco and Sheriff Montes until moments after the public auction was already concluded.

At the 10 January 2001 public auction, Gomeco became the winning bidder for the Pequeña Island at the price of ₱2,065,000.00.

Aggrieved by the turn of events, Pamana filed a Supplementary Petition in CA-G.R. SP No. 62391 asking the CA to strike down as null and void the 10 January 2001 public auction of the Pequeña Island.

On 22 March 2001, a *Sheriff's Certificate of Sale* covering the Pequeña Island was issued in favor of Gomeco. On 28 March 2001, the said certificate was registered¹¹ with the Register of Deeds (RD) of Iba, Zambales, under the Registry of Unregistered Properties pursuant to Section 194 of Republic Act No. 2711 or the Revised Administrative Code of 1917, as amended by Republic Act No. 3344.¹²

¹¹ Records, pp. 347-347-A; Entry No. 131726, page 99, Vol. XXXIII of the Books of Unregistered Lands, Register of Deeds of Iba, Zambales.

¹² REVISED ADMINISTRATIVE CODE, Sec. 194, as amended by Republic Act No. 3344, provides:

SEC. 194. *Recording of Instruments or Deeds Relating to Real Estate not Registered Under Act Numbered Four Hundred and Ninety-Six or Under the Spanish Mortgage Law.* — No instrument or deed establishing, transmitting, acknowledging, modifying or extinguishing rights with respect to real estate not registered under the provisions of Act Numbered Four hundred and ninety-six, entitled 'The Land Registration Act', and its amendments, or under the Spanish Mortgage Law, shall be valid, except as between the parties thereto, until such instrument or deed has been registered, in the manner hereinafter prescribed, in the office of the register of deeds for the province or city where the real estate lies.

It shall be the duty of the register of deeds for each province or city to keep a day book and a register book for unregistered real estate, in accordance with a form to be prepared by the Chief of the General Land Registration Office, with the approval of the Secretary of Justice. The day book shall contain the names of the parties, the nature of the instrument or deed for which registration is requested, the hour and minute, date and month of the year when the instrument was received. The register book shall contain, among other particulars, the names, age, civil status, and the residences of the parties interested in the act or contract registered and in case of marriage, the name of the wife, or husband, as the case may be, the character of the contract and its conditions, the nature of each piece of land and its own improvements only, and not any other kind of real estate or properties, its situation, boundaries, area in square meters, whether or not the boundaries of the property are visible on the land by means of monuments or otherwise, and in the affirmative case, in what they consist; the permanent improvements existing on the property; the page number of the assessment of each property in the year when the entry is made, and the assessed value of the property for that year; the notary or the officer who

Decision of the CA in CA-G.R. SP No. 62391

On 19 February 2002, the CA rendered a Decision¹³ in CA-G.R. SP No. 62391 declaring as null and void the Notice of Sheriff's Sale and the 10 January 2001 public auction of the Pequeña Island. Underlying such declaration is the CA's finding that the Notice of Levy and the Notice of Sheriff's Sale were fatally defective due to their erroneous indication that the levy thereunder was enforceable up to the amount of ₱2,065,000.00, instead of only up to the ₱1,350,000.00 remaining indebtedness of Pamana under the compromise agreement plus other lawful fees.¹⁴

Gomeco filed a Motion for Reconsideration.

Acting on Gomeco's Motion for Reconsideration, the CA issued a Resolution¹⁵ dated 9 July 2002. In the said Resolution, the CA modified its earlier Decision and declared the levy and the ensuing 10 January 2001

acknowledged, issued, or certified the instrument or deed; the name of the person or persons who, according to the instrument, are in present possession of each property; a note that the land has not been registered under Act Numbered Four hundred and ninety-six nor under the Spanish Mortgage Law; that the parties have agreed to register said instrument under the provisions of this Act, and that the original instrument has been filed in the office of the register of deeds, indicating the file number, and that the duplicate has been delivered to the person concerned; the exact year, month, day, hour, and minute when the original of the instrument was received for registration, as stated in the day book. It shall also be the duty of the register of deeds to keep an index-book of persons and an index-book of estates, respectively, in accordance with a form to be also prepared by the Chief of the General Land Registration Office, with the approval of the Secretary of Justice.

Upon presentation of any instrument or deed relating to real estate not registered under Act Numbered Four hundred and ninety-six and its amendments or under the Spanish Mortgage Law, which shall be accompanied by as many duplicates as there are parties interested, it shall be the duty of the register of deeds to ascertain whether said instrument has all the requirements for proper registration. If the instrument is sufficient and there is no legitimate objection thereto, or in case of there having been one, if the same has been dismissed by final judgment of the courts, and if there does not appear in the register any valid previous entry that may be affected wholly or in part by the registration of the instrument or deed presented, and if the case does not come under the prohibition of section fourteen hundred and fifty-two of Act Numbered Twenty-seven hundred and eleven, the register of deeds shall register the instrument in the proper book. In case the instrument or deed presented has defects preventing its registration, said register of deeds shall refuse to register it until the defects have been removed, stating in writing his reasons for refusing to record said instrument as requested. Any registration made under this section shall be understood to be without prejudice to a third party with a better right.

The register of deeds shall be entitled to collect in advance as fees for the services to be rendered by him in accordance with this Act, the same fees established for similar services relating to instruments or deeds in connection with real estate in section one hundred fourteen of Act Numbered Four hundred ninety-six, entitled "The Land Registration Act", as amended by Act Numbered Two thousand eight hundred and sixty-six.

¹³ *Rollo*, pp. 343-348. The decision was penned by Associate Justice Eugenio S. Labitoria for the Sixth (6th) Division of the Court of Appeals with Associate Justices Teodoro P. Regino and Rebecca De Guia-Salvador, concurring.

¹⁴ *Id.*

¹⁵ *Id.* at 108-110.



public auction to be valid *but* only to the extent of the ₱1,350,000.00 remaining indebtedness of Pamana plus 12% legal interest thereon and other lawful fees in the implementation of such levy and auction.¹⁶

Pamana, in turn, filed a Motion for Reconsideration.

On 16 January 2003, the CA issued a Resolution¹⁷ wherein it affirmed in all respects its 9 July 2002 Resolution except only to the inclusion of the “12% *legal interest*” as a component of the entire amount satisfiable by the levy and execution sale.

The 16 January 2003 Resolution of the CA became final and executory on 10 February 2003.¹⁸

Motion for Clarification in CA-G.R. SP No. 62391

After the finality of the 16 January 2003 Resolution, Pamana filed with the CA a *Motion for Clarification* in CA-G.R. SP No. 62391. In the said motion, Pamana asked the CA to require disclosure of the list of properties *in* the Pequeña Island that were levied upon and sold during the 10 January 2001 public auction, and their corresponding values.

Pamana’s Motion for Clarification rests on the following key assumptions:

1. The object of the Notice of Levy is not actually the Pequeña Island itself but only the “*personal properties*” in the said island;
2. The 10 January 2001 public auction resulted in the sale not of the Pequeña Island but only of certain properties therein;
3. The notice of levy, the Minutes of Auction Sale and the Sheriff’s Return, however, did not specify which personal properties in the Pequeña Island were actually levied and sold during the 10 January 2001 public auction; and
4. The Minutes of Auction Sale and the Sheriff’s Return did not reveal for how much Pamana’s properties in the

¹⁶ Id.

¹⁷ Id. at 111-112.

¹⁸ CA *rollo*, pp. 95-96; Entry of Judgment.

Pequeña Island had been sold during the 10 January 2001 public auction.

The CA, at first, denied Pamana's Motion for Clarification. However, on 17 September 2004, the CA issued a Resolution¹⁹ directing Deputy Sheriff Montes to "*point out which of petitioner's specific properties [in the Pequeña Island] had been levied and sold in public auction and to determine the exact value of said properties if sufficient to satisfy in full the judgment debt of [₱]1,350,000.00 and other lawful expenses*" and to "*return to [Pamana] such amount, if any, in excess of the judgment debt.*"²⁰

TCT No. T-38774

Meanwhile, on 29 January 2003, Gomeco was issued a *Sheriff's Final Deed of Sale*²¹ over the Pequeña Island. The Sheriff's Final Deed of Sale attested that Pamana had failed to exercise his right of redemption on the Pequeña Island within the period allowed by law and that, as a consequence thereof, Gomeco was now absolute owner of the said island. Like the Sheriff's Certificate of Sale, the Sheriff's Final Deed of Sale was registered²² with the RD of Iba, Zambales, under the Registry of Unregistered Properties pursuant to Section 194 of the Revised Administrative Code of 1917, as amended.

Sometime in March 2003, however, Gomeco discovered that the Pequeña Island was not, as it formerly believed, unregistered property but was in fact registered land under Transfer Certificate of Title (TCT) No. T-38774 in the name of Pamana. This discovery prompted Gomeco to file, before the RTC in Civil Case No. 4349-V-94, a Motion for the Cancellation of Pamana's Title and the issuance of a new title in its (Gomeco) name (Motion for Cancellation of Title).

On 5 January 2005, the RTC issued an Order²³ granting Gomeco's Motion for Cancellation of Title and directing the RD of Iba, Zambales, to cancel Pamana's title over Pequeña Island and to issue a new title in lieu thereof in the name of Gomeco. In the body, as well as the dispositive portion of the said Order, however, the RTC mistakenly identified Pamana's title as TCT No. T-38744 instead of TCT No. T-38774.

¹⁹ *Rollo*, pp. 113-115.

²⁰ *Id.* at 114. (Italics supplied.)

²¹ *Rollo*, pp. 127-128. Issued by Sheriff Romero L. Rivera of the Valenzuela City RTC, who was the successor in office of Sheriff Montes.

²² *Id.* at 128; Entry No. 133218, page 32, Vol. XXXIV of the Books of Unregistered Lands, Register of Deeds of Iba, Zambales. The registration was made on 28 February 2003.

²³ *CA rollo*, p. 36.

Against the foregoing Order of the RTC, Pamana filed an Urgent Motion for Reconsideration and a Motion for Correction of the Order dated 5 January 2005 (Motion for Correction).

In its Urgent Motion for Reconsideration, Pamana assails the 5 January 2005 Order of the RTC primarily for being contrary to the resolutions of the CA in CA-G.R. SP No. 62391. Pamana alleged that it was erroneous for the RTC to recognize Gomeco's absolute ownership over the Pequeña Island since the CA, in CA-G.R. SP No. 62391, already substantially nullified the levy and public auction on the said island. Pamana also contended that the Sheriff's Final Deed of Sale was still premature in light of the 17 September 2004 Resolution of the CA that required an accounting of the properties sold and the proceeds realized from the 10 January 2001 public auction. For Pamana, no such final deed of sale can be issued in favor of Gomeco unless the 17 September 2004 Resolution is first complied with to the letter.

In its Motion for Correction, on the other hand, Pamana asked that its title over Pequeña Island, as stated in the 5 January 2005 Order, be changed from TCT No. T-38744 to TCT No. T-38774.

On 20 April 2005, Gomeco, for its part, filed a Motion to Order the Appointed Sheriff to Annotate the Notice of Levy, Deed of Sale and Sheriff's Final Deed of Sale [in] TCT No. T-38774 (Motion to Order Annotation). In the said motion, Gomeco prayed that the RTC, pending the possible cancellation of TCT No. T-38774 and the issuance of a new title in its name, order the annotation of the Notice of Levy, Certificate of Sheriff's Sale and the Sheriff's Final Deed of Sale in TCT No. T-38774.

On 3 March 2011, the RTC issued an Order:²⁴

1. Denying Pamana's Urgent Motion for Reconsideration;
2. Granting Pamana's Motion for Correction;
3. Granting Gomeco's Motion to Order Annotation; and
4. Directing its incumbent sheriff, for the purpose ascertaining the total amount of money for which the levy and sale of the Pequeña Island were meant to satisfy, to compute the actual amount of the lawful fees and expenses incurred in connection with the enforcement of the writ of execution.

²⁴

CA rollo, pp. 37-51.

In compliance with the directive regarding the computation of the actual amount of lawful fees and expenses in the enforcement of the writ of execution, Sheriff Louie C. Dela Cruz (Sheriff Dela Cruz) submitted to the RTC its Report²⁵ dated 16 March 2011. In the said report, the lawful fees and expenses for the enforcement of the writ of execution were pegged at ₱111,767.75.

On 25 March 2011, the RD of Iba, Zambales cancelled TCT No. T-38774 in the name of Pamana and, in lieu thereof, issued TCT No. 044-2011000502 in favor of Gomeco.

CA-G.R. SP No. 119053

On 18 April 2011, Pamana filed with the CA a Petition for *Certiorari* assailing the 5 January 2005 and 3 March 2011 Orders of the RTC. This Petition was docketed as CA-G.R. SP No. 119053.

During the pendency of the CA-G.R. SP No. 119053, on 6 June 2011, Pamana filed with the CA an Urgent Motion to Approve Tender of Payment and Consignation accompanied with checks in the aggregate amount of ₱1,500,000.00. In the said motion, Pamana prayed that the CA approve the checks so submitted as a valid tender of payment and consignation as against all of its outstanding indebtedness (*i.e.*, the ₱1,350,000.00 remaining balance under the compromise agreement plus the ₱111,767.75 lawful fees and expenses in the enforcement of the writ of execution).

Decision of the CA in CA-G.R. SP No. 119053

On 28 December 2011, the CA rendered a Decision²⁶ in CA-G.R. SP No. 119053, setting aside the 5 January 2005 and 3 March 2011 Orders of the RTC in Civil Case No. 4349-V-94. The CA also directed therein the Registrar of Deeds of Iba, Zambales, to cancel TCT No. 044-2011000502 in the name of Gomeco and to reinstate TCT No. T-38774 in favor of Pamana.

Siding with Pamana, the CA held that it was grave abuse of discretion on the part of the RTC to have recognized Gomeco's absolute ownership over the Pequeña Island. In support, the CA gives the following ratiocinations:

1. There was no valid levy on the Pequeña Island.²⁷

²⁵ Rollo, p. 394.

²⁶ Supra note 2.

²⁷ Rollo, pp. 63-67.



- a. The Resolutions in CA-G.R. SP No. 62391 already substantially nullified the levy and public auction on the Pequeña Island.
 - b. The Notice of Levy and the Notice of Sheriff's Sale issued by Sheriff Montes cannot be considered as a valid levy on the Pequeña Island. The two notices confuse as to what properties are being subjected to levy; the Notice of Levy says "*personal properties*" but the Notice of Sheriff's Sale says "*personal/real properties*."
 - c. Neither Notice of Levy nor the Notice of Sheriff's Sale was registered with the RD.
 - d. Any levy on Pequeña Island must be preceded by a levy on Pamana's personal properties as is required by Rule 39 of the Rules of Court. In this case, Sheriff Montes did not bother to levy on Pamana's other personal properties but instead levied the entire Pequeña Island at the very first instance.
2. Even assuming that the Pequeña Island had been validly levied upon and sold in execution, the period of redemption in favor of Pamana was not yet fully exhausted by the time a Sheriff's Final Deed of Sale was issued in favor of Gomeco. Indeed, the period of redemption in favor of Pamana could not be considered to have even begun since the Sheriff's Certificate of Sale covering the Pequeña Island was not registered in the correct registry. It is to be pointed out that Sheriff's Certificate of Sale had been erroneously registered in the Registry of Unregistered Properties, despite the fact that the Pequeña Island is property titled under the Torrens system. Hence, even though the levy and auction on the Pequeña may be valid, Gomeco still could not acquire absolute ownership of the disputed island.²⁸

Moreover, in the same Decision, the CA granted and approved Pamana's Urgent Motion to Approve Tender of Payment and Consignation. The CA considered Pamana's submission of checks as a valid tender of payment and consignation and declared all of the latter's indebtedness thereby extinguished.



²⁸

Id. at 67-70.

Gomeco moved for reconsideration but the CA, in its Resolution²⁹ dated 28 June 2012, remained steadfast.

This Petition

Aggrieved, Gomeco filed the instant Petition for *Certiorari* before this Court.

In this Petition, Gomeco claims that the CA gravely abused its discretion when it ruled: (a) to reinstate Pamana's title to the Pequeña Island and (b) to consider the Pamana's submission of checks as a valid tender of payment and consignment for all of its outstanding indebtedness. Gomeco argues that such rulings rest on findings that were patently erroneous.

Gomeco thus prays for the nullification of the Decision of the CA in CA-G.R. SP No. 119053, as well as for the restoration of the 5 January 2005 and 3 March 2011 Orders of the RTC in Civil Case No. 4349-V-94.

OUR RULING

I

The Decision of the CA in CA-G.R. SP No. 119053 is underpinned, primarily, by two findings: *first*, that there was no valid levy upon the Pequeña Island and *second*, that—even assuming that there was such a valid levy—the redemption period in favor of Pamana was not yet fully exhausted by the time a Sheriff's Final Deed of Sale was issued in favor of Gomeco. We have examined both findings in light of the facts and the applicable law. And we found that Gomeco is right; both findings were patently erroneous.

The erroneous findings—most especially the first—were of such gross nature that they indicate that the CA, in making them, had at the least committed grave abuse of discretion, if not acted wholly beyond its jurisdiction.

We are therefore compelled to **GRANT** the instant Petition.

A. The First Finding: Levy on Pequeña Island

The finding by the CA that there was no valid levy on the Pequeña Island is erroneous for one essential reason—it directly contradicts what the

²⁹ Supra note 3.



appellate court itself already finally settled through its **16 January 2003 Resolution in CA-G.R. SP No. 62391**. Such finding, in other words, was a blatant violation of the principle of *res judicata*.

***Principle of Res Judicata
and its Applications***

*Res judicata*³⁰ is a legal principle that regards a final judgment on the merits of a case as conclusive between the parties to such case and their privies.³¹ The principle, at least in our jurisdiction, has two (2) recognized applications.

The first application pertains to a scenario where the parties to a case, whose merits had already been finally adjudicated by a court with jurisdiction, (or their privies) become parties to a subsequent case that involves the **same claim, demand or cause of action** as that of the previous case. In this scenario, the principle of *res judicata* applies in such a way that the **judgment in the previous case stands as an absolute and complete bar to the subsequent case itself**.³² This application of *res judicata* is also known as the “*bar by former judgment rule*”³³ and is sanctioned under Section 47(b) of Rule 39 of the Rules of Court.³⁴

For convenience and ease of understanding, we dissect hereunder the circumstances that must concur in order for the bar by former judgment rule to apply:³⁵

1. There is a judgment in a case that:
 - a. disposed of such case on the merits,

³⁰ Latin for “matter already adjudged.”

³¹ *Antonio v. Vda. De Monje*, 646 Phil. 90, 98-99 (2010); citing *Agustin v. Sps. Delos Santos*, 596 Phil. 630, 641-642 (2009).

³² See *Philippine Farming Corporation, Ltd. v. Llanos, et al.*, G.R. No. L-21014, 14 August 1965, 14 SCRA 949.

³³ See *Facura v. Court of Appeals, et al.*, 658 Phil. 554, 586 (2011).

³⁴ RULES OF COURT, Rule 39, Sec. 47(b) provides:

RULE 39

Section 47. *Effect of judgments or final orders*. — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

- (a) xxx;
- (b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been missed in relation thereto, conclusive between the parties and their successors in interest, by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and
- (c) xxx.

³⁵ See *Gadrinab v. Salamanca, et al.*, 736 Phil. 279, 291 (2014).

- b. was issued by a court of competent jurisdiction,
 - c. has attained final and executory status;
2. There is another case subsequently filed in court;
 3. Between the previous case and the subsequent case, there is an identity of parties; and
 4. The previous case and the subsequent case are based on the same claim, demand or cause of action.

The second application of the principle of *res judicata*, on the other hand, contemplates of a scenario that is almost similar to that of the first: the parties to a case, whose merits had already been finally adjudicated by a court with jurisdiction, (or their privies) also become parties to a subsequent case. However, unlike in the first application, the subsequent case herein **does not involve the same claim, demand or cause of action** as the previous case. In this scenario, the principle of *res judicata* applies, not to wholly bar the subsequent case, but only to **preclude the relitigation or redetermination therein of any matter actually or deemed³⁶ settled by the judgment in the previous case.**³⁷ This application of *res judicata* is known as the “*conclusiveness of judgment rule*” and is sanctioned under Section 47(c) of Rule 39 of the Rules of Court.³⁸

³⁶ The preclusive effect of the conclusiveness of judgment rule applies not only as to matters explicitly treated or mentioned in the judgment of the former action but also to matters necessary included in or necessary to those explicitly treated or mentioned. As *Lopez v. Reyes*, 166 Phil. 641, 650 (1977) instructed:

The general rule precluding the relitigation of material facts or questions which were in issue and adjudicated in former action are commonly applied to all matters essentially connected with the subject matter of the litigation. Thus, it extends to questions "necessarily involved in an issue, and necessarily adjudicated, or necessarily implied in the final judgment, although no specific finding may have been made in reference thereto, and although such matters were directly referred to in the pleadings and were not actually or formally presented[.] Under this rule, if the record of the former trial shows that the judgment could not have been rendered without deciding the particular matter, it will be considered as having settled that matter as to all future actions between the parties, and if a judgment necessarily presupposes certain premises, they are as conclusive as the judgment itself. Reasons for the rule are that a judgment is an adjudication on all the matters which are essential to support it, and that every proposition assumed or decided by the court leading up to the final conclusion and upon which such conclusion is based is as effectually passed upon as the ultimate question which is finally solved." (Emphasis supplied, citations omitted)

³⁷ Supra note 33.

³⁸ RULES OF COURT, Rule 39, Sec. 47(c) provides:

RULE 39

Section 47. Effect of judgments or final orders. — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

- (a) xxx;
- (b) xxx; and
- (c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final

The circumstances that must concur in order for the conclusiveness of judgment rule to apply are the same as those needed for the bar by judgment rule to set in, except for the last circumstance. In the application of the conclusiveness of judgment rule, the previous case and the subsequent case must *not* be based on the same claim, demand or cause of action but only pass upon the same matters or issues.

Guided by the foregoing precepts, we shall now address the issue at hand.

***Conclusiveness of Judgment Rule Applies;
Issue of the Validity of the Levy On
and Auction Sale of Pequeña Island
Precluded by the 16 January 2003
Resolution in CA-G.R. SP No. 62391***

In this case, we find that the CA in CA-G.R. SP No. 119053 grossly erred when it made a finding concerning the validity of the levy on the Pequeña Island that is diametrically opposed to what was already finally settled in the earlier case of CA-G.R. SP No. 62391. By ignoring and contradicting the final settlement in CA-G.R. SP No. 62391, the CA evidently went beyond its jurisdiction and violated the principle of *res judicata*, particularly the conclusiveness of judgment rule.

A review of the facts clearly reveal the existence of circumstances that should have warranted the application of the conclusiveness of judgment rule in CA-G.R. SP No. 119053, insofar as the matter of validity of the levy on the Pequeña Island is concerned:

1. The 16 January 2003 Resolution in CA-G.R. SP No. 62391 satisfies the first circumstance. Such resolution, in effect, brought the merits of CA-G.R. SP No. 62391 to a close.³⁹ It essentially held that there was a **valid levy** and

order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

³⁹ CA-G.R. SP No. 62391, to recall, was a *certiorari* petition that was filed by Pamana before the Court of Appeals, precisely to impugn the levy on the Pequeña Island. That case ruled squarely upon on the issue of the validity of the levy—initially through a 19 February 2002 decision, then through a 9 July 2002 resolution and, finally, through the 16 January 2003 resolution:

1. 19 February 2002 decision – The decision held that **there was no valid levy** on the Pequeña Island because the notice of levy and the notice of sheriff's sale issued therefor misstated the amount of levy to up to ₱ 2,065,000.00 instead of only up to ₱ 1,350,000.00 plus lawful fees. Consequently, the decision found the ensuing public auction of the Pequeña Island to be null and void.
2. 9 July 2002 resolution – Issued upon motion for reconsideration by Gomeco, the 9 July 2002 resolution modified the 19 February 2002 decision. The resolution held that, despite the misstatement of the amount of levy in the notice of levy and the notice of sheriff's sale,

auction on the Pequeña Island. The resolution, moreover, already became final and executory on 10 February 2003.⁴⁰

2. CA-G.R. SP No. 119053 fits the second circumstance. It is a case filed subsequent to CA-G.R. SP No. 62391. In fact, CA-G.R. SP No. 119053 was only filed on 18 April 2011— or *more than eight years* after CA-G.R. SP No. 62391 was finally decided on the merits.
3. Both CA-G.R. SP No. 62391 and CA-G.R. SP No. 119053 featured Pamana and Gomeco as parties. Though technically based on distinct causes of action,⁴¹ both CA-G.R. SP No. 62391 and CA-G.R. SP No. 119053 nonetheless passed upon the issue of the validity of the levy on and auction sale of Pequeña Island. Such facts satisfy the third circumstance.

Verily, the conclusiveness of judgment rule ought to have applied. The 16 January 2003 Resolution in CA-G.R. SP No. 62391 should have had a preclusive effect on the subsequent case, CA-G.R. SP No. 119053, as to all matters settled in the said resolution—including the validity of the levy on the Pequeña Island.

The CA, therefore, cannot pass upon, and should not have passed upon, the issue pertaining to the validity of the levy on the Pequeña Island. That issue was already settled in the final ruling of CA-G.R. SP No. 62391 and such settlement is conclusive upon both Pamana and Gomeco. It cannot be relitigated or be redetermined, much less be overturned, in any subsequent case between them. *Res judicata* has already set in.

By disregarding the final ruling in CA-G.R. SP No. 62391, the CA evidently went beyond its jurisdiction and violated the principle of *res*

there was a valid levy on the Pequeña Island *only that* such levy can only be enforced up to the correct amount *i.e.*, ₱1,350,000.00 plus 12% legal interest thereon and other lawful fees. Accordingly, the 9 July 2002 resolution declared the ensuing public auction of the Pequeña Island to be valid *but* only up to ₱1,350,000.00 plus 12% legal interest thereon and other lawful fees.


3. 16 January 2003 resolution – Issued upon motion for reconsideration by Pamana, the 16 January 2003 resolution affirmed in all respects the 9 July 2002 resolution except only to the inclusion of the 12% legal interest as a component of the entire amount satisfiable by the levy and execution sale. Hence, the ruling that **there was a valid levy** on the Pequeña Island was effectively sustained.

⁴⁰

Supra note 18.

⁴¹

CA-G.R. SP No. 62391 was a *certiorari* petition that was filed by Pamana to impugn the levy on the Pequeña Island. CA-G.R. SP No. 119035, on the other hand, is a *certiorari* petition filed by Pamana to impugn the 5 January 2005 and 3 March 2011 Orders of the RTC in Civil Case No. 4349-V-94.



judicata, particularly the conclusiveness of judgment rule. Accordingly, the finding that there was no valid levy on the Pequeña Island—the very fruit of such disregard—must be stricken down.

The 17 September 2004 Resolution in CA-G.R. SP No. 62391 is Void Under the Doctrine of Immutability of Judgment

In disregarding the 16 January 2003 Resolution in CA-G.R. SP No. 62391, the CA seems to have harbored the belief that the foregoing resolution had somehow been supplanted by a later resolution in the same case—the 17 September 2004 Resolution in CA-G.R. SP No. 62391.

To facilitate recollection of the 17 September 2004 Resolution in CA-G.R. SP No. 62391, as well as the circumstances surrounding its issuance, we reproduce hereunder the following portion in our narration of facts:

Motion for Clarification in CA-G.R. SP No. 62391

After the finality of the 16 January 2003 Resolution, Pamana filed with the CA a *Motion for Clarification* in CA-G.R. SP No. 62391. In the said motion, Pamana asked the CA to require disclosure of the list of properties in the Pequeña Island that were levied upon and sold during the 10 January 2001 public auction, and their corresponding values.

Pamana's Motion for Clarification rests on the following key assumptions:

1. The object of the Notice of Levy is not actually the Pequeña Island itself but only the "*personal properties*" in the said island;
2. The 10 January 2001 public auction resulted in the sale not of the Pequeña Island but only of certain properties therein;
3. The Notice of Levy, the Minutes of Auction Sale and the Sheriff's Return, however, did not specify which personal properties in the Pequeña Island were actually levied and sold during the 10 January 2001 public auction; and
4. The Minutes of Auction Sale and the Sheriff's Return did not reveal for how much Pamana's properties in the Pequeña Island had been sold during the 10 January 2001 public auction.

The CA, at first, denied Pamana's Motion for Clarification. However, on 17 September 2004, the CA issued a *Resolution* directing Sheriff Montes to "*point out which of [Pamana's] specific properties [in the Pequeña Island] had been levied and sold in public auction and to*

determine the exact value of said properties if sufficient to satisfy in full the judgment debt of [P]1,350,000.00 and other lawful expenses” and to “return to [Pamana] such amount, if any, in excess of the judgment debt.”

The 17 September 2004 Resolution in CA-G.R. SP No. 62391 was a virtual acceptance of Pamana’s assumptions in its Motion for Clarification.⁴² The resolution—with its distinct directive for the sheriff to “*point out which of [Pamana’s] specific properties had been levied and sold in public auction*”⁴³—indubitably proceeds from the same proposition that the object of the levy in the case was never the Pequeña Island itself but only the properties therein.

Though it fashioned itself as affirmative of the 16 January 2003 Resolution in CA-G.R. SP No. 62391,⁴⁴ the 17 September 2004 Resolution in actuality and in effect varied a very significant import of the former resolution and of all other resolutions in CA-G.R. SP No. 62391—that the levy, whose validity was sustained under the said case, had for its object no other property but the Pequeña Island itself.⁴⁵

Thereupon lies the reason why the CA’s apparent reliance on the 17 September 2004 Resolution in CA-G.R. SP No. 62391 is mistaken. The said Resolution could never have validly altered, amended or modified the import of the 16 January 2003 Resolution in CA-G.R. SP No. 62391 in light of the *doctrine of immutability of judgment*.

The doctrine of immutability of judgment maintains that once a judgment has attained finality, the same can no longer be changed or modified **in any respect**, either by the court that rendered it or by any other court.⁴⁶ In *FGU Insurance v. Regional Trial Court*,⁴⁷ we explained the full breadth of such doctrine, including the few recognized exceptions thereto, as follows:

Under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be

⁴² *Rollo*, pp. 113-115; *see* 17 September 2004 Resolution of the CA in CA-G.R. SP No. 62391.

⁴³ *Id.* at 114.

⁴⁴ *Id.*

⁴⁵ Indeed, except for the 17 September 2004 resolution, all resolutions in CA-G.R. No. 62391 operated on the underlying premise that the levy subject of the case had for its object the Pequeña Island itself. All resolutions in CA-G.R. SP No. 62391 prior to the 17 September 2004 resolution never mentioned any property other than the Pequeña Island as the object of the levy subject of the case.

⁴⁶ *Supra* note 35 at 283; citing *FGU Insurance Corp. v. RTC of Makati City, Br. 66, et al.*, 659 Phil. 117, 123 (2011).

⁴⁷ *FGU Insurance Corp. v. RTC of Makati City, Br. 66, et al.*, *supra*.



made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.

But like any other rule, it has exceptions, namely: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.

In this case, the doctrine of immutability of judgment applies to preserve the final ruling in CA-G.R. SP No. 62391, as embodied under 16 January 2003 Resolution, from any alteration or modification. Such resolution, as stated beforehand, had already become final and executory as of 10 February 2003.⁴⁸ As of that date, the 16 January 2003 Resolution—and its holding that there was a valid levy on the Pequeña Island itself—was vested the quality of immutability.

The 17 September 2004 Resolution, on the other hand, is neither a clerical correction nor a *nunc pro tunc* order. Neither does the said resolution aim to address any injustice or inequity that may result from the implementation of the 16 January 2003 Resolution. With none of the exceptions to the application of the doctrine of immutability of judgment existing in its favor, the 17 September 2004 Resolution in CA-G.R. SP No. 62391—with its confused attempt to alter a final and executory ruling in the same case—must then be stricken down as a nullity.

Having thus settled the folly of the first finding, we shall now proceed to an exposition of the second finding.

B. The Second Finding: Redemption Period of Pamana

To enable its Decision to stand in the event that the first finding fails, the CA made its second finding under the context that the levy and auction on the Pequeña Island were valid.

Under such context, the CA found that the period of redemption in favor of Pamana was not yet fully exhausted by the time a Sheriff's Final Deed of Sale was issued in favor of Gomeco. According to the CA, the said period could not be considered to have even begun in view of the registration of the Sheriff's Certificate of Sale of the Pequeña Island at a "*wrong*" registry.

We do not agree.

⁴⁸ See Entry of Judgment, *supra* note 18.

Despite the error in the registration of the Sheriff's Certificate of Sale, we hold that Pamana ought to be held bound, nonetheless, by such registration. As shall be discussed below, there are circumstances peculiar to this case that warrants us to adopt such a holding. Hence, we find that the period of redemption of Pamana would have been fully exhausted by the time a Sheriff's Final Deed of Sale was issued in favor of Gomeco.

***Redemption in Execution Sales;
Commencement of Redemption Period;
Registration with the Register of Deeds***

When real property is levied and sold on execution pursuant to a final judgment, our rules of procedure allows the judgment debtor⁴⁹ or a "redemptioner"⁵⁰ to redeem such property within one (1) year from the "date of the registration of the certificate of sale," viz:

RULE 39

Section 28. *Time and manner of, and amounts payable on, successive redemptions; notice to be given and filed.* — The judgment obligor, or redemptioner, may redeem the property from the purchaser, at any time within **one (1) year from the date of the registration of the certificate of sale**, by paying the purchaser the amount of his purchase, with the *per centum* per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount at the same rate; and if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest.

xxx. (Emphasis supplied)

The commencement of the one-year redemption period is of critical importance, not only to the judgment debtor or a redemptioner, but even more so to the successful purchaser in the execution sale. This is because, under the rules, it is only **after the lapse of such one-year period with no valid redemption** having been effected, that a successful purchaser acquires absolute ownership over the real property he purchased in the execution sale and becomes entitled to a final deed of sale.⁵¹

⁴⁹ Includes the judgment debtor's successor-in-interest in the whole or part of the property sold in execution. See RULES OF COURT, Rule 39, Sec. 27(a).

⁵⁰ Refers to any creditor having a lien on the property sold in execution by virtue of an attachment, judgment or mortgage on the property sold, or on some part thereof, *subsequent* to the lien under which the property was sold. See RULES OF COURT, Rule 39, Sec. 27(b).

⁵¹ See RULES OF COURT, Rule 39, Sec. 33.

As can be gleaned above, commencement of the one-year redemption period is reckoned from “*the date of registration of the certificate of sale.*”⁵² The phrase “*registration of certificate of sale*” means registration of such certificate with the RD.

The RD is the official public repository of records or instruments affecting lands.⁵³ As presently constituted though, the RD maintains separate registries for real properties registered under the Torrens system and for “*unregistered*” real properties *i.e.*, real properties not registered under the Torrens system.⁵⁴ Each registry has its own set of day book and registration book.⁵⁵

Logically, and under normal circumstances, a certificate of sale ought to be registered with the RD at the particular registry corresponding to the status of the real property it covers. Thus, a certificate of sale covering property registered under the Torrens system ought to be registered with the RD under its registry for properties registered under the Torrens system. Likewise, a certificate of sale covering property *not* registered under the Torrens system ought to be registered with the RD under its registry for unregistered real properties.

There is no doubt that, when a certificate of sale is so registered, the period of redemption would by then start to run.

The question, however, is what would be the effect of a “*wrong*” registration (*i.e.*, the registration of a certificate of sale with the RD albeit under a registry that does not correspond to the status of the real property it covers) upon the commencement of the period of redemption in execution sales?

Effect of Wrong Registration; The Two Situations

We must qualify our answer.

To answer the question before us, we must first familiarize ourselves with the process of levy prior to an execution sale. Our familiarization with such process will, in turn, enable us to identify the two (2) general situations

⁵² RULES OF COURT, Rule 39, Sec. 28.

⁵³ Presidential Decree (PD) No. 1529, Sec. 10.

⁵⁴ For lands covered by the Torrens system, *see* PD No. 1529, Secs. 42 and 56. For unregistered lands, *see* REVISED ADMINISTRATIVE CODE, Sec. 194, as amended by Republic Act No. 3344, in relation to PD No. 1529, Secs. 3 and 113.

⁵⁵ *Id.*

that can ultimately lead to wrong registrations. It is between such situations that our qualification lies.

It is basic that before any property is sold in execution, and a certificate of sale issued therefor, such property must first be the subject of a levy.⁵⁶ A levy on execution refers to the essential act by which a property of the judgment debtor is taken into the custody of the law and set apart for the satisfaction of the judgment debt.⁵⁷ In our jurisdiction, a levy on execution is effected by the sheriff of the court.

When the property sought to be levied is realty, the sheriff must first prepare a *Notice of Levy* that contains, among others, **an adequate description of the real property sought to be levied.**⁵⁸ Significantly, **the notice of levy is also required to ascertain whether the particular realty sought to be levied is registered under the Torrens system or not, such that if it is, the notice must contain “a reference to the number of the certificate of title, the volume and page in the registration book where the certificate is registered, and the registered owner or owners thereof.”**⁵⁹

To actually effect the levy upon a real property, however, the sheriff is required to do two (2) specific things: (1) file with the RD a copy of the Notice of Levy, and (2) leave with the occupant of the property a copy of the same notice.⁶⁰

Verily, since it is the *duty* of the sheriff preparing the Notice of Levy to ascertain whether the particular realty sought to be levied is registered under Torrens system or not, then there can be two (2) possible situations that can lead to a wrong registration:

First. The sheriff who prepared the Notice of Levy *correctly* ascertained the status of the real property (i.e., whether the same is registered under the Torrens system or not) but the ensuing certificate of sale issued during the execution sale was still registered under the wrong registry of the RD.

Second. The sheriff who prepared the Notice of Levy *incorrectly* ascertained the status of the real property leading to the registration of the certificate of sale under the wrong registry of the RD.

As just said, it is between such situations that our qualification lies.

⁵⁶ *Delta Motors Corporation v. Court of Appeals (Tenth Division)*, 250 Phil. 214, 219 (1988).

⁵⁷ *Id.*; citing *Llenares v. Valdeavella and Zoreta*, 46 Phil. 358, 360 (1924).

⁵⁸ RULES OF COURT, Rule 39, Sec. 9(b) in relation to Rule 57, Sec. 7(a).

⁵⁹ *Id.*

⁶⁰ *Supra* note 56 at 220; citing *Phil. Surety & Ins. Co., Inc. v. Zabal*, 128 Phil. 714, 718 (1967).

Under the first situation, the effect of the wrong registration must be to prevent the commencement of the redemption period altogether. In this case, the sheriff performs his duty correctly and the wrong registration is actually the fault of the successful purchaser. Such type of wrong registration is deemed non-compliant with the requirement of registration under Section 28 of Rule 39 of the Rules of Court.

A different treatment, however, is certainly warranted under the second situation. In this case, the sheriff failed to perform his duties correctly and such failure directly contributed to the fact of wrong registration. Under this situation, it is actually both unfair and inequitable to allow the judgment debtor to be benefited and for the successful purchaser to be prejudiced.

The judgment debtor, for one, ought not to be benefited since it is in the position to correct the mistake of the sheriff but it did not do so. Hence, in this situation, the judgment debtor could be considered to be in bad faith and a contributor to the wrong registration.

On the other hand, the successful purchaser ought not to be prejudiced since it only relied on the representations of the sheriff who, as a public officer, may be presumed to have performed his duties regularly.⁶¹

Thus, for the sake of fairness and equality, a wrong registration committed under the second situation should be considered substantially compliant with the requirement of registration under Section 28 of Rule 39 of the Rules of Court and is, therefore, sufficient to commence the redemption period.

Application

In the case at bench, the wrong registration was committed under the second situation. Hence, the wrong registration in this case is considered to be substantially compliant with the requirement of registration under Section 28 of Rule 39 of the Rules of Court and sufficient to commence the redemption period.

The facts are clear that the *Notice of Levy* and the *Notice of Sheriff's Sale* prepared by Sheriff Montes incorrectly depicted the Pequeña Island as unregistered property; both having only identified the said island via Tax Declaration No. 007-0001 with Property Index No. 016-13-007-01-001.⁶² On the other hand, it is also crystal that Pamana—who admitted to owning

⁶¹ RULES OF COURT, Rule 131, Sec. 3(m).

⁶² See CA rollo, pp. 55 and 58.

the Pequeña Island and was furnished with the said notices—knowingly allowed the incorrect depiction of the status of the island to prevail by doing nothing to correct it. The incorrect depiction of Sheriff Montes, coupled by the bad faith of Pamana, were thus joint contributors to the registration of the ensuing certificate sale covering the Pequeña Island under the wrong registry in the RD. Verily, all points of the second situation are present in this case.

Since the wrong registration in this case was committed under the second situation, the same is considered to be substantially compliant with the requirement of registration under Section 28 of Rule 39 of the Rules of Court and sufficient to commence the redemption period. These, in turn, produce the following specific effects:

1. The redemption period of Pamana is deemed to have begun on 28 March 2001, *i.e.*, the date when the *Sheriff's Certificate of Sale* covering the Pequeña Island was registered with the RD under the Registry of Unregistered Properties;
2. The redemption period of Pamana is slated to end exactly one year from 28 March 2001;
3. Since Pamana never exercised its right of redemption within one year from 28 March 2001, the issuance of a *Sheriff's Final Deed of Sale*⁶³ over the Pequeña Island in favor of Gomeco on 29 January 2003 is, therefore, valid.

All in all, Gomeco should now be considered the rightful absolute owner of the Pequeña Island. The Orders dated 5 January 2005 and 3 March 2011 of the RTC in Civil Case No. 4349-V-94 were just correct in recognizing such fact.

Having thus exposed the Decision in CA-G.R. SP No. 119053 as being supported by patently erroneous findings, we feel compelled to exercise our *certiorari* jurisdiction. For law and justice to prevail, we must set aside and nullify the Decision of the CA in CA-G.R. SP No. 119053.

II

The final point that we need to address is the procedural challenge posed against the instant Petition by Pamana.

⁶³ *Rollo*, pp. 127-128.

In its Comment,⁶⁴ Pamana questioned the propriety of Gomeco's resort to a special civil action for *certiorari* in assailing the Decision of the CA in CA-G.R. SP No. 119053. For Pamana, the filing of the instant *certiorari* petition was not proper since another remedy—an appeal to this Court, in particular—was available and could have been filed by Gomeco under the circumstances. Pamana postulated that the availability of an appeal is fatal to the instant petition in light of the procedural norm that proscribes the use of *certiorari* as substitute for a lost appeal.⁶⁵

We reject the procedural challenge.

The procedural norm referred to is not absolute. In *Sanchez v. Court of Appeals*,⁶⁶ we enumerated the instances when a Petition for *Certiorari* may be resorted to despite the existence of or prior availability of an appeal—one of which is when the court *a quo* had “*patently acted in excess of or outside its jurisdiction*”:

Doctrinally entrenched is the general rule that *certiorari* is not a substitute for a lost appeal. However, Justice Florenz D. Regalado lists several exceptions to this rule, *viz.*: (1) where the appeal does not constitute a speedy and adequate remedy (*Salvadades vs. Pajarillo, et al.*, 78 Phil. 77), as where 33 appeals were involved from orders issued in a single proceeding which will inevitably result in a proliferation of more appeals (*PCIB vs. Escolin, et al.*, L-27860 and 27896, Mar. 29, 1974); (2) where the orders were also issued either in excess of or without jurisdiction (*Aguilar vs. Tan, L-23600, Jun 30, 1970, Cf. Bautista, et al. vs. Sarmiento, et al., L-45137, Sept. 23 1985*); (3) for certain special consideration, as public welfare or public policy (See *Jose vs. Zulueta, et al. -16598, May 31, 1961* and the cases cited therein); (4) where in criminal actions, the court rejects rebuttal evidence for the prosecution as, in case of acquittal, there could be no remedy (*People vs. Abalos, L029039, Nov. 28, 1968*); (5) where the order is a patent nullity (*Marcelo vs. De Guzman, et al., L-29077, June 29, 1982*); and (6) where the decision in the *certiorari* case will avoid future litigations (*St. Peter Memorial Park, Inc. vs. Campos, et al., L-38280, Mar. 21, 1975*). **Even in a case where the remedy of appeal was lost, the Court has issued the writ of *certiorari* where the lower court patently acted in excess of or outside its jurisdiction**, as in the present case. (Emphasis supplied)

We believe that our discussion in the preceding section had amply demonstrated that the CA, through its grossly erroneous decision in CA-G.R. SP No. 119053, had patently acted in excess of or outside its jurisdiction. The erroneous findings of the CA were of such gross nature and so contemptuous of basic legal doctrines that they indicate that the CA, in making them, had committed grave abuse of discretion, if not acted wholly

⁶⁴ Id. at 299-331.

⁶⁵ Id. at 318-319.


⁶⁶ 345 Phil. 155, 178-179 (1997).

beyond its jurisdiction. Under such scenario, jurisprudence allows a Petition for *Certiorari* to be resorted to by the aggrieved party.

Hence, we uphold the propriety of Gomeco's resort to the instant *certiorari* petition.


WHEREFORE, premises considered, the instant Petition is **GRANTED**. The Decision dated 28 December 2011 and Resolution dated 28 June 2012 of the Court of Appeals in CA-G.R. SP No. 119053 are hereby **ANNULLED** and **SET ASIDE**. The Orders dated 5 January 2005 and 3 March 2011 of the Regional Trial Court, Branch 75 of Valenzuela City in Civil Case No. 4349-V-94 are **REINSTATED**.

SO ORDERED.




JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



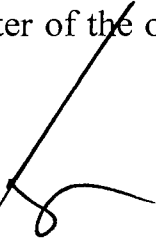
BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



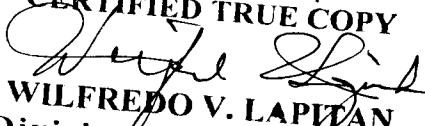
PRESBITERO J. VELASCO, JR.
Associate Justice
Third Division, Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

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